

COVID-19 Insights Week in Review — May 15, 2020

May 14, 2020 ||

Your team at ML Strategies continues to monitor **federal** and **state** legislative and regulatory responses to the public health and economic crisis. Each week, ML Strategies will provide updates from Massachusetts and Washington, DC to keep you informed and aware of relief opportunities and guidance for your businesses.

This week, ML Strategies monitored the following updates stemming from Washington, DC and the Commonwealth of Massachusetts:

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[House to Vote on Authorizing Remote Voting by Members](#)

[Democratic Letter on Corporate Mergers & Acquisitions](#)

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FEDERAL UPDATE

House Democrats Release Phase 4 Stimulus Proposal

House Democrats this week released their phase 4 economic relief measure – the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act. The \$3 trillion proposal includes:

- \$75 billion for COVID-19 testing, tracing, and treatment;
- \$200 billion for a Heroes' Fund to provide hazard pay for essential workers;
- nearly \$1 trillion for state, local, territorial, and tribal governments;
- a second round of \$1,200 economic impact payments to individual taxpayers;
- extension of a \$600 federal unemployment benefit through January 2021;

- \$10 billion for emergency grants for small businesses and nonprofits through the Economic Injury Disaster Loan program;
- extension of the Paycheck Protection Program (PPP) loan–covered period from June 30 to December 31;
- extension of PPP eligibility to all nonprofits of all sizes and clarification of the inclusion of small, local news broadcast entities as eligible for the PPP;
- a technical clarification to ensure hospitals in bankruptcy still qualify for PPP loans;
- COBRA subsidies and a special enrollment period for the Affordable Care Act exchanges;
- an increase in SNAP nutrition benefits;
- funding for the U.S. Postal Service and U.S. Census Bureau;
- expansion of the Employee Retention Tax Credit;
- clarification of the coordination between the Employee Retention Tax Credit and PPP loans to ensure borrowers can take advantage of both types of assistance; and
- a new refundable employer tax credit for qualified fixed costs such as rent, mortgage, and utility payments.

The House of Representatives will convene on Friday, May 15 to take up the legislation with the goal of voting that day. Senate Republicans have already indicated they will not pass the measure as written. The initial House vote on the HEROES Act is just the start of intense negotiation between the House and Senate on what a final phase 4 stimulus may look like.

[Find the bill text and summary material here...](#)

House to Vote on Authorizing Remote Voting by Members

Also on Friday, the House of Representatives plans to vote on H.Res. 965, an unprecedented measure that would authorize remote voting by proxy by members and official remote committee proceedings during the coronavirus public health emergency.

[Read a Q&A here...](#)

Democratic Letter on Corporate Mergers & Acquisitions

Sens. Warren (D-MA) and Klobuchar (D-MN) joined with Rep. Cicilline (D-RI) to write to Treasury Secretary Mnuchin and Federal Reserve Chairman Powell urging them to use authority granted by the CARES Act to “restrict large corporations that receive bailout funds from engaging in potentially harmful mergers and acquisitions.” The letter alleges that large banks have discriminated against smaller companies when issuing loans under the Paycheck Protection Program and that large companies will benefit from the \$500 billion in CARES Act funding to the detriment of smaller companies.

[Read the letter here...](#)

Senate Democrats Criticize SBA on EIDL Program Management

Sens. Schumer (D-NY), Cardin (D-MD), and Shaheen (D-NH) wrote to Small Business Administrator Carranza regarding the SBA’s implementation of the Economic Injury Disaster Loan (EIDL) Program, saying that recent decisions by the SBA have made it more difficult for struggling businesses to access the program during the COVID-19 pandemic. The senators “request an immediate reversal of SBA’s recent policy to limit EIDL loans to \$150,000; demand the SBA to reopen the program to new non-farm applicants; and call on SBA to provide Congress with regular updates of data necessary to assess demand for EIDL, so that Congress can ensure the program receives adequate funding to assist all small businesses in need.”

[Read the letter here...](#)

House and Senate Democrats Introduce VoteSafe Act

Sen. Harris (D-CA) and Rep. Clyburn (D-SC), the House Majority Whip, along with Rep. Fudge (D-OH), on Tuesday introduced the VoteSafe Act, legislation that would expand voting options and improve the safety and accessibility of polling places across the country during the COVID-19 pandemic. The bill would:

- require states to provide no-excuse mail-in absentee voting for the 2020 elections and guarantee minimum due process protections for these voters;
- require states to maintain an early in-person voting period of at least 20 days for the 2020 elections;
- authorize \$2.5 billion for states to meet their obligations to offer no-excuse absentee voting and early in-person voting; and

- provide \$2.5 billion in additional discretionary grant funding for states to further improve the safety and accessibility of voting options during the pandemic.

