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COVID-19: WIDE RANGING IMPACT ON CRE AND BEYOND

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Coronavirus: Its Wide-Ranging Impact on the Real Estate Industry and Beyond

The first confirmed case of Coronavirus (COVID-19) was reported on November 17, 2019; and on March 11, 2020 the **World Health Organization** (WHO) characterized COVID-19 as a pandemic that is declared when a new disease for which people do not have immunity spreads around the world beyond expectations. Over a span of three months, COVID-19 spread rapidly across the globe; and particularly in the U.S., where case numbers reached a level that was higher than any other nation. New York State has accounted for more than half of the verified cases, as numbers continued to rise sharply in New York City, establishing it as the epicenter of the outbreak in the U.S.

Economic Disruption:

While the **National Bureau of Economic Research** (NBER), which officially declares recessions, had yet to make that call as of March 18th, a growing number of economists and Wall Street analysts are reportedly saying that the actions taken to contain the coronavirus has triggered a global recession, with the debate focusing on "how deep it will be and how long it will last." NBER, an American private nonprofit research organization, defines a recession as "a significant decline in economic activity spread across the economy, lasting more than a few months, normally visible in a real GDP, real income, employment, industrial production, and wholesale-retail sales" However, S&P Global Ratings has forecast a global recession this year, under the assumption that the pandemic will peak between June and August according to estimates by some government authorities, with 2020 GDP rising just 1.0%-1.5%. According to S&P's March 17th report, initial figures from China for January and February were much worse than feared. Although the spread of the virus appears to be stabilizing in much of Asia, "the increasing restrictions on person-to-person contact in Europe and the U.S. have sent markets reeling as risk-aversion rises and views on economic activity, earnings, and credit quality deteriorate sharply."

While it is anticipated by some that the global economy will rebound in the second-half of the year, the risks remain of even deeper downturns, with the Federal Reserve reportedly predicting a 32% unemployment. The projections forecasting a weakening of growth, that although expected to be less deep than the reportedly the 0.8% contraction of 2009," will apply "pressure on policy makers to do more to limit the health emergency and then provide enough stimulus to drive a rebound in demand once the virus is under control." However, the threat remains of the outlook darkening even further "if the virus lasts longer than anticipated or wields greater economic pain." As part of the annual bank stress-tests, the Fed envisioned the worst-case scenario, with the most recent test including a 10% unemployment rate according to a March 18th report; but the potential reportedly exists of unemployment spiking to 20%, prompting the federal government to reportedly intervene in the market in ways that mimic the days of 2008. Yet on an optimistic note, reports point out that unlike in 2008, the U.S. economy was a lot healthier prior to the COVID-19; and banks are better positioned to withstand a severe economic crisis than 12-years ago. Furthermore, although analysts from both S&P and Oxford Economics are reportedly forecasting the economic downturn to be severe, "once disruption and uncertainty fade, the rebound in global economic activity will be strong."

Sources: https://www.spglobal.com/ratings/en/research/articles/200317-economic-research-covid-19-macroeconomic-update-the-global-recession-is-here-and-now-11392265
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COVID-19: Economic Disruption (cont'd)

Unlike in a normal downturn when economic activity contracts, the ongoing spread of COVID-19 in New York State has brought nearly all business activity to a grinding halt as all non-essential workers are ordered by Governor Cuomo to stay at home, reportedly leaving the state's economy bracing for an economic downturn of a magnitude no one has seen before. Since World War II, New York City has reportedly faced four economic downturns, each one less severe than previously.

Years	Timespan	Jobs Lost	% of Jobs Lost
1969-1977	96 Months	62,000	16%
1990-1992	34 Months	349,300	10%
2001-2003	31 Months	227,500	6%
2008-2009	14 Months	138,000	4%

Source: State Labor Department • Create with Datawrapper

According to early projections by the **New York City's Independent Budget Office**, "nearly 10% of the city's workers — 500,000 people — across all sectors of the economy will soon be unemployed." Although large companies with employees in China and South Korea are able to apply lessons learned there to what is happening in New York now, the city's small and midsize company's lack both the advantage of that benefit and the resources to deal with the crisis; and in many cases the decision of whether to remain open has been taken out of their hands. Helping to put the city in a better position to withstand a severe economic shock is the growth of "workforce in recession-resistant sectors such as healthcare, higher education, and the tech sector, which will hopefully help soften the severe job losses expected in hospitality, travel, entertainment and finance. Looking ahead, amid COVID-19 reportedly upending New York State's "normal methods of making laws and passing the state budget, which faced a March 31st deadline, it has "given new life to the argument that the state needs to raise taxes," particularly on the wealthy per the calling by unions and progressive groups. On March 17th, the New York State Comptroller reportedly stated that "the amount of projected revenue could fall short of lawmaker's expectations by as much as $7 billion," most of which was "caused by a $4 billion overrun" in the state's Medicaid program.

Daily headlines that bring the rapidly changing circumstances of the spread of COVID-19 nationwide offer a glimpse of its potential impact on the real estate market. Any assessment of the extent of economic disruption will likely not be fully realized until such time as the virus outbreak is contained.

Real Estate Industry: Early Indications of COVID-19 Impact Surface

Although the full effect on the global and U.S. economy, as well as the real estate industry has yet to be determined given the uncertainty around the duration and severity of the outbreak, it will undoubtedly give rise to significant wide-spread health and economic challenges. What started as a marginal concern for New York City's real estate industry, with some industry sources projecting a relatively short-term disruption for the industry that was enjoying a 10-plus year bull market, has now escalated to what has been described as "an existential threat to commercial landlords, office and retail tenants, hoteliers, a growing number of real estate lenders, and a brokerage industry built on face-to-face dealings." While the federal government's roughly $2.2 trillion **CARES Act** stimulus package provides aid for several troubled sectors, there's reportedly nothing in the CARES Act that provides for landlords, which reports describe as the "real estate industry's backbone." However, the resilience of New York City's real estate industry has proven itself time and time again, successfully rebounding after catastrophes such as 9/11 and the 2008 Great Recession.

- **Real Estate Stocks** – Turbulence in stock market worldwide sparked by growing concerns of the spread of COVID-19, economic disruption, and sharply declining oil prices reportedly saw the New York Stock Exchange halted twice while the Dow Jones Industrial Average's 11-year bull run came to an end, with real estate stocks taking a beating as well — but some much more than others. According to data compiled by the **National Association of REITS** (Nareit), weekly total REIT returns by property sector for the first two weeks of March 2020, as the crisis intensified, as well as for Monday March 16, when global equity markets posted their steepest decline since 1987 are indicated in the chart below.

Index	Constituents	Market Cap ($M)	Total Return (%) 3/2 - 3/6	3/9 - 3/13	3/16	2020: YTD
	FTSE Nareit US Real Estate Index Series					
Property Sector						
Office	18	66,658	3.34	(12.55)	(18.44)	(33.41)
Industrial	13	83,675	2.90	(9.41)	(17.77)	(27.64)
Retail	33	94,018	1.06	(16.31)	(23.88)	(42.43)
Residential	21	139,179	6.15	(8.94)	(18.53)	(24.33)
Diversified	16	35,514	1.91	(17.28)	(19.82)	(39.50)
Lodging/Resorts	15	18,109	(8.09)	(26.91)	(20.58)	(59.06)
Health Care	17	65,961	1.50	(25.90)	(23.75)	(45.50)
Self Storage	5	47,513	9.33	(9.39)	(14.02)	(16.93)
Timber	4	17,282	3.04	(16.45)	(20.61)	(41.82)
Infrastructure	5	175,100	9.49	(2.95)	(13.36)	(6.96)
Data Centers	5	91,460	5.78	4.00	(11.51)	(4.18)
Specialty	11	28,005	(0.09)	(22.10)	(25.87)	(44.53)
Home Financing	23	35,503	1.97	(25.50)	(10.59)	(34.99)
Commercial Financing	14	13,590	1.14	(23.40)	(23.91)	(45.17)
Source: FTSE™, Nareit®, FactSet.						

- **Retail Industry** – More discretionary gathering places are among the most vulnerable as gyms, fitness center and movie theaters were required to cease operations for one month following Governor Cuomo's March 16th Executive Order; and restaurants and bars mandated to cease serving food or beverages on-site, with only off-premise take-out or delivery allowed until further notice. While the mandate banning dining room service prompted decisions by some restaurant and bar owners to shut down due to the economics of takeout alone not working, others have been able to adapt and keep their doors open with a downsized staff by "changing what they sell and how they sell it," as well as taking advantage of temporary new rules reportedly letting eateries sell alcohol on the go. Several national chains such as Walmart, Target and Costco began limiting their hours of operation, while others opted to temporarily close stores despite some already struggling to offset lagging sales, many of which will be providing pay and benefits to affected workforce for a 2-week period such as Macy's Inc., Apple, Neiman Marcus Group, Nordstrom, Saks Fifth Avenue, Nike and Sephora.

  The mandated closures, restaurant delivery or pick-up only restrictions, and overall disappearance of consumers that have brought brick-and-mortar retail and restaurant business to nearly a standstill, has left retail companies and restaurant owners with the heightened challenge of meeting financial obligations such as rent, payroll and suppliers. Landlords have reportedly already begun to receive "**force majeure**"[1] letters from retail tenants; however, whether or not establishments are obligated to keep paying rent during the coronavirus closure, contract clauses for "force majeure" events or "acts of god" reportedly tend to be considered on a case-by-case basis in the U.S.; and most leases don't include provisions for a pandemic according to reports. It is anticipated that in a matter of goodwill to keep establishments afloat landlords and tenants will work together, even if there is going to be a temporary reduction of income and inability to pay.

[1]Force Majeure – Unforeseeable circumstances that prevent someone from fulfilling a contract.

Sources: https://www.reit.com/news/blog/market-commentary/what-real-estate-sectors-has-coronavirus-affected

Retail Industry **(cont'd)**

It is too early to tell how mom-and-pop businesses will fare; and whether the low-interest loans to be offered nationwide through the U.S. Small Business Administration, and to New York City small businesses through the city's Small Business Services agency, will be enough to keep their doors open. News of significant layoffs in the short-term among some of New York City's longtime hospitality groups began surfacing as sales revenue for their restaurants lowered to near complete elimination; and while some restaurants have opted to close, among those that are now relying on takeout, some are seeing revenues fall by as much as 90% per reported statements by the CEO of Valley Bank upon speaking about the lender's clients. According to reported statements on March 20th by an economist at the New School's Center for New York City Affairs, an estimated 130,000 restaurant workers have already lost their jobs.

Some businesses have turned to social media to help ease their financial situation short-term and finding success by resourcing crowdfunding platforms such as **GoFundMe**. The popular City Winery was planning to launch its grand opening of its 32,000-square-foot restaurant and concert venue on the repositioned Pier 57 in April, however amid the mandated shutdown the opening remains on hold. Although employees are seeing some success raising money through the crowdfunding platform, **City Winery** is continuing to reportedly cover benefits through May after having to "suspend 1,400 people nationwide," with the remaining 70 or so managers on partial pay; and while the pier's landlords are holding off rent collections, payments will be due later this year. Other efforts for survival have led some of the city's larger restaurant groups to reportedly band together and form **Relief Opportunity for All Restaurants** (ROAR), calling for "rent abatement until the mandated ban on dining in at restaurants and bars is lifted, a suspension of sales and payroll tax through the end of the year, and a 'true, mandated hospitality businesses shutdown' — not just a ban on dine-in business — in order to trigger business interruption insurance coverage, for those who have it."

Looking beyond urban storefront businesses at the nation's malls, many of which are already operating on a thin margin and may not be able to withstand an extended shutdown. On March 18th, one of the largest U.S. mall operators **Simon Property Group** announced the temporary full closure through March 29th of all its U.S. retail properties including Malls, Premium Outlets and Mills. In contrast, online retailers are expected to benefit from the pandemic, and although some of the spike in activity is expected to be short-term, some of the increase in online shopping may become permanent and further accelerate the impact of internet retail on the brick-and-mortar market. On March 16th, e-commerce giant **Amazon** announced the opening of 100,000 new full and part-time positions to meet the surge in online order demand; food delivery platform **GrubHub's** stock reportedly climbed 22% on March 17th; and on March 18th meal kit delivery company **Blue Apron Holdings'** stock reportedly traded at its highest level since September 2018 with restaurant closures and grocery store and supermarket shelves being emptied, sparking an increasing appeal of at-home preparation. Local car-rental companies in New York City are also seeing an uptick in activity spurred by New Yorkers looking to get away from the city crowds.

Grocery Stores have also seen a temporary surge in sales activity as consumers "anxious from the anticipation of being housebound for weeks from government responses to the coronavirus pandemic" clear out shelves of critical household items and food supplies. The transformation of life in the wake of COVID-19 has left food suppliers having difficulty keeping up with the overload in consumer demand. Reports on March 23rd indicated that the pandemic-led panic buying pushed grocery store sales up 8.5% in February per Coresight Research data. Longer lasting items such as canned and frozen foods were among the top of consumers' lists; and it is reportedly anticipated that the sales volume of these categories will continue to rise as more and more states issue "stay-in-place" directives.

- **Hotel Industry** – After a reportedly decade-long expansion period, signs of a turnaround of the trend quickly began to surface with the onset of the coronavirus pandemic, as three key metrics dropped dramatically amid an initial federal ban on inbound travelers from Europe per reported statements by a spokesperson for the local trade group **Hotel Association of New York City**. Governor Cuomo's March 7th Executive Order 202.3 had initially affected events and gatherings that anticipated attendance in excess of 500 people, but 5-days later the Governor reduced the limit to 50 people, further impacting the hospitality market along with the travel and leisure sectors as major events and conferences were postponed or cancelled. According to reported data compiled by hospitality research firm STR, occupancy rates nationwide fell by 7.3% to 61.8% on a year-over-year basis for the week of March 7; while average daily room rates (ADR) and revenue per available room (RevPAR) lowered 4.6% and 11.6% to $126.01 and $77.82 respectively, as group cancellations were felt across all U.S. markets and hotel classes. During the same week New York City hotels saw occupancy decline 13.1% to 72.1%, while ADR was down 8.3% to $188.59, but about one-week later STR's data indicated that occupancy fell to 49% and ADR lowered to $181, prompting the temporary closure of some of the city's hotels reportedly including the nearly 2,000-key **Hilton Midtown** on 6th Avenue, the **Standard High Line** and the 426-key **Warwick Hotel**.

Sources: https://ny.eater.com/2020/3/19/21187117/momofuku-major-food-group-starr-restaurants-relief-coronavirus-nyc
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https://blog.aboutamazon.com/operations/amazon-opening-100000-new-roles

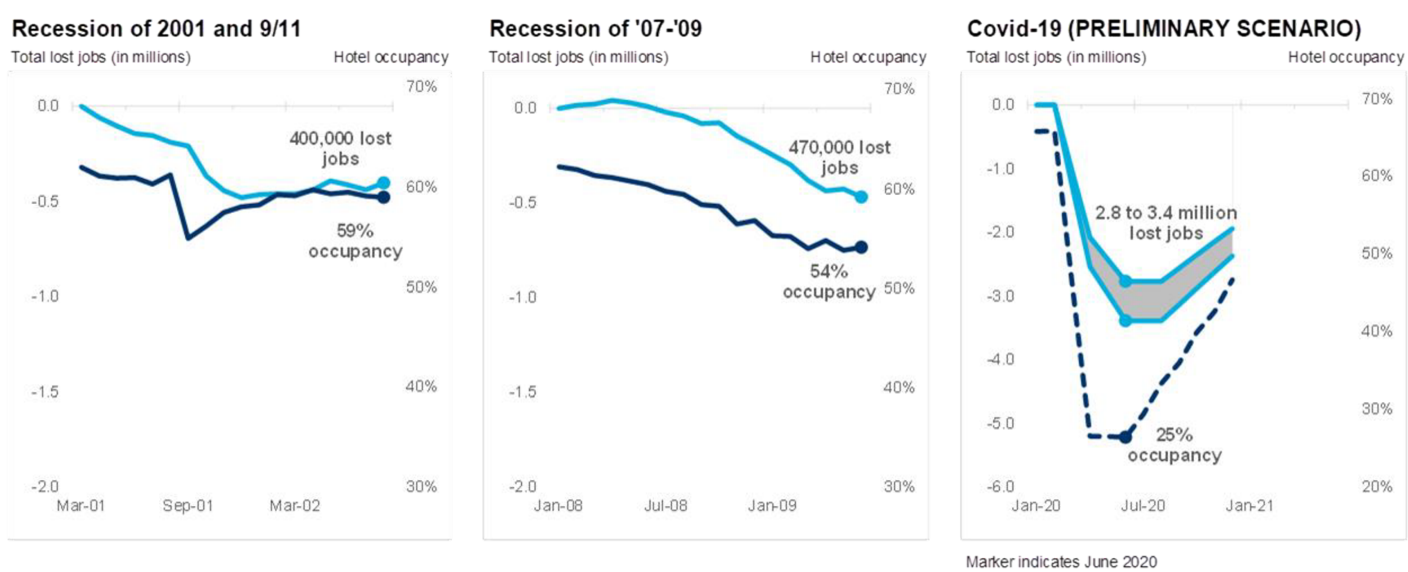
Hotel Industry (cont'd)

Given the uncertainty over the loss of business that might be endured, a broad cross-section of hotel owners and operators reportedly cautioned investors to "disregard earlier corporate projections for revenue and profits;" and based upon two big past disruptions — 9/11 and the 2008 Great Recession offering hints of a possible recovery time, it's likely not going to be quick, having reportedly taken 36 months and nearly 6 years respectively.

