

## Coronavirus *Flash Update*: Monday, June 1, 2020

COVID-19 Federal & State Legislation.....	2
Transition to “Reopening” .....	3
Federal Communications Commission.....	4
Department of Health and Human Services.....	4
Centers for Disease Control and Prevention .....	5
Centers for Medicare & Medicaid Services .....	5
HHS/CDC/CMS/HRSA CARES Act Provider Relief Funds.....	6
Food and Drug Administration .....	8
Health Resources and Services Administration.....	9
Department of Homeland Security/FEMA/DOD .....	9
Department of Justice/Federal Trade Commission/Litigation .....	9
Department of Labor/OSHA.....	9
Small Business Administration.....	10
Department of Treasury/IRS/Federal Reserve.....	10
Other Agencies .....	10
Trade and International Business Issues.....	11
Insurance Issues.....	11

Note: ***Beginning this week, the Flash update will be distributed twice per week, Mondays and Thursdays.***

### *The Latest News*

- **U.S. COVID-19 cases** exceed 1,783,919 and 103,191 U.S. deaths. (Source: CDC) (**Updated 6/1/20**)
- **U.S. stock market:** On Friday, the U.S. benchmarks posted mixed results, with the Dow dropping slightly at 17 points, and the S&P 500 and Nasdaq posting gains at 14 and 120 points, respectively. (**New**)
- Last Friday, President Trump [announced](#) he would halt funding for and withdraw U.S. membership in the World Trade Organization, stating during a Rose Garden ceremony that “We will be today terminating our relationship with the World Health Organization and redirecting those funds to other worldwide and deserving urgent global public health needs...The world needs answers from China on the virus.” (**New**)
- The Kaiser Family Foundation estimates that **26.8 million people have lost their job-based health care coverage as of May 1** in a new [analysis](#). The U.S. Chamber of Commerce and a broad coalition of business and health care groups [wrote to Congressional leadership](#) several weeks ago to urge several steps to extend health care coverage for those losing it with their loss of jobs

and the letter includes a **push for Congress to offset the full cost of COBRA to former employees through a direct subsidy for the coverage.** (New)

- UnitedHealthcare has [announced](#) it was **waiving cost-sharing for COVID-19 treatment through July 24, 2020** for Medicare Advantage, Medicaid, Individual and Group Market fully insured health plans, extending treatment coverage with no cost-sharing which had been set to expire on June 1. Blue Cross Blue Shield Association has indicated that many of its affiliated plans would also continue to waive cost-sharing for tests and treatment through July 24 and Anthem, an affiliated member, plans to waive cost-sharing for testing and treatment through the end of the year. Congress required most insurers to cover testing but decisions on whether to cover COVID-19 treatment and waive patient cost-sharing has varied from health plan to health plan. The American Health Insurance Plan Association maintains a [webpage](#) with summaries of COVID-19 testing and treatment policies. (New)

## COVID-19 Federal & State Legislation

- **Bill 4.0:** The House is out this week, but the Senate returns and plans to continue work on a proposal to **extend liability protections for COVID-19 related litigation against businesses.** The details remain in flux and the proposal's protections may expand as some Senators have voiced support for liability protections for colleges and health care providers as well. (New)
  - Surprise billing is another possible relief bill issue gaining attention when details were published that the President has signaled his **support for a ban on surprise billing in bill 4.0.** The CARES Act Provider Relief Fund payment terms and conditions prohibit surprise billing for COVID-19 related treatment, but the current discussion underway between the Administration and congressional leaders appears to seek an outright ban on surprise billing for all out-of-network care. Throughout last year several competing approaches had sought a pathway to passage and all these proposals coupled additional rate restrictions with the ban on surprise billing, mostly on hospitals and other providers. The other requirements, like setting a benchmark rate for out of network care, were controversial while the idea of a simple ban on surprise billing is generally supported by many of the stakeholder groups. (New)
  - For the full details on the HEROES Act, H.R. 6800, which passed the House on May 15:
    - The text is available [here](#).
    - A [1-pager](#) and 71 page [section-by-section summary](#) are available here.
    - And an outline of the [state and local funding provisions](#) is here.
- **Bill 3.5: Paycheck Protection Program and Health Care Enhancement Act, (H.R. 266)** was enacted on April 24. Also available are a [section-by-section summary](#) and an [overview of the health care provisions](#).
  - A&B detailed summaries are below:
    - A&B [Summary](#) – **3.5 Small Business Provisions**
    - A&B [Summary](#) – **3.5 Health Care Enhancement Provisions**
- **Bill 3.0: Coronavirus Aid, Relief, and Economic Security (CARES) Act, (H.R. 748)** passed on March 27. A congressional section by section summary is available [here](#).
  - A&B detailed summaries are below:
    - A&B [Summary](#) – **CARES Act Health Provisions**

- A&B [Overview](#) – CARES Act Health Care Grants and Reimbursement Changes
- A&B [Overview](#) – CARES Act Key Health Care Appropriations
- A&B [Analysis](#) – CARES Act Funding Sources
- A&B [Summary](#) – CARES Act Small Business Provisions
- A&B [Summary](#) – CARES Act Educational Provisions and Appropriations
- A&B [Summary](#) – CARES Act Individual and Business Tax Provisions
- A&B [Summary](#) – CARES Act Unemployment Provisions
- A&B [Summary](#) – CARES Act Labor Provisions
- A&B [Guide](#) – how the CARES Act refundable Employer Retention tax credit for employers works
- A&B [Hospital Provisions from all 4 bills tracker](#) (**Updated 5/31/20**)
- A&B [Provider Relief Fund disbursements tracker](#) (**Updated 5/31/20**)
- A&B [Summary](#) of oversight and enforcement provisions in the CARES Act
- Congress has passed three coronavirus emergency response bills and the first two are below:
  - **Bill 1.0: Coronavirus Preparedness and Response Supplemental (CPPRS)** ([H.R. 6074](#)) passed on March 5
  - **Bill 2.0: Families First Coronavirus Response Act (FFCRA)** ([H.R. 6201](#)) passed on March 18

