

Coronavirus *Flash* Update: Friday, May 22, 2020

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Note to Flash readers: *Due to Memorial Day on Monday, May 25, the Flash will appear only twice next week: Tuesday, May 26 and Friday, May 29. It will be back to its regular schedule the first week of June.*

The Latest News

- **U.S. COVID-19 cases** exceed 1,584,800 and 94,722 U.S. deaths. (Source: CDC) (**Updated 5/22/20**)
- **U.S. stock market:** On Thursday the major benchmarks posted losses, with the Dow dropping 101 points, the S&P 500 losing 23 points, and the Nasdaq falling 90 points. (**New**)
- The Department of Labor released the weekly **unemployment report** showing that 2.4 million Americans applied for initial unemployment benefits last week, bringing the nine-week total to 38.6 million. (**New**)
- The Congressional Budget Office released its **Interim Economic Projections** for 2020 and 2021, projecting the U.S.’s real gross domestic product to contract by 11.2% in the second quarter of 2020 and by 5.6% for the year. Unemployment is expected to average 15.1% in the second

quarter and 15.8% in the third quarter of 2020, before gradually dropping to 8.6% in the last quarter of 2021. Unemployment is projected to average 11.5% in 2020 and 9.3% in 2021. (New)

COVID-19 Federal & State Legislation

- **Bill 4.0:** As Congress heads into the Memorial Day weekend, the stalemate remains between Senate Republicans who wish to hold off before considering any additional emergency stimulus bill and House Democrats who are pushing for action on their HEROES Act passed last week or something comparable. Senators continue discussions on liability protection for businesses, schools, and other entities, and Senator Lamar Alexander (R-TN) reflected the view voiced by many of his colleagues earlier this week when he said that such protection would need to be included in the next stimulus bill, stating “[S]chools, colleges, and businesses will be less likely to reopen if they think they’re going to be sued when someone gets sick when they come back to school, back to college, or back into their businesses.” Whether to include aid, and how much, for state and local governments remains an area of division between the Republicans and Democrats, although Senators Bill Cassidy (R-LA) and Bob Menendez (D-NJ) introduced a bill earlier this week to target \$500 billion for frontline state and local communities in the greatest need. The U.S. Chamber of Commerce also weighed in when Neil Bradley, Chief Policy Officer with the Chamber, told reporters that there “is an important role for targeted and temporary assistance to state and local governments.” Senate Majority Leader Mitch McConnell (R-KY) has ramped up the divide on the issue of whether to extend the enhanced unemployment benefits in the relief package by telling his Republican caucus that he is not ready to support an extension. These issues and others will be waiting when Congress returns from the holiday weekend. (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](#) of COVID-19 (**Updated 5/21/20**)
- A&B [Provider Relief Funds disbursements tracker](#) – (**Updated 5/21/20**)
- 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
- **State Legislation: legislative resource to track how states** and localities are responding to the COVID-19 pandemic with emergency relief programs for small and medium-sized businesses. Follow our tracker [here](#). (Last updated 5/5/20)

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 5/20/20**)
 - The National Waste & Recycling Association has prepared a [summary](#) of state mandates and recommendations for face coverings and temperature taking. (5/15/20)
- **Administration Actions**
 - The CDC issued a new detailed [report](#) on its activities and initiatives that support the transition to reopening. (5/20/20) (**New**)
 - CMS [announced guidance to help nursing homes safely reopen](#). The guidance recommends that (1) nursing homes do not reopen or relax any restrictions until all residents and staff have received results from baseline tests; (2) state agencies inspect nursing homes that experienced significant COVID-19 outbreaks; and (3) nursing homes keep restrictions in place even as other businesses relax their restrictions. CMS also issued [FAQs](#) on the new guidance. (5/18/20)
 - The President [announced](#) “Operation Warp Speed,” a national program to accelerate the development, manufacturing, and distribution of COVID-19 vaccines, therapeutics, and diagnostics. (5/15/20)
 - The CDC updated or released guidance for reopening:
 - [Institutes of Higher Education](#) (**Updated 5/21/20**)
 - [K-12 Schools and Child Care Programs](#) (**Updated 5/21/20**)
 - This supplements CDC decision trees for [schools](#) and [Childcare Programs](#) (5/14/20)
 - [Youth sports](#) (5/20/20) (**New**)
 - [Public pools](#) (5/20/20) (**New**)
 - [Dental Settings](#) (**Updated 5/19/20**)
 - [Workplaces](#) (5/14/20)
 - [Restaurants and bars](#) (5/14/20)