According to information posted on the **American Hotel and Lodging Association's** (AHLA) website March 21st:

- Based on current occupancy estimates for the immediate future and historical employment impact rates, since the coronavirus started 1 million direct jobs, or nearly 3.9 million total jobs, have either been eliminated or will be eliminated in the next few weeks.
- $2.4 billion in room revenue in the U.S. hotels has been lost since mid-February; and the figure is rapidly accelerating with hotels currently on pace to lose more than $200 million in room revenue per day, or $1.4 billion per week, based on current and future reported occupancy rates.
- Most hoteliers are reporting projected revenue losses of greater than 50% for the first-half of 2020.
- The majority of hoteliers as well as major hotel managers already reporting significant layoffs and furloughs, in many cases affecting 80% or more of staff. In New York State, 49,674 direct hotel-related jobs have been lost and 215,734 total jobs lost in supporting hotel industry businesses.
- Individuals hotels and major operators are projecting occupancies below 20% for upcoming months.

Charts on AHLA's website created March 16th offer a comparative impact due to 9/11 and the Great Recession



Note: Room night demand is based on monthly STR occupied room nights in US hotels (seasonally adjusted). Total lost jobs reflect total jobs supported by the hotel industry, including direct jobs at hotels and supported by guest ancillary spending (e.g., restaurants), as well as indirect (supply-chain) jobs, and induced jobs supported by wages and salaries of direct employees.
Source: STR, BEA, BLS, Oxford Economics (mid-March, 2020)

Hotel Industry (cont'd)

In addition, a study completed March 16th by Oxford Economics provides an economic impact analysis of the hotel and lodging industry; and is based primarily on data from federal agencies and from leading providers of travel and hotel industry data, STR and Longwoods International.

HOW HOTEL INDUSTRY SUPPORTS JOBS AND U.S. ECONOMY

ANNUALLY	MONTHLY	DAILY
• Supports 1 in 25 American jobs ○ 2.3 million direct jobs ○ 8.3 million total jobs • $97 billion+ in wages and salary income • Contributes nearly $660 billion to U.S. GDP • Includes more than 33,000 small businesses - 61% of hotel properties nationwide	• 105 million room nights • $102 billion of total business sales • $55 billion of GDP • $15 billion of tax revenue • $46 billion of guest spending	• 3.5 million room nights • $3.4 billion of total business sales • $1.83 billion of GDP • $500 million of tax revenue • $1.53 billion of guest spending

SHOWS DECLINE IN HOTEL GUEST OCCUPANCY DUE TO CORONAVIRUS PANDEMIC WOULD HURT INDUSTRY, LOCAL COMMUNITIES AND NATIONAL ECONOMY

	Percentage drop in occupancy rate (from average of 66%)			
Impact	**-20%**	**-30%**	**-40%**	**-50%**
Room nights	-380 million	-570 million	-760 million	-950 million
Total Business Sales	-$370 billion	-$558 billion	-$740 billion	-$925 billion
Direct hotel jobs	-690,000	-1.04 million	-1.38 million	-1.73 million
Total Jobs*	-2.6 million	-3.9 million	-5.2 million	-6.5 million
Wages*	-$120 billion	-$180 billion	-$240 billion	-$300 billion
GDP	-$200 billion	-$300 billion	-$400 billion	-$500 billion
Guest spending	-$166 billion	-$249 billion	-$332 billion	-$415 billion

* total jobs, including supply chain; Note: figures represent proportionate impacts of US hotel industry based on historical performance (each 10 percentage point decline in occupancy is shown as having the same successive impact for illustrative purposes). Economic impacts are based on Oxford Economics research for AHLA

COVID-19: Real Estate Industry (cont'd)

Hotel Industry **(cont'd)**

Several leading hotel CEOs met at the White House to discuss urgent economic recovery solutions needed to protect millions of U.S. hotel employees and 33,000 small businesses. Focused on job retention and rehiring and keeping hotels from shutting down, the group laid out several immediate actions the White House and Congress could take to provide access to liquidity through low-interest loans, including for small business.

Along with AHLA and the U.S. Travel Association (USTA), the group of 10 companies that met in Washington, D.C. on March 17th included Best Western, Choice Hotels, Hilton, Hyatt, InterContinental Hotels Group, Marriott, MGM, Pebblebrook, Universal, and The Walt Disney Company:

Marriott International - A March 18th financial press release by the operator of 30 hotel brands with roughly 130,000 employees noted that hotel occupancy in North America and Europe "have seen levels below 25% over the last few days, compared to 70% a year ago." Mitigation efforts by the Bethesda, MD-based hospitality company have included the closure of food and beverage outlets, reducing staff and closing floors or even entire hotels; and on the corporate level "making significant cuts in senior executive salaries, requiring temporary leaves in North America, shortening work weeks around the world and cancelling non-essential travel and spending," enabling Marriott to reduce 2020 corporate general and administrative costs by at least $140 million.

Pebblebrook Hotel Trust – The REIT with 54 hotels and over 8,000 employees nationwide has let go over 4,000 employees and expected to further reduce employee numbers by another 2,000 by the end of March. In addition, the closing of more than half of Pebblebrooks' properties was being considered.

- **Leasing Activity** – It is likely that transactions under consideration will be delayed, rather than canceled; however, a heightened sense of uncertainty over the economic and business outlook will cause some deals to be withdrawn. The volume of new transactions being initiated is expected to decline, while some expansion plans may be put on hold. The full extent of the impact on leasing activity has yet to be determined; but will depend on how economic impacts of the disease play out. It has also been pointed out that global response to the coronavirus is helping to drive the evolution of modern employment patterns as the rate of **homeworking** increases to stem the spread of the virus. Although the office industry is somewhat insulated from the effects, with ongoing day-to-day operations less disrupted since today's technology advances generally enables office workers to work remotely, the proportion of businesses and workers continuing to work more flexibly on a permanent basis could result in a longer-term impact on office leasing markets. However, the social benefits of being part of a working community, as exemplified by the rapid growth of the co-working concept, leads industry people to doubt that the remote experience will dent office space demand; and instead more likely to prompt companies to shed excess space as they work to find the right balance to create the kind of work life balance their employees desire.

Sources: https://www.ahla.com/press-release/top-hotel-ceos-meet-president-vice-president-urgent-assistance-keep-hotels-shuttering

- **Multifamily Market** – It is reportedly anticipated that property owners of "low- to moderate-income" multifamily housing will likely be among the first to feel the impact of tenants no longer being able to afford rent, particularly smaller mom-and-pop borrowers with 10 or 20 units because of liquidity issues; while larger landlords that have credit lines they can draw upon may find it easier to weather the financial uncertainty. With a decline in rent revenue all but inevitable, heightened concerns arise in New York City among the owners of rent-regulated apartments since they are more frequently financed by New York's community banks, which don't have the reserves that national banks do. However, the federal government CARES Act has provided some temporary relief, the legislation stating that "community bank leverage ratio shall be 8%; and if a qualifying community bank [defined as having less than $10 billion in total consolidated assets] falls below the ratio, it shall have a reasonable grace period to satisfy the Community Bank Leverage Ratio. The interim rule ends on the sooner of (A) termination date of the novel coronavirus disease; or (B) December 1, 2020;" and thereby decreases the current greater than 9% community bank leverage ratio requirement and extends the 2-quarter grace period. While some landlords would prefer assistance in the form of a tax abatement, others are hoping that lenders will place their mortgages in forbearance[2]; and although banks can enter into their own forbearance periods, guidance by the Superintendent of the Department of Financial Services (DFS) was provided in response to Governor Cuomo March 21st Executive Order 202.9.

  Helping to slow down the standard "daisy-chain, domino-effect reaction" that occurs during a typical down real estate market is the move by the government agency HUD authorizing an immediate foreclosure and eviction moratorium, which will hopefully avoid a high volume of lenders being left with loans collateralized by distressed real estate assets. In addition the Federal Housing Finance Agency (FHFA) announced Fannie Mae and Freddie Mac (the Enterprises) mortgage forbearance with the condition the property owners suspend all evictions for renters unable to pay rent due to the impact of COVID-19 for as long as the property owner's Enterprise-backed mortgage remains in forbearance. Further potential assistance for both renters and landlords in New York City has been proposed by the Brooklyn and Manhattan Borough Presidents. The emergency **Renter's Choice Plan** would "allow renters to apply their cash security deposits to the April rents," thereby reportedly unlocking "close to $8 billion is security deposits currently sitting in escrow that neither landlords nor renters can touch;" and if scaled nationally "would represent up to $45 billion [in] stimulus for Americans." Reports indicate that "renters who opt-in to the rent relief program will have 30 days to replace the security deposit, but through this plan, will now be given the option to replace their cash deposit with low-cost insurance for just a few dollars a month – allowing renters to keep some of the money for other things while paying into a security insurance plan;" as well as helping to ensure that landlords do not fall behind on any of their liabilities.

- **Residential Condominium Sales** – Activity impeded by the spread of the virus has more recently been halted following March 20th reports announcing an order by Governor Cuomo to stop showings. In addition, uncertainty about the full impact on the economy has led to some sale contracts falling through. According to reports, a year-over-year comparison of Manhattan's condo market based on the week beginning March 16th, revealed that new listing volume decreased about 70%; the number of new contracts signed declined approximately 49%; and the number of listings taken off the market rose sharply by roughly 276%. However the March 28th release of the "**Essential Critical Infrastructure Workforce**" advisory list by the Department of Homeland Security included residential and commercial real estate services as essential business. In response the Empire State Development (ESD), which serves as the state's economic-development arm, provided clarification to the New York State Association of REALTORS (NYSAR) that "residential home and commercial showings along with back office real estate work, appraisal services and home inspections are essential real estate functions;" and that limited operations may resume in compliance with "**New York State on Pause**" directive intended to help contain the spread of COVID-19 — brokers can visit properties to conduct virtual showings; brokers can oversee transactions or signings at their offices as long as they follow social distancing protocols; and appraisers and inspectors can also visit properties for inspections." It is anticipated that coronavirus-related legal language will become standard in the future, with many of these legal clauses including "force majeure" language allowing contracts to be terminated or extended for a period of time under certain unforeseeable circumstances. Cited as example is the clause being used by a Connecticut real estate firm, stating that a contract may be delayed in the event of "an act of God, declared state of emergency or public health emergency, pandemic (specifically COVID-19), government mandated quarantine."

[3]Loan Forbearance – borrowers payments are postponed (or reduce) but interest continues to accrue during the period of forbearance; and if the interest is not paid during that period, it may be "capitalized," which means it is added to the principal balance.

Sources: https://fdic.gov/regulations/resources/cbi/cbir-facts.pdf
https://www.cisa.gov/sites/default/files/publications/CISA_Guidance_on_the_Essential_Critical_Infrastructure_Workforce_Version_2.0_Updated.pdf
https://www.nysar.com/covid-19-resources/nysar-updates/esd-deems-specific-activities-essential/

COVID-19: Real Estate Industry (cont'd)

- **Construction Activity** – It has been suggested that a "wait-and-see" strategy may be the best reaction to the negative effects of the global coronavirus pandemic, since the disruption from COVID-19 in the U.S. is far from complete and no one can predict its full impact. Non-residential construction will likely experience "far more difficult circumstances" in 2021 since the sector typically lags the overall economy by 12 to 18 months according to reported statements by the chief economist for the **Associated Buildings and Contractors**. Making the situation more challenging is that an economic impact cannot be done to make a forecast for the remainder of 2020 since the pandemic event is not over.

  In New York City, the land use decision-making process known as the **Uniform Land Use Review Procedure** (ULURP) has been temporarily suspended per an Executive Order by Mayor de Blasio in order to avoid the need to hold public gathering, which has been suspended citywide as part of the social-distancing strategy. Reports indicate that as a result, 119 zoning applications have been paused, of which 45 had officially started the 7-month-long process; while the remaining 74 ULURP applications can still work with the city to get their applications ready for public review.

  – **Supply Chain Interruptions** are expected for commercial builders that rely on Chinese-made goods or materials due to containment efforts and quarantines enforce by the Chinese government, which have slowed or shutdown factories across China and could result in higher material costs and potentially slower project completions.

  – **Construction Financing** is a higher priority concern since the potential consequence exists of the virus causing lenders to pullback on construction financing, especially for firms working in highly impacted segments like hospitality, until uncertainty passes. Signs have already begun to surface of lenders placing a greater focus on risk mitigation and conservative underwriting at a time when historically low interest rates make it an ideal time to finance projects.

  – **Site Shutdown** could be required should an outbreak of the virus occur near a jobsite; or if mandated by the local government as was the case in New York City upon Governor Cuomo's announced suspension on March 27th of all non-essential construction statewide, despite previously classifying the industry as essential at the urging of construction groups such as the Building Trades Employers Association. The temporary ban expected to run through April 19 reportedly covers typical residential or commercial construction; while jobs related to hospitals, healthcare facilities, transit, utilities, roads, bridges, homeless shelters, affordable housing and emergency repairs remain classified as essential. While the overall Impact on the city's suspended projects is not expected to be significant, it will depend on "how much capital is on hand to support an extended period with diminished or no revenue." However it has reportedly been further pointed out that since "no financeable project is based on a perfect time frame, cushions are built in for any development;" and although a 90-120 day shutdown isn't optimal, "it can be accommodated within an existing pro forma" according to reported comments by an industry source.

  – **Legal Issues** could arise due to contractors still being held contractually responsible for delays or cost overruns despite the unforeseeable conditions caused by the pandemic. Discussions that could potentially surface will focus on many relevant terms within the contract relating to the contractor's schedule such as "substantial completion, delays, liquidated damages;" and whether or not "force majeure" provisions are included that will allow work to be suspended or terminated when certain extenuating circumstances arise according to reports.

COVID-19: Real Estate Industry (cont'd)

- **Investment Sales** – The uncertainty of the pandemic and its impact on the economy has shaken investor confidence; and while some investors are hunting for "opportunistic plays," others note that "negative sentiment has already seeped into the private real estate investment world. According to reported statements by economist Sam Chandan, driving the decline in confidence is reportedly "a response to a very severe and abrupt exogenous [affected by external influences] shock to the economy that is impacting all asset classes and investors" causing many transactions to pause, with some deals stopped in their tracks. News surfaced on March 25th of ongoing discussions for acquisition financing by Deutsche Bank breaking down, the German lender reportedly "backing out amid coronavirus turmoil in debt and bond markets," which subsequently led to the pending sale of the 37-story, 1.135 million-square-foot **News Building** at 220 East 42nd Street falling through, despite the former New York Daily News headquarters tower having entered into contract for the $815 million ($718 per square foot) purchase of in October.

- **Real Estate Taxes** – New York City relies heavily on revenue generated by the property tax levy, which reportedly serves as the "largest and most stable revenue source. Over the past few years rising property values have enabled the city to raise additional revenue without increasing the tax rate; but when property values decrease due to the impact of COVID-19, the city can either decrease taxes and give owners relief, or increase the tax rate to make up for the shortfall. On January 15th, the Department of Finance released the tentative assessment roll which noted estimated citywide market value increases to $1.378 trillion; and represented an increase of $62 billion, or 4.7%, increase from the Fiscal Year 2020. For those owners that were fortunate enough to file a challenge to the assessment prior to the March 2nd deadline — just one day following the reported announcement of New York City's first confirmed coronavirus case, the Tax Commission will hold hearings between April and November. However, for those property owners that didn't file in time, they can't do anything about their upcoming 2020-2021 tax bills; and as a result requesting property tax relief, even if it's just temporary.

- **Real Estate Investment Trusts** (REITs) – Although the first two months of the year saw the continued momentum of high capital and low leverage of a strong 2019 for publicly-traded and non-listed equity and mortgage REITs, the onset of the COVID-19 pandemic sparked an abrupt halt to the "10-year run of incontrovertible positivity in the commercial real estate space" as investors moved to the sidelines and banks constricted according to reports. In contrast to the onset of the Great Recession, when the "cash flow crisis unfolded over 18 months, from early 2007 to late 2008" the effects of the coronavirus took hold in 8 days per reported statements by an economist with the **National Association of Real Estate Trusts** (Nareit). At the onset of the year, REITs were reportedly in a "very solid position for anything other than an immediate cash flow crisis." Long considered safe investments because they have "built-in, steady revenue streams — usually property rents for equity REITs or debt service payments for finance REITs, but markets, including public REITs have been significantly impacted due to uncertainty of the effect of COVID-19 on the global economy. As a result, it has made it increasingly difficult for REITs to comply with all the requirements to maintain their status, which could reportedly cause a REIT to "automatically lose its status or pre-emptively terminate that status;" and thereby convert it to a regular corporation "taxed at a higher rate in exchange for dropping the distribution requirement, and be prohibited from trying to become a REIT again for 5-years per reported statements by industry people.

  – **Equity REITs** – Starting the year with near record-high occupancy rates, equity REITs have the reported benefits of little near-term obligations, having lengthened the maturities on their debt; access to liquidity resources; cash and securities; and more importantly lines of credit to cover interest payments for a whole year, or even more.

  – **Mortgage REITs** – Amid a very challenging financing environment, the home financing REITs and commercial financing REITs are reportedly focused on maintaining liquidity. While residential mortgage REITs, which reportedly "finance bond buys with short-term debt" are already starting to face challenges meeting margin calls. Commercial mortgage REITs, which buy fewer bonds, have been more insulated from the coronavirus turmoil.

Among the REIT sectors, apartment REITs and office REITs have more resources to deal with the current challenge; while the lodging and resort, as well as the regional mall and retail REITs are facing some of the biggest cash flow issues as travel restrictions and social distancing requirements shutdown hotels, malls and other properties to prevent the spread of the virus. Required to "pay out the vast majority of their taxable income to maintain their REIT designation," the financial challenges spurred by the coronavirus has prompted some REITs to reportedly "change — or delay — paying out their regular cash dividends to help make sure they have enough money on hand;" while others are paying a portion of dividends to investors in stock, of which 80% is the maximum allowable amount according to reports. In response, Nareit has asked the U.S. Treasury Department to re-issue guidance allowed during the crisis, in order to allow REITs to increase the maximum stock component to 90%; and thereby alleviate much of the cash flow burden.