[Read more here...](#)

SBA Report on Paycheck Protection Program Implementation

At the request of Sens. Schumer (D-NY), Cardin (D-MD), and Brown (D-OH), the Small Business Administration's Inspector General released a report on May 8 regarding implementation of the Paycheck Protection Program. The report finds that the SBA's Interim Final Rules for implementing the PPP and its FAQs mostly aligned with the requirements of the CARES Act. However, it also identifies several areas where implementation has not fully aligned with the CARES Act: (1) prioritizing underserved and rural markets; (2) loan proceeds eligible for forgiveness; (3) guidance on loan deferments; and (4) registration of loans. The report provides recommendations for the SBA to consider to better align PPP requirements with the provisions of the CARES Act.

[Read the report here...](#)

Updated Term Sheet for Municipal Liquidity Facility

The Federal Reserve Board on Monday published updates to the term sheet for the Municipal Liquidity Facility (MLF) to provide pricing and other information. The MLF will offer up to \$500 billion in lending to states and municipalities to help manage cash flow stresses caused by the coronavirus pandemic.

[Find the term sheet here...](#)

[Access the MLF Pricing Appendix here...](#)

Updated Term Sheet for Term Asset-Backed Securities Loan Facility

The Federal Reserve Board on Tuesday announced additional information regarding borrower and collateral eligibility criteria for the Term Asset-Backed Securities Loan Facility (TALF). The facility was announced on March 23 as part of an initiative to support the flow of credit to U.S. consumers and businesses. To help ensure that U.S. consumers and businesses remain able to access credit at affordable terms, TALF initially will make up to \$100 billion of loans available.

Also on Tuesday, the Board outlined the information it will publicly disclose for the TALF and the Paycheck Protection Program Liquidity Facility (PPPLF) on a monthly basis. The Board will disclose the name of each participant in both facilities; the amounts borrowed, interest rate charged, and value of pledged collateral; and the overall costs, revenues, and fees for each facility. The disclosures are similar to those announced in April for the Board facilities that utilize CARES Act funds.

[Find the term sheet here...](#)

[Read FAQs here...](#)

MASSACHUSETTS UPDATE

Baker Administration Announces 4-Phased Reopening Plan

On Monday, May 11, the Baker Administration announced a framework for reopening the Commonwealth in four phases. Although the details remain in flux until the Reopening Advisory Board releases its report due May 18, the Administration's goal is to begin the process of loosening restrictions relative to the Governor's stay-at-home advisory and non-essential business closures on or close to that date. Phase 1, or "Start," would begin with strict restrictions on select businesses and industries best suited to limit in-person interactions between employees and customers. Phase 2, or "Cautious," will allow additional businesses to reopen with capacity limits and restrictions. Phase 3, or "Vigilant," will allow for more businesses to reopen with guidelines. Lastly, Phase 4 will bring the Commonwealth into the "New Normal," which anticipates the development of a treatment or vaccine. While a time threshold between phases has not been laid out, the Governor expressed that data and facts on the ground from public

health officials will guide the process to the “new normal” in Massachusetts and reserved the right to revert to previous phases and restrictions if outbreaks occur.

[Click here to access the Governor’s four-phased plan for reopening the Commonwealth. Page one demonstrates the process and restrictions applied through each phase.](#)

Reopening Advisory Board Outlines Mandatory Workplace Safety Measures

On Monday, the Reopening Advisory Board released safety standards, which will apply to all industries, businesses, and workplaces as the reopening process begins in Massachusetts. The Board addresses four major areas of focus that employers must address once cleared to reopen, which include hygiene, cleaning, social distancing, and business/staffing operations. Guidance and standards for each of these focus areas was released including the availability of handwashing stations and supplies; sanitization of high-touch areas; cleaning protocols; remaining six feet apart when possible; a requirement of masks for all employees, customers, and vendors; training for employees relative to newly established protocols outlined in the Board’s guidance; and clear plans for employees exhibiting COVID-19 symptoms and their return to work when appropriate.

