

**Congressional Democrats continued to work behind the scenes Monday on new coronavirus response legislation, with House Democratic leaders laying out expectations for a marathon day of voting by the US House of Representatives either this Friday or next Tuesday.**

The House will return at the earliest on Friday, May 15, according to Democratic sources, and votes will be pushed to Tuesday if the new bill is not ready in time for a vote on Friday. Members have been advised that the vote series will begin early in the morning and likely continue late into the night as social distancing procedures are observed, slowing the vote-casting process.

The House vote series is expected to begin with consideration of a proxy voting measure that would temporarily change House rules to allow representatives who are unwilling or unable to be physically present in the US Capitol to cast votes on legislation. Committees would be given the authority to conduct all of their business remotely.

After completing work on the rules change, the House is expected to proceed to consideration of Speaker Nancy Pelosi's (D-CA) new COVID-19 response package. Some have referred to the measure as "the CARES 2.0/HEROES Act," suggesting that even the name of the bill may yet be an unsettled issue among congressional Democrats, who have been engaged in a robust internal debate about the scope, details and strategy for advancing the as-yet not unveiled legislation. Senate Minority Leader Chuck Schumer (D-NY), with whom Speaker Pelosi is reported to have consulted closely on the new bill, has called for the creation of a "[Heroes Fund](#)" to give hazard pay to workers on the front lines of the nation's pandemic response.

On both sides of the Capitol, meanwhile, signs continue to emerge that some congressional Republicans are eager to get on with the next round of federal coronavirus relief, at least in some form. Dozens of Republican representatives were among 137 House members who signed a letter sent Monday to Speaker Pelosi and House Minority Leader Kevin McCarthy (R-CA) calling for the inclusion of nearly US\$50 billion in funding for state departments of transportation in the next federal COVID-19 response package to stabilize distressed highway and bridge

construction projects. In the US Senate, Senator Bob Menendez (D-NJ), the co-author with Senator Bill Cassidy (R-LA) of a bipartisan bill that would provide US\$500 billion in new money for states, territories and local governments, said two or three more GOP senators will come aboard as co-sponsors of the proposal by the end of this week.

The pandemic will be the focus of multiple congressional hearings Tuesday, including the first hearing of the Select Subcommittee on the Coronavirus Crisis, the COVID-19 response oversight panel established weeks ago by the Democratic majority in the House. The Senate Committee on Health, Labor, Education and Pensions (HELP) will conduct a hearing on the reopening of the economy featuring Dr. Anthony Fauci of the National Institute of Allergy and Infectious Diseases (NIAID).

*For additional global public policy insights related to COVID-19, including our daily US Executive Branch Update and COVID-19 US State Policy Report, follow us on Twitter ([@SPB\\_Global](#)) and LinkedIn ([Squire Patton Boggs](#)). See [here](#) for the latest editions.*

*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 the "safe harbor" deadline of May 14 quickly approaching for Paycheck Protection Program (PPP) borrowers to return their loans to avoid a potential review of the appropriateness of their borrower certifications, we are continuing to see the program itself develop. For example, yesterday, Treasury Secretary Steven Mnuchin again acknowledged an openness to making changes to certain PPP rules. In particular, he highlighted ongoing discussions about pursuing a technical fix to the rule that would require borrowers to spend at least 75% of their loan proceeds within eight weeks on payroll costs, leaving only 25% of the loan for rent, mortgage interest and utility expenses. According to Secretary Mnuchin – who appears particularly focused on the impact the 75/25 rule is having on restaurants taking out loans – "[i]f Congress wants to change that rule, I'm happy to work with Congress, if there's bipartisan support to do that." Coming into this week, the Small Business Administration (SBA) had approved nearly US\$190 billion in PPP loans as part of the second tranche of

lending, which is just shy of the two-thirds of the additional US\$320 billion in funding Congress approved last month.

Banking regulators – including representatives from the Federal Reserve, Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) – are set to testify today before the Senate Committee on Banking, Housing and Urban Affairs to discuss the ongoing economic response to the COVID-19 pandemic and potential challenges ahead. The regulators will also appear before the House Committee on Financial Services tomorrow as part of a virtual roundtable. Federal Reserve Vice-Chairman for Supervision Randal Quarles is expected to testify that “banking organizations can only be as robust as the economies they serve...As the response to these public health concerns continues to unfold, the strength of the US financial sector will reflect and depend on the strength of the US economy. That strength, in turn, will depend on the calibration and effectiveness of our public health response.” We also expect to see lawmakers question regulators on a wide-array of topics, ranging from the payment by banks of dividends to concerns about deficit spending to pressures facing the mortgage servicing industry. Notably, the Consumer Financial Protection Bureau (CFPB) has released April 2020 data from its consumer complaint database, which shows a 15% increase in complaints from March 2020. In total, the CFPB received 42,774 complaints in April 2020 – a record high since the database first came online in 2011 – with more than one in five complaints related to consumer mortgages.

