

CRISIS PRACTICE

Coronavirus

COVID-19 Regulatory Roundup (as of June 4, 2020)

In the wake of the coronavirus (COVID-19) pandemic, regulatory agencies are issuing press releases and regulatory guidance affecting financial services firms on a near-daily basis to keep institutions and the public informed about regulatory activity and relief offered by regulators to deal with problems caused by the pandemic.

Below are summaries and links to guidance issued by the following US, UK, and European financial regulators concerning COVID-19. These summaries address issues unique to financial services firms and institutions, and do not address other, generally applicable laws and emergency orders:

SEC	CFTC
FINRA	Federal Reserve
Federal Reserve Bank of New York	OCC
FDIC	FTC
DOJ	FinCEN
NYDFS	FCA
Bank of England	European Commission
ECB	EBA
ESMA	

U.S.-BASED REGULATORS

SECURITIES AND EXCHANGE COMMISSION (SEC)

The SEC has created a [Coronavirus Response page on its website](#) that describes its operational initiatives, market-focused actions, guidance and targeted assistance and relief, investor protection efforts and other work of the agency in response to the effects of COVID-19.

Since late January, the SEC has issued the following notices:

- Statement from Chairman Clayton: [Impact of the Coronavirus](#) (Jan. 30, 2020)
 - Reminded issuers that the effects of COVID-19 and their response could, depending on a number of factors, be material to an investment decision; and directed staff to monitor issuer disclosures and provide guidance and assistance to issuers and other market participants.

- **Investor Alert – Look Out for Coronavirus-Related Investment Scams** (Feb. 4, 2020)
Reminded investors to be cautious of claims that a company’s product or service could detect, prevent, or cure coronavirus, especially in the case of microcap companies.
- Joint Statement: **Effects of the Coronavirus on Financial Reporting** (Feb. 19, 2020)
 - Urged issuers to work with their audit committees and auditors to ensure that their financial reporting, auditing and review processes meet the applicable requirements in light of unforeseen circumstances.
 - Emphasized the need to consider potential disclosure of subsequent events in the notes to the financial statements.
 - Articulated the Commission’s general policy to grant appropriate relief from filing deadlines in situations where, in light of circumstances beyond the control of the issuer, filings cannot be completed on time with the appropriate level of review and attention.
- Division of Investment Management Staff Statement: **Fund Board Meetings and Unforeseen or Emergency Circumstances Related to COVID-19** (March 4, 2020). Provided no action relief from in-person voting requirements for fund board meetings through June 15, 2020.
- Conditional Exemptive Order: **Providing Conditional Regulatory Relief and Assistance for Companies Affected by COVID-19** (March 4, 2020). Provided public companies with an additional 45 days to file disclosure reports that otherwise would have been due between March 1 and April 30, 2020.
- Staff Guidance: **Providing Guidance to Facilitate Continued Shareholder Engagement, Including at Virtual Annual Meetings, for Companies and Funds Affected by COVID-19** (March 13, 2020). Allowed public companies and investment companies to hold annual shareholder meetings virtually to avoid the need for in-person attendance.
- Conditional Exemptive Order: **Targeted Action to Assist Funds and Advisers, Permit Virtual Board Meetings and Provide Conditional Relief From Certain Filing Procedures for Funds and Investment Advisers Affected by COVID-19** (March 13, 2020). Provided relief from certain filing deadlines and requirements for in-person board meetings applicable to investment advisers and funds.
- Immediate Effectiveness of Proposed Rule Change: **Facilitating Continued Operations of the CBOE Options Exchange In Light Of Temporary Suspension of CBOE Physical Trading Floor** (March 14, 2020). Modified three trading rules to facilitate CBOE’s temporary closure of its trading floor.
- Staff No Action Letter: **Consolidated Audit Trail Reporting** (March 16, 2020). Extended deadlines for CAT implementation.
- Staff Guidance: **New and Updated Frequently Asked Questions for Investment Advisers on: Conducting Investment Advisory Business from a Temporary Location (Form ADV Item 1.F) & Inadvertent Adviser Custody During a Temporary Office Closure (Question II.1)** (March 16, 2020). Provided guidance concerning advisers temporarily conducting business from remote locations and related custody rule issues.
- Staff No Action Letter: **Affiliated Purchases Under Rule 17a-9 of the Investment Company Act** (March 19, 2020). No action relief temporarily allowing affiliates of money market funds to purchase securities from the funds to provide liquidity, if certain conditions are met.
- Immediate Effectiveness of Proposed Rule Change: **Facilitating NYSE Electronic Auctions in Light of Temporary Closure of Physical Trading Floor** (March 20, 2020). Modified trading rules to facilitate NYSE’s temporary closure of its trading floor.

- Conditional Exemptive Order: [Relief for Registered Transfer Agents and Certain other Persons Affected by COVID-19](#) (March 20, 2020). Providing temporary relief from certain regulations governing transfer agents, if applicable conditions are met.
- [SEC Provides Temporary Additional Flexibility to Registered Investment Companies Affected by Coronavirus](#) (March 23, 2020). Commission order providing temporary flexibility for mutual funds to borrow funds from affiliates to manage their portfolios.
- State Statement: [Regarding Rule 302\(b\) of Regulation S-T in Light of COVID-19 Concerns](#) (March 24, 2020). Outlining limited relief from requirement that each signatory to documents electronically filed with the Commission also manually sign a corresponding signature page.
- [Statement from Stephanie Avakian and Steven Peikin, Co-Directors of the SEC's Division of Enforcement, Regarding Market Integrity](#) (March 23, 2020). Statement from Enforcement Directors concerning the importance of maintaining the confidentiality of material information concerning COVID-19 impacts and following disclosure controls and procedures.
- [The Deep and Essential Connections Among Markets, Businesses, and Workers and the Importance of Maintaining those Connections in our Fight Against COVID-19](#) (March 24, 2020). Statement from Chairman Clayton concerning the impact of COVID-19 on the capital markets.
- [SEC Extends Conditional Exemptions from Reporting and Proxy Delivery Requirements for Public Companies, Funds, and Investment Advisers Affected by COVID-19](#) (March 25, 2020). Commission issued orders extending the time for public companies to file certain reports due between March 1, 2020 and July 1, 2020 by 45 days, and providing certain investment funds and investment advisers with additional time to hold in-person board meetings and meet certain filing and delivery requirements. These orders superseded and extended the extensions provided in the Commission's earlier orders issued on March 4 and March 13, 2020, respectively.
- [Division of Corporation Finance CF Disclosure Guidance: Topic No. 9 \(Coronavirus \(COVID-19\)\)](#) (March 25, 2020). Corp Fin guidance regarding coronavirus-related disclosures, the need to refrain from trading on material, non-public information or making selective disclosures relating to coronavirus, and reporting earnings and financial results.
- [Temporary Exemptive Order: Regarding Rule 606 of Regulation NMS Under the Exchange Act in Response to the Effects of COVID-19](#) (March 25, 2020). Order extending deadlines for broker-dealers to provide public disclosures concerning order routing, handling, and execution under Rule 606 of Regulation NMS.
- [SEC Provides Additional Temporary Regulatory Relief and Assistance to Market Participants Affected by COVID-19](#) (March 26, 2020). SEC provided additional regulatory relief related to (1) parties needing to gain access to make filings on the EDGAR system, (2) certain company filing obligations under Regulation A and Regulation Crowdfunding, and (3) a filing requirement for municipal advisors.
- [Public Statement of SEC Chairman Jay Clayton for FSOC Open Meeting](#) (March 26, 2020). Statement from Chairman Clayton about the impact of COVID-19 on the capital markets and the SEC's ongoing efforts to navigate the challenges presented.
- Staff No Action Letter: [Affiliated Purchases of Debt Securities under Section 17\(a\) of the Investment Company Act](#) (March 26, 2020). No action relief temporarily allowing certain registered open-end investment company affiliates to purchase debt securities from affiliated funds, if specific conditions are met.

- [SEC Announces Ad Hoc Meeting of Small Business Capital Formation Advisory Committee in Response to COVID-19 Challenges Faced By Small Businesses](#) (March 31, 2020). The SEC's Small Business Capital Formation Advisory Committee will host a video conference meeting on April 2, 2020, to discuss the challenges faced by small businesses.
- [SEC Small Business Advocate to Host Virtual Coffee Breaks Discussing Small Business Capital Raising](#) (April 1, 2020). The SEC's small business advocate is hosting a series of virtual coffee breaks to engage with the public to discuss updates, trends, and perspectives on how COVID-19 is impacting raising capital.
- *Press Release:*
 - [Agencies Will Consider Comments on Volcker Rule Modifications Following Expiration of Comment Period](#) (April 2, 2020).
 - [SEC Office of Compliance Inspections and Examinations Publishes Risk Alerts Providing Advance Information Regarding Inspections for Compliance with Regulation Best Interest and Form CRS](#) (April 7, 2020). Notwithstanding COVID-19, broker-dealers and registered investment advisors are expected to comply with Regulation Best Interest and Form CRS by the June 30, 2020 effective date.
 - SEC announced it is providing [temporary, conditional exemptive relief](#) for business development companies (BDCs) to enable them to make additional investments in small and medium-sized businesses, including those with operations affected by COVID-19 (April 9, 2020).
 - SEC Provides for [Phased CAT Broker-Dealer Reporting Timelines with Conditional Exemption](#) for Impacts of COVID-19 (April 20, 2020).
 - [SEC Announces Investor Advisory Committee Meeting Focusing on COVID-19](#) (April 27, 2020). The committee will hold two discussions: a discussion of public company disclosure considerations in a COVID-19 pandemic context, and a discussion of public company shareholder engagement/virtual shareholder meetings in a COVID-19 pandemic context.
 - [SEC Provides Temporary, Conditional Relief to Allow Small Businesses to Pursue Expedited Crowdfunding Offerings](#) (May 4, 2020). The Securities and Exchange Commission today announced that it is providing temporary, conditional relief for established smaller companies affected by COVID-19 that may look to meet their urgent funding needs through a Regulation Crowdfunding offering.
- *Public Statements:*
 - Chairman Clayton: [Investors Remain Front of Mind at the SEC: Approach to Allocation of Resources, Oversight and Rulemaking; Implementation of Regulation Best Interest and Form CRS](#) (April 2, 2020). A discussion of the Commission's approach to allocation of resources, oversight, and rulemaking in the face of various challenges caused by COVID-19, and the June 30, 2020 compliance date for Reg BI, Form CRS, and other requirements which remains in place based on the staff's extensive engagement with market participants and the significant benefit for Main Street investors these conduct and transparency initiatives provide.
 - Chairman Clayton: [Remarks at Special Meeting of the Investor Advisory Committee](#) (April 2, 2020).
 - Chairman Clayton: [Remarks at Special Meeting of the SEC Small Business Capital Formation Advisory Committee](#) (April 2, 2020).

