

March 18, 2020

### Summary

The Senate voted Wednesday (90-8) to approve the coronavirus relief package approved by the House last week.<sup>1</sup> President Trump announced that the U.S. is closing its border with Canada to all non-essential travel. The President is planning to invoke the Defense Production Act imminently, giving the administration expanded powers to direct factories to produce protective equipment and medical supplies needed to fight the virus. Two military hospital ships have been dispatched to New York City and a location on the West Coast. The USNS Comfort is being deployed to New York City and functions as a floating hospital, with 1,000 beds, 80 of which are dedicated to intensive care. Mayor de Blasio signed an executive order temporarily banning pooled rides in Uber and Lyft vehicles and is ordering all hospitals and ambulatory service centers, at their discretion, to cancel elective surgeries. Combined with discharging patients early and creating additional capacity, this move will increase available hospital beds by 7,000 City-wide. A recent statement from Governor Cuomo's office noted that at this time, there is no consideration of any blanket quarantine or shelter in place policy for any New York locality.

### General/Employer Guidance

#### **Presidential updates**

- [\*Trump Invokes Law to Increase Medical Supplies, Including Masks\*](#), March 18
  - In a recent briefing, President Trump announced that the U.S. is closing its border with Canada to all non-essential traffic. The closure will allow trade to continue but will otherwise restrict flights and border crossings. Canada had already closed its borders to most foreigners, but not Americans.
  - President Trump plans to invoke the Defense Production Act, a Korean War-era law that authorizes presidents to take extraordinary action to force American industry to ramp up production of equipment needed for national security. The law is typically applied to military equipment, but is now being invoked to give the administration expanded powers to direct factories to produce face masks, gowns, gloves and other medical supplies needed to fight the virus.
  - President Trump announced that FEMA is activated at Level 1, the highest level, across the United States. In addition, two military hospital ships, called the USNS Comfort and USNS Mercy, were dispatched to New York City and to a location on the West Coast, officials said. The Comfort, essentially a floating hospital, has 1,000 beds with 80 of those dedicated to intensive care.

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<sup>1</sup> For additional information on the Families First Coronavirus Response Act, please see the [Ropes & Gray Alert](#).

- [Remarks by President Trump in Meeting with Tourism Industry Executives on COVID-19 Response](#), March 17
  - President Trump held a press conference with leaders in the travel, hospitality, and tourism industries to discuss the business impact of COVID-19. The tourism industry has been very negatively affected by the current pandemic.
  - Executives across several major hotel chains gave short remarks. One noted that they anticipate running at 10-15% occupancy across their worldwide chain, while another executive discussed how business is down nearly 90% since the start of the pandemic. While major convention cancellations add to the industry's decreased business, some compared the current situation to 9/11 and the 2008 financial crisis – expressing that the industry will likely bounce back quickly as soon as the COVID-19 pandemic is over.

### **World Health Organization (WHO)**

- [WHO calls for urgent, aggressive actions to combat COVID-19, as cases soar in South-East Asia Region](#), March 17
  - WHO called on Member states in the South-East Asia Region urgently to scale-up aggressive measures to combat COVID-19, as confirmed cases cross 480, and the disease has claimed eight lives. Eight of the 11 countries of WHO South-East Asia Region have confirmed cases of COVID-19.
  - Thailand has 177 confirmed cases, Indonesia 134, India 125, Sri Lanka 19, Maldives 13, Bangladesh 5, and Nepal and Bhutan have one each. These numbers are increasing quickly. According to the Regional Director, some countries are clearly heading towards community transmission of COVID-19 and must continue efforts to detect, test, treat, isolate, and trace contacts.
- [Coronavirus disease 2019 \(COVID-19\) Situation Report – 57](#), March 17
  - A recent WHO report states that eight new countries have reported cases of COVID-19 over the last 24 hours, including three in the African region.
  - WHO noted its commitment to working with the travel, transport, and tourism sectors on emergency preparedness and response. It further highlighted the role of points of entry (PoEs) – airports, ports and ground crossings – in the international spread of diseases. WHO has published three joint statements to remind all stakeholders of the importance of following international health regulations, existing partner organization regulations, and the need for cross-sector collaboration.
  - The report also highlighted OpenWHO, which is an interactive, web-based, knowledge-transfer platform offering free online [courses](#) to improve the response to health emergencies. COVID-19 resources are available and include courses on the following topics: infection prevention and control for COVID-19; a general introduction to emerging respiratory viruses, including novel coronaviruses; clinical care for severe acute respiratory infections; and COVID-19 operational planning guidelines.
- [WHO Director-General's opening remarks at the media briefing on COVID-19](#), March 18
  - In a media briefing with WHO Director-General Tedros Adhanom Ghebreyesus, WHO confirmed that 80% of COVID-19 cases are from two regions: the Western Pacific and Europe.
  - WHO noted that many countries now face escalating epidemics, with different levels of transmission. WHO urged communities to prepare as if they will be impacted by the virus. WHO continues to recommend that isolating, testing and treating every suspected case, and tracing every contact, must be the backbone of the response in every country.

