

The debate over the future direction of Washington's coronavirus response is increasingly falling along traditional party lines. Democrats are seeking to prime the nation's economic engine through nearly US\$1 trillion in new aid for state, territorial and municipal governments. Republicans are countering by calling for fewer taxes, regulations and lawsuits. Presently, no significant COVID-19 legislation is moving in either chamber of the US Congress.

The director of President Donald Trump's National Economic Council, Larry Kudlow, said Sunday that a "pause" moment has been reached in what has been an effort to pump trillions of dollars into the US economy as it struggles under the weight of the pandemic. Kudlow's comments, made to CNN, came just days after the Trump-appointed chairman of the Federal Reserve Board said trillions of dollars in additional spending by Congress will be necessary to prevent the nation's economy from further cratering.

The US Senate will convene in person today for work on "policy and nominees in the COVID-19, national security, oversight, and judicial areas." The US House of Representatives is tentatively planning to return to Washington next week, as House Speaker Nancy Pelosi (D-CA) continues work behind the scenes on an as-yet unseen "CARES 2" coronavirus response package.

Republicans in Washington have used the "pause" to roll out an escalating series of conditions they say will have to be met to secure their support for the next pandemic response bill. Republican congressional leaders last week announced they will only agree to the hundreds of billions in additional state and local aid sought by Democrats if the money is accompanied by measures to shield enterprises and workers from litigation as the economy reopens. Sunday evening, President Trump added an additional "red line," saying he will not sign another relief bill unless it includes tax relief for businesses and consumers to support economic growth.

POLITICO's Nancy Cook, citing interviews with senior administration officials, reports that the White House "is preparing a proposal for tax and regulatory changes to boost the economy that it tentatively plans to release at the end of this week."

"White House aides [have] seriously discussed expanding the business-expense deduction or allowing businesses to write off

new investment such as equipment costs, [and] a new tax credit to incentivize companies to return manufacturing to the US," Cook notes, adding that further stimulus cash payments to individuals may also be part of the White House plan.

In the coming weeks, we will unveil a blog dedicated to global public policy focused content. Follow us on Twitter [@SPB_CapThinking](#) for the launch announcement.

Tax and Economic Development Updates

With more than 30 million jobless claims over the last six weeks – and a jobless rate that could top 20-percent in this Friday's jobs report for the month of April – lawmakers are continuing to look for ways to provide much-needed financial assistance to the millions of Americans impacted by the current economic crisis. For example, last week, Senate Committee on Finance Ranking Member Ron Wyden (D-OR) – along with nearly 40 of his colleagues – sent a [letter](#) to Senate leadership urging them to expand the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) as part of the federal government's ongoing response to the COVID-19 pandemic. Specifically, these lawmakers are seeking to fill gaps in the EITC and CTC "that leave out the youngest adult workers, workers not raising children in the home, and the lowest-income families." According to Senator Wyden, expanding the EITC would benefit five million US workers, while changes to the CTC would benefit 26 million children. Notably, these proposals build on the [Working Families Tax Relief Act](#), which was introduced in advance of Tax Day 2019 in an effort to "give millions more Americans a foothold in the middle class." House Committee on Ways and Means Chairman Richard Neal (D-MA) is also reported to be exploring similar policies and plans to seek their inclusion as part of the next round of negotiations.

As small businesses struggle to adapt to the current challenges facing Main Street, many are taking advantage of the Paycheck Protection Program (PPP). The Small Business Administration (SBA) has released an [updated report](#) on PPP loans approved from April 27, 2020, through May 1, 2020. According to the SBA, they have approved as part of this second round of lending more than 2.2 million PPP loans with a total value of over US\$175 billion. The report also provides that more than 70% of the loans were for less than US\$50,000, with the average loan size just shy of US\$80,000. While information about individual PPP loans is not yet available, recall that Senate Committee on Small Business Chairman Marco Rubio (R-FL) has suggested that the SBA "is eventually going to have to release" more detailed information and, "if they don't, we'll make them do it." In addition to its updated report on PPP loans, the SBA has issued [Guidance on Whole Loans Sales of PPP Loans](#) and yesterday

updated its [Frequently Asked Questions](#) (Questions 40-42), which address issues related to loan forgiveness, borrower certifications, and nonprofit hospitals.

As we reported over the weekend, it appears that various lawmakers and stakeholders are beginning to take issue with Internal Revenue Service (IRS) guidance implementing various tax policies enacted in response to COVID-19. One example relates to agency [guidance](#) providing that employers are not permitted to claim the employee retention tax credit for health care expenses paid on behalf of their employees if they are not also paying other wages. In response to this guidance, the US Chamber of Commerce has sent a [letter](#) to Treasury Secretary Steven Mnuchin urging the IRS to allow employers that have continued to provide health care benefits to furloughed employees to be eligible for the tax credit. According to the Chamber, “[p]unishing employers who have continued to provide furloughed employees health care benefits during a global pandemic is simply poor public policy.” Looking ahead, it is clear that tax policy will continue to be a key piece of the federal government’s COVID-19 response, as President Trump last night made clear during his virtual town hall that “[w]e’re not doing anything [more] without a payroll tax cut.” In fact, reports suggest that by as early week’s end, the President could outline a number of tax policy priorities he would like to pursue to aid in America’s economic recovery, which could potentially include changes to how businesses depreciate their property as well as a new tax credit to encourage increased domestic manufacturing.