## Transition to “Reopening”

- **State/Other Actions**
  - For the latest information on state reopening decisions, see [A&B 50-State Openings tracker](#) - updated in each A&B Coronavirus Flash. (**Updated 5/31/20**)
  - The Judicial Council of California (JCC) previously adopted 11 emergency rules related to COVID-19 pandemic, including Emergency Rule 9 that tolled the statutes of limitation for all civil action in CA from April 6 until 90 days after the governor declares the pandemic state of emergency lifted. On **May 29 the JCC amended Emergency Rule 9 to create a new and shortened limitations period for statutes of limitations** and the A&B Environment, Land Use & Natural Resources Group [examines the impact of Emergency Rule 9](#) and what it applies to. (5/29/20) (**New**)
  - The **Joint Commission** released a [statement](#) that **regular hospital certification and accreditation surveys would resume in June**; however the process will incorporate new social distancing precautions. (5/27/20)
- **Administration Actions**
  - The Department of Transportation has [announced](#) plans to distribute 15 million **face coverings for transportation workers** to assist with the transition to reopening. (5/28/20)
  - The Department of Veteran’s Affairs has [announced](#) it will resume in-person compensation and pension exams at select locations. (5/28/20)
  - The Department of Labor’s Occupational Safety and Health Administration (OSHA) has posted [guidance social distancing best practices for workers](#) as businesses transition to reopening. (5/28/20)

- OSHA has [released guidance](#) and launched a [webpage](#) to provide COVID-19 related recommendations to **reduce exposure for construction employers and workers**. (5/27/20) CDC guidance for [Construction workers](#) (5/22/20)
- The FDA has updated its [information](#) on their Enforcement Policy for Face Masks and Respirators During the Coronavirus Disease Public Health Emergency. This updated information is intended to help **expand the availability of general use face masks for the general public and workplace**. (5/28/20)
- The CDC issued a new detailed [report](#) on its activities and initiatives that support the transition to reopening. (5/20/20)
  - The CDC updated or released guidance for reopening:
    - [Child Care Schools, and Youth Programs](#) (**Updated 5/29/20**)
    - [International and Domestic Travel: FAQs](#) (**Updated 5/29/20**)
    - [Restaurants and bars](#) (**Updated 5/27/20**)
    - [Employers in office buildings](#) (5/27/20)
    - [Cleaning and disinfection for community facilities](#) (5/27/20)
    - [Using public transportation](#) (5/27/20)
    - [Public swimming and aquatic areas](#) (5/27/20)

## Federal Communications Commission

- The FCC [approved](#) another \$18.22 million in telehealth applications. (5/28/20) (**New**)

## Department of Health and Human Services

- The **Department of Health and Human Services (HHS)** Coronavirus [toolkit](#) page has been updated. (**Updated 5/27/20**)
- HHS has a **tracking feature that allows public viewing of all COVID-19 HHS grants and cooperative agreement awards** on its [website](#). The grants were distributed through programs in the ACF, ACL, ASPR, CDC, DHHS/OS, HRSA, IHS, NIH, and SAMHSA. (**Updated 5/29/20**)
- The HHS **Biomedical Advanced Research and Development Authority (BARDA)** has updated its webpage to include a [partnership on pharmaceutical manufacturing in America](#) to expand capacity for active pharmaceutical ingredients and generic medicines needed during the COVID-19 pandemic. (5/29/20) (**New**)
- The HHS Office of **Assistant Secretary for Preparedness and Response (ASPR)** has [posted a Rural Health in COVID-19 Fact Sheet](#). (5/29/20) (**New**)
- The HHS Office of the Inspector General (OIG) has [released its Strategic Plan for Oversight of COVID-19 Response and Recovery](#). (5/26/20)
- The HHS Office of the ASPR has [released a fact sheet](#) on the COVID-19 **impact on the health care delivery system**. (5/26/20)
- HHS [released a report](#) to Congress on its COVID-19 Strategic Testing Plan as required by the Paycheck Protection Program and Health Care Enhancement Act. The report outlines 3 primary purposes for active testing: diagnostic testing, testing for contact tracing, and surveillance testing. (5/24/20)

## Centers for Disease Control and Prevention

- The Centers for Disease Control and Prevention (CDC) [COVIDView Weekly Summary](#) is available. **(Updated 5/29/20)**
  - The CDC weekly COVID [forecast](#). **(Updated 5/28/20)**
  - The CDC [U.S. testing data](#). **(Updated 5/29/20)**
  - The CDC [state-by-state funding](#) for state, tribal, territorial, and local funding. (5/27/20)
  - The CDC [updated](#) its information on **serology testing** for COVID-19 at CDC. (Updated 5/24/20)
  - The CDC [updated](#) its information on **contact tracing and case investigation**. (Updated 5/26/20)
- The CDC has released new guidance for:
  - [Updated PPE Usage When Caring for Patients with Confirmed or Suspected COVID-19](#) (5/29/20) **(New)**
  - [Discontinuation of Isolation Guidance for individuals not in Healthcare Settings](#) (5/29/20) **(New)**
  - [COVID-19 and Children](#) (5/29/20) **(New)**
  - [Updated Guidance on Preventing the Spread of COVID-19 in Assisted Living Facilities](#) (5/29/20) **(New)**
  - [Antibody Testing At-A-Glance Guidance for Professionals](#) (5/28/20) **(New)**
  - [How to Wash Face Coverings](#) (5/29/20) **(New)**
  - [Pharmacists](#) (5/28/20)
  - [Sanitation and wastewater workers](#) (5/28/20)
  - [Providers serving people with developmental and behavioral disorders](#) (5/28/20)
  - [Group homes for individuals with disabilities](#) (5/28/20)
- The CDC has and [interim guidance on antibody testing](#) (5/23/20) and has updated its [information](#) on antibody testing for past infection. **(Updated 5/28/20)**
- The CDC has updated its [guidelines for collecting, handling, and testing clinical specimens for COVID-19](#). (5/23/20)
- The CDC has released [information on the shelf life of N95s](#). (5/22/20)
- The CDC has updated its information on [How COVID-19 Spreads](#). (5/22/20)

