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COVID-19 LEGISLATIVE UPDATES – BUSINESS CONTINUITY

Taken from The Council daily briefings

Monday, March 16, 2020

- The New Jersey State Legislature took up discussion of draft NJ Bill A-3844 to force business interruption insurers – despite a "Virus" exclusion in their policies – to provide coverage for COVID-19, and then spread the financial burden via a new special purpose apportionment on other, non-business interruption carriers insuring New Jersey risks.

  Source: *Coverageopinions.info/Vol9Issue2/NewJerseyCOVID*

  Background: In 2006, ISO adopted a mandatory exclusion for business interruption policies designed to preclude coverage for virus-related losses. The New Jersey Legislature is now trying to eliminate it.

- A New Orleans restaurant has filed a lawsuit on the business interruption issue seeking a declaratory judgement that its insurer should cover related business interruption losses. "It is clear the contamination of the insured premises by the coronavirus would be a direct physical loss needing remediation to clean the surfaces of the establishment," the suit says.

  Source:Businessinsurance.com/article

Tuesday, March 17, 2020

- The Council daily briefing newsletter reports that the New Jersey Bill A-3844, forcing business interruption insurers to provide coverage for COVID-19, was approved by a committee of the legislative today, but tabled on the House floor. Not confirmed is talk that similar legislation may be introduced in Illinois.

- The New York Department of Financial Services today announced it has adopted a new emergency regulation requiring New York State insurance companies to waive cost-sharing, including, deductibles, copayments (copays), or coinsurance for in-network telehealth visits. Here is a copy of DFS' guidance on telehealth or telemedicine services.

- Treasury Secretary Steven Mnuchin characterized the Administration's upcoming $1 trillion stimulus package as primarily a measure to compensate Americans and small businesses especially for "business interruption." While we don't yet have details on what Congress and the Administration will fully include in this package, here is a summary of the House-passed legislation.

Wednesday, March 18, 2020

- The Council daily briefing newsletter reports there are growing calls on Capitol Hill for a federal guarantee of payments by insurers for business interruption claims irrespective of viral exclusions.

- **The most important proposal to date is an outline of the creation of a federal program modeled directly after the Terrorism Risk Insurance Act**, which would mandate the ***prospective*** offer of pandemic business interruption coverage with a large federal backstop (note: this does not appear to be retroactive). This is being promoted by House Financial Services Committee Chairwoman, Maxine Waters (D-CA), but there are Republican members of her committee who are likewise interested in working on such a resolution. Initial draft that is being circulated

- This morning, the four major property/casualty trade groups, including The Council, received this letter authored by Representative Nydia Velazquez (D-NY) and 17 other members of Congress, urging the industry to pay business interruption costs regardless of any exclusions. (note that 13 of the signers are Democrats, five are Republicans.)

Thursday, March 19, 2020

- Congressional officials released the "Phase 3" recovery text -High-level list of Coronavirus relief measures

- There is a **rapidly gathering clamor for a federal stimulus that uses the commercial insurance industry's existing business interruption platform**.

> For example, this release from the International Franchise Association, calling for the government to fully fund the business interruption coverage that has been excluded from policies.

- The International Association of Shopping Centers and others are joining in the call for a program that is similar to the Terrorism Risk Insurance Act (TRIA), which is a public/private partnership that was enacted by Congress (and subsequently reauthorized) in the aftermath of the 9/11 terrorist attacks.

- **The insurance carrier community has not welcomed the idea of a federal partnership**, especially not one that would be retroactive.

- There is been a great deal of discussion, and concern, about coverage for business interruption losses due to the widespread business closures as a result of the coronavirus outbreak. **The New Jersey legislator's bill introduced on Monday that would force insurers to provide business interruption coverage for losses (due to Coronavirus despite clear "virus" exclusions in the policies)** and then spread the financial burden via a new special purpose apportionment on NJ carriers **has been tabled** in NJ for the time-being (the legislature has recessed temporarily due to COVID-19 fears), **but it is still a threat** in NJ and potentially other states (Illinois and New York legislatures are possibly considering the approach).