- [Mass transit](#) (5/14/20)
- [Youth Programs/ Camps](#) (5/14/20)
- FEMA released an [Exercise Starter Kit](#) with sample documents organizations can use to conduct planning workshops to navigate the complexities of returning to full operations during the COVID-19 pandemic. (5/12/20)

Federal Communications Commission

- The FCC [approved](#) an additional 43 funding applications for the **COVID-19 Telehealth Program**, totaling \$16.78 million. (5/20/20) (**New**)
- The FCC and FTC [sent](#) warning letters to gateway providers for allegedly allowing **COVID-19 pandemic-related scam robocalls** into the United States. The agencies warned these companies to cut off this traffic or face serious consequences. (5/20/20) (**New**)
- FCC [announced](#) that **774 broadband and telephone providers** have extended a pledge to assist residential and small business customers that are impacted by the COVID-19 pandemic. The commitment now extends through June 30. (5/14/20)
 - FCC also [extended](#) temporary waivers through June 30 for Telecommunications Relay Service providers. (5/14/20)

Department of Health and Human Services

- The **Department of Health and Human Services (HHS)** Coronavirus [toolkit](#) page has been updated. (**Updated 5/21/20**)
- HHS [announced](#) that it has begun distributing nearly **\$4.9 billion** in additional relief funds to **skilled nursing facilities (SNFs)** to help them combat the devastating effects of the pandemic. HHS will make relief fund distributions to SNFs based on both a fixed basis and variable basis. All certified SNFs with six or more certified beds are eligible for this targeted distribution. (5/22/20) (**New**)
 - HHS also provided the [terms and conditions](#) for accepting these SNF Relief Fund Payments. (5/22/20) (**New**)
- HHS, through HRSA, provided \$225 million to **Rural Health Clinics** for COVID-19 testing through the Paycheck Protection Program and Health Care Enhancement Act. (5/20/20) (**New**)
 - A state-by-state breakdown is available [here](#). (5/20/20) (**New**)
- HHS Biomedical Advanced Research and Development Authority (BARDA) [announced](#) an agreement with AstraZeneca to accelerate the development and manufacturing of the company's **investigational vaccine**. The agreement is part of Operation Warp Speed. (5/21/20) (**New**)
- HHS [announced](#) a partnership with several pharmaceutical companies—including Phlow Corporation, AMPAC Fine Chemicals, Civica Rx, and the Medicines for All Institute at the Virginia Commonwealth University—to **expand capabilities to manufacture active pharmaceutical ingredients and chemical compounds** to make critical medicines. (5/19/20)
- HHS [announced](#) \$11 billion in funding under the Paycheck Protection Program and Health Care Enhancement Act for **COVID-19 testing**. The funding will be provided through the CDC and

Indian Health Service to states, territories, and tribes. A list of funding recipients is available [here](#). (5/18/20)

- The HHS Office of the Assistant Secretary for Preparedness and Response (ASPR) released a [Healthcare Facility Onboarding Checklist](#) for hospitals and other facilities to use in streamlining staff acquisition and the onboarding process in times of need. (5/20/20) (**New**)
- ASPR posted a new [webpage](#) detailing information on the remdesivir allocation process. (5/21/20) (**New**)
- ASPR also [issued](#) a request for information seeking industry input on the proposed strategy and structure of the strategic national stockpile. Responses are due by May 29. (5/15/20)
- The HHS **Office of Inspector General** updated its [FAQs](#) and updated its COVID-19 [webpage](#). (5/14/20)
- 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 5/21/20**)
- The President [announced](#) changes to the supply and maintenance of the **strategic national stockpile** (SNS), which will include **new requirements** for a 90 day supply of testing, ventilators, respirators, and other materials in preparation for future COVID-19 resurgence. (5/14/20)
- The Agency for Healthcare Research and Quality (AHRQ) [announced](#) a new funding opportunity that will award \$5 million to support novel, high-impact studies that **evaluate the responsiveness of the U.S. health care system** to the COVID-19 pandemic. (5/14/20)