- Commissioner Hester Peirce: [Remarks at Special Meeting of the SEC Small Business Capital Formation Advisory Committee](#) (April 2, 2020).
- Chief Accountant's [Statement on the Importance of High-Quality Financial Reporting in Light of the Significant Impacts of COVID-19](#) (April 3, 2020).
- Staff Guidance: [New Frequently Asked Questions for Investment Advisers on Qualified Custodian Service Disruptions Due to COVID-19](#) (April 3, 2020).
- Staff Statement: [Regarding Requirements for Certain Paper Submissions in Light of COVID-19 Concerns](#) (April 3, 2020).
- Commissioner Lee: [Regulatory Priorities and COVID-19](#) (April 6, 2020).
- Staff Guidance: The staff released answers to the following two questions related to COVID-19:
 - [Exchange Act Forms, Section 104. Form 10-K \(Question 104.18\)](#) (April 6, 2020).
 - [Exchange Act Forms, Section 112. Form 40-F \(Question 112.02\)](#) (April 6, 2020).
- [SEC's Clayton Says Companies Should Disclose Need for Bailout Funds](#) (April 7, 2020). During an interview on CNBC and then in a statement to the *Wall Street Journal*, Clayton stated "companies should be telling the market where they stand from a capital needs perspective." He encouraged companies to "disclose where they stand" with respect to bailout money and other sources of funds in order to limit speculation about companies' plans.
- Commissioner Elad Roisman: [Rulemaking in the Time of COVID-19](#) (April 8, 2020).
- Chairman Clayton: [Statement at Open Meeting on Securities Offering Reform for Business Development Companies and Closed-End Investment Companies](#) (April 8, 2020). Clayton's statements discussed rules being adopted by the SEC related to investment companies, including those that invest in small and mid-size businesses "that are critical to our nation's economic recovery."
 - Conditional Exemptive Order issued by the Commission and Staff: [Providing Temporary Relief for Business Development Companies Making Investments in Small and Medium-sized Businesses](#) (April 8, 2020).
- Staff Guidance: [Conducting Annual Meetings in Light of COVID-19 Concerns](#) (April 8, 2020).
- Chairman Clayton and William Hinman: [The Importance of Disclosure – For Investors, Markets and Our Fight Against COVID-19](#) (April 8, 2020). The statement notes that public companies will be issuing earnings releases in the coming weeks and conducting analyst and investor calls, and it urges companies to provide as much information as is practicable.
- Staff Relief and Guidance: [Division of Corporation Finance Statement Regarding Requirements for Form 144 Paper Filings in Light of COVID-19 Concerns](#) (April 10, 2020).
- Staff Relief and Guidance: [Division of Investment Management Staff Statement on hearing Requests on Applications Filed Under the Investment Company Act of 1940 and Investment Advisors Act of 1940](#) (April 10, 2020). Due to the disruptions caused by COVID-19, the Commission will be requiring interested persons to submit written hearing requests by sending an e-mail.
- Staff Statement: [Importance of Delivering Timely and Material Information to Investment](#)

- Company Investors** (April 14, 2020). The statement focuses on updating prospectuses and financial statements, and delivering information to fund investors.
- FAQs: **Division of Investment Management Coronavirus (COVID-19) Response** (April 15, 2020). The staff of the Division of Investment Management prepared responses to questions about funds and advisers affected by COVID-19.
 - FAQs: **Concerning the COVID-19 Pandemic and the Broker-Dealer Financial Responsibility Rules** (April 22, 2020). The staff of the Division of Trading and Markets provided guidance for broker-dealers concerning (1) the time to transmit customer checks, and (2) the time to conduct the quarterly securities count of physical certificates. For each, the SEC stated that its staff would not recommend enforcement action against a broker-dealer for untimely activity during April, May, or June, provided they took certain actions set forth in the FAQ.
 - Chairman Clayton: **Remarks to the Special Meeting of the Investor Advisory Committee** (April 4, 2020). Includes discussion of the importance of keeping markets functioning and the importance of keeping investors and markets apprised about the evolving impact of, and responses to, COVID-19 and the difference in the questions companies are addressing during this earnings season due to COVID-19.
 - Chairman Clayton and Rebecca Olsen, Director, Office of Municipal Securities: **The Importance of Disclosure for our Municipal Markets** (May 4, 2020). The Effects of COVID-19 Have Raised Uncertainties Regarding the Financial Status of State and Local Governments and Special Purpose Entities; Municipal Securities Issuers are Encouraged to Provide Updated Financial and Other Disclosures; Financial Professionals are Encouraged to Discuss These Matters With Main Street Investors.
 - Chairman Clayton and S.P. Kothari: **COVID-19 Market Monitoring Group — Update and Current Efforts** (May 13, 2020). SEC Chairman Jay Clayton and Chief Economist and Director of the Division of Economic and Risk Analysis S.P. Kothari issued a Public Statement to update and report current efforts made by the COVID-19 Market Monitoring Group. The statement was intended to provide investors, market participants, and the general public with information about the SEC's ongoing efforts, including those concerning its coordination with domestic and foreign regulatory partners and public sector officials, and to provide updated information about medium- and longer-term market analysis work streams.
 - Chairman Clayton: **Remarks to the Financial Stability Oversight Council** (May 14, 2020). SEC Chairman Jay Clayton offered remarks to the Financial Stability Oversight Council. Chair Clayton discussed the ongoing efforts of the Commission in three areas of primary responsibility from a systemic risk point of view - market function, market monitoring, and corporate and other issuer disclosures. He also praised the rapid fiscal, monetary and financial regulatory response to market and economic effects of COVID-19, which he called remarkable and appropriate.
 - Chairman Clayton: SEC Chairman Jay Clayton instructed his staff that the vast majority of its 4,000 employees will remain working remotely through at least July 15, according to a **Bloomberg article published yesterday** (May 19, 2020). The article -- which the SEC declined to comment on -- quoted an internal email that Clayton was said to have sent late last week, saying "I expect any change in operational posture after July 15 will be gradual and driven by the needs of the agency, the circumstances of the individual and, most importantly, health and safety guidelines."
 - Press Release: **SEC Issues Agenda for May 27 Meeting of the Asset Management Advisory Committee** (May 21, 2020). The meeting will include a discussion of matters relating to AMAC's subcommittees and to COVID-19 and the asset management industry.

- Chairman Clayton: [Opening Remarks at the Meeting of the Asset Management Advisory Committee](#) (May 27, 2020). Chair Clayton spoke broadly about the SEC's response to COVID-19 and pointed out the pivotal role that the asset management industry has in facilitating orderly markets and generating and absorbing capital flows. On the primary topics for the Committee meeting, Clayton stated "on private investments and on environmental, social, and governance (or, "ESG") issues. I have spoken at length on issues in both areas [and] I believe I have made it clear that, while I believe that in many cases one or more "E" issues, "S" issues, or "G" issues are material to an investment decision, I have not seen circumstances where combining an analysis of E, S and G together, across a broad range of companies, for example with a "rating" or "score," particularly a single rating or score, would facilitate meaningful investment analysis that was not significantly over-inclusive and imprecise." Clayton also spoke on the topic of inclusion and diversity and expressed his support for the Commission's continued efforts to expand opportunities to participate in the investment management industry.
- [The SEC issued an Order under section 17A and section 36 of the Securities Exchange Act of 1934 extending temporary exemptions from specified provisions of the Exchange Act and certain rules thereunder](#) (May 28, 2020). The Commission understands from transfer agents and their representatives, as well as other persons, that COVID-19 may continue to present challenges in timely meeting certain of their obligations under the federal securities laws and for this reason and the reasons stated in the Order originally granting the Exemptions, the Commission finds that extending the Exemptions until June 30, 2020, pursuant to its authority under Sections 36 and 17A(c)(1) of the Exchange Act, is appropriate in the public interest and consistent with the protection of investors.
- [SEC Chairman Jay Clayton made remarks at the SEC's meeting of the Fixed Income Market Structure Advisory Meeting](#) (June 1, 2020). Among other things, Chair Clayton discussed the impacts COVID-19 is having on the municipal securities markets, and stressed the importance of credit ratings to both investors and issuers in light of the volatility and broad economic stress caused by the pandemic.

COMMODITY FUTURES TRADING COMMISSION (CFTC)

The CFTC has created a [Coronavirus Response page](#) to highlight the Commission's actions related to COVID-19.

The CFTC has issued a series of temporary, targeted relief to designated market participants designed to help facilitate orderly trading and liquidity in the U.S. derivatives markets:

- [CFTC Letter No. 20-02](#): Temporary Relief for Members of Designated Contract Markets and Swap Execution Facilities (March 17, 2020). Provided no action relief from certain time-stamping requirements through June 30, 2020.
- [CFTC Letter No. 20-03](#): Temporary Relief for Futures Commission Merchants and Introducing Brokers (March 17, 2020). Provided no action relief from requirements to keep records of oral communications and time stamps, and extended deadline for furnishing CCO's annual report.
- [CFTC Letter No. 20-04](#): Temporary Relief for Floor Brokers (March 17, 2020). Provided no action relief from requirements to keep records of oral communications and time stamps, as well as requirements to be physically present at a trading location.
- [CFTC Letter No. 20-05](#): Temporary Relief for Retail Foreign Exchange Dealers (March 17, 2020). Provided no action relief from requirements to keep records of oral communications and time stamps.
- [CFTC Letter No. 20-06](#): Temporary Relief for Swap Dealers (March 17, 2020). Provided no action

relief from requirements to keep records of oral communications and time stamps, and extended deadline for furnishing CCO's annual report.

- **CFTC Letter No. 20-07:** Temporary Relief for Swap Execution Facilities (March 17, 2020). Provided no action relief from requirements to keep records of voice communications.
- **CFTC Letter No. 20-08:** Temporary Relief for Swap Execution Facilities (March 17, 2020). Provided no action relief extending deadline for furnishing CCO's annual report and Q4 financial report.
- **CFTC Letter No. 20-09:** Temporary Relief for Designated Contract Markets (March 17, 2020). Provided no action relief from certain audit trail requirements.
- **CFTC Letter No. 20-10:** No-Action Position for Excluding Certain Commodity Swaps from Major Swap Participant Registration Threshold Calculation of an Insured Depository Institution (March 20, 2020). Provided no action relief to an IDI from considering energy-related commodity swaps in determining whether the institution must register with the CFTC as a major swap participant.
- **CFTC Letter No. 20-11:** No-Action Positions for Commodity Pool Operators in Response to the COVID-19 Pandemic (March 20, 2020). Provided no action relief from certain filing deadlines.
- **CFTC Letter No. 20-12:** Temporary Relief for foreign affiliates of certain futures commission merchants (FCMs) that are exempt from registration with the Commission by CFTC Regulation 30.5. These foreign affiliates can accept orders from U.S. persons for execution on U.S. contract markets in the event an affiliated FCM's U.S. personnel are unable to handle the order flow of U.S. customers due to their absence from normal business sites. The relief expires on September 30, 2020.
- **Agencies Will Consider Comments on Volcker Rule Modifications Following Expiration of Comment Period** (April 2, 2020). Five federal agencies announced they will extend the deadline to submit comments on proposed Volcker Rule modifications to April 30, 2020. The agencies will continue to consider comments regarding their proposal to modify the Volcker Rule's general prohibition on banking entities investing in or sponsoring hedge funds or private equity funds because of potential disruptions resulting from the coronavirus.
- **CFTC Issues COVID-19 Customer Advisory on Fee Scams** (April 6, 2020). CFTC issued a COVID-19 customer advisory on fee scams. CFTC issued its second Customer Advisory informing the public to be on alert for frauds seeking to profit from recent job losses due to the COVID-19 (coronavirus) pandemic.
- **CFTC to Hold an Open Commission Meeting on April 14** (April 7, 2020). CFTC rescheduled the postponed March 31 open meeting for Tuesday, April 14, 2020. The meeting will be held via conference call, and the Commission will consider several proposed and final rules, as well as administration of comment periods.
- **CFTC Extends Certain Comment Periods in Response to COVID-19** (April 10, 2020). CFTC announced that it has voted to extend certain currently-open comment periods in light of COVID-19. The extensions encompass rules proposed by the Division of Market Oversight for which current comment periods started in January and February of 2020.
- **Commissioner Rostin Behnam:** Dissenting Statement Regarding CFTC's Extension of Currently Open Comment Periods in Response to the COVID-19 Pandemic (April 10, 2020).
- **CFTC Letter No. 20-14:** CFTC Unanimously Approves 3 Proposed Rules, 2 Final Rules at April 14 Open Meeting (April 14, 2020). At its open meeting today, which was held via conference call, the CFTC unanimously approved three proposed rules and two final rules. Each of the commissioners released a statement related to the meeting:
 - **Chairman Tarbert, Commissioner Quintenz, Commissioner Behnam, Commissioner**

[Stump, and Commissioner Berkovitz](#) each issued a statement related to the April 14, 2020 open meeting.

