

The timing and scope of the next steps in the federal legislative response to COVID-19 and the resulting economic crisis remain an open question, as the US' top monetary policy official declined to take a side Tuesday in the escalating partisan debate over how swiftly the US Congress must deliver additional aid.

Federal Reserve Board chairman Jay Powell, in [testimony](#) Tuesday before the Senate Committee on Banking, Housing and Urban Affairs, repeated his call for further legislative action by Congress to stabilize and stimulate the American economy, but pointedly declined to specify how quickly such a package must be enacted in order to avert a depression or prolonged recession. Powell's testimony came on the same day congressional Democrats launched a messaging campaign intended to compel Senate Majority Leader Mitch McConnell (R-KY) to immediately begin negotiations on the next federal coronavirus response measure in the wake of the House of Representatives' passage last Friday of the US\$3 trillion Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act.

Powell's demurral buys more time for the White House and congressional Republicans to examine the effect of the bipartisan US\$2.2 trillion Coronavirus Aid, Relief & Economic Security (CARES) Act, enacted March 27 in response to the pandemic, and for Senate Republicans to reach a consensus among themselves on how to proceed.

Majority Leader McConnell has not slammed the brakes entirely on the prospect of sending another significant aid package to the president, but for weeks has kept the legislative machinery of the Senate running in low gear, conducting oversight of previously enacted COVID-19 programs and allowing committee chairs and rank-and-file senators to draft and deliberate proposals for potential future consideration. McConnell is unlikely to move forward with additional coronavirus-related legislation until general agreement exists inside the Senate Republican Conference about what is needed to support the reopening of the nation's economy and when it must be delivered.

The Senate's methodical approach is unfolding as states, territories and businesses take uneasy steps toward a

resumption of commerce. Without fanfare, the Centers for Disease Control and Prevention (CDC) on Sunday posted revised and more detailed [guidance](#) for the reopening of schools, businesses and other staples of everyday life. The *Wall Street Journal* reports a number of major US employers are phasing out "hazard pay" initiatives they voluntarily adopted at the height of the COVID-19 shutdown to boost the compensation of workers on the front lines of the battle against the pandemic. And President Donald Trump on Tuesday privately urged senators against including an extension of unemployment insurance in the next coronavirus relief measure, according to the *Washington Post*.

Tax and Economic Development Updates

As previewed in yesterday's report, Treasury Secretary Steven Mnuchin and Federal Reserve Chairman Powell on Tuesday testified before the Senate Banking Committee regarding ongoing federal stimulus efforts to address the economic crisis resulting from COVID-19. In his testimony, Secretary Mnuchin made clear that the Treasury Department plans to exhaust all of the funding provided under the CARES Act for direct lending to, and the provision of other financial assistance for, struggling industries. According to the Treasury Secretary, his Department "expect[s] to allocate all the capital as needed...[and is] fully prepared to take losses in certain scenarios." While Chairman Powell also continued to support the need for ongoing economic stimulus measures, he underscored: "I do think we need to take a step back and ask, over time: 'Is it enough?'" Notably, both Secretary Mnuchin and Chairman Powell suggested that the Main Street Lending Program (MSLP) and Municipal Liquidity Facility would be operational before month's end or "a day or two into June."

Regarding the MSLP, specifically, there remain concerns among Democrats regarding a variety of issues, ranging from the appropriate interest rate caps to prioritizing access for small and mid-sized businesses. In addition to the feedback Democratic Senators provided during yesterday's hearing, House Committee on Financial Services Chair Maxine Waters (D-CA) sent a [letter](#) to Secretary Mnuchin and Chairman Powell "following up on conversations to ensure that the Federal Reserve and Treasury programs and facilities to respond to the COVID-19 crisis do not support predatory lenders." In

particular, Chair Waters is pressing the Treasury Department and Federal Reserve to structure the various 13(3) liquidity facilities and other financial assistance programs to prohibit consumer loans offered by payday, installment and other “predatory” lenders from being eligible to be pledged as collateral. With an ongoing openness by both Treasury and the Federal Reserve to making changes to their various programs, it will be important for all interested parties to make their position known on this and other issues.

While the House-passed HEROES Act contains an array of refinements to the Paycheck Protection Program (PPP) – ranging from extending the PPP covered period to extending the period of time that borrowers have to use their loan proceeds – it appears that support from the White House for some of those proposals has spurred the House of Representatives to plan for additional legislative action next week focused specifically on PPP changes. As reported earlier this week, the Trump Administration is supportive of providing businesses with additional flexibility in how they use their PPP funds; the Treasury Department is also said to be working on a “technical fix” to allow borrowers additional time to use those funds for purposes of loan forgiveness. In light of this, the House is now expected to take up and pass bipartisan legislation to implement certain of these changes in an effort to improve the PPP and make it more effective in aiding the ongoing economic recovery. Though Senate Majority Leader McConnell has yet to indicate if and when the Senate will take up such legislation, the strong bipartisan, bicameral support for the proposed PPP changes suggests the Upper Chamber will follow suit.