Centers for Disease Control and Prevention

- The **Centers for Disease Control and Prevention (CDC)** [COVIDView Weekly Summary](#) is available. (Updated 5/15/20)
 - The CDC weekly COVID [forecast](#). (**Updated 5/21/20**)
- The CDC released a new resource with ASPR on [COVID-19 Pandemic Planning Scenarios](#), designed to help inform decisions by mathematical modelers and public health officials who use modeling. Models developed using the data provided in the planning scenarios can help evaluate the potential effects of different community mitigation strategies. (5/20/20) (**New**)
- The CDC [updated](#) its information on **serology testing** for COVID-19 at CDC. (**Updated 5/20/20**)
- The CDC [updated](#) its information on **contact tracing and case investigation**. (**Updated 5/20/20**)
- The CDC created a [website](#) compiling publications about COVID-19 for **laboratories**. (5/20/20) (**New**)
 - The CDC also updated its [FAQs](#) for **laboratories**. (**Updated 5/20/20**)
- The CDC [updated](#) its considerations for **inpatient obstetric healthcare settings**. (**Updated 5/20/20**)
- The CDC [updated](#) its guidance on how **workers and employers can manage workplace fatigue** during COVID-19. (Updated 5/19/20)
- The CDC [updated](#) its guidance for visitors of parks and recreational facilities. (Updated 5/19/20)
- The CDC updated its [guidance](#) for **pediatric health care providers** to address current information on multisystem inflammatory syndrome in children. (Updated 5/20/20)

- The CDC [updated](#) its interim infection prevention and control recommendations for patients with confirmed or suspected COVID-19 in healthcare settings. The update **removes the recommendation that all elective procedures be postponed**. (Updated 5/18/20)
- The CDC [updated](#) its guidance on how health care professions can optimize the **supply of personal protective equipment (PPE)**. (Updated 5/18/20)
- The CDC updated its [guidance](#) on caring for children to help stop the spread of COVID-19. (Updated 5/15/20)
- The CDC has issued COVID-19 [guidance](#) for the general population's use of **emergency shelters** during natural disasters. (5/15/20)
- The CDC has [updated its approved disembarkations](#) list for **cruise ship crew members** in U.S. waters following certain attestation requirements. (5/15/20)
- The CDC announced the award of \$10.25 billion to states, localities and territories to expand COVID-19 **testing and surveillance**. The [state-by-state funding list](#) includes previous allocations. (5/15/20)
- The CDC updated its [guidance](#) for veterinary clinics in treating **companion animals** during the COVID-19 response. (5/14/20)
- The CDC released a [health advisory warning](#) of COVID-19 related multisystem inflammatory syndrome in children. (5/14/20)

Centers for Medicare & Medicaid Services

- The **Centers for Medicare and Medicaid Services (CMS)** latest [news alerts](#). (**Updated 5/21/20**)
 - And for the latest COVID-19 related CMS guidance and FAQs visit the CMS Current Emergencies [webpage](#). (Updated 5/18/20)
- CMS [updated](#) its **guidance on billing codes for COVID-19 testing**. The guidance lists the payment amount for COVID-19 testing by each Medicare Administrative Contractor (MAC). (Updated 5/19/20)
- CMS updated its list of [blanket waivers](#) with language modifying physical environment waivers to allow greater flexibilities for surge capacity and to modify the data collection and reporting period for ground ambulance organizations. (Updated 5/19/20)
- CMS updated its [FAQs](#) for Medicare fee-for-service billing. (5/15/20)
- CMS [announced](#) a call for nominations for the new contractor-led **Coronavirus Commission on Safety and Quality in Nursing Homes**. The Commission will conduct a comprehensive assessment of the overall response to the COVID-19 pandemic in nursing homes and will inform immediate and future actions to address the virus in order to safeguard the health and quality of life for this vulnerable population of Americans. (5/14/20)
- CMS released a **new Toolkit** on actions by states and other organizations to mitigate COVID-19 prevalence in **nursing homes**. The toolkit is not CMS guidance but is comprised of best practices from front line health care providers, Governors' COVID-19 task forces, associations, and experts. (5/14/20)
- CMS posted a [video](#) to review the most common **questions regarding telehealth** visit benefits under the 1135 waiver authority during the public health emergency. (5/8/20)

- For a better understanding of the COVID-19 **telehealth waivers and regulatory flexibilities**, review this **new A&B [Guide](#)**. (5/12/20)