- WHO announced the SOLIDARITY trial, a large, international study designed to generate robust data on the most effective COVID-19 treatments. The trial provides simplified procedures to enable even hospitals that have been overloaded to participate. Many countries have already confirmed that they will join the SOLIDARITY trial - Argentina, Bahrain, Canada, France, Iran, Norway, South Africa, Spain, Switzerland and Thailand – with many more to join soon.
- WHO provided an update on the COVID-19 Solidarity Response Fund, as it has now raised more than \$43 million from more than 173,000 individuals and organizations, in the few days since its launch.

### **U.S. Centers for Disease Control and Prevention (CDC)**

- [Disinfecting your home if someone is sick](#), March 17
  - CDC released new guidelines on home disinfection when a fellow occupant is sick. CDC recommends everyday precautionary action, such as cleaning and disinfecting frequently touched surfaces and objects like tables, countertops, light switches, doorknobs, and cabinet handles.
  - CDC urges people to wear disposable gloves while cleaning and to use diluted household bleach solutions, alcohol solutions with at least 70% alcohol, or other household disinfectants. Many products recommend keeping the surface wet for several minutes to ensure germs are killed. CDC also recommends staying separated from the ill person – and that the ill person should eat in their own room, and wash any non-disposable dishes and utensils with hot water or in a dishwasher. If possible, the ill person should use a dedicated, lined trash can.
- [Initial Investigation of Transmission of COVID-19 Among Crew Members During Quarantine of a Cruise Ship — Yokohama, Japan](#)+ March 17
  - A new study, published as an early release by CDC, conducted an investigation into an outbreak of coronavirus disease 2019 (COVID-19) among passengers and crew on a cruise ship in Japan.
  - This investigation underscores the need for swift epidemiologic investigation as soon as a COVID-19 case is detected in an area or group where a large number of persons gather in a closed or crowded setting (*e.g.*, a cruise ship, music club, health care setting, sports arena, or gymnasium). These settings have been previously associated with infections spread by contact or droplet, such as influenza. According to the study, close contacts of persons with confirmed COVID-19 should self-quarantine and monitor their symptoms; and persons who develop COVID-19 symptoms while on board a ship should be isolated to limit transmission to other passengers and crew.

### **New York State**

- [Three-Way Agreement with Legislature on Paid Sick Leave Bill to Provide Immediate Assistance for New Yorkers Impacted By COVID-19](#), March 17
  - Governor Andrew Cuomo announced a bill guaranteeing job protection and pay for new Yorkers who have been quarantined as a result of COVID-19. It provides that:
    - Employers with 10 or fewer employees and a net income less than \$1 million: will provide job protection for the duration of the quarantine order and guarantee their workers access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine;
    - Employers with 11-99 employees and employers with 10 or fewer employees and a net income greater than \$1 million: will provide at least 5 days of paid sick leave, job protection for the duration of the quarantine order, and guarantee their