Finally, recall that on April 30, after receiving over 2,200 comment letters, the Federal Reserve published two updated term sheets and one new term sheet for its Main Street Lending Program (MSLP), along with [Frequently Asked Questions](#) that may from time to time be updated. The MSLP is intended to provide support for small and mid-sized businesses through four-year term loans (Main Street Loans) from eligible lenders to eligible US businesses, which together with their affiliates, have up to 15,000 employees or revenues of up to US\$5 billion. The Federal Reserve has clarified that the affiliation rules applied by the SBA to determine eligibility under the PPP will also apply with regard to certain eligibility criteria under the MSLP. While we have put together an in-depth [analysis](#) of the program, it is important to note that every entity’s approach to the MSLP should be based on its individual facts and circumstances. As such, our [financial services team](#) stands ready and able to assist with interpreting some of the ambiguities and open questions in the governing rules for the program.

Health Updates

As we reported on Saturday, President Trump [announced](#) on Friday evening his intent to nominate Jason Weida, an Assistant US Attorney in Boston, to be Inspector General of the Department of Health and Human Services (HHS). In April, the HHS Office of Inspector General (OIG) released a [report](#) that found hospitals in crisis as COVID-19 diagnoses were increasing; President Trump accused Christi Grimm, Principal Deputy Inspector General, of having political motives for releasing the report. On Saturday, Senate Committee on Health, Education, Labor and Pensions (HELP) Ranking Member Patty Murray (D-WA) released a statement, previewing the Senate’s confirmation

process: “We all know the President hasn’t told people the truth about this virus or his Administration’s response, and late last night, he moved to replace an independent government official who did. The President cannot be above oversight, no matter how he denies, attacks, and fights against it. His nominee must not get through the Senate without ironclad commitments to continue, without any political interference, the investigations that are currently underway.”

The Centers for Disease Control and Prevention released a report titled “[Public Health Response to the Initiation and Spread of Pandemic COVID-19 in the United States, February 24 – April 21, 2020](#).” The report states that various factors led to an accelerated spread of the coronavirus from February to March of this year, including “continued travel-associated importations, large gatherings, introductions into high-risk workplaces and densely populated areas, and cryptic transmission resulting from limited testing and asymptomatic and presymptomatic spread. Targeted and communitywide mitigation efforts were needed to slow transmission.” The report authors explain that the identification and recognitions of the factors identified in the report associated with increased spread during the early months of the pandemic can assist future decision-making across the US as locations continue to respond to the COVID-19 emergency.

Last night, President Trump [stated](#) a COVID-19 vaccine should be ready by the end of this year, though the public health advisors of his administration have insisted the timeline will be longer and reach into 2021. *POLITICO* reports that many are worried the US will have limited access to a cure if it is developed by another country, due to President Trump’s international actions, including his recent move to withhold funding from the World Health Organization. President Trump has dismissed this notion. “I just want to get a vaccine that works. I really don’t care. If it’s another country, I’ll take my hat off to them,” he said.

President Trump also [discussed](#) the antimalarial drug hydroxychloroquine last night, referencing the drug in a political context. He stated, “The Democrats – the radical left, whatever you want – would rather see people, I’m going to be very nice. I’m not going to say ‘die.’ I’m going to say, would rather see people not get well, because they think I’m going to get credit if, you know, hydroxychloroquine works.” As we previously reported, the Food and Drug Administration (FDA) [issued a Drug Safety Communication](#) cautioning against the use of hydroxychloroquine or chloroquine as a treatment for the coronavirus outside of a hospital setting or clinical trial, as there is a risk of serious and potentially life-threatening heart rhythm problems in patients when the drugs are administered. Members of President Trump’s team have disagreed over the use of hydroxychloroquine as a treatment for the coronavirus. President Trump had repeatedly expressed enthusiasm for hydroxychloroquine during press briefings earlier this year, and the FDA posted chloroquine phosphate and hydroxychloroquine sulfate tablets to its drug shortages [website](#), attributing the action to a surge in demand. The International Society of Antimicrobial Chemotherapy has now [questioned](#) a French study published in a society-run journal that suggested the drug could be beneficial for COVID-19 patients.

The FDA has updated its [COVID-19 Response At-A-Glance Summary](#), providing news on major FDA activities and new facts and figures. Established in mid-April, FDA revises this Summary

on a regular basis. The summary describes (and links to) FDA's major activities involving COVID-19 response, including those focused on medical products and equipment, therapeutics, vaccines, fraudulent products, food safety and supply and inspection and importation.