Where did this come from? **In 2006, the Insurance Services Office (ISO) was successful in getting state regulators to approve an exclusion for "Loss Due To Virus Or Bacteria,"** which applies specifically to business interruption, among other coverages. As we understand it, this exclusion is in virtually all business interruption polices. Just last month, ISO developed endorsements to provide an insured with the option of purchasing coverage for virus-related losses, thus over-riding the exclusion. The endorsements would provide limited business interruption coverage for business interruption due to actions by civil authorities in order avoid or prevent infection or spread by or from the Coronavirus. **These endorsements have not been filed or approved by the states.**

Sunday, March 22, 2020

- The U.S. Congress is moving fast on phase III of a COVID-response bill known as the Coronavirus Aid, Relief, and Economic Security Act (the amended CARES Act).

  Leaders McConnell and Schumer are still at odds over key provisions of the legislation, primarily over provisions for corporations getting federal assistance, including policy on stock buybacks and executive pay and protections for individuals facing eviction.

  Following failed negotiations today, Speaker Pelosi now intends to advance competing legislation from House Democrats who want to see stronger protections for employees and significant more money for hospitals and providers. CLICK HERE for the latest analysis of the CARES Act from our counsels at Steptoe & Johnson.

- Last week, The Council advocated for the inclusion of insurance premiums to be explicitly included as a form debt eligible for federal assistance to small businesses (currently defined under 500 employees) as part of the $1.6 trillion stimulus package. We are incredibly grateful for the intervention of Sen. Tim Scott (R-SC) to advocate for this specific provision, and we are grateful that Senate Small Business Committee Chairman Marco Rubio (R-FL) agreed with Sen. Scott.

- The Council has been deeply engaged throughout the past week in encouraging the insurance industry and the policyholder community to come together in support of a federal facility tasked with paying (at least a percentage of) business interruption claims. The proposal we have embraced would afford the Treasury Department to contract with insurers/brokers/TPAs/loss adjusters on a purely voluntary basis. We regret to say that due to many factors, this issue is on "pause" for the moment.

Monday, March 23, 2020

- Regarding efforts to enact "Phase 3" of stimulus legislation today, the only word that comes to mind from your government affairs team is…gob smacked. Never before have we seen such anger, vitriol and personal animosity playing out on the floor of the U.S. Senate, over the major provisions of the $1.8 trillion package proposed yesterday by Senate Majority Leader Mitch McConnell.

The bill notably does NOT contain provisions calling for the creation of a federal facility to administer business continuity coverage through a federal facility that could utilize private industry (presumably including the brokerage sector) on a purely voluntary basis. We are in close contact with other insurance trades and the policyholder community, and such a response is a very fluid and sensitive proposition at this point in time.

- Speaker Pelosi is expected to soon release the House Democrats Phase 3 version of the federal government's response to COVID-19. Here is a section-by-section summary.

Of note, it would provide private sector and public sector employees who have been on the job for at least 30 calendar days with the right take up to 12 weeks of job-protected leave under the Family and Medical Leave Act, regardless of the size of their employers. It would also prohibit the Secretary of Labor from carving out employers with less than 50 employees. Additionally, after two workweeks of unpaid leave, employees will receive a benefit from their employers that will be no less than two-thirds of the employee's usual pay, up to $200 a day.

With concern to healthcare, it would provide for a two-month open enrollment period for ACA plans. It would also waive cost-sharing for patients' treatment related to COVID-19 who are enrolled in private insurance coverage (the Federal government is required to reimburse insurers for the forgone cost-sharing). Additionally, it would provide subsidies to allow workers to maintain their employer-sponsored coverage if they become eligible for COBRA or are subject to a temporary furlough. It would establish a two-year risk corridor program to provide payments to individual and small group market plans for extreme losses and help mitigate premium increases for consumers.