## Centers for Medicare & Medicaid Services

- The Centers for Medicare and Medicaid Services (CMS) latest [news alerts](#). **(Updated 5/29/20)**
  - And for the latest COVID-19 related CMS guidance and FAQs visit the CMS Current Emergencies [webpage](#). (Updated 5/27/20)
- CMS has updated their [COVID-19 FAQ on Medicare Fee-for-Service](#) which includes all topics like billing for testing, treatment, and different types of settings. (5/28/20)
- CMS has released [Fact Sheet](#) on Medicare, Medicaid, and CHIP **payment methods for care provided at alternative testing sites** under the direction of state and local governments and health care providers. (5/26/20)

- CMS has [announced](#) that over 1,750 standalone Medicare Part D prescription drug plans and Medicare Advantage plans have applied to offer **lower insulin costs** through the Part D Senior Savings Model for the 2021 plan year. (5/26/20)
- CMS has [finalized requirements](#) to increase access to **telehealth for seniors in Medicare** Advantage plans. (5/22/20)

## HHS/CDC/CMS/HRSA CARES Act Provider Relief Funds

- The CDC has posted an [updated dataset](#) of **provider recipient specific payment** from the Provider Relief Fund **general distribution high impact targeted allocation and/or rural targeted allocation**. The dataset includes who has attested to receiving one or more payments and agreed to the terms and conditions as of May 29. \$45.874 billion of the \$72 billion allocated to these distribution pools has been attested to. (5/29/20) (**New**)
  - The CDC has also released a [new dataset](#) representing the **list of health care entities who have agreed to the terms and conditions and received claims reimbursement for COVID-19 testing of uninsured individuals** and/or treatment for uninsured individuals with a COVID-19 diagnosis, as of May 26. \$2.08 million has been paid for treatment and \$2.04 million has been paid for testing. (5/29/20) (**New**)
  - HHS - the CARES Act Provider Relief Fund (PRF) [FAQs \(Updated 5/29/20\)](#) have been **updated and capture numerous modifications**, including items of note outlined below (**New**):
    - HHS will not issue a new payment to a provider that received and then subsequently rejected and returned the original payment.
    - Specifically defines Executive Level II pay level (\$197,300, exclusive of fringe benefits and indirect costs).
    - States *“there is no direct ban under the CARES Act on accepting a payment from the Provider Relief Fund and other sources, so long as the payment from the Provider Relief Fund is used only for permissible purposes and the recipient complies with the Terms and Conditions”* (i.e., not using the PRF payment to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse). This answer was provided in the context of whether a provider may receive a Paycheck Protection Program loan in addition to PRF payment.
    - Recoupment details per a new FAQ: *HHS has not yet detailed how recoupment or repayment will work. However, the Terms and Conditions associated with payment require that the Recipient be able to certify, among other requirements, that it was eligible to receive the funds (e.g., provides or provided after January 31, 2020, diagnoses, testing, or care for individuals with possible or actual cases of COVID-19) and that the funds were used in accordance with allowable purposes (e.g., to prevent, prepare for, and respond to coronavirus). Additionally, recipients must submit all required reports as determined by the Secretary. Non-compliance with any Term or Condition is grounds for the Secretary to direct recoupment of some or all of the payments made. HHS will have significant anti-fraud monitoring*

*of the funds distributed, and the Office of Inspector General will provide oversight as required in the CARES Act to ensure that Federal dollars are used appropriately.*

▪ **Additional payments –**

- *When a provider can expect to receive additional funds: HHS is working to process all providers' submissions as quickly as possible... It is the Department's intention to distribute relief funds as quickly as possible.*
- **Removed** information stating that additional payments should be distributed within 10 days of submission. Instead, HHS states that providers *"will receive an email when your application is completed. You will receive a notification from HHS as to the final status of your application."*

▪ **Confusing information removed –**

- The following language was **removed** (from an FAQ added 5/20): *Generally, if a provider anticipates that its COVID-related lost revenues or increased expenses will be materially less than the value of the Provider Relief Fund payment received, the provider should reject the entire General Distribution payment and submit the appropriate revenue documents through the General Distribution portal to facilitate HHS determining their correct payment.*
- The following language was **removed** (from an FAQ added 5/21): *Generally, if a provider anticipates that its COVID-related lost revenues or increased expenses will be materially less than the value of the General Distribution payments received, the provider should reject the payment and submit its adjusted gross receipts in the Provider Relief Fund Payment Portal.*

▪ **High Impact Distributions –**

- HHS may make an additional distribution. HHS will announce any distribution in advance and give a deadline and method for providing updated data.
- The April 10 cut-off date was used *"to allow HHS to calculate and make payments in a fair, transparent, and timely manner based on submitted COVID-19 admissions data"*
- The 100 admissions threshold was used *"as a proxy for the extent to which each facility experienced lost revenue and increased expenses associated with directly treating a substantial number of COVID-19 inpatient admissions"*