- [CFTC Letter No. 20-15](#): CFTC Provides Further Relief to Market Participants in Response to COVID-19 (April 23, 2020). CFTC's Division of Swap Dealer and Intermediary Oversight announced additional targeted no-action relief to futures commission merchants and introducing brokers in response to the pandemic. The relief addresses net capital treatment of cover loans related to the CARES Act.
- [CFTC Letter No. 20-16](#): CFTC Provides Additional Relief to Market Participants in Response to COVID-19 (April 24, 2020). CFTC's Division of Swap Dealer and Intermediary Oversight announced additional targeted no-action relief to registrants listing new principals and to applicants for registration as associated persons from the requirement to submit a fingerprint card for any such principal or AP registration applicant. The relief lasts until July 23, 2020 or until the National Futures Association notifies the public that it has resumed processing fingerprints, whichever is earlier. The announcement lays out certain requirements that must be met to qualify for the relief.
- [CFTC Issues COVID-19 Customer Advisory on Commodity ETPs and Funds](#) (May 22, 2020). CFTC issued a [Customer Advisory](#) regarding purchasing certain investment vehicles in hopes of profiting from changes in markets due to coronavirus. Specifically, CFTC noted that there's been recent volatility due to the pandemic, prompting investors to purchase shares of trading vehicles that use futures contracts or other commodity interests, in hopes of profiting from a recovery in particularly commodity prices. CFTC warned such profits may not be realized, as the vehicles may not behave like traditional exchange-traded funds or mutual funds that invest in stocks, bonds, or other asset classes.
- [CFTC to Hold an Open Commission Meeting on May 28](#) (May 22, 2020). CFTC set an open meeting for May 28, 2020. The Commission will consider a proposed rule providing an exemption from registration for foreign persons acting as commodity pool operators on behalf of offshore commodity pools, as well as an interim final rule extending the compliance schedule for initial margin requirements for uncleared swaps in response to the pandemic.
- [The CFTC held an open meeting in which it unanimously approved an interim final rule to grant an extension of the compliance schedule for initial margin requirements for uncleared swaps in response to operational challenges certain entities are facing due to the COVID-19 pandemic](#) (May 28, 2020). The CFTC also published remarks from the meeting from [Chairman Heath Tarbert](#) and [Enforcement Director James McDonald](#).

The CFTC also published a [COVID-19 Customer Advisory](#) to advise the public to be on alert for frauds seeking to profit from recent market volatility related to COVID-19.

FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)

FINRA has a [COVID-19 / Coronavirus resource page on its website](#) that contains, among other things, member guidance and answers to [frequently asked questions](#).

FINRA issued its primary coronavirus-related guidance in [Regulatory Notice 20-08](#), which reminded member firms to consider pandemic-related business continuity planning and provided guidance and regulatory relief to member firms from some regulatory requirements. (March 9, 2020).

The Notice provided guidance concerning the following topics related to the pandemic:

- Review of member firm business continuity plans to consider pandemic preparedness;
- Supervision and oversight obligations in light of remote offices or telework arrangements;
- Heightened cybersecurity risks;
- Temporary suspension of certain Form U4/BR updates for office of employment addresses;

- Emergency Office Relocations and related heightened supervision;
- Communicating with customers and related supervisory control policies and procedures; and
- Communicating with FINRA and member firm emergency contacts.

The Notice further provided regulatory relief concerning:

- Extensions of time for regulatory filings, responses to FINRA inquiries, matters and investigations upon a showing of need;
- Extensions of time for expiring qualification examinations and regulatory element continuing education; and
- Obligations of registered persons who are called into active duty for military and national guard service.

FINRA's website also contains [links to guidance](#) concerning the following topics:

- FINRA Operating Status
- Regulatory and Information Notices
- Frequently Asked Questions
- SEC Guidance
- Impact on Arbitration & Hearings
- Impact on FINRA-administered Exams
- Fingerprints
- Impact on FINRA's Membership Application Program
- Impact on FINRA Events & Conferences
- Investor Education, including information on COVID-19-related fraud schemes
- State "Shelter-in-Place" and "Stay-at-Home" Orders

Additional Guidance

- FINRA issued a [Uniform Practice Advisory](#) (March 12, 2020) Notified issuers that certain Company-Related Action Submissions would not be deemed "late" if the issuer was unable to timely file as a result of the pandemic.
- [Regulatory Operations Update](#) (March 23, 2020). Reported that FINRA remains fully operational during the COVID-19 outbreak through the support remote work capabilities.
- [FINRA Provides Temporary Extension of Time for Submission of Fingerprint Information Under Rule 1010\(d\)](#) (March 24, 2020) Announced temporary extension of time for submission of fingerprint information under 1010(d). Members that submitted, or will submit, an applicant's initial or transfer Form U4 between February 15, 2020 and May 30, 2020, will have until June 29, 2020 to submit the necessary fingerprint information.
- [Frequently Asked Questions Related to Regulatory Relief Due to the Coronavirus Pandemic](#) (March 24, 2020). FINRA provided answers to common questions concerning: advertising regulation; anti-money laundering; best execution; broker-dealer registration; business continuity planning; filing extensions for annual reports and FOCUS reports; fingerprint information; individual registration; qualification examinations; Rule 4530 reporting requirements; and supervision.
- [State "Shelter-in-Place" and "Stay-at-Home" Orders](#) (March 25, 2020). FINRA provided a list of state orders of which it was aware.

- Information Notice – [Cybersecurity Alert: Measures to Consider as Firms Respond to the Coronavirus Pandemic](#) (COVID-19) (March 26, 2020). FINRA provided firms and associated persons with measures they may use to help strengthen their cybersecurity controls in areas where risks may increase in the current environment.
- [SEC Guidance and Resources Relevant to Member Firms](#) (March 27, 2020). FINRA provided links to SEC guidance related to coronavirus.
- [CARES Act 2020: Retirement Fund Access and Student Loan Relief](#) (April 10, 2020). FINRA issued an investor alert to summarize the CARES Act provisions that provide temporary support related to retirement assets and student loan payments to help Americans deal with the economic impacts of the pandemic.
- [Regulatory Notice 20-12](#) (April 4, 2020). FINRA issued a notice warning member firms to be on alert for fraudulent phishing emails purporting to be from FINRA. According to [its related announcement](#), there is a widespread ongoing phishing campaign that involves mass distribution of fraudulent emails purporting to be from FINRA officers, and that, in some cases, the email directed the recipient to a website prompting the user to enter their Microsoft Office or SharePoint password. Examples of such fraudulent emails were attached to the announcement and Notice.
- [FINRA filed with the SEC a Proposed Rule Change to temporarily amend certain timing, method of service and other procedural requirements in FINRA Rules during the outbreak of the coronavirus disease \(COVID-19\)](#) (May 8, 2020). FINRA proposed temporary rule changes to: (i) allow, and in some instances require, FINRA to serve certain documents by email; (ii) require that applicants, respondents, and other parties file or serve documents by electronic mail in connection with specified proceedings and processes, unless the parties agree to an alternative method of service; (iii) provide extensions of time to FINRA staff, respondents and other parties in connection with certain adjudicatory and review processes; and (iv) allow for oral arguments before the National Adjudicatory Council (“NAC”) to be conducted by video conference. These temporary rules will expire June 15, 2020, unless extended by a subsequent proposal.
- [FINRA issued Regulatory Notice 20-16 titled FINRA Shares Practices Implemented by Firms to Transition to, and Supervise in, a Remote Work Environment During the COVID-19 Pandemic](#) (May 28, 2020). FINRA prepared this *Notice* to share common themes FINRA observed through discussions with small, mid-size and large firms about the steps they reported taking to transition their associated persons and supervisory procedures to a remote work environment. In particular, FINRA focused on providing guidance concerning general supervision, trading supervision, supervision of communications with customers, and branch inspections.
- [FINRA, the SEC and the North American Securities Administrators Association \(NASAA\) Staff jointly issued a warning](#) to investors about promoters targeting retirement accounts, as well as to provide a few key considerations for investors thinking of using 401(k) withdrawals or loans to purchase securities (June 3, 2020). The CARES Act provided relief for individuals affected by the COVID-19 pandemic to gain access to up to \$100,000 of their retirement savings without being subject to early withdrawal penalties and with an expanded window for paying the income tax they owe on the amounts they withdraw. As a consequence, regulators have observed unscrupulous promoters using these benefits to encourage investors to take money from their 401(k)s or traditional IRAs, not for current emergency financial needs, but to buy often riskier investments in an account at a firm the promoter recommends or in the investor's existing account. The warning also provided factors for investors to consider prior to selling or borrowing against a retirement account to make new investments in securities.

THE FEDERAL RESERVE

The Federal Reserve has created a [COVID-19 Resources page](#) on its website that contains a series of links to coronavirus-related press releases:

- [Statement from Chair Powell](#) (February 28, 2020). Described general economic strength and the monitoring activities of the Federal Reserve.
- [Federal Reserve issues FOMC statement | Press Conference](#) (March 3, 2020). Announcement that the federal funds rate was lowered.
- [2020 National Interagency Community Reinvestment Conference is postponed](#) (March 5, 2020). Postponement of conference out of health concerns; no new date announced.
- [Agencies encourage financial institutions to meet financial needs of customers and members affected by coronavirus](#) (March 9, 2020). State and federal regulators urged financial institutions to work constructively with customers and borrowers, and stated that safe and sound practices would not be criticized by supervisors.
- [SR 20-3 / CA 20-2: Interagency Statement on Pandemic Planning](#) (March 10, 2020). Detailed interagency statement on planning for a pandemic, how that differed from ordinary business continuity planning and list of information sources.
- [SR 20-4 / CA 20-3: Supervisory Practices Regarding Financial Institutions Affected by Coronavirus](#) (March 13, 2020). Listed ways in which financial institutions could work constructively with customers and borrowers as well as ways in which federal regulators might ease the operational requirements of some regulations.
- [Coordinated central bank action to enhance the provision of U.S. dollar liquidity](#) (March 15, 2020). Announced changes in central bank swap lines to increase dollar liquidity.
- [Federal Reserve issues FOMC statement](#) (March 15, 2020). Announced a further lowering of the federal funds rate plus a number of other actions to enhance market liquidity.
- [Federal Reserve actions to support the flow of credit to households and businesses](#) (March 15, 2020). Announced steps to ease liquidity by way of the discount window, intraday credit, modified expectations regarding capital and liquidity buffers and reserve requirements.
- [Federal banking agencies encourage banks to use Federal Reserve discount window](#) (March 16, 2020). Further announcement regarding availability of discount window borrowings.
- [Federal Reserve Board announces establishment of a Primary Dealer Credit Facility \(PDCF\) to support the credit needs of households and businesses](#) (March 17, 2020). Contained a term sheet describing the manner in which funds would be made available to primary dealers so that market liquidity is maintained.
- [Federal Reserve Board announces establishment of a Commercial Paper Funding Facility \(CPFF\) to support the flow of credit to households and businesses](#) (March 17, 2020). Contained a term sheet describing the availability of funds to back commercial paper, in order to support the commercial paper market.
- [Federal banking agencies provide banks additional flexibility to support households and businesses](#) (March 17, 2020). Urged financial institutions to help customers prudently and attached a statement on how using funds held as buffers generally would not result in ban on capital distributions, such as dividends.
- [Federal Reserve Board broadens program of support for the flow of credit to households and businesses by establishing a Money Market Mutual Fund Liquidity Facility \(MMLF\)](#) (March 18, 2020). Established a facility to help prevent money market funds from breaking the buck and undermining liquidity and savings.