COVID-19: Real Estate Industry (cont'd)

- **Capital Markets** – Some transactions will be delayed or jeopardized due to practical constraints on completions (such as travel restrictions impacting on-site due diligence) or concerns over the outlook for the economy and occupier demand. It is anticipated that since "long income" deals are less sensitive to the short-term outlook, they are in higher demand and will be less affected than those higher-risk transactions requiring more active management and asset repositioning to drive internal rate of returns (IRRs).

- **Investment Activity** – Although the outbreak of the virus is expected to have at least some impact on investment transaction volumes for 2020, any "wait-and-see" hesitation in completing transactions or initiating new ones will be partially offset by a "bounce back" effect once current uncertainty is alleviated. In addition, any reduction in interest rates and bond yields will also encourage further flows of capital into the real estate sector. A spokesperson for the **Association of Foreign Investors in Real Estate** (AFIRE) anticipates that current foreign investor uncertainty could delay transaction negotiations and buyers may find their deals increasingly harder to finance.

  Downward pressure on pricing is likely as buyers potentially move to the sidelines to maintain caution in part due to a range of uncertainties such as rent control measures in New York and California; climate change issues, such as rising sea levels; and concerns for cross-border investing in 2020 amid geopolitical issues. Setting a tone of optimism, another industry source reportedly pointed out that "while the COVID-19 presents as a downside risk, some of the dynamics at play present as a potential upside for commercial real estate" — "a global flight of quality could make private U.S. CRE investment relatively attractive on a risk-adjusted basis, and global investors, particularly institutional investors, could be drawn to the asset classes' comparative long-term stability and out-performance."

- **CMBS Market** – The challenges confronted by traders as they tried to figure out how to price in risk amid the coronavirus pandemic brought to a standstill the marketplace where lenders sell mortgages on office building, rental properties and other types of commercial real estate. Reports on March 16th indicated that most lenders sell all or a portion of the loans they issue on commercial properties into the [commercial mortgage-backed securities] CMBS market;" however without and active crowd of investors to buy the bonds, lenders began holding off on the writing of new loans, which held up acquisitions and refinancings. By March 24th, it was reported that the "steep fall in oil and gas placed pressure on around $6.3 billion in CMBS loans that have exposure to energy tenants;" and the "hospitality sector's nosedive has squeezed conduit pools and hotel single-asset single borrower (SASB) deals."

  According to Trepp, a leading CMBS market data and information provider, there are roughly 3,000 CMBS loans totaling over $86.0 billion in outstanding balance backed by U.S. hotel properties. As of Trepp's March 24th report, of the 3,000-plus loans, 476 loans are on watchlist and 97 are marked as delinquent; and the delinquency rate and special servicing rate for these loans is 1.37% and 2.04% respectively. **Single property hotel CMBS** loans total over 2,500 and back over $56.2 billion in outstanding balance; and over half of these are located in the top 30 Metropolitan Statistical Areas (MSAs), which may be susceptible to the impacts of any economic slowdown. The New York-Newark-Jersey City, NY-NJ-PA MSA accounts for about 123 of the loans backed by $3.52 billion in total outstanding balance according to Trepp's data. However, many of the larger single-asset/single-borrower loans have embedded extension options, and therefore may not be facing a "hard" near-term refinancing need. **Portfolio hotel CMBS** loans total over 400 and back $28.4 billion in outstanding balance; and among these portfolio loans, a total outstanding balance of $12.1 billion are set to mature through the end of 2020.

- **Shadow Banks** – Following the 2007-2009 financial crisis, the number on non-bank lenders began increasing market share as regulated banks pulled back from lending upon the enactment of heightened regulations. Nonbank lenders, including hedge funds, private equity, fintech firms and asset managers reportedly account for origination of over 50% of all new mortgages, representing a significant increase from 10% at the height of 2007. However, regulators have reportedly "warned that non-banks have fewer resources to weather adverse shock; and are more reliant on short-term funding that could be hard to come by in periods of significant stress. According to reported figures from bond-rating firm DBRS, U.S. shadowing banks have grown to an estimated $15 trillion in assets; but are "not prepared to respond to the anticipated wave of forbearance pledged by landlords in exchange for federal help, that will likely lead to some borrowers facing challenges satisfy margin calls."

Sources: https://www.reuters.com/article/us-health-coronavirus-financial-risks-fa/factbox-from-shadow-banking-to-coronavirus-u-s-regulators-eye-lurking-risks-idUSKBN20R1R8
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COVID-19: Real Estate Industry (cont'd)

- **Lending Market** – Mortgage companies are expecting a wave of missed payments starting in April, as Americans who've lost jobs and income stop making payments on home loans. In response, mortgage firms, have reportedly begun lobbying the federal government to "establish a lending facility to help finance the billions of dollars of [principal and interest] payments they will be obligated to make," even if homeowners are in arrears. The bulk of today's U.S. home loans are made by nonbank service companies, which reportedly don't have the capital and liquidity buffers that banks do; but instead are dependent on short-term liquidity and lack capital. According to reported estimates from the **Mortgage Bankers Association**, which is lobbying the federal government for a lending facility to help the industry group, if "one-quarter of borrowers avail themselves of forbearance for six months or longer, servicers could be on the hook for payments of at least $75 billion and as much as $100 billion or more." In response **Ginnie Mae**, an agency within the Department of Housing and Urban Development (HUD), reportedly plans to "implement a pass-through assistance programs through which it will advance principal and interest payments to investors" on behalf of Ginnie Mae issuers facing potential liquidity challenges due to borrower forbearance arrangements, with Enterprise lenders Fannie Mae and Freddie Mac previously announcing mortgage forbearance with the stipulation that tenant evictions are suspended during the full forbearance period for renters unable to pay rent due to the impact of coronavirus.

  An analysis by commercial real estate information provider Trepp of 12,501 commercial mortgages originated and held on the balance sheet by a wide range of lender size from community banks to large institutions with a national footprint, the economic disruption caused by COVID-19 is projected to increase the cumulative default rate of commercial mortgages overall to 8%. The diverse set of loans analyzed have a total aggregate outstanding balance of $77.5 billion; and span a broad range of property type; origination year vintages, of which nearly 80% were originated between 2015 and 2019; and loan sizes according to Trepp's March 26th report. In addition, the loan portfolio exhibits good quality metrics with a median loan-to-value (LTV) of 40.9 and median debt-service coverage ratio (DSCR) of 1.82. A modified version of the **Severely Adverse** scenario that regulators have created for large bank stress testing was used by Trepp to gauge the impact on commercial real estate mortgages. Trepp's described its COVID-19 analysis, which is not meant to be an actual forecast, as a "what-if type analysis to estimate impacts on commercial mortgages stemming from possible drops in income and price." Modified assumptions made for the purpose of the analysis were:

  – 10% unemployment rate peaking by Q1 2021;
  – Allocation of the most severe price and net operating income (NOI) drops to the Lodging and Retail sectors to reflect their larger impacts among the major property sectors;
  – Liquidity scores that generally follow the patterns of the 2008 Great Recession; and
  – Scenario extension to encompass 5-years versus the regulators' 13 quarters scenario.

Property Sector	Total Outstanding Loan Balance	Cumulative Default Rate
Multifamily	$33.3B	3.3%
Office	$19.6B	4.3%
Retail	$15.1B	16.0%
Lodging	$5.0B	34.8%
Industrial	$4.6B	3.0%

Sources: https://www.wsj.com/articles/mortgage-firms-brace-for-wave-of-missed-payments-as-coronavirus-slams-homeowners-11585017857
https://info.trepp.com/hubfs/Trepp_Bank%20CRE%20Loan%20Defaults%20and%20Loss%20Projections_COVID19_March%202020.pdf

COVID-19: Government Actions

Federal Government

- The **Department of Housing and Urban Development** (HUD) authorized the Federal Housing Administration (FHA) on March 18th to implement an immediate foreclosure and eviction moratorium for single family homeowners for the next 60 days in response to the pandemic, which reportedly applies to roughly 8 million units. The moratorium also reportedly applies to households that have FHA-insured mortgages.

- The **Internal Revenue Service** (IRS) and the **U.S. Treasury Department** initially issued guidance on March 18th allowing all individual and other non-corporate tax filers to defer up to $1 million of federal income tax (including self-employment tax) payments due on April 15, 2020 until July 15, 2020, without penalties or interest according to the press release by the IRS. In addition, the guidance also allows corporate taxpayers a similar deferment of up to $10 million of federal income tax payments. Although the tax filing deadline of April 15th for all filers remains unchanged, the deferment of pay will enable individual and businesses to have additional liquidity for the next several months; and will result in about $300 billion of additional liquidity in the economy in the near term. However on March 21st the April 15th Federal income tax filing due date for all filers — individuals, trust and estates, corporations and other non-corporate filers and those that pay self-employment, was automatically extended to July 15th regardless of amount owed.

- The **U.S. Small Business Administration** is offering designated states and territories low-interest federal disaster loans for working capital to small businesses suffering substantial economic injury as a result of COVID-19.

- On March 23rd the **Federal Housing Finance Agency** (FHFA) announced that Fannie Mae and Freddie Mac (the Enterprises) will offer multifamily property owners mortgage forbearance with the condition that they suspend all evictions for renters unable to pay rent due to the impact of coronavirus. The eviction suspensions are in place for the entire duration of time that a property owner remains in forbearance;" and forbearance is "available to all multifamily properties with an Enterprise-backed performing multifamily mortgage negatively affected by the coronavirus national emergency" according to FHFA's press release. In addition, the agency previously directed the Enterprises on March 18th to "suspend foreclosures and evictions for at least 60 days" due to COVID-19 resulting hardships.

- **Families First Coronavirus Response Act** passed March 18th provides FY2020 supplemental appropriations to the Department of Agriculture for nutrition and food assistance programs; as well as appropriations to the Department of Health and Human Resources for nutrition programs that assist the elderly. In addition:

  - American businesses and tax-exempt organizations with fewer than 500 employees that are required to provide emergency paid sick leave and emergency paid family and medical leave may receive a refundable:

    - Sick leave credit up to $511 per day for a total of 10 days for an employee who is unable to work due to coronavirus quarantine or self-quarantine.

    - Childcare leave credit equal to two-thirds of the employee's regular pay capped at $200 per day or $10,000 in aggregate, for up to 10 weeks if employee is unable to work due to childcare needs as a result of school or childcare facility closure, or childcare provider is unavailable due to reasons related to COVID-19. An additional tax credit to maintain health insurance coverage for the eligible employee during the leave period is determined based on costs.

  - Employees of eligible employers can receive 2-weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular pay; and in some instances up to 10-weeks of expanded paid family and medical leave, if unable to work due to childcare needs as a result of school or childcare facility closure, or childcare provider is unavailable due to reasons related to COVID-19, and/or the employee is experiencing substantially similar conditions as specified by the U.S. Department of Health and Human Services.

Sources: IRS PR 03-18-20 - https://home.treasury.gov/news/press-releases/sm948 • https://www.sba.gov/disaster-assistance/coronavirus-covid-19)
https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Moves-to-Provide-Eviction-Suspension-Relief-for-Renters-in-Multifamily-Properties.aspx
https://www.congress.gov/bill/116th-congress/house-bill/6201

Federal Government (cont'd)

- **Corporate tax reductions for business meals**, which were eliminated under the **Tax Cuts and Jobs Act of 2017,** may be restored in order to provide relief to the nation's restaurant industry. Under the 2017 tax reform, "taxpayers were still allowed to deduct 50% of meals as long as the expense was considered ordinary and necessary to conducting business" — such as a business lunch; however only food and drinks would be eligible if a customer is taken to a sporting event according to reports. Details of how the tax break would be re-instated have yet to be provided; but reports on March 29th indicated that at the direction of President Trump, the Treasury Department and Department of Labor will begin looking into it.

- An **$8.3 billion spending bill** was reportedly signed by President Trump on March 6th to help fund prevention efforts and research as worldwide cases of COVID-19 surpassed 100,000. In addition, the bill included a grant funding provision that will pay states, some of which to be based on a population CDC-based formula (Centers for Disease Control and Prevention); as well as providing $3 billion for vaccine research.

- Although unconfirmed by the White House, a plan to increase the number of visas offered to wealthy individuals who invest in job-creating businesses under the federal government's **EB-5 Foreign Investor Program** was reportedly being considered by President Trump. Reports indicated that under the proposal the number of visas would increase sharply from 10,000 to 75,000, and the investment threshold to earn legal residence would be lowered from $900,000 to $450,000; however it never made it into the stimulus package. News of the proposal came just about 4 months after revisions to the controversial program went into effect, which had raised the minimum investment in Target Employment Areas (TEA) from $500,000 to $900,000, reportedly prompting investors to move away from the program.

- **Federal Deposit Insurance Corporation** (FDIC) – Along with the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency, The National Credit Union Administrations, the state banking regulators, and the consumer Financial Protection Bureau issued the **Interagency Statement on Loan Modifications and Reporting of Financial Institutions Working with Customers Affected by the Coronavirus** on March 22nd to FDIC-supervised institutions with total assets under $1 billion. The Financial Institution Letter (FIL) stated that the FDIC "will not criticize institutions for prudent loan modifications" to borrowers affected by COVID-19; and "will not direct supervised institutions to automatically categorize COVID-19-related loan modifications as troubled debt restructurings (TDRs)," thereby not requiring banks to hold more capital in reserve as delinquencies rise, which frees up money they can lend. In addition, the new guidance will enable banks to borrow more from the Federal Reserve's discount window, since otherwise the Fed doesn't accept troubled loans as collateral.

  As follow-up to the guidance developed in consultation with the Financial Accounting Standards Board (FASB), which establishes accounting and reporting standards for private and public companies and not-for-profit organizations that follow Generally Accepted Accounting Principles (GAAP), a joint statement with Federal and state prudential banking regulators was released indicating that FASB agreed to delay a rule that would have forced banks to more quickly recognize losses from troubled loans.

- The stimulus measure **Coronavirus Aid, Relief, and Economic Security Act (H.R.748, The CARES Act)** totaling approximately $2.2 trillion was passed by the Senate on March 25th and just 2-days later on March 27th approved by the House of Representatives and signed into law by President Trump. Reportedly the "biggest of its kind in U.S. history, the legislation is aimed at "delivering critical financial support to businesses forced to shut doors and relief to American families and hospitals." Building upon earlier versions of the CARES Act, the latest legislation is intended to be a third round of federal government support in the wake of the coronavirus public health crisis and associated economic fallout. It is anticipated that the recent stimulus package will not be the end of the federal response, House Speaker Nancy Pelosi reportedly stating that "issues such as more generous food stamp payments, aid to state and local governments and family leave may be revisited in subsequent legislation." While there was a general consensus that the "bill's relief can hardly come soon enough, the legislation has reportedly sparked some concern among policymakers that bureaucracies like the Small Business Administration may become overwhelmed; the generous employment benefit will dissuade jobless people from returning to the workforce; and that it includes some untested key elements and initiatives such as grants to small businesses to keep workers on payroll and the complex new $500 billion subsidized lending program for larger businesses.

  A COMPRENHENSIVE SNAPSHOT OF THE 880-PAGE BILL IS PROVIDED ON THE FOLLOWING PAGES.

Sources:

COVID-19: CARES Act Overview

DIVISION A: Highlights

KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIZATION

TITLE I — KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

Sec. 1102 Paycheck Protection Program – The covered period term is from February 15, 2020 through June 30, 2020; and through the Small Business Administration (SBA) provides 100% federally guaranteed loans carrying a 100 basis points, or 1% interest rate and a 2-year term to small businesses. The loans from the $349 billion program may be forgiven if small business borrowers maintain their payrolls or restore the number of employees and/or salaries affected by the crisis by June 30, 2020; and from the date of the borrowers loan forgiveness application have a maximum maturity of 10-years. In addition to a small business with fewer than 500 employees, other eligible small businesses or organizations with less than 500 employees are any business operating under a sole proprietorship, with or without employees, or as an independent contractor; a cooperative; an Employee Stock Ownership Plan (ESOP); private 501(c)(3) nonprofit and 501(c)(19) Veterans organization; and small agricultural cooperatives. Loans can be up to 2.5-times the borrower's average monthly payroll costs, not to exceed $10 million; and can be used to cover payroll costs; mortgage interest; rent (including rent under a lease agreement; costs related to the continuation of group healthcare benefits during periods of paid sick, medical, or family leave, and insurance premiums, employee salaries, commissions, or similar compensations; utilities; and interest on any other debt obligations incurred before the covered period. The sum of payments of any compensations to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment or similar compensations cannot exceed $100,000 in one year.

Concerns that the funding will not be sufficient for the nation's reportedly more than 30 million small businesses to access, the U.S. Department of the Treasury reportedly responded on April 7th by asking Congress to further supplement the PPP program with an additional $250 billion in funding. However, since according to the Code of Federal Regulations "passive businesses owned by developers and landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds" are ineligible for SBA loans; and therefore unable to obtain any financial relief through the program. However due to a provision in the CARES Act, multifamily property owners with federal-backed Fannie Mae and Freddie Mac mortgages be entitled to mortgage forbearance with the condition that evictions are suspended of renters unable to pay rent due to the impact of the COVID-19 pandemic for as long as the mortgage remains in forbearance.