▪ **SNF Distribution –**

- *Payment: HHS will distribute \$4.9 billion in additional funding (over and above General Distributions received) to more than 13,000 skilled nursing facilities. Eligible facilities range in size of between six and 1,389 beds. This represents a range of distributions between \$65,000 and \$3,255,500 and a national average distribution of ~\$315,600 per facility. Each Skilled Nursing Facility received a fixed distribution per facility of \$50,000 plus distribution of \$2,500 per bed.*

- Payments will be dispersed electronically based on banking account information associated with the billing TIN. If the billing TIN does not have a bank routing number associated with it, *“the organization will most likely receive a paper check.”*
- HHS has completely revised its Provider Relief Fund [webpage](#). The new webpage posts, for the first time, the [breakdown](#) by recipient of the \$50 billion in targeted distribution. (5/28/20)
- The COVID-19 Provider Relief Fund – the A&B [General Distribution Attestation and Application Process Guide](#) has been updated. (**Updated 5/27/20**)
- HHS [released a statement](#) **extending the Provider Relief Fund attestation deadline for an additional 45 days**. This allows providers 90 days from the date they received a payment to accept the Terms and Conditions or return the funds. (5/22/20)
- HHS issued a [statement](#) notifying **eligible providers that they have until June 3, 2020 to submit their additional revenue information** for payments from the Provider Relief Fund \$50 billion General Distribution. (5/20/20)
- The CARES Provider Relief Fund **hotline** is (866) 569-3522.

## Food and Drug Administration

- FDA provides a **daily roundup on COVID-19** related actions. The latest [announcements](#). (**Updated 5/29/20**)
  - FDA updated its [FAQs](#) on Testing for SARS-CoV-2, including posting a list of **antibody tests** that are being **removed** from the “notification list” of tests being offered. (**Updated 5/30/20**)
  - FDA maintains its COVID-19 [FAQs](#) for the general public. (**Updated 5/29/20**)
  - The agency also maintains a [public database](#) of drug shortages. (**Updated 5/29/20**)
- The FDA has posted a [voluntary EUA template](#) for at-home sample collection kits. (5/29/20) (**New**)
- The FDA has issued [Emergency Use Authorization \(EUA\)](#) for Stryker Sustainability Solutions VHP N95 Respirator Decontamination System. (5/27/20) (**New**)
- The FDA has issued [guidance](#) entitled “Effects of the COVID-19 Public Health Emergency on **Formal Meetings and User Fee Applications**” to address questions on formal meetings with industry, user fee application goals and timelines, and the prioritization of application reviews during the public health emergency. (5/28/20)
- The FDA issued two guidance documents to **help address potential shortages of face masks, surgical masks, respirators, and face shields**: [Recommendations for Sponsors Requesting EUAs for Decontamination and Bioburden Reduction Systems for Face Masks and Respirators](#); and [Enforcement Policy for Face Masks and Respirators](#). (5/27/20)
- The FDA has [issued a letter to health care providers](#) to **remind health care employers and personnel the correct sterilization cycle** associated with certain models of the Advanced Sterilization Products (ASP) STERRAD Sterilization Systems and to only decontaminate compatible N95 or N95-equivalent respirators during the pandemic. (5/27/20)
- The FDA has **provided a SARS-CoV-2 [reference panel tool](#)** to help with the development and evaluation of tests. (5/27/20)



- The FDA issued an [Emergency Use Authorization](#) for the CLEWICU System for use in the intensive care unit (ICU) as a diagnostic aid to assist with the early identification of adult patients who are likely to be diagnosed with respiratory failure which is a common complication associated with COVID-19. (5/27/20)
- The FDA issued [guidance](#) for FDA-regulated human food establishments – human food facilities and farms – to voluntarily notify the agency of temporary closures and significant reductions in operations and to request assistance during the pandemic. (5/27/20)
- The FDA released an [updated list of medical devices approved to treat COVID-19](#). (5/26/20)

## Health Resources and Services Administration

- The Health Resources and Services Administration (HRSA) has [awarded \\$15 million](#) in COVID-19 assistance to 52 Tribes, Tribal organizations, urban Indian health organizations, and other services to Tribes in 20 states. The full list of COVID-19 Tribal award recipients is available [here](#). (5/28/20)
- HRSA provides COVID-19-related information, resources, and FAQs [here](#). (**Updated 5/27/20**)

## Department of Homeland Security/FEMA/DOD

- The **Department of Homeland Security (DHS)** posts a [weekly roundup](#) of its response to COVID-19. (Updated 5/25/20)
- The Federal Emergency Management Administration (FEMA) has posted a [state-by-state allocation list of PPE and other supplies](#). (5/29/20) (**New**)
- The President [announced](#) his intent to extend the Title 32 orders through mid-August. Title 32 gives the governors authority to command their National Guard forces, while 100% federally funded, to meet emergency COVID-19 relief needs within their states. (5/28/20) (**New**)
- FEMA [announced](#) suspension of rent collection for **Butte County Camp Fire Survivors**. (5/27/20)
- FEMA [announced](#) a distribution of non-contact **infrared thermometers** to state and local governments to assist in reopening. (5/26/20)

## Department of Justice/Federal Trade Commission/Litigation

- The **Department of Justice** maintains an **anti-price gouging & anti-fraud** [webpage](#) with information on reporting complaints and resources on prevention. (5/26/20) (**New**)