- **Federal Reserve Board encouraged by increase in discount window borrowing to support the flow of credit to households and businesses** (March 19, 2020). Expressed satisfaction that the discount window was being used and that use was not considered to stigmatize an institution.
- **Federal Reserve announces the establishment of temporary U.S. dollar liquidity arrangements with other central banks** (March 19, 2020). Announced the establishment of dollar swap facilities with additional central banks around the world.
- **Federal bank regulatory agencies issue interim final rule for Money Market Liquidity Facility** (March 19, 2020). Adopted interim final rule that excluded assets acquired pursuant to Facility from various ratios, due to lack of recourse.
- **SR 20-5: Questions and Answers (Q&As) on Statement Regarding the Use of Capital and Liquidity Buffers** (March 19, 2020). Explained some aspects of the regulatory treatment of these buffers during the crisis.
- **Coordinated central bank action to further enhance the provision of U.S. dollar liquidity** (March 20, 2020). Announced increase in the use of 7-day dollar swap facilities through the end of April.
- **Federal Reserve Board expands its program of support for flow of credit to the economy by taking steps to enhance liquidity and functioning of crucial state and municipal money market** (March 20, 2020). Expanded the use of liquidity measures to cover the markets for state and local government securities.
 - **Term Sheet – Money Market Mutual Fund Liquidity Facility**
- **Money Market Mutual Fund Liquidity Facility (MMLF) FAQs** (March 21, 2020). Specifies the terms upon which the Boston Fed will make funds available for the purchase of assets from money market funds.
- **Agencies provide additional information to encourage financial institutions to work with borrowers affected by COVID-19** (March 22, 2020). Multi-agency release to encourage financial institutions to offer loan modification relief to borrowers negatively impacted by COVID-19.
- **Federal Reserve issues FOMC statement** (March 23, 2020). Federal Reserve Open Market Committee announces further efforts to support the Treasury and agency mortgage-backed securities markets.
- **Federal Reserve announces extensive new measures to support the economy** (March 23, 2020). The Federal Reserve in this announcement summarizes all of the different market support it has taken so far and explains their purpose.
- **Federal Reserve Board announces technical change to support the U.S. economy and allow banks to continue lending to creditworthy households and businesses** (March 23, 2020) The Federal Reserve Board makes technical change in the requirements regarding total loss absorbing capacity, so that banks' lending capacity is not unnecessarily affected.
- **Federal Reserve Board announces implementation delay for changes to its Payment System Risk Policy regarding intraday credit** (March 24, 2020). The Federal Reserve Board postpones changes to the daylight overdraft rules as they affect US branches and agencies of foreign banks.
- **Federal Reserve provides additional information to financial institutions on how its supervisory approach is adjusting in light of the coronavirus** (March 24, 2020). The Federal Reserve Board adjusts the timing of supervisory activities in order to focus on the coronavirus crisis.
- **Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19**

(March 26, 2020). The Federal bank regulators are encouraging their institutions to make responsible small-dollar loans and engage in responsible workout efforts.

- **Federal Reserve offers regulatory reporting relief to small financial institutions affected by the coronavirus** (March 26, 2020). The Federal Reserve Board provides institutions with \$5 billion or less in assets some extra time to file certain reports.
- **Agencies announce two actions to support lending to households and businesses** (March 27, 2020). The Fed, FDIC and OCC jointly announced changes relating to calculating counterparty credit risk for derivatives and the application of CECL.
- **FIMA Repo Facility FAQs** (March 31, 2020). Federal Reserve is establishing a new, temporary repo facility available to central banks to allow them to sell Treasury securities without having to burden the regular market for such securities.
- **Federal Reserve Board announces temporary change to its supplementary leverage ratio rule to ease strains in the Treasury market** (April 1, 2020). The Federal Reserve Board is excluding reserve deposits and holdings of Treasury securities from the calculation of supplementary leverage ratio requirements in order to allow banks to trade more freely (and provide more liquidity) in the Treasury securities market.
- **Agencies announce changes to the community bank leverage ratio** (April 6, 2020). The federal banking regulators implement the leverage ratio changes called for in section 4012 of the CARES Act for banks with less than \$10 billion in consolidated assets.
- **Federal Reserve will establish facility to facilitate lending to small businesses via the Small Business Administration's Paycheck Protection Program (PPP) by providing financing backed by PPP loans** (April 6, 2020). Additional details will be announced this week.
- **Federal Reserve order narrowly modifies growth constraints imposed on Wells Fargo** (April 8, 2020). Federal Reserve Board announces, due to the extraordinary disruptions from the coronavirus, that it will temporarily and narrowly modify the growth restriction on Wells Fargo so that it can provide additional support to small businesses.
- **Federal Reserve announces its Paycheck Protection Program Liquidity Facility is fully operational and available to provide liquidity to eligible financial institutions** (April 16, 2020). This program essentially refinances the paycheck protection loans made by banks so that they can maintain their liquidity.
- **The Federal Reserve eases the interlock rules** that make it difficult to make PPP loans to borrowers that are directors or officers of banks (April 17, 2020).
- **Federal Reserve Board outlines the extensive and timely public information it will make available regarding its programs to support the flow of credit to households and businesses and thereby foster economic recovery** (April 23, 2020). The Fed announces how it intends to fulfill its reporting requirements under section 13(3) of the Federal Reserve Act with respect to its COVID-19 programs.
- **Federal Reserve announces it is working to expand access to its Paycheck Protection Program Liquidity Facility (PPPLF) for additional SBA-qualified lenders as soon as possible** (April 23, 2020).
- **Federal Reserve Board announces temporary actions aimed at increasing the availability of intraday credit extended by Federal Reserve Banks** (April 23, 2020).
- **Federal Reserve Board announces interim final rule to delete the six-per-month limit on convenient transfers from the "savings deposit" definition in Regulation D** (April 24, 2020). The Fed modifies the definition of "savings deposit" slightly to allow more transfers during the COVID-19 pandemic.

- [The Federal Reserve and the FDIC extend, because of the COVID-19 crisis, the period for commenting on proposed guidance for the living wills of large foreign banks](#) (April 27, 2020).
- [The Federal Reserve has expanded the Municipal Liquidity Facility to \\$500 billion and released a term sheet](#) (April 27, 2020) The term sheet described, among other things, eligible notes and issuers, pricing and fees, and eligible use of proceeds.
- [The Federal Reserve Board announces it is expanding the scope and eligibility for the Main Street Lending Program, including links to revised term sheets](#) (April 30, 2020). Based on feedback from the public, the Board decided to expand the loan options available to businesses, and increased the maximum size of businesses that are eligible for support under the program.
- [The Federal Reserve expands access to its Paycheck Protection Program Liquidity Facility \(PPPLF\) to all lenders under the PPP program and expands the collateral that can be pledged](#) (April 30, 2020).
- [Federal Reserve Supervision and Regulation Report](#) (May 8, 2020). The report summarizes banking conditions and the Federal Reserve's supervisory and regulatory activities, in conjunction with semiannual testimony before Congress by the Vice Chairman for Supervision.
- [Federal financial regulatory agencies issue interagency policy statement on allowances for credit losses and interagency guidance on credit risk review systems](#) (May 8, 2020). The federal financial regulatory agencies issue a policy statement on allowances for credit losses in order to establish uniformity in the application of the new CECL standards as well as interagency guidance on credit risk review systems.
- [Federal Reserve Board publishes updates to the term sheet for the Municipal Liquidity Facility to provide pricing and other information, with links to new FAQs](#) (May 11, 2020).
- [The Federal Reserve Board published updates to the term sheet for the Term Asset-Backed Securities Loan Facility \(TALF\) and announces information to be disclosed monthly for the TALF and the Paycheck Protection Program Liquidity Facility](#) (May 12, 2020). The Board also outlined the information it will publicly disclose on a monthly basis the name of each participant in both facilities; the amounts borrowed, interest rate charged, and value of pledged collateral; and the overall costs, revenues, and fees for each facility. Related information for TALF and PPP, including term sheets and FAQs, is linked to the announcement.
- [Federal Reserve Board Vice Chair Quarles testified as to the different steps the Fed has taken to assist in resolving the financial crisis created by the pandemic](#) (May 13, 2020) Among other things, the Vice Chair's testimony described the more than 30 supervisory and regulatory actions the Federal Reserve has taken to ensure financial institutions could use the strength of the US banking system to support consumers, households, and businesses.
- [Federal Reserve Board issued its Report on the Economic Well-Being of U.S. Households.](#) (May 14, 2020) Not surprisingly, the Fed's report for April 2020 found that fewer adults reported that they were at least doing okay financially than had been the case 6 months earlier. The April supplemental survey showed that 72 percent of adults were either "doing okay" financially (43 percent) or "living comfortably" (29 percent). This is down from the 75 percent of adults who were at least doing okay financially and the 36 percent who were living comfortably in the fall of 2019. The report, downloadable data, and a video summarizing the survey's findings [were linked to the release.](#)
- The [Federal Reserve issued a Financial Stability Report](#) to present its current assessment of the resilience of the US financial system (May 15, 2020). Within the Report, the Fed discusses its framework for monitoring financial sector vulnerabilities caused by the pandemic and emphasizes four broad categories based on its research:

- Elevated **valuation pressures** that imply a greater possibility of outsized drops in asset prices;
- Excessive **borrowing by businesses and households** leaves them vulnerable to distress if their incomes decline or the assets they own fall in value;
- Excessive **leverage within the financial sector** increases the risk that financial institutions will not have the ability to absorb even modest losses when hit by adverse shocks;
- **Funding risks** expose the financial system to the possibility that investors will “run” by withdrawing their funds from a particular institution or sector

In the near term, the Fed noted, risks associated with the course of COVID-19 and its effect on the US and global economies remain high. In addition, there is potential for stresses to interact with preexisting vulnerabilities stemming from financial system or fiscal weaknesses in Europe, China, and emerging market economies. These risks have the potential to interact with other vulnerabilities identified in its report and pose additional risks to the US financial system.

