COVID-19 POLICY UPDATE: HOUSE PASSES CORONAVIRUS RESPONSE

Date: 17 March 2020

U.S. Public Policy and Law Alert

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On 14 March, the House of Representatives passed the Families First Coronavirus Response Act (H.R. 6201), as amended, in a 363-40 vote; the House subsequently passed an amended version of the measure on March 16 containing corrections. House passage of the coronavirus response package came as President Trump declared the coronavirus a national emergency. As the novel coronavirus continues to unfold in the United States, the Senate delayed this week's scheduled recess to respond to the pandemic. Federal agencies announced additional relief measures following the President's emergency declaration. We anticipate policymakers and regulators will continue to act on relief measures to help stakeholders and impacted parties respond to the outbreak. As a result, companies that are concerned about or interested In opportunities that the response and reilef measures will present should engage now with Capitol Hill to ensure any new legislation properly reflects business priorities. We are uniquely positoned to help in that regard.

CORONAVIRUS RESPONSE PACKAGE

The House-approved coronavirus response package would create an enhanced paid family and medical leave program and sick leave program while providing payroll tax credits to employers to help cover associated wages. The response package would also provide for coronavirus test coverage without co-pay by federal programs, insurers, and group health plans. It would provide increased Medicaid funding as well as enhanced unemployment assistance. Finally, the response package would provide funding for nutrition programs and enhance food security programs.

The Senate delayed this week's scheduled recess to respond to the pandemic and address other key outstanding measures. Specifically, on March 16, the Senate approved a measure to extend expiring provisions of the Foreign Intelligence Surveillance Act. Although the Senate had been expected to consider the coronavirus response package shortly thereafter, technical changes needed to be made to the bill that the House passed on 14 March, which resulted in renewed negotiations between House Speaker Nancy Pelosi (D-CA) and Secretary of the Treasury Steve Mnuchin.

On 16 March, the House passed an amended coronavirus emergency bill containing the changes by unanimous consent, sending it to the Senate to take up as the coronavirus continues to spread throughout the United States. At this point, timing for Senate consideration is unclear. Senate Republicans are facing increasing pressure to make substantive amendments to the bill from various stakeholder groups, which could further delay action. That said, the Senate could decide to act on H.R. 6201 and address outstanding priorities in a third coronavirus response package.

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Looking ahead, Speaker Pelosi indicated that the House plans to work on a third coronavirus response package to directly stimulate the economy and mitigate the impact of the ongoing crisis. Senate Minority Leader Chuck Schumer (D-NY) indicated that he would introduce a $750 billion relief package. The Senate has also begun work on a potential third coronavirus response package. Senate Majority Whip John Thune (R-SD) has reportedly asked members to submit ideas for an economic relief package this week. In addition, Secretary Mnuchin is expected to meet with Senate Republicans to discuss a potential third coronavirus response package.

PRESIDENT'S EMERGENCY DECLARATION

On 13 March, President Trump declared the coronavirus outbreak a national emergency pursuant to Sections 201 and 301 of the National Emergencies Act and Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). The National Emergencies Act authorizes the President to invoke particular emergency authorities, while the Stafford Act authorizes the President to provide federal assistance to state and local governments and certain private non-profit organizations to support their response and mitigation efforts.

Notably, the President's declaration empowered the Secretary of the Department of Health and Human Services (HHS) to authorize the Centers for Medicare and Medicaid Services (CMS) to provide certain flexibilities to health care providers to help them respond to the outbreak. It also authorized CMS to grant state and territorial Medicaid agencies a wide range of flexibilities. Following the President's declaration, CMS announced that it would be waiving certain Medicare, Medicaid, and Children's Health Insurance Program requirements as well as other federal laws and regulations.

The President's declaration also empowered the Federal Emergency Management Agency (FEMA) to increase federal support to HHS by assisting state, local, tribal, and territorial governments and other eligible entities in their response to the outbreak. FEMA announced after the President's declaration that states, tribal, and territorial governments do not need to request separate emergency declarations to receive FEMA assistance under the nationwide declaration.

Some federal agencies have also declared the coronavirus outbreak an emergency. For example, the Federal Motor Carrier Safety Administration (FMCSA) declared an emergency on 13 March. The declaration is aimed at addressing the need for immediate transportation of essential supplies, equipment and persons, as well as providing relief from the Federal Motor Carrier Safety Regulations for motor carriers and drivers engaged in the transport of essential supplies, equipment, and persons.

FEDERAL RESPONSE CONSIDERATIONS

Action on any legislative or agency response could be impacted by the potential spread of the coronavirus in Washington, D.C. Capitol tours have been temporarily suspended due to the outbreak. While each Congressional office is still responsible for developing its own operations protocols with respect to the coronavirus, an increasing number of offices have opted to work remotely. Additionally, the Capitol complex, which includes the Capitol building and House and Senate office buildings, is only permitting visitors on official business when escorted by staff.

On 15 March, Office of Management and Budget Director Russ Vought sent a memo to the heads of federal departments and agencies asking them “to offer maximum telework flexibilities to all current telework eligible

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employees," noting that, if "employees are not eligible for telework, agency heads have the discretion to offer weather and safety leave, or the agency's equivalent." The U.S. Securities and Exchange Commission announced last week that it was encouraging employees to work remotely amid concerns that a worker may have contracted the coronavirus.

Late on Sunday, 15 March, the Centers for Disease Control and Prevention recommended that "for the next eight weeks, organizers (whether groups or individuals) cancel or postpone in-person events that consist of 50 people or more throughout the United States," noting that "this recommendation does not apply to the day to day operation of organizations such as schools, institutes of higher learning, or businesses." In addition, on 16 March, President Trump recommended avoiding gatherings of more than 10 persons in the coming weeks.

CONCLUSION

Policymakers and regulators will continue to work in the coming weeks on policies aimed at mitigating the health and economic impacts of the coronavirus. As Congress evaluates policies for additional coronavirus response measures, we anticipate that it will continue to work with impacted and interested stakeholders as they flesh out proposals. We also expect agencies to issue more guidance to impacted stakeholders moving forward as Congress continues developing such response measures. We will continue to provide timely updates on these developments and are available to assist clients as they navigate policy and regulatory issues around the coronavirus.

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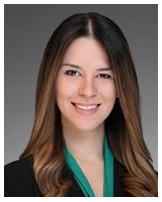

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