Health Updates

Lawmakers and other stakeholders are focusing on how telehealth technologies have transformed care during the pandemic, as well as how these changes may extend to healthcare services after the Public Health Emergency ends. Yesterday, the House Committee on Energy and Commerce Communications and Technology Subcommittee held a teleconference forum with Federal Communications Commission (FCC) Chairman Ajit Pai. Representative Anna Eshoo (D-CA) explored the [COVID-19 Telehealth Program](#) during the forum, questioning the process for health care providers to obtain support for telecommunications services, information services and devices. Chairman Pai acknowledged there is great interest in the Program, though the funding process has been slow due to documentation requirements. Late last week, the Association of American Medical Colleges (AAMC) [wrote](#) to Centers for Medicare & Medicaid Services (CMS) Administrator Seema Verma, commending her for providing regulatory relief and flexibility during the pandemic. AAMC noted the new telehealth capabilities available through these changes have transformed “the way in which health care is

delivered, opening the door to a future that will increase access, maintain quality, and work to the advantage of patients and providers.” The association encouraged Administrator Verma to maintain certain telehealth waivers and flexibilities for at least one year after the Public Health Emergency ends, which would allow for advantageous telehealth-related legislation and rulemaking; AAMC also listed some regulatory changes that it believes should be permanent. President Trump has signaled his support for regulatory relief across the federal government, signing an [executive order](#) yesterday directing federal agencies to rescind, modify, waive or provide exemptions from regulations and other requirements that may inhibit economic recovery.

Healthcare entities continue to ask the Department of Health and Human Services (HHS) for additional funding through the [Provider Relief Fund](#). Leaders of 76 children’s hospitals [wrote](#) to HHS Secretary Alex Azar, requesting HHS immediately release a tranche of funding “to support the continued viability of the health care infrastructure for children.” The hospitals acknowledged they have received some grants from the Fund, but they underscored the high costs they incurred by preparing for the COVID-19 pandemic, which included canceling non-essential procedures. The hospitals noted, “Failure to provide immediate relief to children’s hospitals will weaken our infrastructure and risk our current capability to care for all the nation’s children.” Separately, seven health care associations – Alliance to Fight for Health Care, American Academy of Family Physicians, American Academy of Pediatrics, American Benefits Council, American College of Physicians, America’s Health Insurance Plans and Blue Cross Blue Shield Association – also wrote to Secretary Azar. The organizations encouraged him to provide additional funding to independent and community-based primary care practices, including providers who care for Medicaid patients. The groups stressed that primary care physicians and clinicians need more support, as they are on the frontlines of the pandemic and caring for patients with ongoing care needs unrelated to COVID-19.

[Bloomberg reports](#) that a group of conservative activists is partnering with health professionals to establish “A Doctor A Day,” a letter-writing and lobbying initiative to encourage governors and other lawmakers to allow hospitals and health entities to perform more elective and non-emergency services. As we previously reported, hospitals and health systems shut down elective surgeries and other nonessential care as the nation first began to cope with pandemic, leading to significant financial [losses](#) for these entities. Earlier this month, House Committee on Ways and Means Chairman Richard Neal (D-MA) [wrote](#) to Administrator Verma, requesting the agency exercise caution when it provides additional guidance for the return of non-emergent healthcare delivery. Chairman Neal warned of surges in COVID-19 cases without proper safeguards in place, reflecting some public health experts’

opinions that the reopening of hospitals should be conducted carefully and with significant preparation. The American Hospital Association (AHA), the Association of periOperative Registered Nurses (AORN) and the Advanced Medical Technology Association released [Re-entry Guidance for Health Care Facilities and Medical Device Representatives](#) yesterday, building upon the April 17 [Joint Statement: Roadmap for Resuming Elective Surgery after COVID-19 Pandemic](#) issued by the American College of Surgeons, the American Society of Anesthesiologists, AORN and AHA. The guidelines focus on the protection of essential medical device representatives through the enforcement of facility social distancing and safety policies, COVID-19 testing and screening, proper personal protective equipment (PPE) and training and education regarding COVID-19 safety and precautions.

Trade Updates

The United States and Canada have agreed to again extend limits on non-essential border travel. The border closure – originally announced in March and scheduled to expire this week – will now extend an additional month, until June 21. This ban applies to non-essential passenger travel and does not extend to cross-border trade in goods.

On Tuesday, Trump officials [announced](#) a new four-year, US\$354 contract with a US drug manufacturer to expand domestic pharmaceutical manufacturing for COVID-19 response efforts. Phlow Corporation, which is headquartered in Virginia, will partner with other pharmaceutical supply and manufacturing organizations to expand production of drugs needed to treat COVID-19 patients and that are in short supply. According to Phlow, the value of the contract could run as high as US\$812 million over 10 years.