Sec. 1106 Loan Forgiveness – The borrower of a loan made during the covered period from February 5, 2020 through June 30, 2020, i.e. eligible recipient, shall be eligible for forgiveness of indebtedness on the loan in the amount equal to the sum of costs incurred and payments made during the 8-week period beginning on the date of the origination of the covered loan, but shall not exceed the principal amount of the financing. The loan can be used for payroll costs; interest payments for any mortgage obligation on real or personal property incurred before February 15, 2020 in the ordinary course of business that is a liability of the borrower; any payment on a rent obligation under a leasing agreement in force before February 15, 2020; and any utility payment for which service began before February 15, 2020. During the covered period, the amount of loan forgiveness for the covered loan will be reduced based on a reduction in the number of employees; as well as salary and wages. In addition, an eligible recipient with tipped employees may receive forgiveness for additional wages paid to those employees.

Source: https://www.congress.gov/bill/116th-congress/house-bill/748/text • https://www.sba.gov/sites/default/files/2020-04/PPP--IFRN%20FINAL_0.pdf
https://www.uschamber.com/co/run/business-financing/coronavirus-emergency-loans
https://www.govinfo.gov/content/pkg/CFR-2009-title13-vol1/pdf/CFR-2009-title13-vol1-sec120-110.pdf

COVID-19: CARES Act (cont'd)

Sec. 1107 Direct Appropriations – Amounts appropriated in the Treasury, not otherwise appropriated for the fiscal year ending September 30, 202, to remain available until September 30, 2021:

- $349 Billion under the heading "Small Business Administration—Business Loans Program Account, CARES Act" for the cost of guaranteed loans;
- $675 Million under the heading "Small Business Administration—Salaries and Expenses" for salaries and expenses of the SBA;
- $25 Million under the heading: Small Business Administration—Office of Inspector General" to remain available until September 30,2024 for necessary expenses of the OIG;
- $265 Million under the heading "Small Business Administration—Entrepreneurial Development Programs."
- $10 Million under the heading "Department of Commerce—Minority Business Development Agency" for minority business centers of the Minority Business Development agency to provide technical assistance to small business concerns;
- $10 Billion under the heading "Small Business Administration—Emergency EIDL [Economic Injury Disaster Loan] Grants;
- $17 Billion under the heading "Small Business Administration—Business Loans Program, CARES Act" shall be for the carrying out of the subsidy for certain loan payments [Sec. 1112]; and
- $25 Million under the heading "Department of the Treasury—Departmental Offices—Salaries and Expenses" shall be for the carrying out of the U.S. Treasury program management authority. [Sec. 1109]

TITLE II— ASSISTANCE FOR AMERICAN WORKERS, AND BUSINESSES

Subtitle A—Unemployment Insurance Provisions – "Relief for Workers Affected by Coronavirus Act"

Sec. 2102 Pandemic Unemployment Assistance – Individuals, including self-employed, that meet the eligibility requirements for unemployment as a result of COVID-19 shall be provided by the Secretary of Labor unemployment benefits while such individual is unemployed, partially unemployed, or unable to work for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation or waiting period credit. Individuals that are able to telework with pay; or receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification for a covered individual are excluded. For as long as the covered individual's unemployment, partial unemployment, or inability to work caused by COVID-19 continues, assistance shall be available for weeks beginning on or after January 27, 2020, which is the date the secretary of Health and Human Services declared the COVID-19 public health emergency, and end on or before December 31, 2020; but shall not exceed 39 weeks, which includes any week for which the covered individual received regular compensation or extended benefits under any Federal or State law unless if after the date of enactment of the CARES Act, the duration of extended benefits is extended.

For those states that in the judgement of the Secretary of Labor have an adequate system for administering the Pandemic Unemployment Assistance, through an agreement with the state, 100% of the total mount of assistance provided by the state shall be paid in advance or reimbursed; as well as any additional administrative expenses incurred to facilitate processing of applications for assistance online or by telephone rather than in-person.

Sec. 2104 Emergency Unemployment Increase in Unemployment Compensation Benefits – In addition to the regular state unemployment compensation, an additional amount of $600 under the **Federal Pandemic Unemployment Compensation** to be paid at the same time and in the same manner as any regular compensation for the week involved; or at the option of the State, by payments which are made separately from, but on the same weekly basis, as any regular compensation otherwise payable. The total amount of the Federal Pandemic Unemployment Compensation paid to individuals shall be paid to the State in advance or fully reimbursed; as well as any additional administrative expenses incurred by the State.

Sec. 2109 Temporary Financing of Short-Time Compensation Agreements - Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of the short-time compensation paid under such plan; and will be deposited into the State's unemployment fund. The Secretary of Labor will pay the State the other one-half amount, as well as any additional administrative expenses incurred under the agreement. No payment shall be made to a State if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis. The amount of any grant awarded shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion of enrollment efforts associated with such programs, such as through (1) the creation or support of rapid response teams to advise employers about alternatives to lay-offs; (2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and (3) the development or enhancement of systems to automate (a) the submission and approval of plans; and (b) the filing and approval of new and ongoing short-time compensation claims.

Sec. 2110 Grants for Short-Time Compensation Programs – $100 million has been appropriated to carry out this section, out of moneys in the Treasury not otherwise appropriated; and to remain available without fiscal year limitation. According to section 3306(v) of the Internal Revenue Code of 1986 (IRC), Short-Time Compensation Program means a program under which:

(1) the participation of an employer is voluntary;

(2) an employer reduces the number of hours worked by employees in lieu of layoffs;

(3) such employees whose workweeks have been reduced by at least 10 percent, and by no more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation;

(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were unemployed;

(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by the State agency:

(6) eligible employees may participate, as appropriate, in training (included employer-sponsored training or worker training funded under the Workforce Investment Act of 1998 to enhance job skills if such program has been approved by the state agency;

(7) the state agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program, that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program;

(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

9) the terms of the employer's written plan and implementation shall be consistent with employer obligations under applicable Federal and State laws; and

(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.

Sec. 2112 Waiver of the 7-Day Waiting Period for Benefits under the Railroad Unemployment Insurance Act – Beginning after the enactment date of the CARES Act and ending on or before December 31,2020, the 7-day waiting period is waived with respect to any registration period for the coverage that provides qualified railroad employees with benefits to restore part of their lost wages arising from periods of unemployment or sickness. An appropriation has been made of $50 million out of funds in the Treasury not otherwise appropriated, to cover costs of additional benefits; and upon the exhaustion of the funds, the waiver of the waiting week shall no longer apply.

Subtitle B—Rebates and Other Individual Provisions

Sec. 2201. 2020 Recovery Rebates for Individuals – An amendment of the section within the Internal Revenue Code of 1986 adds the new Sec. 6428.2020 [Recovery Rebates for Individuals], which allows an eligible individual to take a credit against the tax imposed by subtitle A [Income Taxes of the IRC] for the first taxable year beginning in 2020 an amount equal to the sum of $1,200 for an individual return, or $2,400 for a joint return, plus an amount equal to the product of $500 multiplied by the number of qualifying children as does not exceed the earned income amount. An "**Eligible Individual**" for this section means an individual other than— (1) any nonresident alien individual; (2) any individual with respect to whom under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins; and (3) an estate or trust.

The amount of the credit allowed shall be reduced (but not below zero) by 5% of as much of the taxpayer's adjusted gross income exceeds— (1) $150,000 in the case of a joint return; (2) $112,500 in the case of a head of household; and (3) $75,000 in the case of a taxpayer not described in paragraph (1) or (2). The amount of the credit which would be allowable shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer — an eligible individual's first taxable year beginning in 2019 shall be treated as having made a payment against the tax imposed by **Chapter 1 – Normal Taxes and Surtaxes** for such taxable year in an amount equal to the advance refund amount for such taxable year; (2) the advance refund amount is the amount that would have been allowed as a credit under this section for such taxable year if this section had applied to such taxable year. No interest shall be allowed on any overpayment attributable to this section. In the event that an eligible individual has not filed a 2019 tax return, it will be substituted with the 2018 filing. A notice shall be sent by mail to the taxpayer's last know address upon distribution of any payment by the IRS.

Sec. 2202 Special Rules for Use of Retirement Funds – The IRC's Section 72(t) [10% Additional Tax on Early Distributions from Qualified Retirement Plans] shall not apply for any coronavirus-related distribution made on or after January 1, 2020 and before December 31, 2020 to an individual (1) diagnosed with the virus SARS-CoV-2 or COVID-19 by a test approved for the Centers for Disease Control and Prevention; (2) whose spouse or dependent is diagnosed with such virus or disease by such a test; or (3) who experiences adverse financial consequences due to such virus or disease resulting in the individual being quarantined, being furloughed or laid off or having work hours reduced, being unable to work due to lack of child care, closing or reducing hours of a business owned or operated by the individual, or other factors as determined by the Secretary of the Treasury. However the aggregate amount of such distribution by an individual for any taxable year shall not exceed $100,000. At any time during the 3-year period beginning on the day after the date the distribution was received, any individual may make (1) or more contributions in an aggregate amount not to exceed the amount of the received coronavirus-related distribution to an eligible retirement plan of which the individual is a beneficiary and to which a rollover contribution could be made under section 402(c), 403(a)4, 403(b)(8), 408(d)(3), or 457(e)(16). The contribution to other than an individual retirement plan shall be treated as having received a coronavirus-related distribution in an eligible rollover distribution and as having transferred the amount to an eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution. For an individual retirement plan, the contribution shall be treated as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

Source: https://www.rrb.gov/Benefits/UB9 • https://www.law.cornell.edu/uscode/text/26/subtitle-A • https://www.law.cornell.edu/uscode/text/26/72
https://uscode.house.gov/view.xhtml?path=/prelim@title26/subtitleA/chapter1/subchapterA/part4/subpartC&edition=prelim
https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title26-section151&num=0&edition=prelim
https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title26-chapter1&saved=%7CZ3JhbnVsZWlkOlVTQy1wcmVsaW0tdGl0bGUyNi1zZWN0aW9uMTUx%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim
https://www.law.cornell.edu/uscode/text/26/72

COVID-19: CARES Act (cont'd)

Sec. 2203 Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans and Accounts – The IRC's Section 401(a)(9) [Required Minimum Distribution] is amended by the addition at the end of the new subparagraph (I) Temporary waiver of Minimum Required Distribution; and will apply to any distribution required to be made in calendar 2020 by reason on (1) a required beginning date occurring in such calendar year; and (2) such distribution not having been made before January 1, 2020. The requirements of this paragraph shall not apply for calendar year 2020 to (1) a defined contribution plan which is described in section 403(a) or 403(b); (2) a defined contribution plan which is an eligible deferred compensation plan described in section 457(b), but only if such plan is maintained by an employer described in section 457(e)(1)(A); or (3) an individual retirement plan.

Sec: 2204 Allowance of Partial Above the Line Deduction for Charitable Contributions – The new paragraph "(22) Charitable Contributions added to Section 62(a) of the IRC applies to taxable years beginning in 2020; and allows the deduction against gross income of up to $300 of a qualified charitable contribution (1) made in cash; (2) allowable under section 170; (3) made to an organization described in section 170(b)(1)(A) that is made by an individual who does not elect to itemize deductions.

Subtitle C—Business Provisions

Sec.: 2301 Employee Retention Credit for Employers Subject to Closure due to COVID-19 – In the case of an eligible employer, there shall be allowed as a credit against applicable employment taxes for each calendar quarter an amount equal to 50% of the qualified wages up to a maximum of $10,000 with respect to each employee. If the credit for any calendar quarter exceeds the applicable employment taxes allowed under section 3111(e) or 3111(f) of the IRC and sections 7001 and 7003 of the **Families First Coronavirus Response Act** it will be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of the IRC. An eligible employer is defined as any employer (1) which was carrying on a trade or business during calendar year 2020; and (2) with respect to any calendar quarter is fully or partially suspended during the calendar quarter due to governmental authority and the calendar quarter is within the period beginning with the first calendar quarter beginning after December 31, 2019, for which gross receipts are less than 50% of gross receipts year-over-year, and ending upon the first calendar quarter where gross receipts are greater than 80% year-over-year.

Source: https://www.law.cornell.edu/uscode/text/26/401 • https://uscode.house.gov/view.xhtml?req=(title:26%20section:403%20edition:prelim
https://www.law.cornell.edu/uscode/text/26/457 • https://www.law.cornell.edu/uscode/text/26/170 • https://www.law.cornell.edu/uscode/text/26/62
https://www.law.cornell.edu/uscode/text/26/3111 • https://www.congress.gov/bill/116th-congress/house-bill/6201/text
https://www.law.cornell.edu/uscode/text/26/6402 • https://www.law.cornell.edu/uscode/text/26/6413

COVID-19: CARES Act (cont'd)

Sec. 2302 Delay of Payment of Employer Payroll Taxes – Notwithstanding any other provision, the payment by an employer of applicable employment taxes for the payroll tax deferral period shall not be due before December 31, 2021, and all deposits shall be treated as having been timely made during the payroll tax deferral period if all such deposits are made no later than December 31,2021. For self-employed paying taxes under the **Self-Employed Contributions Act** (SECA), notwithstanding any other provision of law, the payment for 50% of the taxes imposed under section 1401(a) of IRC for the payroll tax deferral period are not due before December 31, 2021. The payroll tax deferral period is the period beginning on the date of the enactment of the CARES Act and ending before January 1, 2021.

Sec. 2303 Modifications for Net Operating Losses – Amendments to section 172 of the IRC now permit NOLs from the 2018, 2019, and 2020 tax years to be carried back to the previous (5) tax years (beginning with the earliest year first; and suspends the 80% taxable income limitation through the 2020 tax year. The NOL carryback can result in an immediate refund of taxes in prior years.

Sec. 2304 Modification of Limitation on Losses for Taxpayers other than Corporations – Amendments to section 461(l) of the IRC reportedly retroactively removes the limit applied to a taxpayer's "excess business losses" by providing those taxpayers with refunds for 2018 and 2019, and removes excess business loss limits in 2020 by:

- Eliminating "excess business loss" limitation for taxable years 2018, 2019 and 2020;
- Clarifying that deductions under sections 172 and 199A are not taken into account in determining the amount of a taxpayer's deductions used to calculate its "excess business loss;"
- Providing that neither deductions, gross income, nor gains from employee services are included in the excess business loss calculation; and
- Adding a provision relating to the application of capital gains and losses in determining a taxpayer's excess business loss.

Sec. 2305 Modification of Credit for Prior Year Minimum Tax Liability for Corporations – Amendments made to section 53(e) of the IRC apply to taxable years beginning after December 31, 2017; and now read:

- (e) Portion of credit treated as refundable

    (1) In General – In the case of any taxable year of a corporation in 2018 or 2019, the limitation under subsection (c) shall be increased by the AMT refundable credit amount for such year.

    (2) AMT Refundable Credit Amount – For purposes of paragraph (1), the AMT refundable credit amount is an amount equal to 50 percent (100 percent in the case of a taxable year beginning in 2019) of the excess (if any) of—

        (A)the minimum tax credit determined under subsection (b) for the taxable year, over

        (B)the minimum tax credit allowed under subsection (a) for such year (before the application of this subsection for such year).

    (3) Credit Refundable – For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as a credit allowed under subpart (C) (and not this subpart).

    (4) Short Taxable Years – In the case of any taxable year of less than 65 days, the AMT refundable credit amount determined under paragraph (2) with respect to such taxable year shall be the amount which bears the same ratio to such amount determined without regard to this paragraph as the number of days such taxable year bears to 365.

    (5) Special Rule – In the case of a corporation making an election under this paragraph—

        (A) paragraph (1) shall not apply, and

        (B) subsection (c [Limitation]) shall not apply to the first taxable year of such corporation beginning in 2018.

Source: https://www.law.cornell.edu/uscode/text/26/1401 • https://www.claconnect.com/resources/articles/2020/tax-savings-opportunities-from-the-cares-act
https://www.law.cornell.edu/uscode/text/26/53

COVID-19: CARES Act (cont'd)

Sec. 2307 Technical Amendments Regarding Qualified Improvement Property – Per the Real Estate Board of New York's "**An Overview of the Federal Stimulus for the Real Estate** report released March 27th, amendments to Section 168 of the IRC reportedly "enables business, especially the hospitality industry, to immediately write-off costs associated with improving facilities instead of having to depreciate "over the 39-year life for commercial buildings and 27.5 years for residential rentals." REBNY's report further points out that "the provision, which corrects and error in the **Tax Cuts and Jobs Act of 2017** that had reportedly excluded retailers from receiving the tax benefits, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue in improvements as the country recovers from the COVID-19 emergency."