## Department of Labor/OSHA

- The **Department of Labor (DOL) Inspector General** [warned the Agency](#) that the requirements for claiming the expanded unemployment benefits were lax and highly vulnerable to fraud. (5/26/20) (**New**)
- The DOL [announced dislocated worker grant awards](#) totaling **nearly \$24 million for workforce programs** in Pennsylvania, Michigan, Maine, and Washington. (5/27/20)

## Small Business Administration

- **Small Business Administration (SBA)** – In response to the **CARES Act** requirements, the SBA **Paycheck Protection Program (PPP)** [website](#) has updated its [FAQs](#) for lenders and borrowers. (Updated 5/27/20)
  - The SBA [released](#) the Paycheck Protection Program **Loan Forgiveness process**, which includes the [application and instructions](#). (5/15/20)
    - The SBA, jointly with the Department of Treasury, [released the interim final rule](#) for the PPP **loan forgiveness process**. (5/22/20)
    - The SBA also [released the interim final rule](#) the PPP **loan review procedures and borrowing responsibilities**. (5/22/20)
  - The SBA [updated](#) its total loan statistics, noting that it has approved 4.5 million loans, totaling \$510 billion in loans through 5,513 participating lenders. (**Updated 5/29/20**)

## Department of Treasury/IRS/Federal Reserve

- The Department of Treasury [website](#) for **CARES Act** business assistance programs.
- The Department of Treasury has jointly [announced](#) with the SBA that \$10 billion is being set aside of the Round 2 Paycheck Protection Program funding for use exclusively by **Community Development Financial Institutions (CDFIs)** to target relief to low-income communities. (5/28/20)
- The **Internal Revenue Service (IRS)** [released information and FAQs](#) on the **use of prepaid debit cards** which are being sent to some taxpayers for their economic impact payments, rather than a paper check. (5/27/20)
- The IRS [announced](#) a tax **safe harbor for taxpayers developing renewable energy** projects and producing electricity from wind, biomass, geothermal, landfill gas, trash, and hydropower. (5/27/20)
- **The IRS** posted the latest [state-by-state list of economic impact payments](#). (5/22/20)

## Other Agencies

- The **Department of Commerce** Economic Development Administration has [announced](#) that **applications would be accepted for competitive grant awards** on a rolling basis to help communities prevent, prepare for, and respond to the pandemic. (5/27/20)
- The **Consumer Financial Protection Bureau (CFPB)** issued two “no-action” [letter templates \(template\)](#) to help homeowners and consumers seeking small dollar loans and wishing to avoid foreclosure in the process. (5/22/20)
- A&B attorneys provide [analysis](#) on how the **CFPB is responding to consumer complaints** about mortgage and credit card terms during the pandemic. (5/18/20)
- The Department of Defense has [announced](#) it has signed a \$2.2 million contract with **Hollingsworth & Vose to increase the U.S. domestic production of N95 ventilator filters** starting in August. (5/28/20)

- For information on **COVID-19 waste regulation and environmental compliance** issues during the pandemic, read the A&B [Environmental & Land Use Briefing](#). (5/22/20)

## Trade and International Business Issues

- President Trump [released an order](#) restricting nearly all **travel from Brazil** for non-U.S. citizens if they were in the country during the prior 14-day period. Green card holders, close relatives of U.S. citizens, and flight crew members are exempt. (5/24/20) Further detail provided in a DHS [release](#). (5/27/20)

## Insurance Issues

- For a **50-state review of business interruption insurance related issues** see this new COVID-19 [Insurance Litigation and Regulatory Issues tracker](#). The tracker is updated weekly. (**Updated 5/31/20**)
- On May 26, U.S. Representative Carolyn Maloney (D-N.Y.) introduced [H.R. 7011](#)—the Pandemic Risk Insurance Act of 2020. The legislation would create the **Pandemic Risk Reinsurance Program**, providing “compensation for business interruption losses resulting from future pandemics or public health emergencies.” The bill would apply only to “covered public health emergenc[ies]” declared “on or after January 1, 2021.” (**New**)
- On May 21, the National Association of Mutual Insurance Companies, jointly with other insurance industry trade associations, [announced](#) a proposal for a **new federal program to assist businesses in the event of a future pandemic risk**. The Business Continuity Protection Program would “provide revenue replacement assistance . . . following a presidential viral emergency declaration.” The program would be administered by the Federal Emergency Management Agency with assistance from private contractors.
- **Notable filings and orders** include:
  - On May 28, Alissa’s Flowers, Inc., the owner and operator of a flower shop in Independence, Missouri, initiated a putative class action in federal court against its insurer State Farm Fire and Casualty. Plaintiff alleges that while the insurance industry has offered relief to auto policyholders in the form of reduced premiums, “insurers have not offered any sort of premium relief to businesses.” Plaintiff argues that businesses ought to have been extended premium relief for commercial liability insurance policies. Plaintiff alleges claims for breach of contract, unjust enrichment, and declaratory and injunctive relief and seeks to represent a nationwide class of similarly situated persons and entities. The case is *Alissa’s Flowers, Inc. v. State Farm Fire and Cas. Co.*, No. 2:20-cv-04093-WJE (W.D. Mo.) (**New**)
  - On May 27, MTDB Corp. dba Striker Lanes, a bowling alley, initiated a putative class action in the Northern District of Illinois against its insurer, American Automobile Insurance Company. The Complaint seeks a declaratory judgment that plaintiff and the putative class “sustained direct physical loss or damage to property” as a result of SARS-CoV-2 or COVID-19, that SARS-CoV-2 and/or COVID-19 are covered causes of loss, and that plaintiffs and the class are therefore entitled to coverage. Plaintiff also alleges that they are entitled to coverage for losses resulting from certain governmental orders.

Plaintiff seeks to represent a class of Illinois businesses insured under policies issued by defendant. The case is *MTDB Corp. v. Am. Auto. Ins. Co.*, No. 1:20-cv-03127 (N.D. Ill).