HHS/CMS/HRSA CARES Act Provider Relief Funds

- HHS issued a [statement](#) notifying **eligible providers that they have until June 3, 2020, to accept the Terms and Conditions and submit their revenue information** for additional payments from the Provider Relief Fund \$50 billion General Distribution. (5/20/20) (**New**)
- HHS updated the CARES Act Provider Relief Fund [FAQs](#). (**Updated 5/21/20**)
- HHS [announced](#) it was disbursing another \$22 billion in CARES Act **Provider Relief Funds** last Friday for hospitals in “hot spots” or COVID-19 high impact areas (\$12 billion) and for rural providers (\$10 billion). The CMS Provider Relief Fund [webpage](#) has been updated and additional portals opened: (Updated 5/14/20)
 - The CDC released [updated data](#) on the Provider Relief Funding General Distribution payments. The data reflect payments distributed to health care providers who have attested to receiving one or more payments and agreed to the Terms and Conditions as of May 13 and in total, **\$34.09 billion of the \$50 billion General Distribution has been attested to**. (Updated 5/15/20)
 - Provider Relief Funds general distribution [FAQs](#) updated. The updated FAQs clarify that **“providers may not receive a second distribution payment if the provider received a first distribution payment of equal to or more than 2% of patient revenue.”** It also states providers should update their capacity and COVID-19 census data “to ensure that HHS can make timely payments **in the event that the provider becomes a high-impact provider.**” (Updated 5/15/20)
 - 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 update is [here](#), and here are the latest [announcements](#). (**Updated 5/21/20**)
 - **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 5/21/20**)
 - **FDA** maintains its COVID-19 [FAQs](#) for the general public. (**Updated 5/21/20**)
 - The agency also maintains a [public database](#) of drug shortages. (**Updated 5/21/20**)
- The FDA issued [guidance](#) for supplements for approved premarket approval or humanitarian device exemption submissions. (5/21/20) (**New**)
- The FDA and U.S. Department of Agriculture [announced](#) a [memorandum of understanding](#) to help prevent interruptions at FDA-regulated food facilities. (5/19/20)
- The FDA [announced](#) that it had entered into an agreement with Aetion to collaborate on data analysis related to COVID-19 research. (5/19/20)
- The FDA updated its [FAQs](#) on the Emergency Use Authorization (EUA) for **remdesivir**. (Updated 5/16/20)

- The FDA [announced](#) that it was issuing an [EUA](#) to Everlywell, Inc. for the **first at-home sample collection kit** for COVID-19 diagnostic testing. (5/16/20)
- The FDA updated its [guidance](#) on the conduct of clinical trials of medical products during COVID-19. (Updated 5/14/20)
- The FDA released [information](#) to alert the public to early data that suggests **potential inaccurate results** from using the Abbott ID NOW point-of-care test to diagnose COVID-19. (5/14/20)
- The FDA has updated its [guidance](#) for compounders that experience PPE shortages. (5/14/20)
- The FDA [issued](#) an emergency use authorization to Hologic, Inc. for its Aptima SARS-CoV-2 assay which runs on its high-throughput Panther System and is **estimated to produce 1 million tests per week**. (5/14/20)

National Institutes of Health

- The National Institutes of Health (NIH) [announced](#) it was beginning clinical trial testing of hydroxychloroquine and azithromycin to treat COVID-19. (5/14/20)

Health Resources and Services Administration

- The Health Resources and Services Administration (HRSA) provides COVID-19-related information, resources, and FAQs [here](#). (Updated 5/17/20)

Department of Homeland Security/FEMA

- The **Department of Homeland Security (DHS)** [issues](#) a weekly roundup of its response to COVID-19. (Last updated 5/18/20)
- DHS released a [fact sheet](#) explaining the extended measures placed on **U.S. borders** to limit the further spread of COVID-19. (5/20/20) (**New**)
- The **Federal Emergency Management Agency (FEMA)** provided [COVID-19 Pandemic Operational Guidance](#) for the 2020 hurricane season. (5/20/20) (**New**)
- FEMA updated its [fact sheet](#) on **PPE packages for nursing homes**. (**Updated 5/20/20**)
- FEMA issued a [fact sheet](#) on its efforts to expand the supply chain of critical resources. (5/18/20)
- FEMA has released [state-by-state PPE data](#) which includes the delivery or shipping of more than 97 million respirators, 133.7 million surgical masks, 10.5 million face shields, 22.4 million surgical gowns, 989 million gloves, 10,600 ventilators and 8,450 federal medical station beds. Also posted is an [at-a-glance document](#) on the PPE deliveries per region. (5/15/20)
- FEMA has [updated its policy](#) on **medical care costs eligible for public assistance** and better coordination between the COVID-19 emergency response and other emergency disasters. (5/14/20)
- FEMA has posted a [public meeting notice](#) for **Thursday, May 21** to develop a voluntary agreement under the Defense Production Act to **improve the effectiveness of the distribution of critical medical resources** to respond to future pandemics. (5/14/20)
- The **DHS Cybersecurity and Infrastructure Security Agency (CISA)** updated its [guidance](#) on essential critical infrastructure workforce. (Updated 5/19/20)