- [Federal Reserve Board Chair Jerome H. Powell provided written testimony before the Senate Banking Committee](#) about the efforts of the Fed in connection with the Coronavirus and CARES Act and their relationships to the needs of the overall economy (May 18, 2020). Powell discussed the Fed’s preparation to launch the Main Street Lending Program, designed to provide loans to small and medium-sized businesses that were in good financial standing prior to the pandemic, and the many other tools the Fed is using under its Section 13(3) authority under current emergency circumstances. Powell concluded by reiterating the Fed’s commitment to disclose, on a monthly basis, names and details of participants in each facility; amounts borrowed and interest rate charged; and overall costs, revenues, and fees for each facility.
- [The Federal Reserve Board, FDIC, National Credit Union Administration, and OCC issued an interagency release concerning lending principles for offering responsible small dollar loans](#), which banks have been encouraged to extend during the pandemic (May 20, 2020). The release outlined core lending principles, including describing risk management practices and controls surrounding loan structures, pricing, underwriting, marketing and disclosures, and servicing safeguards.
- [The Federal Reserve Board announces an expansion in the number and type of entities eligible to directly use its Municipal Liquidity Facility](#) (June 3, 2020). The announcement included a [new term sheet](#) and [updated FAQs](#).

FEDERAL RESERVE BANK OF NEW YORK

The New York Fed recently released [a resource hub](#) with curated information for business owners, employees, nonprofit, and community organizations impacted by the coronavirus, or COVID-19. The hub is organized by topic and includes links to resources about:

- [Community Reinvestment Act & Regulatory Guidance](#)
- [Employees & Workers](#)
- [Financial Counseling & Credit Protection](#)
- [Health & Safety](#)
- [Housing](#)
- [Nonprofits & Community Organizations](#)
- [Small Businesses](#)

Press Releases

- **Statement Regarding Treasury Securities and Agency Mortgage-Backed Securities Operations** (March 23, 2020). The Federal Reserve Bank of New York provides some details about its open-market operational plans.
- **FAQs: Commercial Paper Funding Facility** (March 25, 2020). The Federal Reserve Bank of New York has published an FAQ with details about the structure of its upcoming Commercial Paper Funding Facility, including information about timing, eligibility and the manner in which paper can be sold.
- **Statement Regarding Agency Commercial Mortgage-Backed Securities Operations** (March 26, 2020). The Federal Reserve Bank of New York will increase support for agency-backed CMBS.
- **Commercial Paper Funding Facility will begin funding purchases of commercial paper on April 14, 2020** (April 6, 2020). The Federal Reserve Bank of New York opens the registration process for the Commercial Paper Funding Facility and releases additional information for April 14 launch, including an expanded set of FAQs.
- **FAQs: Commercial Paper Funding Facility** (April 10, 2020). The Federal Reserve Bank of New York has updated the previously-issued FAQs with details about the structure of its Commercial Paper Funding Facility.
- **FAQs: Commercial Paper Funding Facility** (April 13, 2020). The Federal Reserve Bank of New York has updated the FAQs regarding its commercial paper program.
- **The Federal Reserve Bank of New York permits digital signatures in connection with COVID-19** (April 23, 2020). In light of the COVID-19 crisis, the New York Fed wants to make pledging institutions aware that it will accept pledges of loan collateral that includes electronic signatures on loan documentation.
- **CPFF Daily Purchase Rates** (April 24, 2020). The New York Fed has begun publishing the interest rates on the commercial paper it is purchasing through the commercial paper facility set up in connection with COVID-19.
- **FAQs: Commercial Paper Funding Facility** (April 24, 2020). The Federal Reserve Bank of New York has provided a new set of FAQs regarding the Commercial Paper Funding Facility.
- **The NY Federal Reserve Bank has released FAQs regarding the Municipal Liquidity Facility** (April 27, 2020) Guidance concerned the purpose and design of the Facility, eligible issuers, eligible notes, and other terms.
- **FAQs: Primary Market Corporate Credit Facility and Secondary Market Corporate Credit Facility** (May 4, 2020). The New York Fed has issued an FAQ with new details about the Primary Market Corporate Credit Facility and Secondary Market Corporate Credit Facility.
- **The New York Fed has released Secondary Market Corporate Credit Facility Seller Certification Materials** (April 5, 2020).
- **The New York Fed issued FAQs for its Term Asset-Backed Securities Loan Facility (TALF)** (May 12, 2020). The FAQs address: general information about TALF; borrower eligibility; eligible collateral/asset-backed securities (ABS); eligible underlying assets for ABS; master trust agreements; collateral review; credit ratings; issuer certifications, auditor assurances and SBA documentation for newly issued ABS; haircuts; average life; interest rates; operational mechanics; loan subscription and closing; and TALF agents. The Federal Reserve stated that it will update these FAQs from time to time and encouraged interested parties to review its website for new FAQs or revisions to previously issued FAQs.
- **The New York Fed announced that the Secondary Market Corporate Credit Facility (SMCCF)**

[will begin purchases of exchange-traded funds \(ETFs\) on May 12](#) (May 11, 2020). As specified in the [term sheet](#), the SMCCF may purchase U.S.-listed ETFs whose investment objective is to provide broad exposure to the market for U.S. corporate bonds. The preponderance of ETF holdings will be of ETFs whose primary investment objective is exposure to U.S. investment-grade corporate bonds, and the remainder will be in ETFs whose primary investment objective is exposure to U.S. high-yield corporate bonds. The SMCCF will consider several additional factors in determining which ETFs will be eligible for purchase, including: the composition of investment-grade and non-investment-grade rated debt, the management style, the amount of debt held in depository institutions, the average tenor of underlying debt, the total assets under management, the average daily trading volume, and leverage, if any. Treasury has made \$37.5 billion of the \$75 billion equity investment it will make in the special purpose vehicle established by the Federal Reserve for SMCCF and PMCCF.

- The [Federal Reserve Bank of New York issued a Municipal Liquidity Facility Notice of Interest](#) (NOI) designed to provide the Bank with an indication of the Eligible Issuers that intend to participate in the facility (May 15, 2020). The NOI notes that the Facility is not a “first come, first served” program, and that an Eligible Issuer should only submit an NOI when it has determined its financial needs and schedule. The NOI links to the [Facility’s term sheet and FAQs](#), and to a [schedule of maximum eligible notes \(\\$ million\) for each Eligible Issuer](#).
- [The Federal Reserve Bank of New York published Municipal Liquidity Facility Application Materials](#) (May 18, 2020). The New York Fed instructed that Eligible Issuers must prepare and submit an application to the Municipal Liquidity Facility after submitting a Notice of Interest with required supporting documentation. Required forms, certifications, and a sample application are linked to the release.
- [The Federal Reserve Bank of New York released a form of Master Loan and Security Agreement for the Term Asset-Backed Securities Loan Facility \(TALF\) program](#) (May 20, 2020).
- [The New York Fed issued new FAQs related to the TALF](#) program and for ease of keeping current on the revisions, the announcement [linked a copy of the redlined edits made since the latest FAQ update on May 12](#) (May 20, 2020).
- The New York Fed has released updated frequently asked questions for the [Commercial Paper Funding Facility \(CPFF\)](#), the [Primary Market and Secondary Market Corporate Credit Facilities](#), and the [Term Asset-Backed Securities Loan Facility \(TALF\)](#). These updates include clarification about which nationally recognized statistical rating organizations the facilities will accept ratings from. An updated [Form of Issuer and Sponsor Certification](#) for TALF was also posted (May 26, 2020).

OFFICE OF THE COMPTROLLER OF THE CURRENCY (OCC)

The OCC created a [COVID-19 \(Coronavirus\) Information Page](#) on its website with information to assist regulated institutions and their customers to manage the impact of the outbreak. The page provided the following links for use by national banks, federal savings associations, federal branches of foreign banks operating in the US, and their customers:

Consumer Information

- [Information to help protect yourself financially from the Consumer Financial Protection Bureau](#) (March 16, 2020). Provided suggestions about how to deal with reduced income, payments that come due and efforts by scammers to take advantage.
- [Answers to frequently asked questions from the Federal Deposit Insurance Corporation](#).

Responded to questions about the availability of funds from deposit accounts, the treatment of check clearing and certificates of deposit, and the extent to which banks would be open.

- [Assistance with questions and complaints regarding national banks and federal savings associations](#). Set forth guidelines about obtaining information or assistance, including online assistance.
- [Coronavirus Disease 2019 \(COVID-19\) Frequently Asked Questions for National Banks and Federal Savings Associations](#) (March 31, 2020). The OCC maintains an updated page of information about national banks and their reactions and responsibilities in connection with COVID-19.

News Releases

- [NR 2020-30 Agencies Encourage Financial Institutions to Meet Financial Needs of Communities Affected by Coronavirus](#) (March 9, 2020). See above under Federal Reserve.
- [NR 2020-32 Federal Banking Agencies Encourage Banks to Use Federal Reserve Discount Window](#) (March 16, 2020). See above under Federal Reserve.
- [NR 2020-34 Federal Banking Agencies Provide Banks Additional Flexibility to Support Households and Businesses](#) (March 17, 2020). See above under Federal Reserve.
- [NR 2020-36 Federal Bank Regulatory Agencies Issue Interim Final Rule for Money Market Liquidity Facility](#) (March 19, 2020). See above under Federal Reserve.

Supervisory Guidance

- [FFIEC Highlights Pandemic Preparedness Guidance](#) (March 6, 2020). See above under Federal Reserve.
- [OCC Bulletin 2020-13: Pandemic Planning: Updated FFIEC Guidance](#) (March 6, 2020). Transmitted FFIEC guidance.
- [OCC Bulletin 2020-15: Pandemic Planning: Working With Customers Affected by Coronavirus and Regulatory Assistance](#) (March 13, 2020). Brief version of steps described above under Federal Reserve, including ways to help customers while being prudent.
- [OCC Bulletin 2020-17: Pandemic Planning: Joint Questions and Answers Regarding Statement About the Use of Capital and Liquidity Buffers](#) (March 19, 2020). See above under Federal Reserve.
- [OCC Bulletin 2020-18: Money Market Liquidity Facility: Interim Final Rule](#) (March 19, 2020). See above under Federal Reserve.
- [OCC Bulletin 2020-19: Pandemic Planning: Joint Statement on Community Reinvestment Act Consideration for Activities in Response to COVID-19](#) (March 19, 2020). See above under Federal Reserve.
- [OCC Bulletin 2020-20: Use of Electronic Methods for Submission of Licensing Filings](#) (March 20, 2020). Recommended use of electronic methods for licensing filings.
- [OCC Revises Short-Term Investment Fund Rule](#) (March 22, 2020). The OCC temporarily modifies the terms pursuant to which national banks may maintain short-term investment funds in a fiduciary capacity.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

The FDIC has created a [Coronavirus \(COVID-19\) Information for Bankers and Consumers page on its website](#) with links to FAQs for those impacted by Coronavirus, divided by [financial institutions](#) and

[bank customers](#). The page also provides the following links to FDIC press releases and publicly issued letters:

Information for Use by Financial Institutions

- Financial Institution Letter: [Interagency Statement on Pandemic Planning](#) (March 6, 2020). Same as above under Federal Reserve and OCC, transmitting FFIEC guidance.
- Federal Financial Institutions Examination Council: [Interagency Statement on Pandemic Planning](#) (March 6, 2020). The FFIEC guidance, set forth above under Federal Reserve and OCC.
- Press Release: [Agencies Encourage Financial Institutions to Meet Financial Needs of Customers and Members Affected by Coronavirus](#) (March 9, 2020). Same as set forth above under Federal Reserve and OCC.
- Financial Institution Letter: [Regulatory Relief: Working with Customers Affected by the Coronavirus](#) (March 13, 2020). Same as OCC guidance above.
- Press Release: [Federal Banking Agencies Encourage Banks to Use Federal Reserve Discount Window](#) (March 16, 2020). See above under Federal Reserve.
- Press Release: [Federal Banking Agencies Provide Banks Additional Flexibility to Support Households and Businesses](#) (March 17, 2020). General statement of encouragement plus details about the use of funds held as capital and liquidity buffers.
- Financial Institution Letter: [Joint Statement on CRA Consideration for Activities in Response to the COVID-19](#) (March 19, 2020). Described ways in which assistance to customers could count towards satisfaction of Community Reinvestment Act requirements.
- Financial Institution Letter: [Frequently Asked Questions: For Financial Institutions and Consumers Affected by the Coronavirus](#) (March 19, 2020). Collected various documents and releases relating to the crisis and provided instructions about how to obtain additional information.
- Press Release: [FDIC Chairman Urges FASB to Delay Certain Accounting Rules Amid Pandemic](#) (March 19, 2020). Urged the FASB to delay the effectiveness of its upcoming rule on current expected credit losses and to relax certain other accounting requirements.
- Press Release: [Federal Bank Regulatory Agencies Issue Interim Final Rule for Money Market Liquidity Facility](#) (March 19, 2020). See above under Federal Reserve.
- Financial Institution Letter: [Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus](#) (March 22, 2020). See above under Federal Reserve.
- Press Release: [Agencies Provide Additional Information to Encourage Financial Institutions to Work with Borrowers Affected by COVID-19](#) (March 22, 2020). See above under Federal Reserve
- Financial Institution Letter: [Interagency Webinar on the Statement on Loan Modifications and Reporting for Institutions Working with Customers Affected by the Coronavirus](#) (March 25, 2020).
- Financial Institution Letter: [Identification of Essential Critical Infrastructure Workers During the COVID-19 Response Efforts](#) (March 26, 2020). The FDIC has distributed a letter regarding the identification of critical infrastructure workers in connection with governmental restrictions on office work and mobility.
- Financial Institution Letter: [FDIC Updates Steps to Protect Banks and Consumers and to Continue Operations](#) (March 27, 2020). The FDIC has updated its position on the operating

difficulties caused by the need for bank and FDIC employees to work from home.

- Financial Institution Letter: [Adjusting the Calculations for Credit Concentration](#) (March 30, 2020). The FDIC and the OCC are changing capital calculations for community banks that choose to take advantage of the lower leverage ratio made available to them.
- Financial Institution Letter: [Joint Statement on the Interaction of the CECL Revised Transition Interim Final Rule with Section 4014 of the Coronavirus Aid, Relief, and Economic Security Act](#) (March 31, 2020). Federal banking regulators explain the CECL relief in the CARES Act and set forth its effect on capital requirements.
- Financial Institution Letter: [New SBA and Treasury Programs Available for Small Business Relief](#) (April 2, 2020). FDIC advises the institutions it regulates about new sources of funding available under CARES and announces a new information link starting April 3.
- Financial Institution Letter: [Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus](#) (April 7, 2020). The Federal banking regulators and the CFPB articulate the relationship between earlier advice on acting constructively with borrowers affected by COVID-19 and the related provisions in the CARES Act.
- Press Release: [Regulatory Capital Rule: Paycheck Protection Program Lending Facility and Paycheck Protection Program Loans](#) (April 9, 2020). The Federal banking regulators adopt a regulatory capital rule dealing with paycheck protection loans.
- Financial Institution Letter: [Facilitating Real Estate-Related Transactions Affected by COVID-19](#) (April 14, 2020). The Federal banking regulators have loosened appraisal and evaluation requirements in connection with the coronavirus pandemic.
- Financial Institution Letter: [Banker Webinar: Revised Statement on Loan Modifications and Reporting for Institutions Working with Customers Affected by the Coronavirus](#) (April 16, 2020). The Federal banking regulators will be holding a webinar on the COVID-19-related accommodations regarding loan modifications.
- Financial Institution Letter: [Technical Corrections to the Revised Transition of the Current Expected Credit Losses Methodology for Allowances](#) (April 22, 2020). The Federal banking regulators publish technical corrections to the rule about the 5-year transition period to CECL.
- Financial Institution Letter: [Small Business Administration \(SBA\) and U.S. Department of Treasury Announce Availability of New Paycheck Protection Program Loans](#) (April 25, 2020). The FDIC publishes its own announcement regarding the availability of additional PPP loans.
- [The Federal bank regulatory agencies have adopted a temporary rule that neutralizes the liquidity coverage ratio consequences of participating in the PPP and the Money Market Fund Liquidity Facility](#) (April 5, 2020). In particular, the interim final rule facilitates participation in these facilities by neutralizing the Liquidity Coverage Ratio (LCR) impact associated with the non-recourse funding provided by these facilities. The rule does not otherwise alter the LCR or its calibration. The LCR rule requires large banks to hold a buffer of high-quality liquid assets so that they can meet their short-term liquidity needs.
- [The FDIC proposed new rules to mitigate the deposit insurance assessment effects of participation in the Paycheck Protection Program, the PPP Lending Facility, and the Money Market Mutual Fund Liquidity Facility](#). The proposed rule would: (1) remove the effect of participation in the PPP and PPPLF on various risk measures used to calculate an insured depository institution's (IDI's) assessment rate; (2) remove the effect of participation in the PPPLF and MMLF programs on certain adjustments to an IDI's assessment rate; (3) provide an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF, and; (4) remove the effect of participation in the PPPLF and MMLF programs when classifying IDIs as small, large, or highly complex for assessment purposes. To provide

certainty to insured depository institutions regarding the assessment effects of participating in these programs, the FDIC is proposing an effective date by June 30, 2020, and an application date of April 1, 2020, which would ensure that the changes are applied to assessments starting in the second quarter of 2020.

- **FDIC Chair Jelena McWilliams announced** that in light of the work banks are doing to help customers deal with the pandemic, the FDIC will not currently press forward with updating the Community Reinvestment Act (May 20, 2020).

Information for Use by Bank Customers

- Press Release: **Agencies Encourage Financial Institutions to Meet Financial Needs of Customers and Members Affected by Coronavirus** (March 9, 2020). See above under Federal Reserve.
- Press Release: **FDIC: Insured Bank Deposits are Safe; Beware of Potential Scams Using the Agency's Name** (March 18, 2020). Encouraged customers to trust in the safety of their deposits and avoid scams; also provided links to obtain further information.

FEDERAL TRADE COMMISSION (FTC)

The FTC has **created a page on its website that** outlines its operational initiatives and other work of the agency in response to the effects of COVID-19.

The FTC's Premerger Notification Office (PNO) has also **published guidance regarding changes to the Hart-Scott Rodino filing process**, which have also been adopted by the Department of Justice (DOJ), Antitrust Division, including:

- Starting on Tuesday, March 17 at 8:30AM, all HSR filings must be submitted via Accellion to the Agencies.
- The PNO and DOJ review of filings will continue as normal.
- If a filing is deficient, PNO staff will contact the filer to coordinate the submission of additional or amended materials. In general, the submission of a page or two will generally be permitted by email. If filings are more than a page or two, the filer will need to use Accellion, an electronic file transfer system, and PNO staff will be in touch as necessary.
- After the resumption of normal agency operations, all filing parties may have to submit hard copies or DVDs of filings made using the temporary e-filing system to both PNO and DOJ.
- PNO and DOJ will not be granting early termination during the use of the temporary e-filing system.

Press Releases

- **FTC, FDA Send Warning Letters to Seven Companies about Unsupported Claims that Products Can Treat or Prevent Coronavirus** (March 9, 2020). Published warning letters sent to seven companies alleged to have sold unapproved and potentially deceptive products to treat or prevent coronavirus.
- **FTC Outlines Agency's Response to Coronavirus Challenges** (March 17, 2020). Outlined measures to respond to circumstances associated with COVID-19 designed to provide health and safety and uphold continuity of mission to protect consumers and competition. Primary actions involve remote work for FTC employees and suspension of non-critical travel.
- **Federal Trade Commission and Justice Department Announce Expedited Antitrust Procedure and Guidance for Coronavirus Public Health Efforts** (March 24, 2020). Announced joint FTC-DOJ program to expedite review of COVID-19-related requests, and to resolve those addressing public health and safety within seven (7) calendar days of receiving all necessary

information.

- [FTC Chairman Joe Simons Outlines the Agency's Approach to Safeguarding Consumers during the Coronavirus Pandemic](#) (March 26, 2020). Announced agency's efforts to safeguard against coronavirus-related consumer fraud.
- [FTC to Resume Processing HSR Early Termination Requests on March 30](#) (March 27, 2020). FTC announced that on March 30 it will resume processing HSR early termination requests.
- [Antitrust review at the FTC: staying the course during uncertain times](#) (April 6, 2020). The FTC published information concerning its efforts to continue antitrust review during the COVID-19 era.
- [Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules](#) (April 15, 2020). For several dozen transactions the FTC granted requests for the early termination of the waiting period under the premerger notification rules.
- [Regulatory Review Schedule](#) (April 15, 2020). The FTC announced a modified ten-year regulatory review schedule and solicited public comments on a number of rules including, but not limited to: Prohibitions on Market Manipulation Rule; Duties of Creditors Regarding Risk-Based Pricing; Duties of Furnishers of Information to Consumer Reporting Agencies; and HSR Antitrust Improvements Act Coverage, Exemptions, and Transmittal Rules.
- [Small Business Financing: Considerations for Borrowers and Lenders During the Coronavirus Crisis](#) (April 15, 2020). The FTC Business Blog released a post for borrowers and lenders engaged in small business financing during the coronavirus crisis.
- [COVID-10 Scam Twitter Chat](#) (April 17, 2020): The FTC announced that a Twitter chat regarding Coronavirus-related scams will take place on April 22.
- [Coronavirus stimulus payment scams: What you need to know](#) (April 20, 2020). The FTC published information for consumers about potential stimulus-related scams.
- [New funding for Coronavirus SBA loans attracts scammers](#) (April 29, 2020). The FTC published guidance for avoiding scammers in the process of applying for funding under the coronavirus loans.
- [Coronavirus Scams: How Advocates Can Help Webinar](#) (May 14, 2020). The FTC announced an upcoming webinar to help companies and their clients avoid COVID-related scams.
- [Message of the Qualpay case: Heed possible signs of fraud](#) (June 1, 2020). Providing a blog post about its recent settlement with a payment processor, Qualpay, the FTC cautioned payment processors and those working with them against the dangers of ignoring indications of potential fraudulent activity by merchants.

DEPARTMENT OF JUSTICE (DOJ)

DOJ has established a [webpage describing announcements and policy changes](#) by the Department in response to COVID-19 and a separate website for [COVID-19-related fraud news](#).