TITLE III — SUPPORTING AMERICA'S HEALTH CARE SYSTEM IN THE FIGHT AGAINST THE CORONAVIRUS

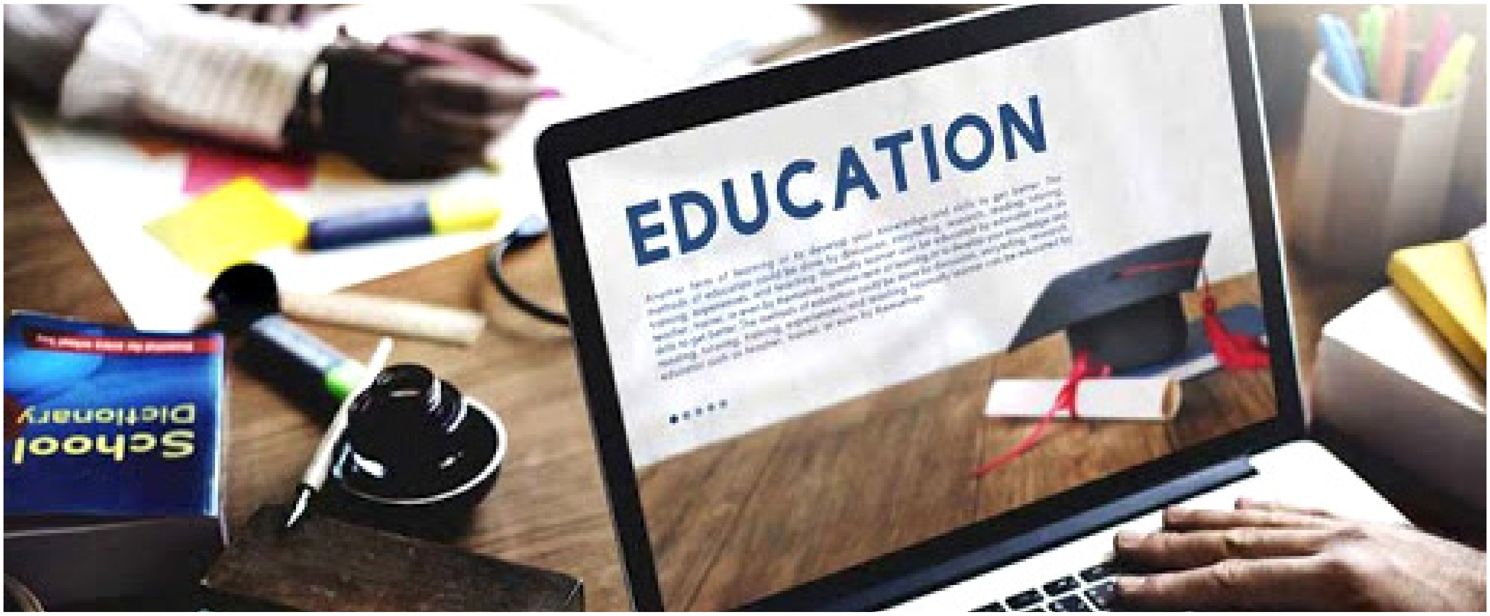
Subtitle A—Health Provisions (may be cited as Coronavirus Aid, Relief, and Economic Security Act)

Sec. 3211 Supplemental Awards for Health Centers - $1.32 billion has been appropriated out of any monies in the Treasury not otherwise appropriated for fiscal year 2020.

Sec. 3225 Reauthorization of Healthy Start Program – $125.5 million for each of fiscal years 2021 through 2025 has been appropriated for the program and other programs and activities related to the reduction of the rate of infant mortality and improved prenatal and infant health outcomes supported by the Department of Health and Human Services (HHS).

Sec. 3401 Reauthorization of Health Professions Workforce Programs –- $23.711 million for each of fiscal years 2021 through 2025

Source: https://rebny.com/content/dam/rebny/Documents/PDF/Resources/StimulusOverview_March2020.pdf
https://legcounsel.house.gov/Comps/Higher%20Education%20Act%20Of%201965.pdf



COVID-19: CARES Act (cont'd)

Subtitle B—Education Provisions (may be cited as "COVID-19 Pandemic Education Relief Act of 2020")

Under the Higher Education Act of 1965, Title IV [Student Assistance], the following changes have been made as part of the CARES Act:

Sec. 3503 Campus-Based Aid Waivers – With respect to funds made available for award years 2019-2020 and 2021-2021 the requirement has been waived that a participating institution of higher education provide a non-Federal share to match Federal Funds provided to the institution for the programs authorized within part 3 of Part A and Part C.

Sec. 3504 Use of Supplemental Educational Opportunity Grants for Emergency Aid – An institution's allocation under subpart 3 of part A for a fiscal year to award, in such fiscal year, emergency financial aid grants to assist under-graduate or graduate students for unexpected expenses and unmet financial need as a result of a qualifying emergency.

Sec. 3505 Federal Work-Study During a Qualifying Emergency – In the event of a qualifying emergency, an institution of higher education participating in the program under Part C may make payments under such part to affected work-study students for the period of time (not to exceed one academic year) in which affected students were unable to fulfill the students' work-study obligation for all or part of such academic year due to such qualifying emergency.

Sec. 3506 Adjustment of Subsidized Loan Usage Limits – An exclusion shall be made by the Secretary of Education from a student's period of enrollment for purposes of loans made under Part D for any semester (or equivalent) that the student does not complete due to a qualifying emergency, if the Secretary is able to administer such policy in a manner that limits complexity and the burden on the student.

Sec. 3507 Exclusion from Federal Pell Grant Duration Limit – An exclusion shall by made by the Secretary of Education from a student's Federal Pell Grant duration limit under section 401(e)(5) for any semester (or equivalent) that the student does not complete due to a qualifying emergency, if the Secretary is able to administer such policy in a manner that limits complexity and the burden on the student.

Sec. 3508 Institutional Refunds and Federal Student Loan Flexibility – (a) **Institutional Waiver** - The institutional requirement under section 484B with respect to the amount of grant or loan assistance (other than assistance received under part C of title IV of such Act) to be returned under such section if a recipient of assistance under title IV withdraws from the institution of higher education during the payment period or period of enrollment as a result of a qualifying emergency. (b) **Student Waiver** - The amounts that students are required to return under section 484B with respect to Federal Pell Grants of other grant assistance shall be waived by the Secretary of Education if the withdrawals on which the returns are based, are withdrawals by students who withdrew from the institution of higher education as a result of a qualifying emergency. (c) **Canceling Loan Obligation** – Notwithstanding any other provision of the Higher Education Act of 1965, the Secretary of Education can cancel the borrower's obligation to repay the entire portion of a loan made under part D of such Act associated with a payment period for a recipient of such loan who withdraws from the institution of higher educations during the payment period as a result of a qualifying emergency.

Subtitle C—Labor Provisions

Sec. 3601 Limitation on Paid Leave – Section 110(b)(2)(B) of the **Family and Medical Leave Act of 1993** (as added by the Emergency Family and Medical Leave Expansion Act (EFMLEA)) is amended by striking clause (ii) and inserting the following: "(ii) Limitation—An employer shall not be required to pay more than $200 per day and $10,000 in the aggregate for each employee for paid leave under this section." The payment of two-thirds of the employee's regular rate times the number of hours the employee would normally be scheduled to work that day, up to the maximum required under EFMLEA for expanded family and medical leave triggers after two weeks that an employee uses leave to take care of his or her child whose school or place of care is closed, or whose child care provider is unavailable, for a COVID-19 related reason.

Sec. 3602 Emergency Paid Sick Leave Act Limitation – Due to an amendment of Section 5102 of the Emergency Paid Sick Leave Act (division E of the Families First Coronavirus Response Act) — when the employee is taking leave because he or she is subject to a Federal, State, or local COVID-19 quarantine or isolation order; has been advised by a health care provider to self-quarantine for COVID-19 reasons; or is experiencing COVID-19 symptoms and seeking a medical diagnosis, the employer must pay the employee his or her regular rate of pay for each of paid sick leave taken. If the employee's regular rate of pay is lower than the Federal, State, or local minimum wage (if applicable to the employee), the employee should instead by paid the highest of such amounts. The amount the employer is required to pay is capped at $511 per day of paid sick leave taken and $5,110 in total per covered employee for all paid sick leave pay. If the employee takes paid sick leave for any other COVID-19 qualifying reason, the employer must pay the employee two-thirds of the employee's regular pay rate. The amount the employer is required to pay is capped at $200 per day of leave and $2,000 in total per employee for all paid sick leave that is paid at two-thirds pay.

Subtitle E—Health and Human Service Extenders

Part 1—Medicare Provisions

Sec. 3802 Extension of Funding for Quality Measure Endorsement, Input, and Selection – (a) In General—Section 1890(d)(2) – Extended funding by striking "$4,830,000 for the period beginning October 1, 2019, and ending on May 22, 2020" in the first sentence and inserting "$20,000,000 for fiscal year 2020, and ending on November 30, 2020, the amount equal to the pro-rata portion of the amount appropriated for such period for fiscal year 2020."

Sec. 3803 Extension of Funding Outreach and Assistance for Low-Income Programs – Provides funding extensions for fiscal year 2020 (October 1,2019 through November 30, 2020) — (1) State Health Insurance Programs, $20,000,00; (2) Area Agencies on Aging, $7,500,000; (3) Aging and Disability Resource Centers, $5,000,000; (4) Contract with the National Center for Benefits and Outreach Enrollment, $12,000,000

Part II—Medicaid Provisions

Sec. 3813 Delay of DSH Reductions – Amendments to (f)(7)(A) of 42 U.S. code 1396r changes the period of May 23, 2020 through September 30, 2020 to December 1, 2020 through September 30, 2021 for (1) the reduction of DSH allotments and payments (clause (i) of the required disproportionate share hospital (DSH) payments by states per the Medicaid statute to hospitals treating large numbers of low-income patients; and (2) the aggregate reductions (clause ii) in DSH allotments of $4,000,000,000 and $8,000,000,000 for all states.

Sec. 3814 Extension and Expansion of Community Mental Health Services Demonstration Program – To November 30,2020 and expanding the current 8-state program by selecting (2) states that meet the requirements to participate in 2-year demonstration programs.

Part III—Human Services and Other Health Programs – Extension of several programs including sexual risk avoidance, personal responsibility education, Demonstration Projects to address health professions workforce needs, temporary assistance for needy families.

Part IV—Public Health Provisions – Extension of (1) community health centers, $4 billion for fiscal year 2020 and $668,493,151 for the period of October 1, 2020 through November 30, 2020; (2) the National Health Service Corps., $310,000,000 for fiscal year 2020 and $51,808,219 for the period of October 1, 2020 through November 30, 2020; (3) Teaching Health Centers that operate medical education programs, $81,445,205 for fiscal year 2020 and $21,141,096 for the period of October 1, 2020 through November 30, 2020.

Source: https://www.dol.gov/agencies/whd/laws-and-regulations/laws/fmla • https://www.ssa.gov/OP_Home/ssact/title18/1890.htm
Section 826.24 - https://www.federalregister.gov/documents/2020/04/06/2020-07237/paid-leave-under-the-families-first-coronavirus-response-act
Section 826.22 - https://www.federalregister.gov/documents/2020/04/06/2020-07237/paid-leave-under-the-families-first-coronavirus-response-act

COVID-19: CARES Act (cont'd)

TITLE IV — ECONOMIC STABILIZATION AND ASSISTANCE TO SEVERELY DISTRESSED SECTORS OF THE UNITED STATES ECONOMY

Subtitle A—Coronavirus Economic Stabilization Act of 2020 (CESA-2020)

Sec. 4003 Emergency Relief and Taxpayer Protection – $500 Billion in loan, loan guarantees, and other investments to provide liquidity to eligible businesses, States, and municipalities related to losses incurred as result of coronavirus. (1) loan and loan guarantees: $25 billion for passenger air carriers and eligible businesses; $4 billion for cargo air carriers; $17 billion for businesses critical to maintaining national security; (2) $454 billion for other investments in programs or facilities established by the Board of Governors of the Federal Reserve System for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, States, or municipalities by (a) purchasing obligations or other interests directly from issuers of such obligations or other interests; (b) purchasing obligations or other interests in secondary markets or otherwise; (c) making loans, including loans or other advances secured by collateral.

Sec. 4012 Temporary Relief for Community Banks – Community Bank Leverage Ratio shall be 8%; and a qualifying community bank that falls below the Community Bank Leverage Ratio shall have a reasonable grace period to satisfy the 8% requirement, while continuing to be treated as a qualifying community bank presumed to satisfy the capital and leverage requirements. The interim rule will end on the sooner of— (A) the termination date of the national emergency concerning the COVID-19 outbreak; or (B) December 31, 2020.

Sec. 4013 Temporary Relief from Troubled Debt Restructuring – A suspension of (A) appropriate Federal banking agency — national bank and State bank, and any Federal branch and insured branch; (B) the National Credit Union Administration of (1) requirements under the U.S. generally accepted accounting principles for loan modifications related to COVID-19 pandemic that would otherwise be categorized as a troubled debt restructuring; and (2) any determination of a loan modified as a result of the effects of the COVID-19 pandemic as being a troubled debt restructuring, including impairment for accounting purposes during the period beginning March 1, 2020 and ending on the earlier of December 31, 2020, or the date that is 60 days after the date the national emergency concerning the COVID-19 outbreak terminates. Any suspension under this section (a) shall be applicable for the term of the loan modification, including a forbearance arrangement, an interest rate modification, a repayment plan, and any other similar arrangement that defers or delays the payment of principal or interest, that occurs during the applicable period for a loan that was not more than 30 days past due as of December 31, 2019; and (b) shall not apply to any adverse impact on the credit of the borrower that is not related to the COVID-19 pandemic.

Source: https://www.law.cornell.edu/uscode/text/42/1396r-4 • https://crsreports.congress.gov/product/pdf/IF/IF10422
https://www.law.cornell.edu/uscode/text/42/254b-2 • https://uscode.house.gov/view.xhtml?req=(title:42%20section:256h%20edition:prelim
https://www.fdic.gov/regulations/laws/rules/1000-400.html

COVID-19: CARES Act (cont'd)

Sec. 4020 Congressional Oversight Commission – Under the **Coronavirus Economic Stabilization Act of 2020** (CESA-2020), the newly created (5) member establishment in the legislative branch shall— (A) conduct oversight of the implementation of CESA-2020 by the Department of the Treasury and the Board of Governors of the Federal Reserve System, including efforts of the Department and the Board to provide economic stability as a result of the COVID-19 pandemic of 2020; (B) submit oversight reports to Congress; and (C) review implementation of CESA-2020 by the Federal Government. Reports to be submitted no later than 30 days after the first exercise by the Secretary of the Treasury ("Secretary") and the Board of Governors of the Federal Reserve System ("Board") of the authority under CESA-2020, and every 30 days thereafter to include (i) the use by the secretary and the Board of authority under CESA-2020, including with respect to the use of contracting authority and administration of the provisions of CESA-2020; (ii) the impact of loans, loan guarantees, and investments made under CESA-2020 on the financial well-being of the people of the U.S. and the U.S. economy, financial markets, and financial institutions; (iii) the extent to which the information made available on transactions under CESA-2020 has contributed to transparency; and (iv) the effectiveness of loans, loan guarantees, and investments made under CESA-2020 of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

Sec. 4022 Foreclosure Moratorium and Consumer Right to Requests Forbearance – A borrower experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency may request forbearance on the Federally backed mortgage loan during the covered period regardless of delinquency status, by (A) submitting a request to the borrower's servicer; and (B) affirming that the borrower is experiencing a financial hardship during the COVID-19 emergency. A forbearance shall be granted for up to 180 days, and shall be extended for an additional period of up to 180 days at the request of the borrower, provided that, at the borrower's request, either the initial or extended period may be shortened. No fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract, shall accrue on the borrower's account during the period of forbearance. Except with respect to a vacant or abandoned property, a servicer of a Federally backed mortgage loan may not initiate any judicial or non-judicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020.

Sec. 4023 Forbearance of Residential Mortgage Loan for Multifamily Properties with Federally Backed Loans – During the covered period beginning on the enactment date of the CARES Act and ending on the sooner of —(A) the termination date of the national COVID-19 outbreak emergency; or (B) December 31, 2020, a multifamily borrower ("borrower") with a Federally backed multifamily mortgage current on payments as of February 1, 2020 and experiencing a financial hardship due, directly or indirectly, to the COVID-19 emergency may request a forbearance by submitting an oral or written request for forbearance to the mortgage servicer affirming the experiencing of a financial hardship during the COVID-19 emergency. The servicer shall document the financial hardship and provide forbearance for up to 30 days; and extend the forbearance for up to (2) additional 30 day periods upon the request of the borrower provided that, the borrower's request for an extension is made during the covered period, and, at least 15 days prior to the end of the covered period; and the borrower shall have the option to discontinue forbearance at any time. During the covered period of forbearance, the borrower may not (1) evict or initiate the eviction of a tenant from a dwelling unit located in or on the applicable property solely for nonpayment of rent or other fees or charges; or (2) charge any late fees, penalties, or other charges to a tenant for late payment of rent.

Sec. 4025 Protection of Collective Bargaining Agreement – Neither the Secretary of the Treasury, nor any other actor, department, or agency of the Federal Government, shall condition the issuance of a loan or loan guarantee under paragraph (1), (2), or (3) of section 4003(b) under CESA-2020 [$25 billion for passenger air carriers and eligible businesses; $4 billion for cargo air carriers; $17 billion for business critical to maintaining national security] on an air carrier's or eligible business's implementation of measures to enter into negotiations with the certified bargaining representative of a craft or class of employees of the air carrier or eligible business regarding pay or other terms and conditions of employment. Protection shall be in effect beginning on the date on which the air carrier or eligible business is first issued the loan or loan guarantee and ending on the date that is (1) year after the loan or loan guarantee is no longer outstanding.