Tuesday, March 24, 2020

- Markets turned sharply up today as expectations grew for an agreement on the $1.8 trillion "Phase 3" stimulus package. The legislation is aimed at flooding the economy with capital to revive businesses and households that have been knocked off course. Though details remained fluid, the legislation would include direct payments of $1,200 to many American adults and $500 for every child in a household who is claimed as a dependent and would create roughly $850 billion in loan and assistance programs for businesses, states and cities. There would also be large spending increases for the unemployment insurance program, as well as hospitals and healthcare providers that are being overwhelmed by the crisis.

- Here is a good overview of where we stood – at least at 4:00 p.m. today – by Bloomberg Government. The key concession made to Democrats is greater independent oversight for major beneficiaries of the federal largesse (though **we can't help but note there's a big difference between oversight of financial institutions post-TARP versus impacted innocent industries shut down by COVID-19.**) Despite the general optimism, as of this writing, negotiators were still facing disagreements over spending on the Supplemental Nutrition Assistance Program and assistance for airlines. Concerns over the food stamp provision, in particular, have raised fears that the measure would have trouble passing the Democratic-led

House by unanimous consent, a procedural move that would allow the chamber to vote on the bill without calling most members back to Washington.

- As noted in yesterday's report, The Council is in the middle of conversations and negotiations regarding the establishment of a federal facility to provide liquidity relief to impacted businesses utilizing private sector contractors, as **many Council member firms have expressed strong interest in being "off the sidelines and on the field" of helping to provide aid to impacted clients**. Assuming the industry can speak with a collective voice on this subject (we are optimistic), the next move would be to see if we can get on the same page as the policyholder community – deeply impacted communities like the International Council of Shopping Centers, the Real Estate Roundtable, the National Restaurant Association, the National Retail Federation, the International Franchise Association, and the like.

- Here is a story that ran today on a prospective effort to create a BI federal backstop. It is all interesting and accurate (especially regarding the draft outline proposal we saw last week from House Financial Services Committee Chairwoman Maxine Waters), but we feel that all of this is way premature. (As an association, we view none of this as premature – with all of us looking down into the abyss – but we are just expressing political reality.)

- The **National Conference of Insurance Legislators (NCOIL)** has started internal discussions to address the **business interruption** issue that has been the focus of The Council and insurance industry trade groups at the federal level for many days. In a communication to members, NCOIL's CEO, former New Jersey Insurance Commissioner Tom Considine, recognizes that commercial policies generally exclude coverage for viruses such as COVID-19. Considine then generally describes a proposal, which is intended to (1) ensure insurer responsibility and contribution, (2) provide businesses and professionals business interruption relief, and (3) prevent a threat to insurer solvency.

  It is important to note that NCOIL actions are not binding on the states – once NCOIL adopts a model, each state would have to enact the model for it to become law in that jurisdiction. Moreover, we note that the majority of state legislatures are not in session currently – they have either adjourned for the year or are in recess temporarily due to the COVID-19 outbreak. Having said that, actions on this issue by NCOIL and individual states can have far-reaching ramifications, so we will be watching this closely. Late this afternoon, it was reported that legislation in New Jersey (A-3844)—which would require every property policy that provides coverage for the loss of use of property and for occupancy and business interruption to be 'construed' to include coverage for business interruption due to COVID-19—was brought to the Assembly floor by an emergency vote. We are told that the bill was pulled before a final vote. No companion bill has been introduced in the Senate to date. Discussions with the bill sponsors and legislative leadership are ongoing.

Wednesday, March 25, 2020

- Late last night, the "Phase 3," $2 trillion stimulus/COVID-19 response legislation" advanced in the Senate, and we feel confident, notwithstanding procedural obstacles that will be overcome, that this legislation will move in the House and be signed into law.

We hope you are following our daily updates with intelligence on all things related to regulations and policy impacting the commercial insurance brokerage industry regarding the pandemic crisis. Our legal team at Steptoe & Johnson is evaluating all of the provisions of this legislation, and we will all do everything we can to unpack the provisions of this $2 trillion plan for you and your clients. And we will keep you fully informed of our efforts to assist you and your clients of our efforts to address the liquidity crisis impacting all.