Department of Justice/Federal Trade Commission/Litigation

Consumer Protection/Anti-fraud/Anti-Trust

- The Federal Trade Commission sent [warning letters](#) to 50 more marketers nationwide to stop making unsubstantiated claims that their products and therapies can treat or prevent COVID-19. (5/21/20) **(New)**
- The Department of Justice [announced](#) that it charged an individual with **fraudulently obtaining \$20 million in PPP loans for two companies that had no employees**. The defendant allegedly claimed that his companies were helping New York State obtain COVID-19 test kits and personal protective equipment. (5/21/20) **(New)**
 - DOJ earlier this week [charged](#) another defendant with fraudulently seeking \$5 million in PPP loans from two different banks. (5/19/20)
- A&B attorneys provide [analysis](#) on how the **Consumer Financial Protection Bureau (CFPB) is responding to consumer complaints** about mortgage and credit card terms during the pandemic. (5/18/20)
- On May 18, FTC and SBA [sent warning letters](#) to **two companies that may be misleading small businesses seeking SBA loans** as a result of COVID-19. One of the companies has claims like “Your Paycheck Protection Program Loan starts here!” while the other claims it is an authorized SBA loan packager for PPP and advertised its services for a \$495 fee, despite the SBA prohibiting lead generators or other agents from charging fees to PPP loan applicants. The FTC’s letters warn the companies to take immediate action to ensure all deceptive claims are removed and to remediate any harm to small business consumers as a result of the claims. The recipient companies must also notify the FTC within 48 hours what specific actions they took to address the agency’s concerns.
- On May 15, the FTC [advised nursing homes and assisted living facilities that they cannot take residents’ stimulus payments](#) simply because the resident is on Medicaid. The Iowa Attorney General’s Office and other State AGs have received reports that these facilities have been requiring residents to sign over their stimulus payments against the CARES Act directives. According to the CARES Act, those economic impact payments are considered tax credits which do not constitute “resources” for federal benefits programs, including Medicaid.
- The Department of Justice Antitrust Division [issued its third expedited business review letter](#) (BRL) related to COVID-19 collaborations, this time in connection with collaboration by pork producers and processors. COVID-19 outbreaks forced many meat plants to close, leading to a reduction in processing capacity. As a result, some hogs are now unmarketable because they have grown too large to fit on processors’ production line equipment. **DOJ approved the National Pork Producers Council’s proposal to allow its members to coordinate with each other and the USDA and share information to address these supply chain issues.** [Consistent with its prior expedited BRLs](#), DOJ said it would not challenge conduct aimed at addressing COVID-19 if it is (i) “compelled by an agreement with a federal agency or a clearly defined federal government policy” and (ii) “supervised by a federal agency.” DOJ found that most of the proposed coordinated conduct would occur at the direction of the USDA, and that information to be shared independent of the government – including euthanization methods, protocols,

equipment, or processors – would be unlikely to raise concerns under the antitrust laws.
(5/15/20)

Department of Labor/OSHA

- The **Department of Labor (DOL)** [updated](#) its resources for employers, employees, and states to prevent unemployment insurance fraud. (5/19/20)
- The Department of Labor announced publication of a [final rule](#) that expands the ability of private sector employers to **communicate retirement plan information online or by email**. (5/21/20) **(New)**
- The Department of Labor [announced](#) a final rule that allows employers to pay **bonuses** or other **incentive-based pay** to salaried, nonexempt employees whose hours vary from week to week. The final rule clarifies that payments in addition to the fixed salary are compatible with the use of the fluctuating work week method under the **Fair Labor Standards Act (FLSA)**. (5/20/20) **(New)**
- The **Occupational Safety and Health Administration (OSHA)** [announced](#) that it was revising two enforcement policies regarding COVID-19. First, OSHA updated its [interim enforcement response plan](#) for COVID-19 to increase in-person inspections at all types of workplaces. Second, OSHA updated its [enforcement guidance](#) requiring employers to record work-related coronavirus cases. (5/19/20)
- **OSHA** [announced](#) that it was making \$11.5 million available in grants to non-profits to support training on workplace safety and health hazards. (5/19/20)
- **OSHA** jointly with the CDC [announced guidance](#) for **meat and poultry** processing workers and employees. (5/15/20)
- **OSHA** [announced](#) an alert for rideshare, taxi, and car service safety during the COVID-19 pandemic. (5/14/20)