COVID-19: CARES Act (cont'd)

Sec. 4112 Pandemic Relief for Aviation Workers – (a) To preserve aviation jobs and compensate the air carrier industry workers up to $32 billion in financial assistance has been appropriated to be used exclusively for the continuation of payment of employee wages, salaries, and benefits—(1) $25 billion aggregate amount for passenger air carriers; (2) $4 billion aggregate amount for cargo air carriers; and (3) $3 billion aggregate amount for contractors. In addition the Secretary of the Treasury may use $100 million of the funds made available under Section 4120(a) [Direct Appropriations]

Sec. 4114 Required Assurances – Air carrier or contractor eligibility for financial assistance under CESA-2020 requires the entering into an agreement, with the Secretary of the Treasury ("Secretary"), or other form of certification prescribed by the Secretary, that the air carrier or contractor shall—(1) refrain from conducting voluntary furloughs or reducing pay rates and benefits until September 30, 2020; (2) through September 30, 2021, ensure that neither the air carrier or contractor nor any affiliate of the air carrier or contractor may, in any transaction, purchase an equity security of the air carrier or contractor or the parent company of the air carrier or contractor that is listed on a national securities exchange; (3) through September 30, 2021, ensure that the air carrier or contractor shall not pay dividends, or make other capital distributions, with respect to common stock (or equivalent interest) of the air carrier or contractor; and (4) meet the requirements of:

- **Sec. 4115-Protection of Collective Bargaining Agreement**, which stipulates that effective upon the date the air carrier or contractor is first issued financial assistance, and ending on September 30, 2020 neither the Secretary of the Treasury, nor any other actor, department, or agency of the Federal Government, shall condition the issuance of financial assistance under CESA-2020 on an air carrier's or contractor's implementation of certified bargaining representation of a craft or class of employees of the air carrier or contractor regarding pay or other terms and conditions of employment; and

- **Sec. 4116-Limitation on Certain Employee Compensation**, which stipulates that the Secretary may only provide financial assistance under CESA-2020 upon securing an agreement with the air carrier or contractor that during the 2-year period beginning March 24, 2020, and ending March 24, 2022 no officer or employee of the air carrier or contractor whose total compensation exceeded $425,000 in calendar year 2019 (other than an employee whose compensation is determined through an existing collective bargaining agreement entered into prior to enactment of the CARE Act)—(1) will receive during any 12 consecutive months of the 2-year period a total compensation that exceeds the total compensation in calendar year 2019; (2) will receive severance pay or other benefits upon termination of employment that exceeds twice the maximum total compensation received by the officer or employee in calendar 2019; and (3) no officer or employee whose total compensation exceeded $3 million in calendar year 2019 may receive any 12 consecutive months of the 2-year period compensation in excess of the sum of—(A) $3 million; and (B) 50% of the excess over $3 million of the total compensation received in calendar year 2019.

In addition, until March 1, 2022 the Secretary of Transportation is (1) authorized to require, to the extent reasonable and practicable, an air carrier that is provided financial assistance maintain scheduled air transportation service as deemed necessary to ensure services to any point served by that carrier before March 1, 2020; and (2) the needs of small and remote communities shall be taken into consideration by the Secretary of Transportation, as well as the need to maintain well-functioning healthcare supply chains.

TITLE VI — CORONAVIRUS RELIEF FUND

(Amends Title V—Corona Virus Relief Fund, Sec. 5001 Coronavirus Relief Fund)

Sec. 601 Coronavirus Relief Fund

(a) Appropriation—

- $150 Billion for making payments to States, Tribal governments, and units of local governments for fiscal year 2020 — $3 billion to be reserved for making payments to the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and $8 billion for making payments to Tribal governments. The amount paid to (1) of the (50) states shall be the remainder of $150 billion minus the $11 billion already designated divided by the relative State population proportion (population of the State divided by the total population of all 50 States based on the most recent year for which data are available from the Bureau of the Census). No state shall receive a payment for fiscal year 2020 that is less than $1.25 billion.

  In the circumstance of a direct payment to a unit of local government of a State that has separately submitted the required certification signed by the Chief Executive for the unit that the local government's proposed uses of the funds are consistent with subsection (d)* **Use of Funds**, the Secretary of the Treasury shall reduce the amount determined for that State by the relative unit of local government population proportion — the product of (A) 45% of the amount of the payment determined for the State; and (B) the amount equal to the quotient of (i) the population of the unit of local government: and (ii) the total population of the unit's state.

*(d) **Use of Funds** provided are to cover only those costs of the State, Tribal government, or unit that— (1) are necessary expenditures incurred due to the COVID-19 public health emergency; (2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. The Inspector General of the Department of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds; and if determined that there has been a failure to comply with the stipulated use of funds, the amount equal to the amount of funds used in violation will be booked as a debt of such entity owed to the Federal Government. Amounts recovered due to use violation shall be deposited in the general fund of the Treasury. $35 million of money in the Treasury of the U.S. not otherwise appropriated to be used to carry out oversight and recoupment activities.

TITLE VI — MISCELLANEOUS PROVISIONS

Sec. 6004 COVID-19 Borrowing Authority for the United States Postal Service – The Postal Service, at its request, may borrow $10 billion from the Treasury at mutually agreed upon term and conditions (A) to fund operating expenses; and (B) which may not be used to pay any outstanding debt of the Postal Service.

DIVISION B – EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

Numerous sums have been appropriated for various agencies and programs out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2020, and for other purposes. Some of the larger appropriations include:

- $9.5 Billion to remain available until expended to provide support for agricultural producers impacted by COVID-19.
- $14 Billion to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, as reflected in the June 2020 report of its financial condition.
- $1.5 Billion for Economic Development Assistance programs for necessary expenses responding to economic injury as a result of COVID-19.
- $25 Billion for Transit Infrastructure Grants through the Federal Transit Administration to remain available until expended; and to be used by the nation's public transit agencies for operating expenses and capital improvements. The Metropolitan Transportation Authority (MTA) will receive about $4 billion based on a distribution by pro rata share formula according to a March 20th press release by financial services firm UBS; and will not require match funding or repayment.
- $850 Million for State and Local Law Enforcement Assistance to remain available until expended.

DIVISION B – EMERGENCY APPROPRIATIONS (CONT'D)

- $746.591 Million for Army (National Guard) personnel.
- $482.125 Million for Air Force (National Guard) personnel.
- $360.308 Million for Navy operation and maintenance.
- $8.8 Billion to be made available for Child Nutrition Programs until September 30, 2021.
- $562 Million for the Small Business Association's Disaster Loans Program account to remain available until expended for the cost of direct loans and for the administrative expenses to carry out the disaster loan program as authorized by section 7(b) of the Small Business Act.
- $45 Billion for the Disaster Relief Fund to remain available until expended.
- $345 Million to be made available until September 30, 2022 for necessary expenses for the dislocated workers assistance national reserve of the Department of Labor's Training and Employment Services.
- $4.3 Billion to be made available until September 30, 2024 through the Department of Health and Human Services for CDC-Wide Activities of the Centers for Disease Control and Prevention, of which not less than $1.5 billion provided by the CARES Act shall be for grants to or cooperative agreements with States, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers of tribes.
- $27,014,500,000 to be made available until September 30, 2024 for the Public Health and Social Services Emergency Fund through the Office of the Secretary.
- $15.81 Billion to be made available for the Supplemental Nutrition Assistance Program until September 30, 2021, of which $15.51 billion shall be placed in a contingency reserve to be allocated as the Secretary of Treasury deems necessary; and $100 million for the food distribution program on Indian reservations — $50 million for facility improvements and equipment upgrades, and $50 million for the costs relating to additional food purchases.
- $450 Million to be made available to the Commodity Assistance Program until September 30, 2021 for the emergency food assistance program, of which $150 million will be made available to the Secretary of the Treasury for costs associated with the distribution of commodities.
- $453 Million to be made available for the Operation of Indian Programs through the Department of the Interior until September 30, 2021.
- $30.75 Billion to be made available to the Department of Education Fund through September 30, 2021.
- $1.032 Billion to be made available for Indian Health Services through the Department of Health and Human Services until September 30, 2021.
- $900 Million for Low Income Energy Assistance until September 30, 2021 through the Administration for Children and Families
- **Defense**:
  - $1 Billion for Defense Production Act of 1950 purchases to remain available until expended.
  - $1.45 Billion Working Capital Funds— (1) $475 million for Air Force Working Capital Fund; and (2) $475 million for Navy Working Capital Fund.
  - $3,805,600,000 Health Program, of which $3,390,600,000 will be for operation and maintenance, and $415,000,000 for research, development, test and evaluation to remain available until September 30, 2021.

Source: https://www.sba.gov/sites/default/files/2019-03/Small_Business_Act.pdf
https://www.fema.gov/media-library-data/20130726-1650-20490-5258/final__defense_production_act_091030.pdf
https://www.ubs.com/global/en/wealth-management/chief-investment-office/market-insights/house-view/daily/2020/cares-act.html

COVID-19: Government Actions (cont'd)

Federal Reserve

- On March 15th the federal funds rate was lowered to a target range of 0 to 1/4% as the Federal Open Market Committee (FOMC) seeks to achieve its maximum employment and price stability goals. The lower target rate is expected to be maintained until the Fed is confident that the economy has weathered the impact caused by the spread of COVID-19.

- FOMC will increase its holdings of Treasury securities by at least $500 billion and agency mortgage-backed securities by at least $200 billion in order to support the "smooth functioning" of both markets, which are central to the flow of credit to households and businesses. In addition, the **Open Market Desk** has reportedly expanded its overnight and term repurchase agreement operations.

- On March 17th the establishing of a **Commercial Paper Funding Facility** (CPFF) was announced to support the flow of credit to households and businesses, causing markets to bounce back slightly following the news. According to the Fed's press release, the commercial paper market, which directly finances a wide range of economic activity, supplies credit and funding for auto loans and mortgages as well as liquidity to meet the operational needs of a range of companies, has been under considerable strain due to greater uncertainty in light of the coronavirus outbreak. CPFF will provide a liquidity backstop to U.S. issuers of commercial paper through a special purpose vehicle (SPV) that will purchase unsecured and asset-back commercial paper rated A1/P1 (as of March 17, 2020) directly from eligible companies. An elimination of much of the risk of eligible issuers not being able to repay investors by rolling over their maturing commercial obligations, should encourage investors to once again engage in term lending in the commercial paper market, thereby enhancing the ability of businesses to maintain employment and investment as the nation deals with the COVID-19 outbreak. Credit protection in the amount of $10 billion is being provided by the Treasury to the Federal Reserve in connection with the CPFF.

- On March 18th per the proposal by the U.S Treasury Department, the Money Market Mutual Fund Liquidity (MMFL) facility was established by the Federal Reserve. In order to provide liquidity to Money Market Mutual Funds, the Federal Reserve Bank of Boston will make loans available to eligible financial institutions secured by high-quality assets purchased by the financial institution from money market mutual funds; and thereby assist money market funds in meeting demands for redemptions by households and other investors, enhancing overall market functioning and credit provision for the broader economy according to details of the Federal Reserve website. Under the policy tool, the Treasury Department will provide $10 billion of credit protections from the Exchange Stabilization Fund to the Reserve Bank.

- On March 23rd the Fed announced a second round of initiatives including the establishment of new programs to support the flow of credit to employers, consumers, and businesses, that taken together will provide up to $350 billion in new financing. The Department of Treasury, using the Exchange Stabilization Fund (ESF), will provide $30 billion in equity to these facilities.

  – Two facilities to support credit to large employers — The **Primary Market Corporate Credit Facility** (PMCCF) for new bond and loan issuance and the **Secondary Market Corporate Credit Facility** (SMCCF) to provide liquidity for outstanding corporate bonds. However reports indicate that the program, which "is focused on buying investment-grade debt issued by the companies with the strongest balance sheets," leaves real estate investment trusts (REITs) that own properties such as malls and hotels without relief, since they have seen ratings fall into the sub-investment-grade category.

  – A third facility, the **Term Asset-Backed Securities Loan Facility** (TALF), to support the flow of credit to consumers and businesses. The TALF will enable the issuance of asset-backed securities backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets. However, reports that followed indicated that the program failed to include support for commercial mortgage-backed securities (CMBS), prompting more than a dozen industry groups to request that it be added since the "CMBS market is a key element of the CRE Finance ecosystem and accounts for 28% of all outstanding CRE debt" according to reported statements within the co-signed letter sent to government officials. The industry group reportedly further requested that "the terms of TALF 2.0 be expanded to increase the five-year maximum loan term for CMBS; reduce haircuts to a range of between 5% and 10%; and to extend TALF 2.0 eligibility to include super-senior AAA investment-grade rating from one or more of the nationally recognized statistical rating agencies," since "these senior bonds make up 70% of CMBS."

  – Facilitating the flow of credit to municipalities by expanding the **Money Market Mutual Fund Liquidity Facility** (MMLF) to include a wider range of securities, including municipal variable rate demand notes and back certificates of deposit; as well as by expanding the Commercial Paper Funding Facility (CPFF) to include high-quality, tax-exempt commercial paper as eligible securities, and the pricing of the facility has been reduced.

COVID-19: Government Actions (cont'd)

Federal Reserve (cont'd)

- On April 9th a press release by the Fed announced "additional actions to provide up to $2.3 trillion in loans to support the economy" by assisting "households and employers of all sizes" and bolstering "the ability of state and local governments to deliver critical services during the coronavirus pandemic." The actions by the Fed to support employers and communities nationwide will:

  - Bolster the effectiveness of the SBA's Paycheck Protection Program (PPP) by supplying liquidity to participating financial institutions through term financing backed by PPP loans to small businesses. The **Paycheck Protection Program Liquidity Facility** (PPPLF) will extend credit to eligible financial institutions that originate PPP loans, taking the loans as collateral at face value;

  - Ensure credit flows to small and mid-sized businesses with the purchase of up to $600 billion in loans through the **Main Street Lending Program**; and $75 billion in equity will be provided to the facility by the Department of the Treasury, using funding from the CARES Act. The lending program will enhance support for small and mid-sized businesses that were in good standing before the crisis by offering 4-year loans to companies employing up to 10,000 workers or with revenues of less than $2.5 billon. Principal and interest payments will be deferred for one year. Firms seeking loans under the program must commit to make reasonable efforts to maintain payroll and retain workers. Borrowers must also follow compensation, stock repurchase and dividend restrictions that apply to direct loan programs under the CARES Act. In addition, firms that have taken advantage of the PPP may also take out Main Street loans. Eligible banks may originate new Main Street loans or use Main Street loans to increase the size of existing loans to businesses; and retain 5% share, selling the remaining 95% to the Main Street facility, which will purchase up to $600 billion of loans.

  - Increase the flow of credit to households and businesses through capital markets, by expanding the size and scope of the Primary and Secondary Market Corporate Credit Facilities (PMCCF and SMCCF),as well as the re-established Term Asset-Backed Securities Loan Facility (TALF), which are part of the new program initially announced by the Fed on March 23rd. As a result of the latest action, the three programs will now support up to $850 billion in credit backed by $85 billion in credit protection provided by the Treasury; and

  - Help state and local governments manage cash flow stresses caused by the COVID-19 pandemic by establishing a **Municipal Liquidity Facility**. Through the purchase of short-term notes directly from U.S. states (including the District of Columbia), U.S counties with a population of at least two million residents, and U.S cities with a population of at least one million residents, the facility will offer up to $500 billion in lending to states and municipalities. Credit protection up to $35 billion will be provided by the Treasury to the facility using funds appropriated by the CARES Act. Eligible state-level issuers may use the proceeds to support additional counties and cities.

Sources: https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm) (https://therealdeal.com/2020/04/09/fed-ramps-up-lending-with-new-2-3t-program/

COVID-19: Government Actions (cont'd)

New York State

- Relief to homeowners provided:
  - Through Governor Cuomo's Executive Order 202.9 on March 21st, which from the date of the executive Order through April 20, 2020 foreclosures and mortgage payments in New York will be suspended for a 90-day period to help "dampen the financial impact of the public health crisis," with eligibility assessed based on financial hardship. Mortgage payments will be deferred by adjusting the mortgage to include those payments on the backend; and foreclosures will be suspended or postponed for 90 days. There will be a grace period for loan modification, no negative reporting to credit bureaus and no late or online payment fees during the period. In addition, banks will also ignore fees associated with late payments and over-drafting on ATM and credit cards. The measures are slated to be reassessed at the end of the 90-day period. A directive by the Governor to the Superintendent of the Department of Financial Services (DFS) stated "The Superintendent shall promulgate emergency regulations to require that the application for such forbearance be made widely available for consumers, and such application shall be granted in all reasonable and prudent circumstances solely for the period of such emergency;" and in response on March 24th the DFS released rules of engagement for banks that were adopted on an emergency basis to grant the forbearance relief to homeowners pursuant to Governor Cuomo's Executive Order 202.9.

    The regulation is not applicable to any mortgage loan made, insured, or securitized by any agency or instrumentality of the U.S. — Enterprise-backed loans (Fannie Mae or Freddie Mac), Federal Home Loan Bank, or servicers for the Government National Mortgage Association. Communication to customers providing instruction on how to apply and requirements to qualify for COVID-19 relief was expected to be distributed by the banks within 10-days of the regulation going into effect. While 90-days of forbearance is believed to be initially sufficient, if faced with a longer emergency the regulation will be renewed according to details within the release documents. While the regulation will "impose significant short term burdens on regulated entities," it is believed by the DFS that it will "prevent a wave of insolvencies and bankruptcies by debtors and support consumer demand in the short term;" as well as "make it easier for the local economy to recover once the worst part of the COVID-19 crisis abates."

    Clarifying confusion over Governor Cuomo's intent on March 21st, the DFS emergency regulation does not include a provision for commercial mortgages, despite Executive Order 202.9 stating that "it shall be deemed an unsafe and unsound business practice if, in response to the COVID-19 pandemic, any bank which is subject to the jurisdiction of the Department shall not grant a forbearance to any person or business who has a financial hardship as a result of the COVID-19 pandemic for a period of ninety days." Eviction proceedings and pending orders have been suspended indefinitely throughout the state; and applies to both residential and commercial evictions according to reported statements by a spokesperson for the New York Office of Court Administration. However, during the moratorium eviction notices can still be issued but will not proceed in court during the ban.

- Property and casualty insurers will provide a 60-day grace period for premium payments for small businesses and consumers financially affected by COVID-19 per direction by the Department of Financial Services in response to Governor Cuomo's Executive Order 202.13 on March 30th. In addition, life insurers regulated by New York State have been directed to allow consumers to defer paying premiums for 90-days. The deferred payments are to be paid back in the year following the grace period without reports of any late payments to credit-rating agencies according to reports. For those businesses or consumers who financed premium payments, the Executive Order has reportedly directed premium finance agencies similarly.