Also on Tuesday, the US Department of Agriculture (USDA) and the Food and Drug Administration (FDA) released a [Memorandum of Understanding](#) (MOU) to define their respective roles and working relationship as it applies to the potential use of the Defense Production Act and oversight of those involved in human and animal food production. (The MOU does not apply to facilities under USDA's exclusive jurisdiction.) The effort is aimed at ensuring food supply continuity as the US approaches peak harvesting seasons. USDA also separately announced details of the US\$16 billion [Coronavirus Food Assistance Program](#) (CFAP), which will provide direct payments to support US farmers and ranchers impacted by the pandemic.

European Policy Updates

The Eurogroup (Finance Ministers of Eurozone countries) finalized on May 15 the European Stability Mechanism (ESM) [Pandemic Crisis Support](#), which is now operational. It will provide favorable credit financing worth 2% of each

Eurozone country's GDP to be used for direct or indirect healthcare costs. The second pillar of the European financial emergency fund, legislation creating temporary support to mitigate unemployment risks in an emergency ("SURE"), was [agreed](#) to between the EU27 Ambassadors and endorsed by the Eurogroup. The temporary instrument will provide EUR100 billion (US\$109.3 billion) of loans under favorable terms to Member States to support workers keeping their jobs during the crisis. The SURE loans will be supported by the EU budget and guarantees provided by Member States' share in the EU's Gross National Income. The total amount of guarantees will be EUR25 billion (US\$27 billion).

Negotiations on the European Commission's proposal for a new European Recovery Instrument are still ongoing. On May 15, the European Parliament adopted a non-binding [resolution](#) calling for EUR2 trillion (US\$ 2.2 trillion) for the recovery package. The ECOFIN Council (EU27 Finance Ministers) met virtually on May 19 to discuss, among other items, the recently published joint Franco-German [initiative](#) for the European Recovery Instrument. The joint initiative proposes a grant-based EUR500 billion (US\$ 546 billion) recovery plan, developing an EU strategic health sovereignty, speeding the green and digital transitions and enhancing the EU's economic and industrial resilience and sovereignty, including an "adjusted" industrial strategy with adapted state aids and competition rules. It appears that some governments (particularly Austria, Denmark and the Netherlands) strongly oppose providing non-repayable grants in such a recovery fund, preferring instead a loan-based fund that governments can borrow from to boost their economies. The ECOFIN Council was inconclusive on this matter and thus, negotiations on the recovery instrument will continue.

On the three pillars of the European financial emergency fund, the ECOFIN Council welcomed the adoption of the SURE mechanism and the political agreement of the ESM Pandemic Crisis Support. Finance Ministers discussed the status of the financial emergency fund's third pillar, the European Investment Bank's pan-European guarantee fund for businesses. They agreed to finalize the operational details of the loan program as soon as possible.

As countries across the world continue to deal with the financial impact of COVID-19, governments throughout Europe and the Middle East are adapting financial support on offer to businesses under distress. This [updated guide](#) provides a summary of government financial support available in key countries, covering all financial support packages, from loan schemes and financing facilities, employee support, insurance and tax, through to assistance available for the self-employed. Notably, a number of countries are including conditionality, principally over executive remuneration and dividend policies, into their support schemes.

Businesses across the UK have been making use of the Coronavirus Job Retention Scheme to allow for the furlough of workers and protections of jobs, and the UK government has recently extended the scheme (on a slightly less generous basis) from July to October, as well as issued guidance concerning holiday entitlement and pay during the crisis. Once lockdown is lifted this summer, just as employers may most want their workers to get businesses running again, they will receive a glut of annual leave requests. [This update](#) outlines the government's approach to the interaction of annual leave with furlough.

Oversight Updates

Yesterday, the Pandemic Response Accountability Committee (PRAC) [named](#) Linda Miller as its Deputy Executive Director. Miller is a former Government Accountability Office official, who most recently led Grant Thornton's fraud risk mitigation unit. PRAC is one of the oversight mechanisms established by the CARES Act. It remains without a chair after President Trump demoted Glenn Fine from his position as the Pentagon's Acting IG, which made Fine ineligible to serve as chair. Michael E. Horowitz, the Department of Justice's IG and Chair of the Council of Inspectors General on Integrity and Efficiency (CIGIE), is currently serving as PRAC's Acting Chair.

A bipartisan group of Senators led by Chuck Grassley (R-IA) [introduced](#) legislation to help another oversight mechanism created under the CARES Act, the Special Inspector General for Pandemic Recovery at Treasury, speed up staff hiring. The legislation, titled the "Special Inspector General for Pandemic Recovery Expedited Hiring Authority Act," would hasten and expand the office's hiring and contracting authority and would allow it to use volunteers and detailees from other government agencies. On May 12, the Senate Banking Committee voted to send to the full Senate the President's nomination of Brian Miller, a White House lawyer, to serve as the Special IG.