Press Releases

- The [Justice Department urged members of the public to report suspected fraud schemes related to COVID-19](#) and [Attorney General Barr directed all U.S. Attorneys to prioritize the investigation and prosecution of Coronavirus-related fraud schemes](#). (March 16, 2020)
- In a follow-up memorandum, Deputy Attorney General Jeffrey Rosen further directed each U.S. Attorney to appoint a Coronavirus Fraud Coordinator to serve as the legal counsel for the federal judicial district on matters relating to the Coronavirus, direct the prosecution of Coronavirus-related crimes, and to conduct outreach and awareness. (March 19, 2020)

- The **FBI issued a Public Service Announcement** warning the public of the rise in COVID-19-related fraud schemes, which included examples of fraud schemes observed by the FBI since the pandemic began. (March 20, 2020)
- **Justice Department Files Its First Enforcement Action Against COVID-19 Fraud** (March 22, 2020). DOJ announced first COVID-19 action, including court issued temporary restraining order against website offering fraudulent coronavirus vaccine.
- **The Justice Department and the Federal Trade Commission Announce Expedited Antitrust Procedure and Guidance for Coronavirus Public Health Efforts** (March 24, 2020). Announced joint FTC-DOJ program to expedite review of COVID-19-related requests, and to resolve those addressing public health and safety within seven (7) calendar days of receiving all necessary information.
- Attorney General Barr issued a memo announcing a **DOJ COVID-19 Hoarding and Price Gouging Task Force**. The task force will target those that accumulate scarce healthcare and medical items beyond their own needs or in order to profit amidst the pandemic (March 24, 2020).
- Attorney General Barr issued a memo to the Director of the Bureau of Prisons **encouraging granting requests for non-violent inmates that wish to serve the remainder of their sentences in home confinement** (March 26, 2020).
- The **FBI's Internet Crime Complaint Center released an alert** to all government agencies, the private sector, private organizations, and all individuals warning about heightened computer security risks in connection with increased telework and use of virtual environments to conduct business, including tips to increase protection and reduce vulnerability (April 1, 2020).
- The **FBI issued a press release warning businesses, and especially financial institutions**, to be watchful for "Business Email Compromise" schemes where fraudsters call upon the current crisis in order convince businesses or individuals to redirect payments. In one example, the FBI described a financial institution which received a fraudulent request to accelerate a previously scheduled \$1 million payment along with a new recipient account. (April 6, 2020).
- The **FBI issued a warning to the public and to cryptocurrency institutions** regarding the increased use of virtual currencies to execute fraud schemes related to the coronavirus pandemic and to launder the illegal proceeds (April 13, 2020).
- The **FBI and the Secret Service issued a joint warning about scams** drawing on the current climate of fear surrounding the COVID-19 pandemic. They specifically cited ransomware threats disguised as emails offering medical supplies or testing. Ransomware has been a serious problem for hospitals and local governments in recent years, but no business or individual is immune. (April 15, 2020).
- The **Department of Justice confirmed that it has opened general inquiries into potential fraud in connection with the Paycheck Protection Program**, a new stimulus program administered by the SBA. The head of DOJ's criminal division said that prosecutors from the fraud section's market integrity unit have contacted between 15 and 201 of the largest banks participating in the program, as well as the SBA. DOJ's market integrity unit is normally responsible for prosecuting financial institutions and their employees. (April 30, 2020).

DOJ – Antitrust Division

On March 17, 2020, the DOJ's Antitrust Division **adopted a series of temporary changes** to its civil merger investigation processes, which will remain in place during the pendency of the coronavirus (COVID-19) event. The DOJ joined the Federal Trade Commission in making changes to the Hart-Scott-Rodino filing process.

Other civil process changes include the following:

- For mergers currently pending or that may be proposed, the Antitrust Division is requesting from merging parties an additional 30 days to timing agreements to complete its review of transactions after the parties have complied with document requests. If circumstances require, the Division may revisit its timing agreements with merging parties in light of further developments.
- The Antitrust Division will conduct all meetings by phone or video conference (where possible), absent extenuating circumstances.
- All scheduled depositions temporarily will be postponed and will be rescheduled using secure videoconferencing capabilities.

FINANCIAL CRIMES ENFORCEMENT NETWORK (FINCEN)

FinCEN issued a release encouraging financial institutions to communicate concerns related to the coronavirus and remain alert to related illicit financial activity. FinCEN requested financial institutions affected by the pandemic to contact FinCEN and their functional regulator as soon as practicable if a COVID-19-affected financial institution has concern about any potential delays in its ability to file required Bank Secrecy Act (BSA) reports. (March 16, 2020)

- **Updated Guidance: [The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 \(COVID-19\) Pandemic](#)** (April 3, 2020). FinCEN confirms that PPP loans will not require reverification of KYC and other AML information.
- FinCEN has **[republished and updated FAQs](#)** about the Paycheck Protection Program (PPP) (April 13, 2020).
- **[FinCEN Director Kenneth A. Blanco delivered prepared remarks related to COVID-19 at the Consensus Blockchain Conference](#)** (May 13, 2020). Director Blanco described FinCEN's recent "important public-facing and strategic lines of effort" directed at institutions subject to AML regulations during the pandemic. Among other things, these included: providing Notices to financial institutions advising them to be on alert for malicious and fraudulent transactions; providing financial institutions with information regarding AML operations during the pandemic; offering direct contact mechanisms for firms with COVID-19-related issues; monitoring activity for financial crimes exploiting the pandemic; and supporting law enforcement investigations into COVID-9-related cybercrime, scams, and fraud. Director Blanco also noted that FinCEN plans to publish multiple advisories highlighting common typologies used in the pervasive fraud, theft, and money laundering activities related to the pandemic to better help the financial sector detect and report this activity.
- **[FinCEN published an Advisory on Medical Scams Related to the Coronavirus Disease 2019 \(COVID-19\)](#)** (May 18, 2020). The advisory -- released to C-suite executives, AML/BSA officers, cyber security professionals, and customer facing bank personnel -- identifies financial red flags indicative of potential COVID-19 fraudulent activity, including those concerning fraudulent cures, tests, vaccines, and services; non-delivery scams; and price gouging and hoarding of medical-related items, such as face masks and hand sanitizer. For each of these categories the advisory provides a list of red flags that may be indicative of a fraudulent scheme and provides an analogous case study from a recent enforcement action or criminal prosecution. FinCEN also reminds firms of their due diligence and SAR reporting obligations related to COVID-19.

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES (NYDFS)

The NYDFS has redesigned its website to prominently display links to various coronavirus guidance **[directly from its homepage](#)**. The links concerning **[healthcare](#)** and **[paid family leave](#)** are geared toward consumers, as is a **[Consumer Alert](#)** concerning coronavirus driven scams and fraud.

The following industry guidance and press releases are found on a [link containing Coronavirus Information for Consumers and Businesses](#):

Industry Guidance

- [Insurance Circular Letter No. 3 \(2020\); Preparedness for Coronavirus \(COVID-19\)](#) (March 3, 2020). Instructed insurers to take action related to the potential impact of COVID-19 in New York, including by providing insureds with information and timely access to all medically necessary covered health care services.
- [Insurance Circular Letter No. 4 \(2020\): Cancel For Any Reason Travel Benefits](#) (March 6, 2020). Clarified for all property/casualty insurers and licensed travel insurance producers the position of the Department of Financial Services on “Cancel For Any Reason” benefits in the travel context and potential coverage for the COVID-19 under travel insurance policies.
- [Insurance Circular Letter No. 5 \(2020\): Guidance to Department of Financial Services \(“DFS”\) Regulated Insurance Entities and Request for Assurance Relating to Operational and Financial Risk Arising from the Outbreak of the Novel Coronavirus \(COVID-19\)](#) (March 10, 2020). Requested assurance from regulated entities that each has a preparedness plan in place to address operational risks, and that entities are identifying, monitoring, and managing the financial risk, posed by COVID-19.
- [Guidance to New York State Regulated Institutions and Request for Assurance of Operational Preparedness Relating to the Outbreak of the Novel Coronavirus](#) (March 10, 2020). Announced that each regulated institution must submit a response to DFS describing the institution’s plan of preparedness to manage the risk of disruption to its services and operations resulting from COVID-19 and describing minimum requirements of such plan.
- [Guidance to New York State Regulated Institutions and Request for Assurance Relating to Potential Financial Risk Arising from the Outbreak of the Novel Coronavirus](#) (March 10, 2020). Announced that each regulated institution must submit a response to DFS describing the institution’s plan to manage the potential financial risk arising from COVID-19 and describing minimum requirements of financial risk management plan.
- [Guidance to New York State Regulated Banks, Credit Unions and Licensed Lenders Regarding Support for Businesses Impacted by the Novel Coronavirus](#) (March 10, 2020). Encouraged New York regulated banks, credit unions and licensed lenders to consider all reasonable and prudent steps to assist businesses that have been adversely impacted by COVID-19, including relevant examples.
- [Guidance to DFS Regulated Institutions Engaged in Virtual Currency Business Activity and Request for Assurance Relating to Operational and Financial Risk Arising from the Outbreak of the Novel Coronavirus \(COVID-19\)](#) (March 10, 2020). Announced that each regulated institution must submit a response to DFS describing the institution’s plan of preparedness to manage the risk of disruption to its services and operations resulting from COVID-19 and describing minimum requirements of such plan.
- [Order Granting Temporary Relief to COVID-19 Affected Regulated Entities and Persons](#) (March 12, 2020). Granted temporary relief to COVID-19-affected regulated entities and persons from certain requirements under the Banking Law and the Financial Services Law related to flexible/remote-work arrangements and related reporting requirements, and extended certain filing deadlines.
- [Insurance Circular Letter No. 6 \(2020\): Coronavirus and Telehealth Services](#) (March 15, 2020). Reminded insurance issuers that relevant insurance and public health laws prohibit them from excluding a service that is otherwise covered under a comprehensive health insurance policy or contract because the service is delivered via telehealth.

- [Insurance Circular Letter No. 7 \(2020\): Guidance to Department of Financial Services \(“DFS”\) Regulated Insurance Entities Regarding Support for Consumers and Businesses Impacted by Novel Coronavirus \(COVID-19\)](#) (March 19, 2020). Urged all regulated entities to alleviate the adverse impact caused by COVID-19 on consumers and small businesses that can demonstrate financial hardship and provided examples of suggested “reasonable and prudent actions” to support affected New Yorkers.
- [Guidance to New York State Regulated Financial Institutions Regarding Support for Consumers and Businesses Impacted by the Novel Coronavirus \(COVID-19\)](#) (March 19, 2020). Urged all regulated entities to alleviate the adverse impact caused by COVID-19 on consumers and small businesses that can demonstrate financial hardship and provided examples of suggested “reasonable and prudent actions” to support affected New Yorkers.
- [Guidance to New York State Regulated and Exempt Mortgage Servicers Regarding Support for Borrowers Impacted by the Novel Coronavirus \(COVID-19\)](#) (March 19, 2020). Urged all regulated entities to alleviate the adverse impact caused by COVID-19 on consumers and small businesses that can demonstrate financial hardship and provided examples of suggested “reasonable and prudent actions” to support affected New Yorkers, most notably by providing a 90-day mortgage forbearance and waiving late payment fees.
- [Information for Insurers and Providers on Coverage for Telehealth Services](#) (March 21, 2020). Twelve Questions and Answers (Q&A) related to inquiries DFS has received from providers and insurers about health insurance coverage for telehealth visits.
- [Current Guidance Regarding Electronic Signatures, Transactions, and Filings with DFS](#) (March 30, 2020). After receiving inquiries, DFS provided clarification for regulated insurance persons and entities regarding the use of electronic signatures and records during the current state of emergency.