Sources: https://www.governor.ny.gov/news/no-2029-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency
https://www.dfs.ny.gov/system/files/documents/2020/03/re_new_pt119_nycrr3_sapa.pdf)(

COVID-19: Government Actions (cont'd)

New York City

- Small business relief citywide will be offered by the New York City Small Business Services (SBS) agency for those businesses incurring revenue reduction because of COVID-19.
  - Businesses with fewer than 100 employees who have seen sales decreases of 25% or more will be eligible for zero interest loans of up to $75,000 to help mitigate losses in profit as part of the approximately $20 million in loans the city plans to disburse.
  - A grant to cover 40% of payroll costs for 2 months to help retain employees will be offered to businesses with fewer than 5 employees, if they can prove a similar sales revenue loss. The planned $8.7 million in grants to be disbursed will be paid for by a tax levy similar to other grant programs on the administration's balance sheet according to reported statements by the SBS commissioner. However it is uncertain if the grant would be required to be paid back at some point.
- A pledge not to execute a warrant of eviction for a period of 90 days was signed by New York City apartment building owners representing more than 155,000 rental units citywide, along with the Real Estate Board of New York on March 13th in response to the ongoing COVID-19. In addition, the real estate trade association reportedly plans to call for a delay in fines and other fees issued against small businesses; a halt in commercial rent taxes for ground-floor tenants; and the elimination of penalties for late payment of property taxes; as well as seek a reduction in sales taxes and a deferral of sales tax payments.
- Mayor de Blasio reportedly announced his support on March 20th of a rent moratorium for both residents and small business, however recognized that the loss of rent would put landlord's buildings at risk of foreclosure. In response, the city's estimated 25,000 landlords have reportedly asked the mayor for "payment forgiveness on property tax assessments, water and sewer bills." However, despite the mayor's support, reports indicate that a rent moratorium "would almost certainly require state legislation."

A closer look at the wide-spread impact of the COVID-19 pandemic reveals that beyond the commercial real estate and financial industry, several other sectors are now facing challenges such as:

- **NonProfits** – Although likely to vary depending on the nonprofit, it is expected that some nonprofits may need to assess their options due to the inability to hold large conferences; conduct in-person fundraising events; or provide training sessions according to information posted on the **Council of Nonprofits** organization, as conversations about sustainability turn into conversations about survivability. Reports point out that "our capitalist system will likely quickly rebuild the for-profit ecosystem after the COVID-19 crisis has passed," however, nonprofits that fail in the wake of the pandemic cannot be so easily replaced or restarted since few have the "hard tangible assets that can survive a gap in service." The 2018 report **The Financial Health of the United States Nonprofit Sector**, by management consulting firm Oliver Wyman, information provider Guidestar, and merchant bank SeaChange Capital Partners, reportedly suggests that "less than half of nonprofits have one month of operating reserves and less than six months of cash to keep running."
- **Cultural Organizations** – The closure of New York City's museums and other cultural facilities to paying visitors amid the state ban for large gatherings, combined with the cancellation of fundraisers will result in a significant negative impact on the already "fragile finances" of the city's cultural institutions. Some have had to cut their budget, resulting in layoffs of staff, artists and freelancers as preparations get underway for major financial losses. The Metropolitan, reportedly one of the country's strongest cultural institutions, is expecting a $100 million shortfall for the near future according to a March 18th report, with the Met not planning to reopen until July, after announcing its planned closure on March 12th. According to statements by a spokesperson for the **American Alliance of Museums** (AAM), "about three-quarters of U.S. museums have now closed and one-third will not reopen if the crisis continues."

Sources: https://www.councilofnonprofits.org/nonprofits-and-coronavirus-covid-19)
http://seachangecap.org/wp-content/uploads/2020/01/The-Financial-Health-of-the-US-Nonprofit-Sector.pdf
https://www.cnn.com/2020/03/20/opinions/coronavirus-extinction-level-event-charities/index.html

COVID-19: Government Actions (cont'd)

Industries Seeking Federal Aid/Bailout

- **American Hospitality Industry** – $150 billion bailout is being sought to help thwart the potential of half of the hotels throughout the U.S. closing as a result of COVID-19, which according to reported statements on March 17th by a spokesperson for the American Hotel and Lodging Association has "already had a more severe economic impact on the hotel industry than Sept. 11 and the 2008 recession combined." Approximately two-thirds of the bailout being sought would reportedly go toward retaining workers, while the remaining $50 billion is earmarked for debt service.

- **Airlines for America** – $50 billion is reportedly being sought by the industry trade organization that advocates for major U.S. airlines through $25 billion in grants, $25 billion in low-interest loans, and significant tax relief (which includes a $4 billion return for taxes they've previously paid) according to a March 19th report.

- **Housing Justice for All** – $10 billion is being sought by the New York tenant coalition to reportedly invest in "housing relief" for the 92,000 people that are homeless statewide. Rental subsidies in the form of vouchers are being asked for, and the funding would also support public housing, not-fot-profit housing and subsidized housing. In addition, the group is reportedly "calling for the state to suspend rent, mortgage and utility payments, on the heels of the statewide eviction plan in place."

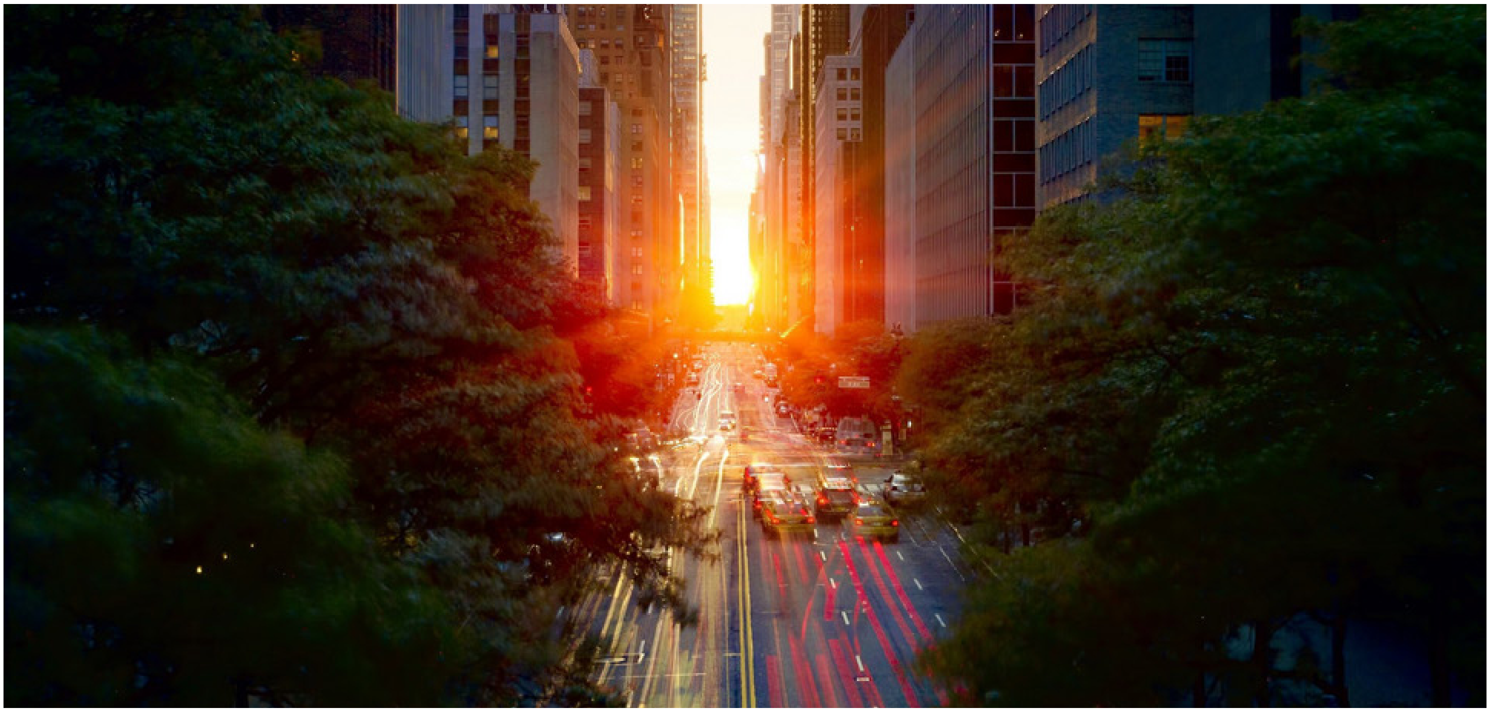
- **Metropolitan Transportation Authority** (MTA) – $4 billion is being sought by the nation's largest mass-transit provider. Declining ridership in the wake of the coronavirus as of March 18th reports fell 90% on the Metro-North Railroad, 67% on the Long Island Rail Road, 60% on the subways, and 49% fewer riders on buses. However, a portion of the daily riders use the MTA's TransitChek which is a pre-paid monthly card deducted from the employee's paycheck versus the standard pay-per-ride purchases that are more reliant on use by tourists and non-commuter riders.

- **American Alliance of Museums** (AAM) – The professional association that advocates for the nation's museums has reportedly urged Congress to include a $4 billion relief package for museums.

- **National Association of Theatre Owners** (NATO) – The exhibition trade organization has reportedly asked Congress to provide government-backed loans to offset fixed costs of doing business amid the closure of movie theaters for the foreseeable future. Tax benefits are also being sought to help support theater employees; allow theaters to recover revenue losses incurred during closings; and provide financial relief from costs that are ongoing despite closures. NATO has independently pledged $1 million, designated to further support employees' lost wages. Efforts to adapt to the coronavirus pandemic has led some movie studios to make some theatrical releases available for in-home streaming, however the revenue generated is reportedly insufficient for theaters' overall financial health, while other studios will postpone release dates for major films. In recent years, the theater industry has been faced with the heightening competition from streaming services such as Netflix and Hulu.

- **International Council of Shopping Centers** (ICSC) – The organization the represents the retail real estate industry has requested that the federal government "directly pay for or guarantee business interruption coverage for retailers, restaurants and entertainment operators shutting down." Although some companies might have third-party insurance, it reportedly does not provide coverage for business interruption due to the coronavirus pandemic, since it is typically structured around physical damage; and since the SARS (Severe Acute Respiratory Syndrome) outbreak in 2003 and 2004, many insurers reportedly began specifically precluding epidemic and pandemic damages from commercial plans. Nationwide closures by numerous retail chains and department stores have not only impacted urban storefronts, but the shopping malls as well, prompting decisions by Simon Property Group to temporarily close all its retail properties. According to reported statements by an ICSC spokesperson, "Nearly one-in-four American jobs are retail-related; and the shopping centers generate nearly $400 billion in state and local taxes. If shopping tenants remain strained, the repayment of as much as $1 trillion of secured and unsecured debt will be at risk."

Sources: https://www.vox.com/the-goods/2020/3/19/21186792/airline-bailouts-coronavirus-50-billion



Looking Ahead

New York State:

In addition to New York State residents receiving direct cash payments of $1,200 for individuals and $2,400 for families; and the reportedly total of $16 billion in unemployment insurance that includes the $600 per week increase in maximum unemployment benefits above one's base unemployment income number, which has for the first time been opened up to independent contractors and members of the gig economy, New York State's allotment from the $2.2 trillion CARES Act stimulus package is reportedly:

- $5.1 Billion for the state coronavirus relief fund;
- $1.6 Billion for the Education Stabilization Fund; and
- $426 Million for FEMA (Federal Emergency Management Agency).
- $25 Billion subsidy for the state's healthcare system, of which "much will go toward protective equipment for healthcare workers, increased testing supplies, and the expansion of staffing and new constructions services according to reported statements by Senator Chuck Schumer's office; while $1.08 billion will go to New York City's Medicaid fund and a total of $6 billion to the state's fund, which reportedly due to "quirks in law that are just coming to light, may be reduced to less than $2 billion."

Amid signs that the spread of the virus may be nearing a peak in the region, New York State has begun studying when and how to restart its economy to reportedly "pivot" from the implementation of "**New York On Pause**" back to economic functionality. The yet to be devised strategy has been dubbed "**New York Forward.**" Recent reports indicated that a regional approach to reopening the economy when it becomes safe to do so is planned by the governors of New York, New Jersey and Connecticut. Realizing that economies won't be able to wait until there is an end to the virus, it is initially planned to gradually re-open businesses as some social distancing restrictions remain in place once a widely available supply of the rapid test for the virus and new antibody test exists, which as of early April was still pending approval from the U.S Food and Drug Administration, and will show if someone has already had the virus, recovered, and as a result developed immunity. In an effort to boost test supplies, New York will reportedly invest in companies who can develop the tests at scale. Once a restart of the economy begins, resources will likely need to be diverted to contact tracing to find and isolate for a period of time everyone who comes in direct contact with a sick person that has COVID-19 in order to contain the spread once the states begin to see the number of cases start to decline. However, a timeline to begin putting into motion any strategy to restart the states' economies remains undetermined.

Sources: https://www.politico.com/states/new-york/albany/story/2020/04/07/new-york-region-governors-plan-coordinated-economic-restart-1273313

Looking Ahead (cont'd)

New York City:

While wreaking havoc on nearly every segment of the city's economy, the coronavirus health crisis is likely to have a particularly devastating economic impact on the (4) outer boroughs according to a report released in April by the Center for an Urban Future (CUF). According to findings of CUF's analysis, many of the "industries suffering the most catastrophic early setbacks from efforts to contain the virus" are overrepresented in Brooklyn, Queens, the Bronx and Staten Island, a vulnerability that may be further heightened by their limited success in growing jobs in offices sectors — which has been somewhat insulated so far due to the ability to work remotely from home. Although the city has had significant job growth fueled by its decade-long economic boom, a larger share of the job gains outside of Manhattan were in the hardest hit industries. However, Manhattan is far from insulated, since the borough is home to a large share of the city's accommodations jobs, as well as thousands of jobs in arts and entertainment — all of which are immediately at risk; as well as the losses expected to be incurred within the finance, advertising and media industries as overall economic activity slows worldwide according to CUF's report. Although the securities industry had a good year in 2019, the New York State Comptroller's office indicated that the serious damage that COVID-19 is inflicting on the financial market and the global economy will sharply reduce industry profits in 2020. Even though the securities industry represents less than 5% of private sector employment in New York City, it accounts for one-fifth of private sector wages in New York City; and is a an integral source of tax revenue and job creator in other industries for both the city and the state. While New York City's financial plan for 2021 had assumed that tax collections from the bonus pool of the securities industry will increase by 3.3% in 2020, it is not likely to happen given the current economic environment as a result of the COVID-19 pandemic.

Several actions taken by Mayor de Blasio at a time when, per reported statements by a Department of Design and Construction (DDC) spokesperson, "fiscal volatility is affecting capital planning at all city agencies," reportedly include a "demand" for $1.3 million in agency budget cuts on March 24th, with the likelihood that he will be calling for more; and reportedly "contemplating $2 billion in cuts through June 30, 2021;" as well as "taking the unusual step of seeking state legislation to accrue debt for the city's $95.3 billion operation budget" — a step that if taken is only done "in the most dire of circumstances," since "borrowing for operating purposes puts future New Yorkers on the hook for today's services" according to reported statements by a spokesperson for the Citizens Budget Committee. In addition, on March 26th a letter from the DDC reportedly sent notification of the suspension of all the city's design contracts on public projects, putting at jeopardy the reportedly "tens of thousands of construction workers" that would have been employed for the public undertakings; as well as the small architecture and engineering firms, that were being kept afloat with preliminary work for several planned projects. Although it was indicated that "projects are being reviewed on a case-by-case basis," with work on major civic initiatives pushing on with "minimal external support," the move has reportedly been called to question by some since the "money for current projects has already been allocated an can't be repurposed for operating expenses;" while others sympathetic of the city's decision have commented that it's a difficult situation and "the city is using this time to focus its resources on healthcare and that's what's needed right now," and eventually public projects will get back online "because that's what keeps the city running."

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Looking Ahead (cont'd)

Investment Funds and Hedge Funds will be looking to capitalize on the shifting market, as some begin raising capital for distressed-debt and credit-relocation funds as declining values of hotels, retail properties, and mortgage-backed securities present potential buying opportunities. Although few distressed assets had hit the market as of the first week of April, it is reportedly anticipated by investors that the coronavirus health crisis will give rise to greater opportunity than seen during the 2008 Great Recession. It is also to be expected that some of the more well-capitalized global financial companies will be preparing to deploy funds as well, as big deal opportunities present themselves according to reports. Although it's going to be several months before what opportunities exist becomes apparent, reports indicate that "many companies are monitoring the situation, but might not need to raise funds, since there's already a significant amount of dry powder[3] in the market." According to reported data compiled by financial data provider Preqin, as of December, private real estate funds focusing on opportunistic and distressed-asset investments held $142 billion in dry powder. However, risks exist, since it will reportedly "be difficult to realize profits if prices remain low for a long time, and investors also risk buying before the market has fully bottomed out."

CMBS Market has enjoyed a steady decline in delinquency over the last several months, however amid the impact of the COVID-19 pandemic, the trend is expected to see a reversal of a magnitude not seen since the 2008 Great Recession, with projections focused on the most vulnerable to the health crisis — lodging, retail, student housing, and also "single-tenant properties with non-credit worth tenants." Reports further indicated that "loans backed by offices with a greater exposure to co-working tenants are also at heightened risk of delinquency." At the end of March, the overall delinquency rate was 1.3%, but according to reported projections by credit rating agency Fitch, the figure is "expected to climb rapidly and eventually top out at around 8.25% to 8.75% by the end of the 3rd quarter," which "nearly matches the 9.01% peak delinquency rate that was reported in July 2011, on the back-end of the impacts of the 2008 financial crisis. Hotel and retail delinquencies are reportedly expected to increase to roughly 30% and 20% respectively, representing a steep increase of the 1.44% and 3.51% rates registered in March. However, since the projections don't take into account the short-term forbearance being granted to some borrowers, delinquencies could be delayed "or understated." Excluded in the first rounds of federal aid, the sector is also expected to see a steady fall in new issuance in the 2nd and 3rd quarters, as well as "fewer maturing loans and fewer resolutions by special services" according to reports.