The House Committee on Energy and Commerce's Oversight and Investigations Subcommittee, as well as the Offices of Inspector General (OIGs) of the Department of Defense (DoD) and the Environmental Protection Agency, announced COVID-19 oversight agendas as follows:

- The Subcommittee will continue to [focus](#) on testing and contact tracing, PPE supply chains, the development of vaccines, food safety and supply and public health.
- The DoD OIG, which has received an additional US\$20 million under the CARES Act, will [conduct](#) oversight over COVID-19 challenges in its operations and programs, including health care, procurement, force readiness and cyber and information technology.
- The EPA OIG [announced](#) that it will work with other OIGs, PRAC and the GAO to examine COVID-19's impact on the agency's programs and any related misconduct, including fraud schemes implicating the

integrity of the agency's programs and operations, misrepresentations regarding the agency's endorsement of products, falsified product registration numbers, cyber scams targeting the agency's employees and security threats to the agency.

- Six Democratic members of the Senate Committee on Homeland Security and Government Affairs [urged](#) Committee Chairman, Ron Johnson (R-WI), to hold a public hearing featuring federal officials responsible for managing the government's COVID-19 response, including representatives from the Federal Emergency Management Agency, HHS, the White House Coronavirus Supply Chain Stabilization Task Force and the Centers for Disease Control and Prevention.
- [Bloomberg reports](#) that the Treasury Department's IG is auditing the US\$32 billion package of aid to support employees at passenger airlines, cargo carriers and related contractors included in the CARES Act. As part of the audit, the IG will review documentation relating to salaries, wages and other information submitted to the Treasury under the payroll aid program by carriers (typically smaller ones that do not normally report such information to the Department of Transportation (DOT)). The audit's objective is to assess the Treasury's implementation of the program, including policies, procedures and other terms and conditions of financial assistance as they relate to certification requirements of air carriers with regard to salaries, wages, benefits and other compensation.

In addition:

- The IG for the Department of Homeland Security, Joseph Cuffari, [said](#) that he would open an investigation into COVID-19 cases at Immigration and Customs Enforcement (ICE) detention centers and ICE's efforts to prevent and mitigate the virus' spread. The announcement came following requests from more than two dozen Democratic senators.
- Another person was [charged](#) with wire fraud, bank fraud and making false statements to a financial institution and the SBA related to a PPP loan application, seeking more than US\$5 million dollars for payroll expenses for 400 employees who do not exist.
- The *Wall Street Journal* [reports](#) that some of the public companies that decided to keep the PPP loans have told investors to brace for government scrutiny.
- [POLITICO](#) reports that the DC US Attorney's Office, in conjunction with the Public Integrity Section at Main Justice, is handling the investigations of lawmakers for potential insider trading based on government briefings on the pandemic, including that of Senator Richard Burr (R-NC), who as stepped down as Chairman of the Senate Select Committee on Intelligence. Many would have expected the Southern District of New York to lead

the investigations, considering its extensive experience with complex financial cases. The DC US Attorney's Office has recently seen intense turmoil, with several attorneys withdrawing and one leaving the Department of Justice altogether after Department leadership overruled a sentencing recommendation from line prosecutors in the case against former Trump adviser Roger Stone, and with the Department leadership's moving to dismiss the case against former Trump national security adviser Michael Flynn, even though Flynn had twice told a court he had lied to the FBI. The Public Integrity Section has also seen a number of high-profile defeats in recent years. COVID-19 insider trading cases could prove to be a big test for these two offices.

- Three leading House Democrats, Carolyn Maloney (NY), Peter DeFazio (OR) and Gerald Connolly (VA), [wrote](#) to Department of Transportation Secretary Elaine Chao, urging she advise President Trump to reinstate Mitch Behm, the less remarked upon of the two IGs the President abruptly removed on Friday. According to news reports, Behm had been investigating, among other things, whether the Secretary favored her husband Senate Majority Leader McConnell's home state of Kentucky in DOT funding decisions. The lawmakers touted Behm's experience; complained that the new Acting IG, Howard Elliot, lacks IG experience, and that, stretching himself too thin, he will concurrently serve as the administrator of the Pipeline and Hazardous Materials Safety Administration, an agency under Secretary Chao's supervision and thus calling into question how independent he will be as IG; and warned the Secretary against interfering with IG investigations. According to the [Washington Post](#), the DOT IG currently has one audit underway that relates to Elliot's leadership of the pipeline agency. The lawmakers requested information relating to communications between Secretary Chao's office and the White House regarding the decision to replace Behm.

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