Yesterday, the New York Fed [announced](#) that the Secondary Market Corporate Credit Facility (SMCCF) will begin purchases of exchange-traded funds (ETFs) today, May 12. As we previewed in past reports, ETFs effectively allow the Federal Reserve to make certain, limited investments in assets that are not investment-grade. As part of its announcement yesterday, the New York Fed also released various other governing documents for its corporate bond buying programs, including an [investment management agreement](#) with BlackRock, which will advise on ETF purchases. The Federal Reserve also yesterday published updates to the [term sheet](#) and [frequently asked questions](#) for its Municipal Liquidity Facility (MLF), along with a [pricing appendix](#). Chief among the additional information are additional details for government entities seeking financial assistance through the MLF but that have received only one rating from a national credit rating agency – a change that appears likely to benefit smaller municipal governments that are able to access the MLF following the recent expansion of its borrower eligibility criteria. By way of reminder, the MLF will offer up to US\$500 billion in lending to states and municipalities “to

help manage cash flow stresses caused by the coronavirus pandemic.”

## Health Updates

On Monday, President Trump held a press conference to announce that the federal government will allocate US\$11 billion to states, territories and tribes for testing. The federal government will also send states testing supplies, including swabs and transport media. In his remarks, President Trump said his administration had “prevailed on testing.” He explained, “The center of this industrial and scientific mobilization [during the pandemic] was the development of our coronavirus testing capabilities,” with a capacity “unmatched and unrivaled anywhere in the world.” Reporters questioned whether workers across the United States will have the same access to testing as the president’s aides. They also asked whether social distancing guidelines should be lifted as COVID-19 diagnoses rise in different areas of the country. As we noted yesterday, the administration has made some strides in testing over the past few weeks, though some public health experts stress the United States should establish increased capacity and achieve additional scientific advancements before social distancing guidelines are relaxed further. *POLITICO Playbook* was blunt this morning, remarking about the press conference, “Every administration spins. But this administration is trying to will its reality into existence.” The topics of testing and social distancing guidelines will likely be discussed in today’s hearing of the Senate HELP Committee, titled “COVID-19: Safely Getting Back to Work and Back to School.” Chairman Lamar Alexander (R-TN) and the witness panel will participate in the hearing via videoconference, due to self-isolation measures they instituted after being in contact with individuals who later tested positive for COVID-19.

Senators Brian Schatz (D-HI), Lisa Murkowski (R-AK), Angus King (D-ME) and John Boozman (R-AR) [wrote](#) to House and Senate leadership, requesting US\$2 billion in the next coronavirus relief package for the Rural Health Care (RHC) Program. The senators noted the pandemic has increased demand for telehealth services. They explained this additional RHC support “would expand the reach of the RHC Program to enable health care providers at non-rural and mobile health care facilities to engage in telehealth, eliminate administrative red tape that slows down the ability of front-line providers to obtain broadband connectivity, and provide more resources to current health care providers in the RHC Program so they can increase their broadband capacity to effectively treat their patients.” The Department of Health and Human Services has created a telehealth [website](#) to address questions and provide an additional resource to providers and patients during the pandemic. Our Communications Practice has been keeping track of the surge in demand for broadband connectivity and the various proposals from industry stakeholders and government officials. Our updates are

available [here](#), with the latest update available [here](#).

The Food and Drug Administration (FDA) updated its guidance titled "[Conduct of Clinical Trials of Medical Products during COVID-19 Public Health Emergency](#)." The new language in the question-and-answer appendix includes "considerations for using alternate laboratories or imaging centers, holding trial participant visits via video conference, and conducting required postmarketing clinical trials." The updated guidance also includes information on managing protocol deviations and amendments for ongoing trials, as well as information on consulting with the agency on administering investigational product infusions outside of the clinical trial site.

## Trade Updates

In an op-ed in today's edition of *The New York Times*, US Trade Representative Robert Lighthizer writes about the [return of manufacturing](#) to the United States. Ambassador Lighthizer criticizes a number of business and trade policy developments over recent decades that he argues have resulted in the loss of millions of American manufacturing jobs, including: (1) the offshoring of jobs to places like China, Vietnam and Indonesia, which he suggests were driven by "a lemming-like desire for 'efficiency'"; (2) establishing permanent normal trade relations with China, a decision that was previously made annually and once permanent, eliminated the uncertainty of investing in China and cost two million American jobs; and (3) the conclusion of the North American Free Trade Agreement (NAFTA), which zeroed out tariffs on imports but included only "token" labor and environmental obligations and provided alternative investor state dispute settlement mechanism under which "the federal government effectively purchased political risk insurance for any American company that wanted to send jobs abroad."