- The $2 trillion stimulus bill that was announced with bipartisan agreement in the early morning hours this morning and was being held up on the Senate floor by Sens. Lindsey Graham (R-SC), Tim Scott (R-SC), Ben Sasse (R-NE) and Rick Scott (R-FL). According to reports, at issue is language surrounding unemployment insurance, which the four senators say would allow workers to be paid more on unemployment than what they would make while employed. Even if the measure gets resolved, there are big procedural hurdles in the House tomorrow if even a single member objects, as unanimous consent will be required. But as we predicted yesterday, the bill will get done, because the alternative is unthinkable.

Cribbing from our friends at Axios, here is the highest-level collection of big-picture bullet points:

- **For most people:** One-time checks for up to $1,200 a person, and $500 per child, even for those who have no income and those who rely on Social Security and disability. The checks start to phase out after $75,000 of income.
- **For the unemployed:** Extended and upgraded unemployment insurance — including for gig workers — for four months with an extra $600/month over the existing program.
- **Use of retirement funds:** The bill waives the 10% early withdrawal penalty for distributions up to $100,000 for coronavirus-related purposes, retroactive to Jan. 1.
- **For hospitals and health care workers:** $100 billion into hospitals and the nation's health system.
- **For state and local governments:** $150 billion.
- **For small businesses:** (500 employees or less): Forgivable loans and cash-flow assistance from a $350 billion program.
- **Large corporations:** $500 billion in loans, loan guarantees and other investments, overseen by a Treasury Department inspector general. These loans will not exceed five years and cannot be forgiven.
- **Airlines** will receive $25 billion (of the $500 billion) for passenger air carriers and $4 billion for cargo air carriers.
- **Schools:** $30 billion in emergency education funding.
- **Transportation:** $25 billion is dedicated to emergency transit funding.

- The Council today hosted an hour-long webinar (slides here) for a couple thousand of our brokerage members on the legislative and regulatory issues we're following, curating, and advocating on, both at the state and federal level.

  By far the most questions that came in during the call were regarding the $350 billion **Small Business Administration "loan" program**, wherein there will be massive forgiveness of loans for the payment of payroll and rent. Here is a summary of some of the provisions from Chairman of the Senate Small Business Committee, Senator Marco Rubio (R-FL). **Our legal team at Steptoe & Johnson is working on a comprehensive analysis that we will share with you once complete.**

  Once this bill is finally-finally complete, and all of the stakeholders have unpacked/digested what it means to them, attention will invariably turn to a "Phase 4" bill, and no serious observer can fully predict the contours of such a package, or the inevitability of it. **We continue to work with sister insurance trade associations, in close consultation with major policyholder groups, on a potential federal facility for business continuity** – one in which the government could contract with private entities (presumably insurers, brokers, TPAs, etc.) to provide greater liquidity to troubled client markets (on a voluntary basis).

- Meanwhile, today the brushfires continued in states where legislation has been introduced to force insurers to cover business interruption insurance notwithstanding viral contagion exclusions. There have been incorrect reports that the New Jersey Assembly was going to take up a pending measure today on the subject. The legislation has also been introduced in both the Ohio and Massachusetts legislatures, and we've been seeing increasing activities of trial lawyers circling this issue. The Council firmly believes each of these efforts to alter contractual terms are unconstitutional.

