

COVID-19 Public Policy Group Report

April 21, 2020

Congress is creeping uncertainly toward action beginning as soon as this afternoon on an interim coronavirus relief bill that would include approximately \$300 billion to get the [CARES Act](#)'s small business lending program operational again. Meanwhile, President Donald Trump announced on social media [Monday night](#) that he would be signing an executive order to temporarily suspend immigration into the United States.

As of early [Tuesday morning](#), there was still officially no deal on the interim coronavirus bill, and no legislative text. But in comments made to the media Tuesday morning, Senate Minority Leader Chuck Schumer (D-NY) indicated a deal has been reached. Disagreements over the specifics of testing language to be included in the package were among the reasons for the overnight holdup. "Democrats are pushing for a federal, centralized approach that would nationalize the distribution of millions of coronavirus tests [while many] Republicans say testing should be handled by states and the private sector," *POLITICO* reported.

Further complicating the picture are [mounting indications](#) that the roughly \$300 billion cash infusion set to be provided for the CARES Act's Paycheck Protection Program (PPP) under the would-be bipartisan deal may only be enough to make the program operational for a few more days before funding again runs dry. Financial industry estimates indicate \$750 billion to \$1 trillion more may be needed to keep the program fully funded to meet the massive demand from struggling American enterprises.

The Senate, which has a special pro forma session scheduled for [this afternoon](#), could pass an interim package as soon as today if an agreement is confirmed. The U.S. House of Representatives will be in session later this week to approve the anticipated package. In a note sent to House members late last night, House Majority Leader Steny Hoyer (D-MD) announced that the House would vote on the measure "as early as Thursday." Hoyer also notified members that the House is "expected to vote on a rule change related to remote voting by proxy," confirming that House Speaker Nancy Pelosi (D-CA) is taking steps to change the rules of her chamber to enable some Members of Congress to cast votes on bills without being physically present in the U.S. Capitol.

The *Wall Street Journal* [reports](#) that President Trump's immigration order "wouldn't make substantial changes to current U.S. policy," given that "[e]ven without an executive order, the administration has already all but ceased nearly every form of immigration." The order will reportedly include exceptions for migrant farmworkers and health care workers, both needed in the ongoing U.S. response to COVID-19.

Tax and Economic Development Updates

With a deal to provide additional funding for the PPP seemingly close, we are learning more details about the parameters of the deal, including reports that \$125 billion of the expected \$300 billion in additional funding will be made available to "unbanked," largely minority- and women-owned and rural small businesses, through smaller financial institutions. This comes as a number of larger banks – including Bank of America, JPMorgan Chase, U.S. Bancorp, and Wells Fargo – were sued by small businesses in a class action lawsuit for allegedly prioritizing larger businesses in administering the PPP to make "the most

money.” While the banks thus far have either rejected the allegations or declined to comment, it is notable that [reports](#) indicate that JPMorgan Chase is working with the Treasury Department to “end loopholes” and ensure that the funds are prioritized for “real businesses.” To that end, with many small businesses still seeking funding through the PPP, it is important to note that some estimates suggest that the additional \$300 billion could last for only 48-72 hours after this package is enacted. This merely underscores that lawmakers will need to begin working expeditiously on another legislative package – and likely provide yet another tranche of PPP funding – once the current legislative deal is struck and enacted.

It appears that Democrats’ push to include additional funding for state and local governments will also have to wait until a later package – though it is likely to provide more flexibility to local governments in using existing funding through the CARES Act. A potential compromise on such funding to consider moving forward: a deal announced yesterday between Senators Bill Cassidy (R-LA) and Bob Menendez (D-NJ) that would create a \$500 billion fund for state and local governments and expand eligibility to locales with populations of more than 50,000. In the interim, Senate Minority Leader Schumer indicated yesterday that he had spoken with Federal Reserve Chairman Jerome Powell, who informed him that the Federal Reserve is working to make the Main Street Lending Program available to more cities and counties; currently, only cities with more than 1 million people and counties with more than 2 million are eligible. Minority Leader Schumer and a number of other Democrats have [urged](#) Chairman Powell to expand eligibility for the Municipal Liquidity Facility. For further information, you can watch a [recording](#) of our webinar providing an overview of the financial assistance made available through the CARES Act to state and local governments, along with the [presentation materials](#).

In addition to the Federal Reserve’s efforts to expand those municipalities that are eligible for funding through its new 13(3) liquidity facility, Chairman Powell is also reported to have told to Minority Leader Schumer that the central bank is actively working on solutions to expand eligibility for financial assistance through the Main Street Lending Program to nonprofit organizations. Another group in need of financial assistance: mortgage servicers. Specifically, number of that nation’s largest mortgage lenders are [citing](#) “growing market uncertainty [that] is creating market volatility” as their justification in urging the Federal Reserve to “quickly announce liquidity support for nonbank mortgage servicers.” Notably, the calls for additional liquidity come as approximately 2,000 comment letters have [reportedly](#) been submitted to the Federal Reserve regarding its Main Street Lending Program. Given the significant interest and expected scrutiny over the program’s lending as it moves forward, it is no wonder that the Federal Reserve [is said](#) to be working on a reporting system that will provide certain details about the financial assistance made available through the Main Street Lending Program.

