

TO: NAW Direct Members

FROM: NAW Government Relations Team

DATE: April 28, 2020

1. Latest on Main Street and Mid-Size Company Lending Programs and Corporate Bond Purchase Program

NAW and our allies have been working to urge the Fed to get the Main Street Lending Program facility up and running, but the news we heard from our outreach to Capitol Hill today was not encouraging.

As we previously reported, on April 10th Fed Vice Chairman and chief banking supervisor Randal Quarles said that the MSLP should be up and running in two to three weeks. Two weeks are now behind us, and it was reported to us today that in a phone call with Senate Republicans yesterday, Treasury Secretary Mnuchin suggested that the program was still more than two weeks away, and that the Treasury Department is focused instead on getting the glitches out of the PPP, figuring out what to do about large companies that obtained loans under the program, and getting the airline program completed – with the MSLP apparently taking a back seat. We are pushing back on this prioritization.

Perhaps even more frustrating, there is absolutely no information available on the status of the mid-sized company lending program. A rough calculation suggests that there is approximately \$250 billion available for this program, but it does not appear that Treasury will be announcing any plans for that funding at this time. Based on that silence, best guessing is that the Secretary may simply be holding that funding in reserve for as-yet-unforeseen contingencies. We will continue to press this issue, since a significant number of NAW member companies have either sales volume or number of employees that make them ineligible for any of the other programs.

There is one piece of potentially good news on the MSLP: In the call with Senate Republicans yesterday the issue of the eligibility of S Corps and other pass-through companies for the MSLP was raised and the Secretary was reportedly encouraging about that glitch in the program being fixed.

Finally, the CARES act authorized the creation of a Fed program in which the Fed will purchase corporate bonds from large companies, providing liquidity to those companies.

The Washington Post published a story this afternoon about the coming launch of this program, noting significant criticism that the program will not impose on these large public companies the same restrictions on stock buy backs and capital distributions that are part of the MSLP. To read the Post story, go to:

<https://www.naw.org/wp-content/uploads/2020/04/Wash-Post-April28.pdf>

2. Latest on the SBA's Paycheck Protection Program

Today, Treasury Secretary Steven Mnuchin said that companies that received more than \$2 million in small business loans would be audited by the Small Business Administration and could face "criminal liability" if it turned out that they were not eligible to apply for the relief money.

During an interview with CNBC Squawk Box this morning, Mnuchin said, "I want to be very clear it's the borrowers who have criminal liability if they made this certification and it's not true. We will make sure that what was the intent for taxpayers is fulfilled here."

According to a New York Times article, "Mr. Mnuchin's comments come as backlash grows over big, publicly traded companies receiving millions of dollars in loans while many small businesses have been unable to access the \$660 billion pot of bailout money. At least 116 public companies have taken loans over \$2 million and haven't returned those funds."

To read the full article, go to:

<https://www.nytimes.com/2020/04/28/business/stock-market-today-coronavirus.html?type=stylIn-live-updates&label=markets&index=0&action=click&module=Spotlight&pgtype=Homepage#link-5790ee42>

3. Latest on Congressional Action on the Next Coronavirus Relief Package "CARES 2.0"

The U.S. House won't return to Washington next week after all, Majority Leader Steny Hoyer told reporters today, citing the continued risk from the spread of the coronavirus in the Washington area. Hoyer said leaders made the decision after consulting with the House physician, who said infection numbers in Washington were still rising and that the region still had "hot spots." He also said there was no need to press for a return in part because the next phase of coronavirus aid legislation won't be ready for action.

The Senate is still scheduled to return on Monday, after an extended recess to prevent the spread of the coronavirus. Senate Majority Leader Mitch McConnell announced yesterday that the upper chamber will "honor our constitutional duty to the American people and conduct critical business in person." The Senate has been out since March 26, part of an extended recess to practice social distancing.

The virus has already hit the Capitol complex. Multiple staffers and lawmakers have been diagnosed with coronavirus, in addition to nearly a dozen construction workers renovating one of the House office buildings used by hundreds of Members and their staff.

Negotiations between the Senate, House and the Administration are still ongoing for a "CARES 2.0" relief package. According to reports, Senate Leader McConnell is open to cutting a deal to provide struggling states and cities with relief during the pandemic-fueled recession.

In an interview yesterday, Leader McConnell said it's "highly likely" the next coronavirus response bill will aid local governments whose budgets have been decimated by lockdowns and now face spiraling deficits. In return, Leader McConnell is demanding that they shield business owners, health care workers, and employees from lawsuits as the country starts to re-open in the coming weeks and months.

"We probably will do another bill. What I'm saying is it won't just be about money," McConnell said. "The next pandemic coming will be the lawsuit pandemic in the wake of this one. So, we need to prevent that now when we have the opportunity to do it."

However, a spokesperson for Speaker Nancy Pelosi said the House "has no interest in diminishing protections for employees and customers." Pelosi has made clear that the next relief package must include emergency funding for states and localities — a Democratic demand that Republicans rejected in the last round of negotiations. "There will not be a bill without state and local," Pelosi told reporters last week. "There will be a bill, and it will be expensive."