- Earlier today, the **National Association of Insurance Commissioners** released a helpful statement on the subject, noting that business interruption "policies were generally not designed or priced to provide coverage against communicable diseases." The **National Conference of Insurance Legislators** (NCOIL) also released a statement and sent a letter to Members of Congress expressing similar opinions

- This afternoon, our chief legal officer Scott Sinder was asked by a reporter for *Politico*, **what the impact on the industry would be if the BI exclusions did not hold**. Here is his response:

> "If there were no exclusions, the lost business here is in the trillions. To size that, I think that the total 9/11 losses were around $40B (in 2001 dollars). The TRIA program put into place has a total liability cap for government and insurer TRIA losses of $100B. If losses exceed that amount, then everyone gets paid pro rata. So, if there are $1 trillion in losses, everyone would get 10 cents on the dollar."
>
> "Total commercial insurance premiums in the U.S. are somewhere in the $250-300 billion per year range. Current projections are that we are really going to need $5 trillion in federal relief. So, you would have to dedicate 20 years of premiums to pay for this loss. And the industry already runs on a loss ratio that does not leave much in profit after all the normal course claims are paid. So how do you fashion an industry skin in the game program with all of that in play?"

- One of the other consequences of the Phase 3 bill is that Congress is kicking the can down the road on resolution of any of the issues regarding **prescription drug reform** or **surprise medical billing**, until the lame duck session of Congress after the election. According to *Politico Pro*, the stimulus package reportedly extends funding for key health programs through November 30, **delaying the deadline** from its previous expiration in mid-May

Thursday, March 26, 2020

- With the $2.2 trillion Coronavirus Aid, Relief and Economic Security Act (the CARES Act) relatively assured to be approved in the House and signed into law tomorrow, the markets at least breathed a sigh of relief though the tragic toll of the pandemic continues to rise (with the horrifying news tonight that the U.S. now leads the world in confirmed coronavirus cases). In-boxes are flooded with inquiries and anxiety as to how – and how much – the legislation is going to afford clients a lifeline of liquidity.

  You and we are seeing a lot of analysis from consultants and law firms outlining the provisions of the law. The best analysis we can share is authored by The Council's legal team at Steptoe & Johnson - Senate Passes Omnibus CARES Act. We hope it answers a lot of your questions.

- We completely understand why our friends in Congress, on both sides of the aisle and in both chambers, are exhausted, angry and have just achieved the biggest stimulus in our nation's history. But a fourth bill is going to become imperative, and Republican leaders especially need to be locking their head around it.

  The question, then, is what will the structure be? If you've been reading this newsletter, you know that **your advocates in Washington have been working extremely hard to achieve a consensus within the insurance industry to advocate for a new federal facility to fund liquidity utilizing private sector contractors** (presumably insurers, brokers, TPAs, loss-adjusting firms, etc., on a purely voluntary basis). We expect developments on this front as well tomorrow, after the President has signed the CARES Act into law. **The next critical step is deeper engagement with the major organizations representing policyholders.** Right now, there is goodwill there and we hope this effort will bear fruit.

But there are obvious challenges:

- How do we make a new federal facility jibe with the CARES Act? How can we eliminate any potential for double-dipping?
- How will Congress respond when the money for CARES benefits runs out?
- Will Democrats ever be receptive to all policyholders being treated essentially the same, when many of them will include large businesses?

- As we have previously reported, a number of states have issued guidance **regarding the suspension or deferral of premium payments because of concerns that** insureds (especially those with upcoming renewals) may not be able to make premium payments during the crisis.

As of today, a total of 29 states have made such pronouncements, most of them encouraging or requesting voluntary compliance by insurers, with only eight states (Alaska, Arkansas, Georgia, Mississippi, Ohio, Oregon, Washington, and West Virginia) making compliance mandatory. Our legal team at Steptoe & Johnson is tracking the action.

- **One helpful tool:** Johns Hopkins has a new interactive map, which maps COVID-19 cases by county.

Friday, March 27, 2020

- The $2.2 trillion CARES Act was approved by voice vote in the House this morning and signed by President Trump, and hopefully it will provide some solid relief to the economy and our clients. Yes, it is the largest emergency spending bill ever enacted by far, but the overwhelming sentiment we are hearing is that **further stimulus is going to be needed.**

  The obvious facts that demand it:

  - The legislation is thin on liability protections. We know pandemic issues are going to be litigated for years in any event, but surely Congress can provide relief from the most opportunistic of the plaintiffs' bar that are already circling.