Small Business Administration

- **Small Business Administration (SBA)** – In response to the **CARES Act** requirements, the SBA formally [launched](#) its **Paycheck Protection Program (PPP)** for small businesses. (4/3/20)
 - The SBA released a [procedural notice](#) informing PPP Lenders of the **reporting process** through which PPP Lenders will report on PPP loans and collect the **processing fee** on fully disbursed loans which they are eligible to receive. (5/21/20) **(New)**
 - The SBA issued a PPP [interim final rule](#), extending the **safe harbor** deadline to May 18, 2020. (5/20/20) **(New)**
 - The SBA [updated](#) its total loan statistics, noting that it has approved 4.4 million loans, totaling \$512 billion in loans through 5,506 participating lenders. **(Updated 5/21/20)**
 - The SBA and Treasury **updated their** [FAQs on the Paycheck Protection Program](#) to provide guidance extending the SBA Form 1502 reporting deadline for lenders (question 48). (Updated 5/19/20)
 - The SBA [issued](#) an interim final rule that provides **guidance to entities with foreign affiliates regarding PPP loan forgiveness**. (5/19/20)

- The SBA [released](#) the Paycheck Protection Program **Loan Forgiveness process**, which includes the [application and instructions](#). (5/15/20)
- The SBA issued an [interim final rule](#) for the PPP, relating to **electric cooperatives**. (5/14/20)

Department of Treasury/IRS/Federal Reserve

- The Department of Treasury [website](#) for **CARES Act** programs, including specific sections on assistance for [American workers and families](#), [small businesses](#), [state and local governments](#), and [preserving jobs for American industry](#).
- The **Federal Reserve Board**, the **Federal Deposit Insurance Corporation**, the **National Credit Union Administration**, and the **Office of the Comptroller of the Currency** [released](#) principles for offering responsible small-dollar loans to meet financial institutions' customers' short-term credit needs. (5/20/20) (**New**)
- The Federal Reserve Board has [announced](#) a temporary change to the **supplementary leverage ratio rule**, providing flexibility to certain depository institutions to expand their balance sheets in order to provide credit to households and businesses during the pandemic. (5/15/20)
 - **The Federal Reserve Board** [issued](#) a Report on the Economic Well-Being of U.S. Households. (5/14/20)

Other Agencies

- The **U.S. Department of Agriculture (USDA)** [announced](#) that it is making available up to \$1 billion in loan guarantees to help rural businesses meet their working capital needs during the coronavirus pandemic. (5/21/20) (**New**)
- The **Internal Revenue Service (IRS)** [announced](#) that the 2020 IRS Nationwide Tax Forums will be held virtually in 2020 with a series of live-streamed webinars beginning this July. (5/21/20) (**New**)
- The **Transportation Security Administration (TSA)** [announced](#) that it has implemented changes to the security screening process that reduce the potential for cross-contamination at the security checkpoint in an effort to help prevent the spread of COVID-19. (5/21/20) (**New**)
- The **Federal Housing Finance Agency (FHFA)** [announced](#) that it is seeking comments on a notice of proposed rulemaking that would establish a new regulatory capital framework for Fannie Mae and Freddie Mac. (5/20/20) (**New**)
 - FHFA also [issued](#) temporary guidance regarding the eligibility of borrowers who are in forbearance, have recently ended their forbearance, are looking to refinance, or buy a new home. (5/19/20) (**New**)
- The USDA [announced](#) details of its **Coronavirus Food Assistance Program (CFAP)**, which will provide \$19 billion in direct payments to farmers and ranchers and to purchase produce, dairy, and meat for Americans in need. Additional information on CFAP is available [here](#). (5/19/20)
- The USDA [announced](#) its **Farmers to Families Food Box program** which is intended to move farm products directly to food pantries and community food programs. (5/15/20)
- The USDA [has extended](#) its waivers for child nutrition program operators who need flexibility to continue their **nutrition programs through the summer**. (5/15/20)