(New)

- On May 26, U.S. Specialty Insurance Co. (“Specialty”) moved to dismiss a putative class action complaint filed by Egg Works, a Las Vegas breakfast restaurant chain. Specialty argues that Plaintiffs failed to allege facts that trigger coverage under Plaintiff’s Restaurant Recovery Insurance Policy. Specifically, Specialty asserts that Plaintiff’s Complaint fails to allege any facts showing that their claimed losses resulted from an enumerated Insured Event. The case is *Egg & I, LLC et al. v. U.S. Specialty Ins. Co., et al.*, No. 2:20-cv-00747 (D. Nev.) (New)

\*\*\*\*\*

For background and the most up-to-date information, please visit the Centers for Disease Control and Prevention Coronavirus Disease 2019 website: [HERE](#). The additional federal agency links are provided by the White House Coronavirus Task Force:

#### **What You Should Know:**

- [How to Protect Yourself & Others](#)
- [How COVID-19 Spreads](#)
- [Frequently Asked Questions](#)
- [Social Distancing](#)
- [Quarantine and Isolation](#)
- [Use of Cloth Face Coverings to Help Slow the Spread of COVID-19](#)
- [When to Wear Gloves](#)
- [What to Do If You Are Sick with COVID-19](#)
- [Symptoms](#)
- [Facts about COVID-19](#)
- [Testing for COVID-19](#)
- [Test for Current Infection](#)
- [Guidance Documents](#)

#### **Information for Businesses:**

- [Information for Communities, Schools, and Businesses](#)
- [Workplaces during the COVID-19 Pandemic](#)
- [Restaurants and Bars during the COVID-19 Pandemic](#)
- [Cleaning and Disinfecting Your Facility](#)
- [Worker Safety and Support](#)
- [COVID-19 Critical Infrastructure Sector Response Planning](#)
- [Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19](#)
- [Interim Guidance for Businesses and Employers](#)
- [Prepare your Small Business and Employees for the Effects of COVID-19](#)

- [General Business Frequently Asked Questions](#)
- [Interim Guidance on Respirator Supply in Non-Healthcare Sectors](#)
- [Information for Small Businesses](#)
- SBA: [COVID-19 Resources](#)
- Treasury: [Assistance for Small Businesses](#)
- DOL: [Guidance for Preparing Workplaces for Coronavirus](#)
- DOL: [COVID-19 and the American Workplace](#)
- DOL: [OSHA Resources for Workers and Employers on COVID-19](#)
- WHO: [Get Your Workplace Ready for COVID-19](#)
- CISA: [Risk Management for COVID-19](#)
- CISA: [Telework Guidance and Resources](#)
- CISA: [Guidance on the Essential Critical Infrastructure Workforce](#)

## **Information for Travel and Transportation:**

- [Information for Travel](#)
- [Travel in the United States](#)
- [Public Health Considerations for Reopening Mass Transit During the Covid-19 Pandemic](#)
- [COVID-19 Travel Recommendations by Country](#)
- [Travel Restrictions to Prevent the Spread of Disease](#)
- [Airline Guidance](#)
- [Cruise Ship Guidance](#)
- [Cargo Ship Guidance](#)
- [Maritime Resources](#)
- [Returning from International Travel](#)
- [Travelers Returning from Cruise Ship and River Cruise Voyages](#)
- [Travel: Frequently Asked Questions and Answers](#)
- [Travelers Prohibited from Entry to the United States](#)
- [Communication Resources for Travelers](#)
- State: [Travel Advisories](#)
- State: [Traveler's Checklist](#)
- State: [Smart Traveler Enrollment Program](#)
- DOT: [FAQs from FTA Grantees Regarding COVID-19](#)
- DOT: [Expanded Emergency Declaration](#)
- FAA: [Guidance for Air Carriers and Crews](#)

## **Information for Healthcare Providers, First Responders, and Research Facilities:**

- [Information for Healthcare Professionals](#)
- [Guidance for U.S. Healthcare Facilities](#)
- [Evaluating and Testing](#)
- [Staffing Resources](#)
- [Clinical Care Guidance for Healthcare Professionals](#)
- [Infection Control Guidance for Healthcare Professionals](#)

- [Preparedness Tools for Healthcare Professionals](#)
- [Strategies to Optimize the Supply of PPE and Equipment](#)
- [Potential Exposure in a Healthcare Setting](#)
- [First Responder Guidance](#)
- [Resources for Responders & Law Enforcement](#)
- [Training for Healthcare Professionals](#)
- [Information for Pediatric Healthcare Providers](#)
- [Clinical Questions about COVID-19: Questions and Answers](#)
- [Support for Health Departments](#)
- [Pandemic Preparedness Resources](#)
- [Reporting Cases of COVID-19](#)
- [Guidance for Public Health Professionals Managing People with COVID-19 in Home Care and Isolation Who Have Pets or Other Animals](#)

### **Information for Community Events and Gatherings:**

- [Interim Guidance for Mass Gatherings and Large Community Events](#)
- [Event Planning and COVID-19: Questions and Answers](#)