Health Updates

Discussions over the interim relief bill have previously involved \$75 billion for healthcare provider relief, with a focus on rural hospitals, and \$25 billion for COVID-19 testing. As of this morning, Congressional Quarterly reports Senate Minority Leader Schumer said the deal would include \$65 billion for hospitals and \$30 billion for a national testing program. As we previously reported, Senate Democrats are [calling](#) for a \$30 billion comprehensive testing strategy. Senator Patty Murray (D-WA), Ranking Member of the Senate Committee on Health, Education, Labor, and Pensions (HELP), released a [white paper](#) outlining the Democrats’ testing proposals. Senator Lamar Alexander (R-TN), Chairman of the HELP Committee, released a [statement](#) rejecting Democratic calls for additional funding, stating “[w]e should start [finding

a new diagnostic technology] by using the money Congress has already provided, put politics aside, and work together on more tests with quick results.”

As the conversation shifts to reopening the economy, Democratic lawmakers have ramped up their [questioning](#) over whether sufficient testing capabilities and safety precautions are available to suppress additional COVID-19 outbreaks across the United States. House Committee on Energy and Commerce Chairman Frank Pallone, Jr. (D-NJ) wrote a [letter](#) to Ambassador Deborah Birx, MD, White House Coronavirus Task Force Coordinator, expressing his concern over the lack of widespread COVID-19 testing and the potential ramifications of prematurely relaxing social distancing efforts. He called on the administration to “develop and release a comprehensive and strategic testing plan, including the strategy for increasing diagnostic and serological testing capacity, the types and levels of testing necessary, benchmarks with clear timelines, the estimated costs involved in implementing such a plan, and specific guidelines to ensure adequate testing in rural and other underserved areas.” Chairman Pallone requested answers to questions on the administration’s plan, the level of testing capacity considered sufficient to reopen the economy, current estimates of the amount of tests that could be available on a daily basis for the rest of the year, and the plan to ensure the validity of – and expanded access to – serological tests.

A group of 11 Democratic senators [wrote](#) to Vice President Michael Pence, Department of Health and Human Services (HHS) Secretary Alex Azar, and Centers for Disease Control and Prevention Director Robert Redfield, MD, urging HHS to “develop and publicly release a nationwide plan on widespread testing for COVID-19 and contact tracing that will allow communities to move toward resuming social practices and reopening the economy.” They said any plan to reopen the economy “must be deliberate and data-driven,” and they requested additional information from HHS on the current coronavirus relief strategy, including testing and contact tracing.

In a [letter](#) led by Senate Committee on Agriculture, Nutrition, and Forestry Ranking Member Debbie Stabenow (D-MI), a group of 36 Democratic senators questioned Vice President Pence, Department of Agriculture Secretary Sonny Perdue, Food and Drug Administration (FDA) Commissioner Stephen Hahn, MD, Environmental Protection Agency Administrator Andrew Wheeler, and Department of Homeland Security Acting Secretary Chad Wolf on the safety of the food supply and the federal and private sector food supply chain workforce. They noted the “[l]ack of access to tests and personal protective equipment leaves essential food supply workers at even higher risk and makes the virus more likely to spread, harming more workers and damaging our food supply chain.” The lawmakers requested the administration coordinate safety precautions with state and local governments and the private sector, and they asked several questions on the actions the administration is taking in this area.

In a series of [tweets](#), President Trump remarked that Democratic calls for additional testing is “a very dangerous political game.” He noted that “[s]tates, not the Federal Government, should be doing the Testing – But we will work with the Governors and get it done.” President Trump and other administration officials provided additional [details](#) on how the government is increasing the availability of testing materials during the Monday White House Coronavirus Task Force press briefing, but they noted there are [diverse testing needs in different areas](#) of the country. In recent days, President Trump also announced he would use the Defense Production Act to compel production of testing swabs. Separately, the FDA released additional [information](#) on serological (antibody) tests, including a [letter](#) to health care providers, [fact sheet](#), and frequently asked questions [list](#).

Trade Updates

The Trump administration's decision to delay duty payments on certain entries temporarily has received mixed reviews. A number of domestic stakeholders – including the United Steelworkers and the National Council of Textile Organizations – raised concerns that the action could lead to an influx of imported goods just as the U.S. economy struggles through the economic effects of the COVID-19 outbreak. But importers questioned the impacts of the deferral action, noting that some of the most onerous tariffs, including those imposed by executive action since President Trump took office in response to allegations of unfair trade practices and national security risks, are not eligible for relief.

On Monday, Senators Tom Carper (D-DE) and Pat Toomey (R-PA) sent a letter to U.S. Trade Representative Robert Lighthizer urging he suspend all Section 301 tariffs – which run as high as 25 percent – on goods from China that have been identified as necessary for medical supply and equipment manufacturing. While the administration is accepting comments from interested parties on exempting goods critical to the fight against COVID-19 from these duties, the lawmakers express concern that submitting exemption requests for each individual component is too time consuming for companies responding to the pandemic.

The Department of the Treasury's Office of Foreign Assets Control (OFAC) has issued informal guidance on sanctions compliance and responding to COVID-19. Last week, OFAC published a [fact sheet](#) summarizing exemptions and authorizations to provide humanitarian assistance in the context of Iran, Venezuela, North Korea, Syria, Cuba, and Ukraine/Russia-related sanctions programs. For limited categories of items also helpful for COVID-19 assistance, and transactions not otherwise authorized by OFAC, OFAC will review license requests on a case-by-case basis. OFAC encourages persons, financial institutions, and other businesses affected by COVID-19 to contact OFAC if they experience delays in their ability to meet OFAC deadlines. If a business, facing technical and resource challenges due to COVID-19, chooses, as part of its [risk-based approach](#) to sanctions compliance, to account for such challenges by temporarily reallocating sanctions compliance resources consistent with that approach, OFAC will evaluate such as a factor in determining the appropriate administrative response to an apparent violation that occurs during this period. OFAC will address these issues on a case-by-case basis.

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