- **Cybersecurity:** For an update on **recent key developments in privacy, data security, and all things cyber**, read this A&B [Digital Download](#). (5/12/20)
- The **Environmental Protection Agency (EPA)** issued an **additional temporary amendment to [Pesticide Registration Notice 98-10](#)** to include **food-contact surface sanitizer products containing the active ingredient isopropyl alcohol**. This allows manufacturers of food-contact surface sanitizer products containing isopropyl alcohol to use similar sources of this active ingredient without EPA approval. This amendment should increase availability of food-contact surface sanitizers, benefiting facilities processing low moisture products like grains, cereal, flour, and industrial baked goods, which have been experiencing sanitizer shortages. (5/15/20)
 - The EPA, with the U.S. Department of Agriculture, [announced](#) assistance to help 16 communities boost economic opportunities for their local farmers, while promoting clean air, safe water, open space, and healthy food choices. (5/14/20)
- The **Department of Housing and Urban Development (HUD)** [announced](#) a fourth series of CARES Act funding totaling \$75 million to assist people living with disabilities. Information on the local impact of the assistance is available [here](#). (5/18/20)
- In a program jointly lunched by the Department of HUD, the **Consumer Financial Protection Bureau**, the Federal Housing Finance Agency and the Department of Veterans Affairs, a [website](#) has been created to offer **joint housing and mortgage assistance**. (5/15/20)
- Review this A&B [advisory](#) for information regarding the expansion of **Ginnie Mae's Pass-Through Assistance Program to multifamily mortgage-backed securities issuers**. (5/12/20)
- The President also released an [executive order](#) to **increase the development of domestic medical supply manufacturing** through an **International Development Finance Corporation** loan program. (5/14/20)
- The **Department of Transportation (DOT)** Federal Motor Carrier Safety Administration [published](#) a [final rule](#) updating hours of service rules for commercial motor vehicle drivers to increase safety on America's roadways. (5/14/20)

Trade and International Business Issues

- **The U.S.-Canada Border To Remain Closed Through June 21.** Canadian Prime Minister Justin Trudeau during his daily press conference commented that “[i]t was the right thing to further extend by 30 days our closure of the Canada, U.S. border to travelers other than essential services and goods, but we will continue to watch carefully what’s happening elsewhere in the world and around us as we make decisions on next steps.”
- **USDA APHIS Allows Electronic Copies of Veterinary Certificates and Phytosanitary Certificates Due to COVID-19 through July 18.** The U.S. Department of Agriculture’s Animal and Plant Health Inspection Service has [extended](#) the interim guidance for the electronic submission of veterinary health certificates, phytosanitary certificates, and PPQ 203 forms for shipment clearance due to COVID-19 pandemic. The guidance is now effective through July 18, 2020.

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. (last updated 5/17/20)
- On May 19, the Organized Dentistry Coalition (the “ODC”) sent a [letter](#) to Congress recommending that it support [HR 6494](#), the Business Interruption Insurance Coverage Act, which if passed would require insurers to “make[] available business interruption insurance coverage” for COVID-19 related losses for an increased premium. The ODC noted that many dental practices have “learned that their policies do not cover government-ordered business shutdowns caused by a national emergency” and that the lack of coverage has had a “substantial negative impact” on dental practice owners. However, the ODC acknowledged that “abrogating or re-writing contracts at this time could potentially have a deleterious impact on the property and casualty insurance industry, as current policy premiums did not account for the risk associated with these pandemic-related losses when they were calculated.” **(New)**
- On May 15, the Louisiana Senate proposed an [Amended Senate Bill 477](#). The original bill would have retroactively required insurers to provide business interruption coverage for COVID-19 related business income losses, regardless of policy language. The May 15 amended bill nixes the controversial retroactive requirements and instead requires that all policies issued after August 1, 2020 “include a notice of all exclusions on a form prescribed by the commissioner of insurance” which shall “be conclusively presumed to become a part of the policy of contract when issued and delivered.”
- The National Association of Insurance Commissioners has issued a [Business Interruption COVID-19 Data Call Letter](#) to property and casualty insurers indicating that state insurance regulators in 50 states, the District of Columbia, and the U.S. territories “have agreed to participate in a data call to collect data related to business interruption insurance and COVID-19.” Insurers are “requested to complete both parts of the COVID-19 business interruption data call” and to submit a “Premiums Data Template” by May 22, and a “Claims Data Template” by June 15, with mid-monthly update filings thereafter.
- The pace of new business income coverage claims flooding state and federal courts nationwide has not slowed over the last few weeks. Notable filings and orders include:
 - On May 19, a federal district judge for the Western District of Pennsylvania remanded Plaintiff Dianoia’s Eatery, LLC’s Complaint seeking declaratory relief for business interruption losses back to state court for lack of subject matter jurisdiction. The court cited uncertainty regarding whether it had diversity jurisdiction, and also noted that the Complaint “raise[d] novel insurance coverage issues under Pennsylvania law which are best reserved for the state court to resolve in the first instance.” The case is *Dianoia’s Eatery, LLC v. Motorists Mut. Ins. Co.*, No. 2:20-cv-00706-NBF (W.D. Pa.). **(New)**
 - On May 19, iAthlete & Fitness LLC dba Results Fitness filed suit in Ohio state court against its insurer, The Cincinnati Insurance Company, seeking damages for breach of contract and bad faith claims. Plaintiff alleges that Defendant wrongfully denied plaintiff’s claims for lost business income and extra expenses resulting from the