### **Alston & Bird Coronavirus Links**

- Alston & Bird Coronavirus [Response & Relief](#) Web page
- To [Subscribe](#) to Alston & Bird Advisories
- For Alston & Bird [COVID-19 Insights and Events](#)
- **Previous Alston & Bird Coronavirus Advisories** (not included in the above)
  - **May 15**
    - [A&B Investment Management Updates, including items reflecting the impact of the coronavirus pandemic.](#)
  - **May 12**
    - [Finance Advisory: Ginnie Mae Extends PTAP/C19 Assistance to Multifamily MBS Program](#)
    - [A&B Guide to Telehealth Waivers and Regulatory Flexibilities](#)
    - [The Digital Download -- Alston & Bird's Privacy & Data Security Newsletter](#)
  - **May 8**
    - [Finance Advisory: ESG During the Coronavirus Crisis -- Should You Care?](#)
    - [Health Care / Privacy & Data Security Advisory: Expansive Interoperability and Data-Sharing Requirements Require Attention Despite Delays in Enforcement](#)
    - [Financial Restructuring & Reorganization Advisory: Delaware Courts Leery of Shareholder Obstruction](#)
  - **May 6**
    - [Finance Advisory: Federal Reserve Revises Main Street Lending Program, Adds Third Option](#)
  - **May 5**
    - [Finance Advisory: Brexit and Its Potential Impact on Cross-Border Litigation Throughout Europe](#)

- [Investment Management Advisory: Update on Relief Under the CARES Act for Fund Managers](#)
- **May 4**
  - [Food, Drug & Device/FDA Advisory: Examining the Drug Supply Chain -- How the Public Health Emergency Impacts DSCSA](#)
- **April 30**
  - [College & Universities Advisory: Schools Face Class Action as Parents and Students Sue for Refunds](#)
  - [White Collar Government & Internal Investigations Advisory: New PPP Funding Ups Ante for Compliance Failure--Audits on the Horizon](#)
- **April 29**
  - [Health Care / Health Care Litigation Advisory: COVID-19 A Tipping Point for Telehealth Expansion](#)
- **April 28**
  - [Labor & Employment Advisory: The New Executive Order Suspends Entry of Immigrant Visa Applicants into the U.S. for 60 days](#)
- **April 24**
  - [Commercial Litigation Advisory: COVID-19 Impacts on Statutes of Limitations](#)
- **April 23**
  - [International Trade & Regulatory Advisory: FEMA Issues Guidance on Exemptions for Critical PPE Export Restrictions](#)
- **April 22**
  - [Labor & Employment Advisory: Developing a Plan to Bring Your Employees Back to Work](#)
- **April 21**
  - [Financial Advisory: Forbearance Agreements in the age of COVID-19 and National Shelter-in-Place Orders](#)
  - [Antitrust / Mergers & Acquisitions / International Trade & Regulatory Advisory: COVID-19 Affect European Foreign Direct Investment Reviews: New EU Guidance Potentially Heralds Increased Protectionism](#)
- **April 20**
  - [Financial Advisory: FHFA Limits Servicer Advancing Obligations for Loans in COVID-19 Forbearance](#)
- **April 17**
  - ["INSIGHT: Businesses Better Brace for Post-Coronavirus Lawsuits" Bloomberg Law](#)
  - [Antitrust / Labor & Employment Advisory: Federal Antitrust Agencies Remind Businesses That Colluding on Labor Issues Remains Illegal During Pandemic](#)
  - [Labor & Employment / Health Care / Corporate & Finance Advisory: Ramping Up: What Does Restarting Look Like?](#)
- **April 16**
  - [International Tax Advisory: Risky Business - Allocating Losses When Your Supply Chain Is Disrupted](#)
  - [Finance Advisory: Ginnie Mae Expands Pass-Through Assistance Program to Finance Servicing Advances in Response to COVID-19](#)

- **April 15**
  - ["Force Majeure Clauses in the Face of COVID-19: Commercial Leasing Guidance \(CA\)," Lexis Practice Advisor](#)
  - [Federal Tax Advisory: IRS Issues COVID-19 Forbearance Guidance for REMICs and Investment Trusts](#)
- **April 14**
  - [Investment Advisory: Federal Reserve Announces Main Street Lending Program to Provide Liquidity to Small & Mid-Size Businesses](#)
  - [Investment Management Advisory: Relief Under the CARES Act for Fund Managers](#)
- **April 13**
  - ["As Pandemic Triggers Continuity Plans, What RIAs and BDs Should Ask Themselves," Financial Planning](#)
  - [FDA & Environment Advisory: Cleaning Up After COVID-19? What You Need to Know Before You Manufacture, Import, or Sell Sterilizers, Sanitizers, Purifiers, and Disinfectants](#)
  - [Securities Law Advisory: SEC Reminds Companies to Keep Their Disclosures Looking Forward](#)
- **April 10**
  - [Securities Law Advisory: ISS Offers COVID-19-Conscious Policy Guidance](#)
- **April 9**
  - [Federal Tax Advisory: IRS Provides Partnerships a Mechanism to Claim Benefit of Retroactive CARES Act Provisions](#)
  - [Financial Services Advisory: Agencies Update Their Interagency Statement on Reporting Loan Modifications](#)
  - [Early Securities Class Actions Highlight COVID-19 Litigation Risk \(Law360\)](#)
  - [FDA Compliance & Enforcement Advisory: FDA Issues New Guidance on Supply-Chain Disruption Notifications During COVID-19 Emergency](#)
  - [Financial Restructuring & Reorganization Advisory: Protecting Recoveries in a Pandemic: What Creditors Can Do Right Now](#)
- **April 7**
  - [Updated FAQs Regarding Paid Leave Obligations Under the Families First Coronavirus Response Act](#)
  - [Cyber Alert: Cybersecurity and COVID-19: Four Categories of Cyber Threats and Practical Tips in Response](#)
- **April 6**
  - [Antitrust Advisory: Production and R&D Joint Ventures in a Pandemic: Reducing Antitrust Risk](#)
  - [Financial Services Advisory: Regulatory Agencies Issue Mortgage Servicing Guidance and FAQs for the CARES Act](#)
  - [White Collar, Government Investigations Advisory: CARES Act Follows Familiar Blueprint for Oversight and Enforcement](#)
- **April 3**
  - [EU State Aid Measures in the Fight Against COVID-19 Pandemic](#)



