

TO: NAW Direct Members

FROM: NAW Government Relations Team

RE: NAW Critical Update Number 69 – June 19 at 1:30 PM

1. Latest on the Main Street Lending Program

On May 19th, Fed Chair Jay Powell said the MSLP would be in operation by the end of May, or the first few days of June. As of today, the program is still not functioning.

In a paper published this week by the Brookings Institution, two former Fed economists urge changes in the MSLP to encourage more businesses to take advantage of the program. The two economists wrote:

The program has been revised twice in response to feedback. Still there are features that may limit take-up. We believe the current program would be more attractive and, thus, more effective if loan terms were more tailored to the characteristics of borrowers, the rigidity of fixed debt repayments was reduced, and lenders received more compensation for taking additional risks.

The authors make a number of recommendations for modifications to the program. You can read the Brookings report [HERE](#):

Also, the Congressional Oversight Commission has just issued its second monthly report on the CARES Act programs. This is a comprehensive overview of the programs, which includes the following:

In the eleven-plus weeks since the CARES Act became law, the Treasury and the Federal Reserve have announced how they plan to use \$195 billion of the \$454 billion specifically allocated by that law to support emergency lending facilities established by the Federal Reserve. That money has been dedicated to several lending facilities that the Federal Reserve states could support nearly \$2 trillion in loans and asset purchases. To date, the majority of those lending facilities are not operational, and the facilities have made a total of \$6.7 billion in purchases.

- *The SMCCF has purchased \$5.5 billion worth of corporate bond ETFs as of June 10.*

- *The MLF has made a single purchase of \$1.2 billion in notes from the State of Illinois.*

The Federal Reserve's announcement on June 8 stated that once lenders "have successfully registered for the [Main Street Lending Program], lenders are encouraged to begin making Main Street loans immediately." On June 15, the Federal Reserve Bank of Boston began accepting lender registration applications and announced that the facilities will begin buying loans soon. As of June 17, 2020, the Main Street facilities were not yet operational.

As the Main Street Lending Program and PMCCF become operational, we recommend the agencies monitor whether there are businesses in need of credit who are too big to access the Main Street Lending Program but too small to access the PMCCF. If the agencies discover that there are, they should consider modifying the employee-size and annual revenue criteria for the Main Street Lending Program—along with making any other appropriate modifications to minimize downside risk and encourage prudent underwriting—so that such businesses have an opportunity to access credit from at least one of the Federal Reserve's emergency lending facilities.

You can read the Commission report [HERE](#):

2. Latest on Economic Recovery and Re-Opening the Workplace

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW is providing information about reports, webinars and seminars that you may find useful:

From *Little Law Firm*: EEOC Provides Return-to-Work and COVID-19 *Antibody Testing Guidance* Under Federal Civil Rights Laws

As the nation continues the gradual re-opening of workplaces and the economy, the U.S. Equal Employment Opportunity Commission (EEOC) has [updated its guidance](#) to provide information to employers regarding their responsibilities under federal civil rights laws. The EEOC has been updating this guidance on a rolling basis since March.

The most recent update addresses the issues of medical screening, pregnant and older workers, ADA/Employees with Higher-Risk Family Members, and Harassment, which are detailed [here](#).

Littler's Return to Work Resources for Employers: As the federal, state, and local governments are starting to unveil their return-to-work plans, employers are anxious to resume operations and get employees back to the workplace. At Littler, we understand that the “next normal” looks different for every organization, each with its own unique workforce, business goals, and concerns. To address these and other issues stemming from the current pandemic, Littler continues to build on its COVID-19 offerings through comprehensive resources that can help employers [start the return-to-work conversation](#).

Surge in COVID-19 Related Litigation: Since March 17, there have been 231 lawsuits (including 30 class actions) filed against employers due to alleged labor and employment violations related to the coronavirus. The filings have increased rapidly over the past few months:

- 7 complaints from March 17-31;
- 52 complaints in April;
- 100 complaints in May; and
- 72 complaints as of June 17.

California is now leading the way with 32 cases filed, with Florida (27), New Jersey (26), and Texas and New York (18 each) following closely behind. The most common complaints have focused on retaliation (69), breach of contract (including wrongful termination – 68) workplace safety (52), and wage & hour (42). The Healthcare industry has been hardest hit by COVID-19 employment litigation with 47 alleged violations of Leaves of Absence, Wage & Hour, Retaliation, and Wrongful Termination topping the list of claims.

Stateside Associates publishes a daily report about State and Local Government responses to the evolving situation.

To read their latest report, click [HERE](#).

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

To view their spreadsheet, click [HERE](#).

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

Many thanks—

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