Lending Market is reportedly gearing up to process as many Paycheck Protection Program (PPP) loans as possible since they can "collect 1% commissions on loans of more than $2 million, and higher rates for smaller loans. Initially the proposed CARES Act legislation had noted a maximum interest rate of 4% and terms as long as 10-years, making the PPP more attractive to lenders that are reportedly now lending money with no fees tacked on, at rates that are below their cost of capital. However, in exchange, banks will reportedly be paid origination fees based on the size of the small business loans, which are guaranteed by the government. Reports further indicate that in addition, the banks can sell the new SBA loans in the marketplace so "their cash isn't tied up in debt that could prove to carry a high rate of default." The relief for lenders comes at a time when apart from the anticipated high volume of delinquencies and defaults related to COVID-19, ultra-low interest rates will reportedly "compress net interest margin, which is the difference between banks' costs of deposits and rates for loans and the source of most of their profit."

[3]Dry powder refers to marketable securities that are highly liquid and considered cash-like. Dry powder can also refer to cash reserves kept on hand by a company, venture capital firm or individual to cover future obligations, purchase assets or make acquisitions

Looking Ahead (cont'd)

Restaurant Industry job cut numbers in New York City have started to come in, however, restaurants and advocacy groups reportedly say its "likely a drop in the bucket in regards to the real impact on restaurant workers." The industry was ordered to suspend sit-down dining and limited to take-out service only to help contain the spread of COVID-19; and although some restaurant owners considered making the switch, revenue generated was not likely to make up for the loss of revenue generated from sit-down diners. According to the reported results of a survey of 1,870 restaurants, bars and nightclubs by nonprofit restaurant advocate group **New York City Hospitality Alliance**, more than 67,650 employees are expected to be laid-off or furloughed because of the impact of COVID-19, which represented a small sampling of city's more than 25,000 establishments, with both mom-and-pop as well as large national restaurant groups impacted. Restaurants nationwide have reportedly incurred a 47% drop in sales from March 1 to March 22 according to reported findings of a survey of more than 4,000 owners by the **National Restaurant Association**; an among the surveyed participants, 3% permanently closed, 11% expect to permanently close, 44% temporarily closed, and 54% switched to off-premises service only.

It has been further pointed out that although the CARES Act provides $349 billion in forgivable low-interest loans to small businesses, the re-hiring requirements attached to the Paycheck Protection Plan (PPP) could make restaurants, bars and nightclubs unable to meet the terms since they are still under closure restrictions with no idea when they will be able to re-open and accept sit-down diners; as well as initially anticipating needs of a smaller labor force until it is determined how COVID-19 is going to impact future purchasing behavior. Although some companies might have third-party insurance, it reportedly does not provide coverage for business interruption due to the coronavirus pandemic. In addition, since the PPP loans reportedly "extend to restaurants that employ 500 people by location, franchises of major food chains are covered, which could take resources away from the smaller mom-and-pops owners that don't have the resources or backing of a big corporation."

Efforts to create a roadmap to help restaurants survive the pandemic and eventually reopen has reportedly led to the organization by 250 restaurant owners that collectively run about 1,000 venues throughout New York State of **The Restaurant Network**, to establish a set of "universal terms" that restaurants can present to landlords. Although as of March 26th reports, the terms had yet to be finalized for presentation to the Real Estate Board of New York (REBNY), the group intending to engage in negotiations that will ultimately lead to an adopted plan to serve as an industry-wide approach. According to reports "the core concepts include: restaurants being relieved of rental payments for the duration of a stay-at-home or shelter-in-place order; paying no rent, or reduced rent, for a period following the lifting of those restrictions; and that landlords give restaurants back their security deposits to put towards the costs of getting their venue reopened."

Looking Ahead (cont'd)

Hotel Industry was reportedly projected to see a slowdown in revenues even before the COVID-19 outbreak; however by March 23 a reported industry forecast that earlier in the year predicted a 0.1% decline in hotel revenue per available (RevPAR) for the year, was revised and reporting "that the disease would cause a projected 17% decline in RevPAR in 2020 — a more than 60% drop in the 2nd quarter alone, before somewhat stabilizing in the 3rd quarter." According to research firm STR, occupancy and average daily room rates (ADR) declined 68% and 39% respectively during the week of March 22 through 28, contributing to a RevPar decline of 80% during the same 7-day period. Travel restrictions put in place to help contain the spread of coronavirus immediately impacted the lodging sector as performance sharply dropped, putting "enormous pressure on hotel owners and operators who have borrowed from the CMBS market and are now staring down the next few months in anticipation of their hospitality holdings" being unable to generate revenue according to reports.

Hotels reportedly represent nearly 47%of relief requests from CMBS loans, which aren't yet directly linked to defaults according to reported data from credit rating agency Fitch; and while the full impact on the hotel CMBS sector hasn't yet fully manifested, it's reportedly expected to be severe over the next few weeks and months if provisions within the CARES Act stimulus package aimed at helping provide liquidity via credit lines to small businesses, for which many large and small hotel operators can get eligibility waivers, prove insufficient in supporting borrower's obligations. The reported findings of an analysis by online real estate platform Costar Group revealed that $11 billion of hotel CMBS loans — backed by more than 1,500 U.S hotel properties — that are coming due in the next 6-months are at risk; and that the markets of Los Angeles, San Diego and Orlando, Florida are in line to be hit particularly hard.

Over the last few weeks, the nation has seen mass hotel closures throughout; and reportedly similar to previous crises that have impacted the lodging sector, "resort-style and luxury hotels as well as the hotels that mostly service business travelers and events and conferences will have their revenues hit the hardest, with select- and limited-service venues — assets that have experienced less of a negative impact on revenues in past disruptions — faring slightly better." While hotel loan defaults will take time to materialize, "heightening delinquency risk in the sector will not abate as long as travel is stifled due the COVID-19; and even after restriction loosen, the lodging sector would also struggle to rebound should the pandemic push the economy into a recession.

Looking Ahead (cont'd)

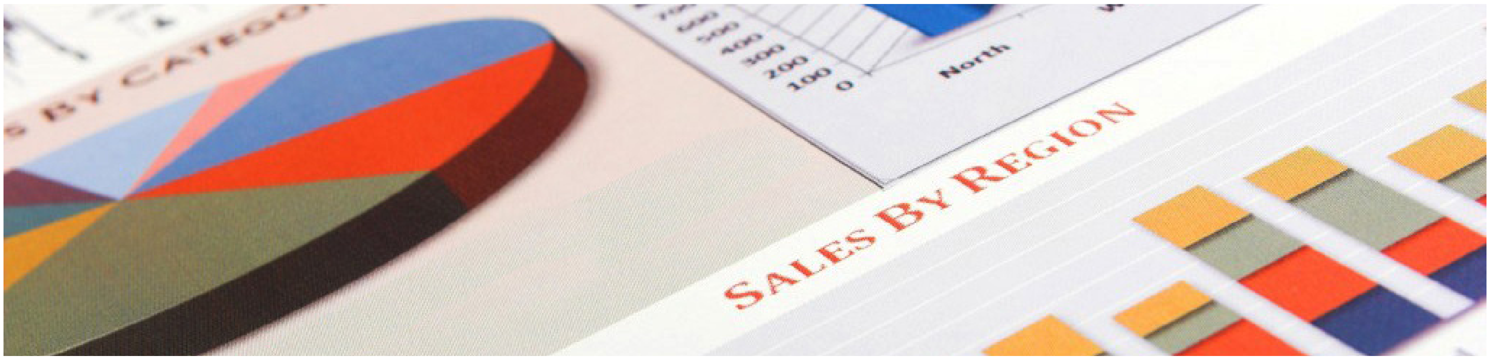
Retail Industry reportedly faced major decisions as April 1st approached about the payment of rent, utility and credit card obligations, with those decisions providing some indication of "how deeply the economy is damaged by the coronavirus pandemic. As of March 29th, reports indicated that nearly 50,000 stores of major U.S. retail chains had closed, with many of them joining the mom-and-pop retailers in seeking rent relief and offering a percentage of sale in lieu of rent over several months once stores reopen; while auto dealerships have been dealing with consumers "calling to put off their April lease or loan payments." Although many stores had planned to reopen in early April, it quickly became highly unlikely as stay-in-place and social distancing restrictions continue to remain in effect; and despite online purchasing available through retailers' websites, for some, it fails to offset the loss of sales revenue generated by in-store shopping, resulting in a ripple effect as larger chains lay-off or furlough employees; cancel merchandise orders; delay payments to suppliers; and where leases are in place, a loss in landlords' rent revenue that could jeopardize debt payments. According to reported findings of a liquidity "stress test" published by investment bank Goldman Sachs on April 3rd, some major department stores could run out of capital within a month under the bank's most extreme scenarios. Goldman's hypothetical analysis reportedly further revealed that "the retailers with elevated liquidity risk in the event of prolonged disruption are predominantly department stores, specialty retailers, and certain apparel and accessories vendors;" but goes on to suggest that it is likely "for retailers to experience more rapid declines in sales from recent closures, and more rapid recoveries once traffic returns, while wholesale-led brands may be slightly more cushioned in the near term but take longer to recover."

Office Market in New York City will in part be shifting its focus on the co-working sector, which reportedly accounts for a total of approximately 14.7 million square feet of leased office space in Manhattan. Although the office industry has been somewhat insulated from the health crisis, since employees are generally able to work remotely from home, the onset of the COVID-19 pandemic and stay-in-place mandate has increased financial challenges for co-working space providers. Although representing only about 3.1% of Manhattan's office inventory, if coworking companies fail, it would reportedly represent a significant amount of rental income lost if they just shut the doors. Among the city's reportedly top five providers — WeWork, Knotel, Regus, Convene and Spaces, WeWork accounts for about 58% of all co-working space in Manhattan, some of which represents leases for entire buildings and 50% in others. At a time when the company is struggling to turn business around after a failed initial public offering last year, at the start of April, occupancy rate at its facilities reportedly fell to roughly 64%, prompting WeWork to stop paying rent on some of its U.S. locations and begin reaching out to landlords in the hope of renegotiating leases, or turning them into profit-sharing agreements to reduce its rent obligation.

A further negative impact on the co-working sector will people's hesitancy in the foreseeable future to return to the densely configured co-working facilities and shared amenities out of concern for further spread of COVID-19. In addition, should the economy be pushed into a recession, the survival of the somewhat nascent industry has yet to be tested in an economic downturn. While anticipated by some industry people that the co-working business model would face significant challenges, others project that the already rising demand for flexible office space would further increase as companies become less willing to sign long-term leases.

When workers return to the office, the health crisis could also lead to a reshaping of the office industry, with what has been described as the "global work-from-home experiment" reportedly providing the largest case study of working from home in history. However aside from the research potential, reports suggest that it could have an impact on companies' office space needs in the future. If "employers see that it's more or less business as usual, it could make them rethink their remote policies," and subsequently lead to a reduction of office space requirements that over the past several years has declined amid the increasing trend of heightened workspace density. However, in some industries collaboration and group communication is essential; and although there reportedly exists the potential that remote collaboration can occur, the practices to enable that are still undeveloped and understudied.

Sources: https://www.wsj.com/articles/americas-make-or-break-week-11585510109



Looking Ahead (cont'd)

Investment Sales activity will likely take a while to realize the full impact from the disruption of COVID-19 since it often takes months to close a deal. However, 1031 exchanges have quickly taken center stage as concerns among investors of the inability to meet the restrictions to defer paying capital gains taxes becomes more challenging during the present health crisis. According to an April 8th press release, several of the nation's real estate groups have written a letter to the Secretary of the Treasury seeking a temporary extension of the 45 day deadline to 120 days, since the necessary steps to complete a like-kind exchange reinvestment have reportedly become unfeasible due to travel restrictions; quarantine; properties being locked down; and office closures of title and escrow companies and governmental recording offices, particularly at a time when there may be a resultant impact on property values moving forward. Co-signers reportedly included the National Apartment Association, Associated General Contractors of America, Building Owners and Managers Association (BOMA) International, CRE Finance Council, International Council of Shopping Centers (ICSC), Mortgage Bankers Association, NAIOP, Nareit, IREM, and The Real Estate Roundtable. It was also pointed that there is a larger concern among those buyers that have already identified properties and were scheduled to close because they have now lost financing, or there were significant changes to the asset cashflow; and it will "take time to either arrange new financing, wait for the CMBS market to truly come back, or restructure the purchase contract to deal with current reality."

In response, the IRS expanded more tax deadlines to include **1031 like-kind exchange transactions** as listed in Revenue Procedure 2018-20 (Rev 12-10-2018), the updated April 9th guidance stating that "any person performing a 'time-sensitive action' which was due to be performed on or after April 1, 2020, and before July 15, 2020" have an automatic extension to July 15th. However, those that had a "45-Day Identification Period" deadline in February or March did not get relief, but reportedly the **Federation of Exchange Accommodators** (FEA), the national 1031 trade association, will be requesting additional relief for the taxpayers that need it." In addition, an extension of the 180-day deadline for the purchase by "any investors who sold an asset planning to roll the capital into an **opportunity fund**" was also extended under the guidance for any transactions where the deadline similarly falls between the same 14-week period.

Residential Condominium Sales saw a reportedly 42% year-over-year decline in sales volume at the end of the 1st quarter. The 10% year-over-year increase in February was unable to offset the significant decline in March as what has been described as a "market freeze stopped a first-quarter recovery in its tracks." While some brokers and sellers switched to virtual open houses, others opted to postpone their efforts amid Governor Cuomo's ban of in-person real-estate showings. Reports at the end of March indicated that "contracts signed in recent weeks fell by half compared with the same period of 2019, and many of those deals were already in the works before the full impact of the virus on New York." According to reported data provided by real estate platform UrbanDigs, beginning the week of March 16th, 448 listings were taken down by sellers, more than double the 119 removed during the same week in 2019; and contract signings nearly halved from 214 to 109 during the same period. In an attempt to incentivize sellers concerned that their property will be deemed "stale" once the pandemic tapers, the Real Estate Board of New York (REBNY) ordered the "public 'days on market' clock to stop for all residential listings on its **Residential Listing Service**, with online listing platform StreetEasy reportedly following suit.

Industry sources suggest that "if the outbreak is not prolonged, there is still the potential for a release of 'pent-up demand;" while others further comment that the COVID-19 market shutdown "has some resemblance to two other periods of market disruption — after the Sept. 11, 2001, terrorists attacks and following the financial crisis of 2008. In both periods the market froze for a time and then gradually rebounded. Prices recovered only gradually." However, it was additionally noted that the current stoppage is different this time because of the ban on in-person showings. Although it has been projected by some reported sources that it will be about 6-12 months before the "true effect of coronavirus on price in New York City real estate" is seen, it is believed that "international money will start flowing back into the U.S. and Manhattan market, as real estate is a relatively stable investment, particularly during volatility in the equities market."

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Looking Ahead (cont'd)

Industrial Market is positioned to weather the COVID-19 disruption; and although it's still too early to make accurate forecasts, since many of the New York City's industrial and warehousing businesses reportedly enjoy "essential services" status, they have been allowed to operate amid the state's business shutdown. The sector further benefits from being "positioned to handle inventory supply and demand disruptions due to standard long-term occupancy contracts, which buffer cash flows from short-term disruptions, and the ability to address shortages by shifting to more regional supply chains in the future" according to reports. New developments projected to come online for the year totals approximately 1.5 million square feet; but is expected to "add only slight upward pressure to vacancy rates, which stand at reportedly 4.6% across approximately 182 million square feet of industrial space citywide. Reports further point out that although commitments for large blocks of space may be postponed as companies monitor the economic outlook, the historically strong demand for the city's industrial space due to a reduction in supply amid a wave of conversions that ensued over the past several years; the rapidly growing e-commerce and logistics industries; and expansions among movie and TV studios, should reportedly insulate owners from having to make any significant rent concessions in the near future.

Construction Industry was initially designated as an essential service not subject to the in-person work restrictions, but over the past month as COVID-19 continued to spread some construction sites were shut down amid on-site workers contracting coronavirus, leading to a full suspension of "non-essential" construction sites statewide on March 28th. Although the restriction was eased by broadening what projects are permitted, it is reportedly expected that the sector will face financial and logistical challenges. In addition, restarting construction work can reportedly be costly; and as projects across the city are permitted to come back online en masse, there could be a surge in demand for workers and suppliers, as well as approvals from city agencies such as the Department of Buildings (DOB) and the Department of Housing Preservation and Development (HPD).

For projects that have yet to get underway, the securing of financing may be more difficult, since "lenders underwrite commercial loans using ratios such as loan-to-value (LTV) and loan-to-cost (LTC), which are hard to assess when the economy has stopped." In addition, projects close to completion may be at risk of losing financing to fund the remaining construction, if "highly levered lenders" are unable to continue to fund obligations on construction loans, which are typically provided over the course of the project as construction deadlines are met, while others may be facing interest payments on loan balances until the project is done; and although some lenders might grant borrowers concessions or interest-payment deferrals, there is no guarantee. News on April 9th indicated there were more than 450 construction projects underway in New York City before the COVID-19 outbreak, and $8 billion in construction debt originated in the past 2-years according to reported data compiled by Real Capital Analytics.

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