- **April 2**
  - [USPTO Announces Additional Limited Extensions Due to the COVID-19 Pandemic](#)
  - [Deadline for Reg BI and Form CRS Compliance Remains on Track](#)
  - [What Does the Coronavirus Mean for Companies and Their Critical Offshore Services?](#)
- **April 1**
  - [Federal Tax Advisory: Downward Stock Attribution for CFC Purposes](#)
  - [Hospital EMTALA Obligations Under Recent COVID-19 Waivers](#)
  - [CMS Issues Blanket Waivers from Physician Self-Referral Law Sanctions](#)
- **March 31**
  - [Additional Families First Coronavirus Response Act Paid Leave FAQs for Employers](#)
  - [SEC Extends Timeframe for Regulatory Relief for Investment Advisers and Investment Companies](#)
  - [Responsibility for Construction Site Safety in a Coronavirus World](#)
- **March 30**
  - [Keep Mystery to a Minimum in Your SEC COVID-19 Disclosures](#)
  - [How the CARES Act Will Affect Banking During the Coronavirus Emergency](#)
  - [Economy in Chaos: Is Bankruptcy Inevitable for My Business?](#)
  - [CMS Announces Expansion of Medicare's Accelerated and Advance Payment Program](#)
- **March 27**
  - [Utilization of Electronic Signatures and Records: What You Need to Know](#)
  - [SEC Extends Conditional Filing Relief to Companies Affected by COVID-19](#)
  - [COVID-19: What It May Mean for Landlords and Lenders Under Their CRE Facility Agreements](#)
  - [Congress Further Expands Medicare Telehealth Benefits with the CARES Act](#)
- **March 26**
  - [USTR to Consider Additional Tariff Exclusions Due to COVID-19 Pandemic](#)
  - [COVID-19 and Price Gouging](#)
  - [SEC Continues to Keenly Monitor Insider Trading During COVID-19 Pandemic](#)
- **March 25**
  - [Is the COVID-19 Outbreak an "Act of God"? Why It May Matter for Your Contracts](#)
  - [FDA and USDA Food Safety Response to COVID-19 & DHS "Critical Infrastructure" Classification of Food and Agriculture Sector](#)
  - [Does Your Force Majeure Provision Extend to the Coronavirus?](#)
  - [Competition Authorities Across Europe Relax Competition Law Enforcement During COVID-19 Outbreak](#)
  - [COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
- **March 24**
  - [Health Care Providers with Exposure to COVID-19: What You Need to Know](#)
  - [Regulators Further Clarify Guidance Regarding Loan Modifications and Reporting](#)
  - [Avoiding Antitrust Risk as Industries Respond to the Coronavirus: Businesses Look to Collaborate & Federal Government Offers Expedited Avenues](#)
- **March 23**

- [FDA Continues to Accelerate Availability of COVID-19 Tests](#)
- [CFTC Issues No-Action Letter Offering Regulatory Relief for CPOs](#)
- [Building a Case for Force Majeure in Construction Contracts](#)
- **March 20**
  - [Employee Benefits & Executive Compensation Advisory: Coronavirus Impact on Health Benefits: A Deeper Dive](#)
  - [FDA Compliance & Enforcement Advisory: FDA Temporarily Postpones Routine Domestic Inspections](#)
- **March 19**
  - [Antitrust / Mergers & Acquisitions Advisory: COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
  - [Construction Advisory: Five Best Practices for Construction Industry Stakeholders During the Coronavirus Pandemic](#)
  - [Labor & Employment Advisory: Employee Leave Requirements Under the Families First Coronavirus Response Act](#)
  - [Labor & Employment / Health Care Advisory: Coronavirus \(COVID-19\) FAQs for Employers](#)
- **March 18**
  - [Cyber Alert: Six Practical Tips for Practicing Cyberhygiene in the Middle of a Global Pandemic](#)
  - [Advisory: Are You an "Essential Business" in California Counties Where Shelter-in-Place Order Have Been Issued?](#)
- **March 17**
  - [Finance Advisory: Coronavirus and Securitization: Disclosure and Diligence Issues](#)
- **March 16**
  - [Securities Law Advisory: SEC Provides Guidance on the Possible Impacts of COVID-19 on Annual Meetings](#)
  - [Health Care / Cybersecurity Preparedness & Response Advisory: COVID-19 and HIPAA: Privacy, Security, and Breach Response During a Global Pandemic](#)
- **March 13**
  - [Financial Services & Products Advisory: FINRA Guidance: COVID-19 and Business Continuity Planning](#)
  - [Food, Drug & Device/FDA Advisory: FDA Seeks Help to Solve Personal Protective Equipment Shortages](#)
  - [Securities Litigation Advisory: Securities Litigation Risk Arising Out of the Coronavirus Pandemic](#)
- **March 12**
  - [FDA Compliance & Enforcement Advisory: FDA Postpones Foreign Inspections Through April 2020: Considerations for Industry](#)
- **March 10**
  - [Labor & Employment / Health Care Advisory: Coronavirus, Employers, and Domestic Travel: A Complicated Business Decision](#)

- **March 6**
  - [Securities Law Advisory: SEC Provides Conditional Relief to Companies Affected by COVID-19](#)
- **March 5**
  - [Health Care Advisory: Congress Expands Medicare Telehealth Benefit Amid Coronavirus Concerns](#)
- **February 28**
  - [Labor & Employment / Health Care Advisory: The Coronavirus: Employer and Workplace Considerations](#)