4. Latest on Re-Opening the Economy

With state and local governments gearing back up to re-open the economy, many employers are seeking answers to the challenging issues they will face as they resume their business operations amidst COVID-19.

Complimentary Webinars:

Re-Opening a Business Without Opening Liability:

Join McGuireWoods' labor and employment team for a look ahead at re-opening businesses amid the COVID-19 pandemic and a discussion of best practices as employees return to the workplace.

Topics will include:

- Best practices for bringing employees back to work
- How to ensure a workplace is ready for employees to return
- How to manage COVID-19-related risks after re-opening
- COVID-19-related claims employers may face after they re-open
- Policies employers can put in place now to prevent or defeat such claims

Host: McGuireWoods

Date: Wednesday, April 29th

Time: 12:00 pm EST

Place: Webinar (access instructions e-mailed upon registration)

RSVP: To register, go to:

<https://news.mcguirewoods.net/12/1682/landing-pages/rsvp---cle.asp?sid=f08a59ad-4291-4c47-8bdd-c87e3612a98d>

Coming Back From COVID-19—Employment Issues to Consider Now Before Re-Opening Eventually:

Join Nixon Peabody's employment attorneys across the nation, as they consider a multitude of latent employment and OSHA issues caused by the COVID-19 pandemic and related stay-at-home and shutdown orders and discuss advance planning for employers well before re-opening businesses or operations.

Topics will include:

- Ensuring the safe return of employees to business locations, the safety and health of employees while in those locations, and creating a “new normal” for safety culture with OSHA regulations and public health guidance in mind
- Guidelines for implementing a gradual and/or phased-in return to work process and analyzing potential ongoing telecommuting/remote working arrangements
- ADA restrictions, including on employee testing, and/or inquiries of employees who have recovered from COVID-19
- Considerations to prevent a relapse in exposure or the spread of COVID-19 in the workplace
- Factors to consider when rehiring laid-off employees, including I-9 obligations and employee benefit considerations

Host: Nixon Peabody

Date: Wednesday, April 29th

Time: 12:30pm EST

Place: Webinar (access instructions e-mailed upon registration)

RSVP: To register, go to:

https://marketing.nixonpeabody.com/reaction/RSGenPage.asp?RSID=s_3k7vMojkSrfM6XJ5RMbOMnp0YNi96smWY9Eblk-mZ3FeVGUc4NGFabG1voShIPBFugl7CLJAL1bZBUhIBJqg

As we have previously reported, more state governors are beginning to explore the logistics of how to re-open their states economies. NAW has been monitoring the reports of states re-opening and we are working to identify a central resource for NAW members to utilize in tracking the flow of information. Once NAW identifies a resource that will provide sufficient resources and information we will highlight the location.

Stateside Associates publishes a daily report about State and Local Government responses to the evolving situation. Some of the new developments in today’s report include:

- **California** Governor Gavin Newsom (D) announced on April 24 a first-in-the-nation program that will ensure vulnerable older Californians have consistent access to nutritious meals while staying safe at home. The Restaurants Deliver: Home Meals for Seniors program will enlist community restaurants to prepare meals that will be delivered to older Californians who are isolating at home during California’s stay at home order. The program will also support local restaurant workers and owners who have lost business during the pandemic. The program will be administered by local authorities and will serve older Californians who are ineligible for other nutrition

programs. The Administration will keep updated information on the COVID-19 website on which localities are participating.

- **Delaware** Governor John Carney (D) has issued an order requiring businesses and restaurants allowed to remain open to provide employees with face coverings and hand sanitizer. Customers are now also required to wear face coverings in these places as well.
- **Tennessee** Governor Bill Lee (R) has allowed the re-opening of restaurants for on-site dining beginning April 27. Restaurants must meet safety protocols as listed in the released guidance. This order supersedes any local government order with the exception of Davidson, Hamilton, Knox, Madison, Shelby, and Sullivan Counties whose local health departments may still prohibit or regulate the opening, closing, or operation of restaurants.

We are also providing a link to a spreadsheet that includes state and local COVID-19 response information provided by MultiState Associates.

To view their spreadsheet, go to:

https://docs.google.com/spreadsheets/d/e/2PACX-1vRIJWZJ7OkGUW57_rdA2n3xBJ3qjW6u4Z9N6K9Y5L4bM_6H7-S308qdKmJfpVstYWF300nyujvZPFSy/pubhtml?urp=gmail_link

New NAW Webinar on Economic Outlook

We are partnering with NAW senior economic advisor Alan Beaulieu to produce a second critical economic forecast webinar. This webinar, “Distribution Post COVID-19 Outlook,” will run Thursday, May 28, from 3:00 to 4:30 PM EDT.

Seats are limited, so if you are interested, please purchase your seat today at:

www.naw.org/distribution-post-covid-19

[Click here](#) for links to *Critical Updates sent previously.*

Many thanks—

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