  - Legislators did as much as they could to try to target resources on the most jeopardized and deserving businesses in the economy. But CARES picks winners and losers. There should be a more broad-based federal facility to promote business continuation.

  - Even some conservative economists have noted that our GDP in 2019 was $20 trillion. So, in this unprecedented meltdown, is it unimaginable to spend one-fourth of that in stimulus?

Saturday, March 28,2020

- **No news of note since last night on what a "Phase 4" economic package might look like, or the timing of it.** We continue to support the creation of a federal facility that could privately contract with industry players (once again, we have to underscore, on a *voluntary* basis) to pump out more business continuation funds.

- Also, there is another fix we are going to need. Amid the pandemonium of the construction of the $2.2 trillion legislative package, **Sen. Tim Scott (a constant leader on insurance issues) reached out to Small Business Committee Chairman Marco Rubio on our behalf to have a provision added to the SBA loan forgiveness program, wherein insurance premiums of all kinds would count as "forgivable"** – just like payroll expenses and rent/mortgages for businesses of under 500. He had received assurance that this would be included, **but** in the final hours of the debate, "insurance premiums" enumerated under the kinds of expenses that SBA loans could be used for, but NOT explicitly included among the enumerated payments that could be forgiven. **By the time the problem was identified, the section had been closed**.

However, Sen. Scott's office feels assured by the Committee that their intent was to include all insurance premiums, and **this is an important "technical fix" that we are going to need in a Phase 4 package.** (Note however that benefits premiums ARE subject to being forgiven, given the nexus to payroll.)

- Meanwhile, here's a link to a helpful guide to the small business provisions from Rubio's committee.

Monday, March 30, 2020

- A lot of developments today. Keep your eyes peeled for an **alert first thing tomorrow morning** (hopefully), as we think that you'll begin to see the fruit of efforts among the policyholder community and the insurance community coming together on the **"business continuation facility"** that we've written much about in this space in the last two weeks. Much uncertainty remains, but much progress has been made in the insurance/business community in getting on the same page with respect to "Phase 4."

  Many GOP leaders last week seemed to want to wait and see if another massive stimulus / perpetuation / recovery bill would be necessary. That sentiment is withering. One of the members of The Council's government affairs team was on the line with a prominent senator this afternoon who said he is concerned that the CARES Act's SBA small business loan/grant program alone will exhaust its $349 billion appropriation in only a couple of weeks, absolutely necessitating another major package.

- We continue to have a lot of incoming questions on that SBA program. We know you are seeing a torrent of information. But, hot off the presses, we hope this document on the Paycheck Protection Program from The Council's legal team at Steptoe & Johnson will be useful to you and your clients.

Tuesday, March 31, 2020

- The Council joined other trade groups and took decisive action to stabilize markets from the economic hemorrhaging experienced over the past several weeks by the COVID-19 pandemic. The Council is now asking Congress to create the COVID-19 Business and Employee Continuity and Recovery Fund.

- **The economic disruption caused by COVID-19 knows no boundaries and impacts all of your clients.** That is why we are leading a campaign alongside insurance carrier partners and consumer groups of all sizes to create a national mechanism that utilizes the commercial insurance framework to deliver liquidity to your clients, fast.

  The Recovery Fund is modeled after a streamlined version of the September 11th Victim Compensation Fund. It would be backed by the federal government and be authorized to contract with interested businesses to administer and facilitate the distribution of federal monies and liquidity to businesses and their employees. The relief would be tied to requirements to keep employees on the payroll, maintain worker benefits, and meet financial obligations. Strong anti-abuse provisions, including post-event audits, would be included.

The federal facility for business continuation does not compel insurers, brokers, TPAs or others to contract with the federal government for distribution of funds. However, we have heard an outpouring of sentiment from the commercial brokerage community supporting engagement with the government to assist clients in obtaining relief.