COVID-19 pandemic and related government closure orders. The case is *iAthlete & Fitness LLC v. The Cincinnati Ins. Co.*, No. CV-20-932683 (Cuyahoga Cnty. Ct. of C.P.).
(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:

- [Workplace, School, and Home Guidance](#)
- [People at Risk for Serious Illness from COVID-19](#)
- [How COVID-19 Spreads](#)
- [Symptoms](#)
- [Steps to Prevent Illness](#)
- [Testing](#)
- [Frequently Asked Questions](#)
- [What to Do If You Are Sick with COVID-19](#) (updated 4/28/20)
- [Stigma Related to COVID-19](#)
- [Facts about COVID-19](#)
- [Information for People at Higher Risk and Special Populations](#)
- [Communication Resources](#)

Situation Updates:

- [Situation Summary](#)
- [Cases in the U.S.](#)
- [Global Locations with COVID-19](#)
- [Risk Assessment](#)
- [CDC in Action: Preparing Communities](#)

Information for Businesses:

- [Interim Guidance for Businesses and Employers](#)
- [Information for Communities, Schools, and Businesses](#)
- [Environmental Cleaning and Disinfection Recommendations – Community Facilities](#)
- FEMA: [Coronavirus Response](#)
- SBA: [COVID-19 Resources](#)
- DOL: [Guidance for Preparing Workplaces for Coronavirus](#)
- DOL: [OSHA Resources for Workers and Employers on COVID-19](#)
- WHO: [Get Your Workplace Ready for COVID-19](#)
- CISA: [Risk Management for COVID-19](#)
- EPA: [Disinfectants for Use Against COVID-19](#)

- Federal Reserve: [Coronavirus Disease 2019 \(COVID-19\) Resources](#).
- FDIC: [Coronavirus \(COVID-19\) Information for Bankers and Consumers](#).
- OCC: [COVID-19 \(Coronavirus\)](#).
- Conference of State Bank Supervisors: [Information on COVID-19 Coronavirus](#).
- NYDFS: [Coronavirus: Information for Industry and Regulated Entities](#).
- NMLS: [State Agency Communication/Guidance on Coronavirus/COVID-19](#)

Information for Travel and Transportation:

- [Information for Travel](#)
- [Guidance for Ships](#)
- [Guidance for Airlines and Airline Crew](#)
- State: [Travel Advisories](#)
- State: [Traveler's Checklist](#)
- State: [Smart Traveler Enrollment Program](#)
- DOT: [FAQs from FTA Grantees Regarding COVID-19](#)

Information for Health Care Providers, First Responders, and Research Facilities:

- [Information for Healthcare Professionals](#)
- [Resources for State, Local, Territorial and Tribal Health Departments](#)
- [Resources for Healthcare Facilities](#)
- [Infection Prevention and Control Recommendations for Patients with COVID-19 or Persons Under Investigation in Healthcare Settings](#)
- [Information for Laboratories](#)
- [Resources for First Responders](#)
- [Guidance for Public Health Professionals Managing People with COVID-19 in Home Care and Isolation Who Have Pets or Other Animals](#)
- [FAQs and Considerations for Patient Triage, Placement and Hospital Discharge](#)
- [What Law Enforcement Personnel Need to Know](#)
- [Guidance for Homeless Shelters](#)
- [Guidance for Hemodialysis Facilities](#)
- CMS: [Information on COVID-19 and Current Emergencies](#)
- CMS: [Guidance for Hospice Agencies](#)
- CMS: [Emergency Medical Treatment and Labor Act Requirements and Implications Related to COVID-19](#)
- CMS: [FAQs for State Survey Agency and Accrediting Organizations](#)
- EPA: [Disinfectants for Use Against COVID-19](#)

Information for Schools and Childcare Providers:

- [Interim Guidance for Administrators of U.S. Childcare Programs and K-12 Schools](#)
- [Resources for Institutes of Higher Education](#)
- [Environmental Cleaning and Disinfection Recommendations – Community Facilities](#)
- USDA: [USDA Makes It Easier, Safer to Feed Children in California Amid Coronavirus Outbreak](#)
- EPA: [Disinfectants for Use Against COVID-19](#)

- DOE: [Resources for Schools and School Personnel](#)

Information for Community Events and Gatherings:

- [Interim Guidance for Mass Gatherings and Large Community Events](#)
- [Interim Guidance for Community- and Faith-Based Organizations](#)

Alston & Bird Coronavirus Links

- Alston & Bird Coronavirus [Task Force](#) 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 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](#)