[To access additional details on the Reopening Advisory Board’s workplace safety standards and Phase 1–specific guidance, click here. Page two outlines the Phase 1–specific protocols, followed by a complete list of mandatory workplace safety standards for the four major focus areas on page three.](#)

\$1 Billion Supplemental Budget Filed to Cover COVID-19 Spending

On Tuesday, May 12, the Governor announced the filing of a \$1 billion supplemental budget to cover state expenses incurred relative to the COVID-19 pandemic. It is anticipated that the federal government will reimburse the Commonwealth’s spending, resulting in a zero net cost to the state, which will allow the Administration to allocate reimbursements to FY2020 spending in hopes of maintaining a balanced budget for the remainder of this fiscal year. With funds made available to states through the CARES Act and the Federal Emergency Management Agency (FEMA) for disaster response activities, the supplemental budget will cover costs relative to payments for personal protective equipment (PPE), rate adjustments for human service providers, incentive pay for front line workers, costs related to the creation and operation of field medical stations, National Guard pay, and funding for emergency care child centers, along with costs associated with the contact tracing program assumed by local housing authorities as well as family and individual shelter systems.

[To access the Governor’s supplemental budget, HB4707 – An Act making appropriations for fiscal year 2020 to authorize certain COVID-19 spending in anticipation of federal reimbursement, click here.](#)

Expansion of Testing Capacity and Infrastructure

On Thursday, May 14, Governor Baker announced the Administration’s plan to submit an expanded testing framework to the federal government by the end of this month. The Administration outlined its strategy to expand testing capacity to 45,000 tests per day by the end of July, followed by another increase to 75,000 tests per day by the end of December. The goal of increased testing capacity is to decrease positive test rates to less than 5%. For the last few weeks, Massachusetts’s positive test rate has hovered around 12%. The Administration also plans to expand lab capacity to prepare for a potential second wave of the virus in the fall and winter. On Wednesday, May 13, the Department of Public Health (DPH) expanded testing requirements for symptomatic individuals and individuals in close contact with positive cases, but it has yet to announce the availability for universal testing in the Commonwealth.

To access the Baker Administration’s plan to increase testing capacity and infrastructure, [click here](#).

To access DPH’s updated testing guidance, [click here](#).

Massachusetts COVID-19 Pending Legislation

The Legislature continues to work through legislation both related to and unrelated to the COVID-19 pandemic, a process that has been made more efficient through the use of remote formal sessions beginning in the House last week. On Thursday, May 14, the Senate voted unanimously (38-0) to enact the Governor’s borrowing bill focused on covering expenses, if necessary, to close out the FY2020 fiscal year, sending the legislation to the Governor’s desk for signature. On Wednesday, May 18, the House voted unanimously (157-0) to enact the Governor’s borrowing bill focused on covering expenses, if

necessary, to close out the FY2020 fiscal year. Whether such funds will become necessary remains to be seen as the Governor announced the anticipated reimbursement of \$1 billion in COVID-19–related spending from the federal government. Many other COVID-19–related bills are working their way through the legislative process by being referred to a committee of jurisdiction, receiving a public hearing date, or receiving extension orders for committees to dig deeper into the policies being considered.

On Wednesday, the House Ways and Means Committee polled its members on an information technology, cybersecurity, and food security bill originally filed by the Governor in April of last year. After the proposed bill made its way through the committee process, House Ways and Means filed a new draft, HB4708 – *An Act financing the general governmental infrastructure of the Commonwealth*, which directs Treasurer Goldberg to issue and sell bonds in an amount up to \$1.43 billion to secure funding for the various directives outlined in the bill. The line items building up to the \$1.43 billion mark include \$25 million in grant opportunities for the Department of Secondary Education Services to expand access to remote learning, \$92.5 million for the State Police to replace police cruisers and equipment, \$30 million dedicated to the improvement of security measures at public institutions of higher education, and \$36 million directed to the Department of Agricultural Resources to support a food security program, as food banks, farms, and fisheries have been directly impacted by the COVID-19 pandemic. House members have until 3:00 pm on Friday, May 15 to file amendments on this legislation.

As we continue to navigate through these unprecedented times, know that ML Strategies continues to keep lines of communication open with members on Beacon Hill to address the many sectors being impacted by the COVID-19 pandemic. Do not hesitate to reach out to your team at ML Strategies with any questions during these uncertain times.

To access *HB4708 – An Act financing the general governmental infrastructure of the Commonwealth*, [click here](#).

Authors