Trade Updates

During a town hall hosted by Fox News Sunday night, President Trump suggested that new tariffs against China might be possible in response to the coronavirus pandemic. As part of the Phase One deal signed by the US and China earlier this year, the latter pledged to purchase US\$200 billion of US products over the next two years, including approximately US\$75 billion in manufactured goods, US\$50 billion worth of energy, US\$40 billion in agriculture products and US\$40 billion in services. Stakeholders have expressed concern that the Chinese government may not be able to meet these commitments given the impacts of the coronavirus pandemic.

During Sunday's appearance, President Trump reiterated his commitment to that agreement, saying "[i]f they don't buy, we'll terminate the deal, very simple." When asked whether he might consider rolling back tariffs on goods from China that remain in place, President Trump reiterated that these tariffs amount to payments from China that are being redirected to farmers hurt by Chinese retaliation. A reporter asked President Trump whether he would use tariffs to punish China for its handling of the ongoing pandemic; while the president did not confirm either way, he called tariffs "the ultimate punishment" and said "[t]ariffs at a minimum are the greatest negotiating tool that we have ever devised and we never used for negotiation." However, experts caution that imposing significant new or increased tariffs in the middle of an economic downturn could have severe negative effects on the already-struggling economy.

Some officials are increasingly stoking anti-China sentiment in Washington – at minimum, criticizing the government of failing to promptly and transparently warn the world during the outbreak's early stages, with some going so far as to lay blame for the contagion on lax practices at a Wuhan laboratory studying coronaviruses (evidence for the latter theory remains limited). Last week, the [Washington Post](#) reported that administration officials are considering how the US might retaliate against China for its handling of the coronavirus pandemic. Regardless, China policy will almost certainly be a major theme in the November presidential and congressional elections.

Oversight Updates

Last Friday, the Small Business Administration's Inspector General, Hannibal "Mike" Ware, [said](#) that his office has initiated dozens of investigations into PPP loans. The announcement came following requests for investigations by several lawmakers, including Chairman of the House Committee on Small Business Nydia M. Velázquez (D-NY), Senate Minority Leader Chuck Schumer (D-NY) and Senators Josh Hawley (R-MO), Elizabeth Warren (D-MA), Sherrod Brown (D-OH) and Benjamin Cardin (D-MD). While the investigations will likely take at least 90 days, consistent with the announcement last week by several IGs,

including the SBA's IG, lawmakers will receive "flash reports" on the ongoing investigations to ensure speed and transparency. *POLITICO* reports the SBA IG's first flash report is expected by May 8.

Over the weekend, hotel group Ashford Inc. [announced](#) that it will return the US\$70-million PPP loan it had received. Like other companies that decided to return the funds, Ashford emphasized that it had believed it legally qualified for the loan when it submitted the application and received the funds, but "continuous SBA rule changes and evolving opinions by administration officials have led us to conclude that we may no longer qualify." Companies have until May 7 to return PPP loans if they are unsure they can certify in good faith that "current economic uncertainty" makes the loans "necessary to support the ongoing operations." Per Treasury Secretary Mnuchin, PPP loans of US\$2 million or more will be subject to full audits before they are forgiven, and companies may be subject to criminal liability if they wrongfully claimed the funds.

Stimulus payments made under another CARES Act program to medical care providers in the total amount of US\$30 billion are also coming under scrutiny. *Reuters* [reports](#) that stimulus payments were made to companies and individuals facing civil or criminal fraud investigations. The Department of Health and Human Services told *Reuters* that funds were deposited into bank accounts of companies that submitted billings in 2019 to Medicare, unless those companies were already excluded from participating in the program. This practice was criticized by several lawmakers, including Senator Wyden. Katherine Harris, a spokeswoman for the HHS IG, would not comment on any ongoing investigations but noted that the IG's Office "regularly perform[s] reviews of the department's administration of programs, including the distribution of funding." Late on Friday, President Trump [announced](#) his intent to nominate Jason Weida to be the HHS IG. If confirmed by the Senate, Weida will replace Christi Grimm, Principal Deputy IG, who authored the report that found hospitals in crisis as COVID-19 diagnoses were increasing. The President characterized the report as "wrong" and "Another Fake Dossier!"

Yesterday, presumptive Democratic presidential nominee Joe Biden and Senator Warren teamed up in an [op-ed](#) titled "There's no oversight of coronavirus relief — because that's what Trump wants." They emphasized the need to shield IGs from retaliation, protecting whistleblowers, transparency and subpoena power for "the Congressional Oversight Commission, which sits beyond Trump's reach." They concluded by saying that, if Congress and President Trump's administration do not "act now," the Biden administration will, including by appointing an IG "to review every coronavirus relief transaction currently evading serious scrutiny."

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