- workers access to Paid Family Leave and disability benefits for the period of quarantine; and
    - Employers with 100 or more employees, as well as all public employers: will provide at least 14 days of paid sick leave and guarantee job protection for the duration of the quarantine order.
  - The provisions of the quarantine legislation are set to take effect immediately upon passage. The bill also includes the permanent comprehensive paid sick leave policy first advanced in the Governor’s FY 2021 Executive Budget proposal.
  - The Governor announced that the state’s drive-through COVID-19 mobile testing facility opened on Monday in Long Island. The Governor also authorized the State to open drive-through COVID-19 mobile testing facilities in Suffolk County, Rockland County and on Staten Island.
  - The Governor further announced that the state is reaching out to qualified former doctors, nurses and other health care professionals to supplement the personnel at hospitals. The State DOH and DOE have sent letters to retired health care professionals and all schools of nursing, public health and medicine encouraging qualified health care personnel to sign up for on-call work during the COVID-19 crisis. Health care professionals who wish to sign up can contact the State Department of Health at [health.ny.gov/assistance](http://health.ny.gov/assistance).
- *Temporary Suspension of State Debt Collection in Response to Coronavirus*, March 17
    - Governor Andrew Cuomo and Attorney General Letitia James today announced that — effective immediately—the state will temporarily halt the collection of medical and student debt owed to the State of New York and referred to the Office of the Attorney General (“OAG”) for collection from March 16, 2020 through April 15, 2020. This measure is in response to growing financial impairments resulting from the spread of COVID-19. After this 30-day period, the OAG will reassess the needs of state residents for a possible extension.
    - More than 165,000 matters currently fit the criteria for a suspension of state debt collection. These include, but are not limited to: patients who owe medical debt due to the five state hospitals and the five state veterans’ home; students who owe student debt due to State University of New York campuses; and individual debtors, sole-proprietors, small business owners, and certain homeowners who owe debt relating to oil spill cleanup and removal costs, property damage, and breach of contract, as well as other fees owed to state agencies.
    - Additionally, the OAG will accept applications for suspension of all other types of debt owed to the State of New York and referred to the OAG for collection.

## **New York City**

- *Frequently Asked Questions (FAQs) for Residential Buildings Coronavirus Disease (COVID-19)*, March 17
  - The New York City DOH (“NYC DOH”) issued new guidance for residential building owners and managers. It recommends that building owners and managers should ensure that common areas are frequently cleaned, paying particular attention to disinfecting frequently touched surfaces such as door handles, stairway railings, elevator buttons, and laundry room equipment.
  - The guidance also calls for buildings to limit the number of people getting into each elevator car at the same time to avoid crowding and maintain social distancing. Under NYC DOH policy, DOH will not notify building owners or residents of sickness or cases – and property managers do not need to notify the City or others in a building if someone in the building is sick.

- The guidance further specifies how deliveries should be handled. Building occupants (staff and residents) should maintain social distancing when getting packages, mail, and entering or exiting the building. In a large residential building where packages are left in the lobby, building staff may consider assisting residents by dropping deliveries outside of their apartment. Finally, New York City issued a moratorium on evictions starting on Monday, March 16 for one week, with the possibility to extend.
- [NYC Health + Hospitals And Bioreference Laboratories Announce Expanded Capacity To Allow 5,000 Daily COVID-19 Tests](#), March 17
  - Expanded Testing: Mayor de Blasio announced that, beginning Thursday, March 19th, NYC Health + Hospitals will expand itsr COVID-19 testing capacity by 5,000 tests per day through a partnership with OPKO Health's BioReference Laboratories.
    - Under the agreement, NYC Health + Hospitals will begin sending tests to BioReference by Thursday. Results will be produced within 1-2 days, halving the current pace of turnaround from private reference labs.
    - Testing will be prioritized for those with serious illness at hospitals and health care facilities across NYC Health + Hospitals, frontline health care personnel and first responders. Those with mild illness should continue to stay home, practice social distancing, and consult their health care provider if their symptoms do not subside in 3-4 days.
  - Ban on Pool Rides in For-Hire Vehicles: To protect the safety of drivers and passengers, the Mayor signed an Executive Order temporarily banning pooled rides in TLC-licensed high volume (Uber, Lyft, and Via) for-hire vehicles. This ban will not apply to paratransit vehicles.
  - Medical Reserve Corps: The City will mobilize the NYC Medical Reserve Corps, a group of over 9,000 health care workers who volunteer to support NYC in emergency response. This includes physicians, nurses, mental health professionals, social workers, and many others, both retired and currently working in the health care system.
  - Elective Surgery Guidelines: An Emergency Executive Order requires all hospitals and ambulatory service centers, at their discretion, to cancel elective surgeries within 96 hours. Combined with discharging patients early and creating additional capacity, the City will increase available hospital beds by 7,000 citywide.
  - Price Gouging: A new emergency rule bans any price increase of 10 percent or more on personal and household goods and services that aid in diagnosing or monitoring disease symptoms, preventing the spread of disease, or treating disease. These goods include: thermometers, paper towels, latex gloves, face masks, fever reducers, and cough suppressants. The rule lasts 60 days, and can be renewed once for an additional 60 days. Businesses caught violating the rule can incur a fine.