Ambassador Lighthizer sets out how President Trump's policies have pushed back on these trends, including enforcement of prior trade commitments, "renegotiating job destroying" trade deals like NAFTA and the US-Korea Free Trade Agreement and "taking on China's predatory trade and economic policies." He argues that these efforts already began a trend of reducing reliance on offshored manufacturing operations, but challenges facing businesses today – including being "held hostage to decisions made by foreign governments about whether their suppliers are 'essential' or not" – will likely accelerate these trends. Ambassador Lighthizer notes that the COVID-19 pandemic has also revealed US overreliance on foreign countries for medicines, medical devices and personal protective equipment. He concludes by noting that "[t]he era of reflexive and offshoring is over, and with it the old overzealous emphasis on efficiency and the concomitant lack of concern for the jobs that were lost."

## European Policy Updates

On May 8, the European Commission published an [amendment to the Temporary State Aid Framework](#), which extends the scope of state aid schemes to recapitalization and subordinated debt to further support the economy in light of the coronavirus outbreak, including by introducing certain conditions for these aid schemes. The amended Framework is effective until the end of December 2020 but the recapitalization measures will run until the end of June 2021. Further information is available [here](#).

As COVID-19 infection rates continue to evolve in certain jurisdictions, the European Commission announced on May 8 its [intention](#) to further extend third country travel restrictions applicable to the EU's external borders until June 15, 2020. The measure invites the countries from the EU+ area (all Schengen Member States – the border-control free travel area – including Bulgaria, Croatia, Cyprus and Romania, as well as the four Schengen Associated States – Iceland, Liechtenstein, Norway and Switzerland). It would also include Ireland and the United Kingdom if they decide to align. The temporary travel restriction would apply to all non-essential travel from third countries to the EU+ area. Further details are available [here](#). The EU+ area countries must implement this travel restriction at the national level.

In an attempt to facilitate both businesses and authorities complying with EU legislation, the European Commission proposed postponing the application dates of some taxation rules, in particular e-Commerce VAT obligations, and deferring certain deadlines for filing and exchanging information under the Directive on Administrative Cooperation. The Council of the EU is tasked with adopting the legislative proposals, including these delays, which would become effective once published in the Official Journal of the EU. More information on these proposals can be found [here](#).

As European governments gradually ease lockdown restrictions, our team is analyzing how these measures affect businesses. This [update](#) sets out the practical steps for employers to consider in France as they start thinking about bringing their staff back to work. Similarly, the measures adopted by the French government could have an impact on Human Resources, as analyzed [here](#).

A [webinar](#) exploring the challenges businesses can face in Italy, Germany, France and the UK as lockdown restrictions are easing, is scheduled on May 14. To register, click [here](#).

## Oversight Updates

Yesterday, Representative James Clyburn (D-SC), chair of the House Select Subcommittee on the Coronavirus Crisis, praised the panel's work, noting that one of the five companies it targeted in letters on Friday has since returned its US\$10 million PPP loan. Within hours of the

panel's letter, MiMedx Group said it would return its loan proceeds and it [did](#) so yesterday. In announcing the company's decision, Chairman Clyburn [said](#) that the returned amount is five times the subcommittee's budget for the year and is exactly the reason why the House modeled the subcommittee after the World War II-era committee chaired by then-Senator Harry Truman to call attention to wartime profiteering. Two other companies, [Quantum](#) and [EVO](#) Transportation & Energy Services, said they would keep their loan proceeds.

Also:

- Yesterday, one of the four members of the Congressional Oversight Commission, Bharat Ramamurti, continued his "oversight by tweets," urging the Federal Reserve to attach strings to taxpayer-backed loans to large corporations. The Commission's first report deadline (on May 9) passed without a report or the appointment of a chair.
- Today, the Senate Committee on Banking, Housing, and Urban Affairs will convene to consider the nomination of Brian Miller to serve as Special Inspector General for Pandemic Recovery at Treasury. Miller testified before the Committee on May 5. The Committee will also conduct a hearing on "Oversight of Financial Regulators."

## Contacts

### **David B. Stewart**

Principal, Washington DC  
T +1 202 457 6054  
E [david.stewart@squirepb.com](mailto:david.stewart@squirepb.com)

### **David Schnittger**

Principal, Washington DC  
T +1 202 457 6514  
E [david.schnittger@squirepb.com](mailto:david.schnittger@squirepb.com)

### **Wolfgang A. Maschek**

Partner, Brussels  
T +322 627 11 04  
E [wolfgang.mascheck@squirepb.com](mailto:wolfgang.mascheck@squirepb.com)

### **Beth L. Goldstein**

Senior Associate, Washington DC  
T +1 202 457 5129  
E [beth.goldstein@squirepb.com](mailto:beth.goldstein@squirepb.com)

### **Brandon C. Roman**

Senior Associate, Washington DC  
T +1 202 457 5330  
E [brandon.roman@squirepb.com](mailto:brandon.roman@squirepb.com)

### **Kristina V. Arianina**

Senior Associate, Washington DC  
T +1 202 457 5139  
E [kristina.arianina@squirepb.com](mailto:kristina.arianina@squirepb.com)

### **Ludmilla L. Kasulke**

Senior Associate, Washington DC  
T +1 202 457 5125  
E [ludmilla.kasulke@squirepb.com](mailto:ludmilla.kasulke@squirepb.com)