- This effort continues to evolve daily, and momentum is stronger than ever. Congress may be in recess until April 20, but congressional staff is returning this week to begin considering details of a potential Phase 4 economic package. **We are advocating that any additional economic package includes the Business Continuity and Recovery Fund** as a vital component to ensure that economy is quickly able to get on its feet after defeating COVID-19.

Summary of the Recovery Fund and outlined here:

Purpose:
- Protect lost wages for employees unable to work because of COVID-19 illness
- Preserve jobs through payroll assistance to help businesses retain employees
- Support recovery through solvency assistance
- Support women-owned and minority-owned businesses impacted by COVID-19

Program Administration:
- Establish within Treasury an expedited and streamlined relief program run by a special federal administrator
- Authorize the program to contract with third parties that agree to assist with application filing and review
  - Administratively enforced. Third parties are shielded from any liability except for gross negligence, willful misconduct, or fraud
- Fund the program through advanced authorization of appropriations: no pre-funded pool of money; rather, the creation of an obligation of the federal government (same funding structure as the 9/11 Victims Compensation Fund)

Recovery Compensation:
- The program provides a simple-to-file and audit form that can be electronically filed to quickly provide liquidity to businesses to maintain their viability and ability to retain employees
  - Form requires information on impairment and known collateral sources
  - Formula-based compensation for payroll, payroll support, operating expenses (such as rent and interest expense on pre-crisis debt), and lost income of sick employees
  - Program may also provide assistance for lost revenue (but not lost profits)
- Interim expedited assistance may be provided
- Recovery compensation reduced by any interim assistance and collateral sources

Eligibility:
- Small businesses, nonprofits, veterans' organizations, and tribal businesses (500 or fewer employees); as well as
- Businesses of any size that can demonstrate impairment by COVID-19

Prioritization:

- Sectors most impacted by COVID-19 losses
- Businesses with high proportion of employees who would otherwise be unemployed
- Businesses that are essential critical infrastructure

Timeline:

- 30-day turnaround for prioritized applications; as soon as practicable for all others
- 15-day turnaround for expedited interim compensation

- Separately, The Council is aware of an organized campaign started out of California to pressure insurance brokers producing business interruption policies to advocate for liquidity programs like this one.

- The next phase of our efforts will be to identify a bipartisan lineup of champions for this legislation on Capitol Hill. We are already sensing great interest from many of the legislators with whom we have built strong relationships over the years. As we consult with our allies on identifying congressional authors, **we encourage you to share these documents with your clients.** Already, we know of a couple of firms that are circulating the letter to clients in industry sectors that are not currently represented among the cosigners, and encourage them to get their trade associations to support this approach, which is modeled after the 9-11 Victims Compensation Fund.

- **So, what are its chances?** It is far too difficult to assess at this point, and there will need to be a groundswell from the business community. Perhaps in the end this is not the approach, but right now it is the best one that we see.

Challenges – we have got a few:

- Majority Leader McConnell says we need to first assess any effectiveness of the $2.2 trillion CARES Act. Speaker Pelosi says we need to move to Phase 4 right away. Currently, both chambers are recessed until April 20. We want action as soon as possible.

- As much as we agree with the Speaker on that, we (and Sen. McConnell) are not liking the kinds of policy prescriptions she's advancing in Phase 4 – forgiveness of student loans, rolling back the limitations on State and Local Tax (SALT) deduction from the tax reform bill, a massive infrastructure stimulus (President Trump today likewise called for $2 trillion in infrastructure spending in the next stimulus.). **The priorities MUST be to save existing American businesses through a broad federal facility that can contract with private industry (as in, our own) on a voluntary basis to deliver this relief.**

- As we noted last night, the $350 billion SBA loan/grant program may run out of money in a flash, as soon as lenders get the guidance, they need from the Administration to be issuing checks. That argues for a political opportunity. What argues against it is the fact that it is very dangerous for Congress to even convene given the growing number of Members of Congress who have acquired the virus.

COVID-19 Legislative Updates – Business Continuity Documents:

[APRIL] [MAY]

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