### **Other Related Updates**

- [Historic Expansion of Telehealth Access to Combat COVID-19](#), March 17
  - U.S. Department of Health and Human Services (HHS) announced several measures to expand Americans' access to telehealth services during the COVID-19 outbreak. The Centers for Medicare & Medicaid Services (CMS) expanded Medicare coverage for telehealth visits, the HHS Office for Civil Rights (OCR) announced it will waive potential HIPAA penalties for good faith use of telehealth during the emergency, and the HHS Office of Inspector General (OIG) provided flexibility for health care providers to reduce or waive beneficiary cost-sharing for telehealth visits paid by federal health care programs.

- [\*New coronavirus stable for hours on surfaces\*](#), March 17
  - A new study on COVID-19 was published in *The New England Journal of Medicine*, from National Institutes of Health, CDC, UCLA and Princeton University scientists.
  - The study found that the virus that causes COVID-19 is stable for several hours to days in aerosols and on surfaces. Specifically, the scientists found that the virus was detectable in aerosols for up to three hours, on copper for up to four hours, on cardboard for up to 24 hours, and on plastic and stainless steel for up to two to three days. The results provide key information about the stability of the virus that causes COVID-19, and suggests that people may acquire the virus through the air and after touching contaminated objects.
  
- [\*FDA Issues Temporary Policy for FSMA Onsite Audit Requirements\*](#), March 17
  - FDA took steps to help minimize disruptions in the food supply-chain by issuing a temporary policy for FDA Food Safety Modernization Act (FSMA) supplier verification onsite audit requirements during the current public health emergency.
  - Three of the regulations created to implement FSMA require receiving facilities and importers to conduct supplier verification activities based on the hazard analysis conducted as part of their written Food Safety Plan. This hazard analysis is often determined through onsite audits. Recent travel restrictions and advisories, however, may make some audits temporarily impractical to conduct. Therefore, the new FSMA policy states that the agency will temporarily not enforce FSMA supplier verification onsite audit requirements if other appropriate supplier verification methods are used instead.
  - FDA Commissioner Stephen Hahn stated that he is “confident that stores will remain open and supply will continue to meet demand nationwide” and asked Americans to purchase enough food and essentials only for the immediate week ahead.
  
- [\*Office of Federal Contract Compliance Programs issues National Interest Exemption\*](#), March 17
  - U.S. Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) issued a National Interest Exemption memorandum.
  - The memorandum states that OFCCP will grant a limited, three-month exemption and waiver from some of the requirements of the laws administered by the agency. According to OFCCP’s Program Director, this decision “helps federal agencies and federal contractors engaged in relief efforts to protect the safety, security and health of the American people.”
  
- [\*FDA Issues Guidance for Conducting Clinical Trials\*](#), March 18
  - FDA issued new guidance for industry, investigators, and institutional review boards conducting clinical trials during the pandemic. FDA acknowledged that challenges may arise, for example, from quarantines, site closures, travel limitations, interruptions to the supply chain for the investigational product, or other considerations if site personnel or trial subjects become infected with SARS-CoV-2, the virus that causes COVID-19.
  - Although the impact of COVID-19 on trials will vary depending on many factors, including the nature of disease under study, the trial design and in what region(s) the study is being conducted, FDA outlines considerations to assist sponsors in assuring the safety of trial participants, maintaining compliance with good clinical practice and minimizing risks to trial integrity. Considerations recommended include, among others, sponsors evaluating alternative methods for assessments, like telephone contacts or virtual visits and offering additional safety monitoring for those trial participants who may no longer have access to investigational product or the investigational site.

- [\*U.S. Department of Labor Announces Temporary Pause In Job Corps Center Operations\*](#), March 18
  - U.S. Department of Labor announced that it is initiating a break for students at the 121 Job Corps centers located in each of the 50 states, the District of Columbia and Puerto Rico.
  - The spring break will occur from March 16 through April 14, 2020, and center operators will provide students with either transportation home or alternate living arrangements (including housing and food) for any student without a current residence to which to return. The break period may, however, be extended beyond April 14. Some staff may continue onsite for facilities maintenance or staff development and enrichment activities. There is no evidence of any suspected or confirmed cases of COVID-19 in any Job Corps center at this time.

Send questions to [COVID-19-Implications@ropesgray.com](mailto:COVID-19-Implications@ropesgray.com)