Press Releases

- [Governor Cuomo Announces New Directive Requiring New York Insurers to Waive Cost-Sharing for Coronavirus Testing](#) (March 2, 2020)
- [Governor Cuomo Announces Travel Agents and Travel Insurers Will Offer ‘Cancel for Any Reason’ Travel Policies in New York State](#) (March 6, 2020)
- [NY State of Health and New York State Department of Financial Services Announce Special Enrollment Period for Uninsured New Yorkers, as Novel Coronavirus Cases Climb](#) (March 16, 2020)
- [Department of Financial Services Adopts New Emergency Regulation Requiring Insurance Companies To Waive Cost-Sharing For In-Network Telehealth Visits](#) (March 17, 2020)
- [Governor Cuomo signs executive order mandating businesses that require in-office personnel to decrease in-office workforce by 75 percent](#) (March 19, 2020)

UK-BASED REGULATORS

FINANCIAL CONDUCT AUTHORITY (FCA)

The [FCA website](#) contains a [coronavirus page](#), with links relevant to firms and consumers.

FCA Information for Firms on Coronavirus (COVID-19) Response

Among other things, the FCA provided firms with guidance concerning regulatory changes and impact on consumers related to specific products and activity, including insurance, mortgages, unsecured debt, and access to cash.

From an operational perspective, the FCA instructed regulated firms to have contingency plans to deal with major events and meet regulatory obligations, and included a link to a recent consultation paper published jointly by the FCA and Bank of England concerning [operational resilience matters that firms should consider](#). The FCA also gave regulatory relief and/or guidance concerning, market trading and reporting, delayed Consultation Papers and Calls for Input, and delays to publications and other activity.

On March 20, 2020, the FCA published [expectations for general insurance firms during coronavirus \(Covid-19\) pandemic](#), which included general instructions to treat customers fairly.

That same day, it also issued [guidance for mortgage lenders](#) on treating customers fairly.

It also issued a statement on [key workers in financial services](#).

On March 25, 2020 HM Treasury, the FCA and the Bank of England published an [open letter to UK banks on lending](#).

That same day the FCA published, jointly with the Bank of England, a [short statement on LIBOR transition](#) plans.

On March 26, 2020, the FCA, the Financial Reporting Council (the UK's accounting and audit regulator) and the Bank of England issued a [joint statement on supporting capital markets](#). They put in place [temporary relief on financial reporting for listed companies](#), under which firms may delay announcing results for 6 months from year-end without risking a suspension of their listing. They also published an associated [Q&A Document](#).

The same day, the FCA released a short statement on [financial resilience for solo-regulated firms](#).

On March 29, 2020, the FCA released a statement on [work-related travel for Senior Managers](#).

On March 31, 2020 the FCA released guidance for [firms providing investment services to retail investors](#).

On April 2, 2020 the FCA issued proposals for [temporary financial relief for consumers with credit products](#). The consultation closes on April 6, 2020.

On April 3, 2020 the FCA and the Bank of England issued a [statement of their expectations under the Senior Managers and Certification Regime for dual regulated firms](#).

- The same day, the FCA released a [statement of its expectations under the Senior Managers and Certification Regime for solo regulated firms](#).

On April 6, 2020 the FCA [published its expectations for funds in the light of COVID-19](#).

- The same day, it released [guidance on client assets in response to queries by firms](#).

On April 7, 2020, the FCA gave [guidance to pension funds providers and advisers on COVID-19 related issues](#).

- The same day, it issued [guidance to firms on the messages firms can give consumers on investments and life assurance](#).

On April 8, 2020 the FCA released a number of [primary market measures aimed at assisting listed companies](#).

On April 9, 2020 the FCA [confirmed the temporary financial relief for consumer credit it had consulted on previously](#) (consultation closed on April 6, 2020).

On April 15, 2020 the FCA published two Dear CEO Letters. The first was sent to CEOs of [insurance firms and brokers insuring Small and Medium Sized Enterprises concerning business interruption insurance](#). The second was sent to [banks lending to small businesses](#). These letters contained guidance from the FCA including its expectations concerning the treatment of small and medium sized enterprises suffering business interruptions and other financial hardships because of

COVID-19. Both letters mentioned that the FCA had established a small business unit, headed by a member of its Senior Leadership Team, to consider small business issues.

On April 17, 2020, the FCA opened a short consultation on [three linked pieces of guidance on the fair treatment of consumers for high cost credit and car finance](#).

On April 20, 2020, the FCA released [its expectations for the use of wet signatures in light of Coronavirus restrictions](#).

On April 22, 2020, the FCA introduced [new, longer deadlines for submitting a number of different regulatory returns](#).

On April 24, 2020 the FCA [finalised its guidance on motor finance and high cost credit](#).

On April 27, 2020 the FCA released guidance concerning the [interaction between its rules \(including on financial crime\), the Business Interruption Loan Scheme and the Bounce Back Loan Scheme](#).

On April 28, 2020 the FCA issued a [Dear CEO letter to banks concerning fair treatment of corporate customers preparing to raise equity finance](#).

On April 30, 2020 the FCA issued a statement that it [had extended the deadline for implantation of strong customer authorisation for e-commerce by 6 months to 14 March 2021](#).

On May 1, 2020 [the FCA announced that it would seek to obtain a court declaration to resolve contractual uncertainty in business interruption insurance coverage](#) due to concerns about the lack of clarity and certainty for customers making business interruption claims, and the basis on which some firms are making decisions in relation to claims.

- The same day, the [FCA published draft guidance setting forth its expectations for insurers and insurance intermediaries to consider the value of their products in light of the exceptional circumstances arising out of coronavirus](#). The guidance intended to highlight what firms should be doing to identify material issues that affect the value of their products and their ability to deliver “good customer outcomes.” When considering product issues, the FCA reminded firms of their obligations under: the FCA Principles for Business; the systems and controls sourcebook; the product intervention and governance sourcebook; the insurance conduct of business rules, in particular ICOBS 2.5.-1R. If confirmed, the measures would come into force by the end of May.

On May 4, 2020 [announced that it would pilot a “digital sandbox” to provide enhanced regulatory support to FinTech companies facing coronavirus-related challenges](#). The FCA described the following features that could be the foundations of its digital sandbox: access to high-quality data assets; a regulatory call-to-action; a collaboration platform; an observation deck; application programming interface (API) or vendor market place; and access to regulatory support. The FCA welcomed expressions of interest from regulated and unregulated firms, organizations, associations and individuals who would like to learn more, or discuss how they might contribute to developing the digital sandbox.

- The same day, the FCA announced amendments to the Coronavirus Business Interruption Loan Scheme (CBILS), which included the launch of the Bounce Back Loan Scheme (BBLs) to support small businesses. Yesterday, the BBLs formally launched and the [FCA released an updated statement on its expectations of firms dealing with CBILS and BBLs](#). Among other things, the FCA reminded firms to manage risks of fraud and money laundering -- while balancing the need for fast and efficient release of funds -- by scrutinizing new customers with whom the firm had no prior dealings.

The [UK Financial Conduct Authority released a statement concerning exemptions for certain financial services firms from the provisions of the Corporate Insolvency and Governance Bill](#). In March, Business Secretary Alok Sharma announced new insolvency and corporate governance measures to help businesses affected by the coronavirus pandemic, which were expected

to be included in the Corporate Insolvency and Governance Bill. The FCA reported that it expects that these measures will not be available for certain banks, investment firms, insurers, payments and e-money institutions and market infrastructure bodies. Firms that safeguard client assets are also expected to be excluded from the company moratorium during the coronavirus period and temporary suspension of wrongful trading provisions.

On May 13, 2020 the FCA [updated its page on LIBOR transition](#) to note that it would resume full supervisory engagement with firms on this issue from June 1, 2020.

On May 14, 2020 [the FCA confirmed a package of measures](#) it previously consulted on, designed to encourage firms to assist consumers who may be in financial difficulty as a result of COVID-19.

On May 22, 2020 the FCA [proposed to extend the mortgage payment deferment arrangements currently in place](#), allowing consumers who have not yet requested a payment holiday until October 31, 2020 to do so. The same day, the [FCA launched a consultation on guidance for the payments sector](#) which contains a number of proposals, including around safeguarding.

On May 26, 2020 the FCA [published updated Q&A on delaying annual company accounts and half yearly reports](#).

On May 27, 2020 the [FCA published Marketwatch 63](#), which sets out the FCA's views on market related issues (including disclosure) during the COVID-19 pandemic. It [also published Primary Market Bulletin No 28](#), setting out its views on a number of market-related COVID-19 issues. The same day, the [FCA published a statement on training and competence requirements for employees of regulated firms](#). In this, the FCA noted that it expected firms to ensure their relevant individuals remained competent to carry out their work. But in exceptional COVID-19 related circumstances, the FCA noted it was willing to allow firms to defer Continuing Professional Development (CPD) to the following CPD year.

On June 1, 2020 the [FCA released draft guidance for insurers who write business interruption policies](#) on the fair treatment of consumers in the light of a test case which is to some before the UK courts. The guidance sets out the FCA's expectations for insurers and insurance intermediaries when handling claims and complaints for business interruption policies during the test case brought by the FCA.

On June 2, 2020 the FCA confirmed the draft guidance issued on May 22 [concerning fair treatment of consumers who have difficulties paying their residential mortgages](#).

On June 3, 2020 the [FCA published finalized guidance for insurers on the assessment of product value during the pandemic](#). The guidance includes changes to clarify that firms: should consider the value of products where, due to the impact of COVID-19, there has been a material reduction in risk so that they are providing little or no utility to customers, and not just where claims are no longer possible; are not expected under this guidance to assess value on an individual customer level, but should consider our guidance on helping customers in temporary financial difficulty as a result of COVID-19; can assess the longer-term impacts of COVID-19 on their insurance products on an ongoing basis beyond the 6-month period the FCA has set out for product reviews resulting from this guidance. The guidance comes into immediate effect and may be revised if appropriate.

On June 4, 2020 the [FCA published its expectations on banks, building societies, and credit unions on reinstating in-person services in a consistent way](#). After working closely with firms to help them consistently reinstating services for customers, the FCA expects that firms will prioritize several areas, including: continuing to ensure essential services are available for the most vulnerable customers and expand capacity where possible; proactively contact vulnerable customers to make sure they know about

the services they offer for those self-isolating, and how they can contact their bank if they do not have access to online banking; where possible, and in line with relevant government guidelines, reinstating access to cash and essential services in local areas which have lost access to bank branches or cash during the crisis; where it is not possible to reinstate access, and in areas where a reduced service remains, ensuring that there is clear communication to customers through websites and physical signs at branches to signpost to alternatives, such as Post Office services.

Coronavirus (COVID-19): Support for Consumers

Consumer [guidance included information concerning retail insurance products](#), and general guidance intended to ensure that customers had access to cash, were treated fairly, and were aware that insurance providers must consider the needs of consumers potentially affected by the pandemic. The FCA further provided guidance for consumers to avoid scams and fraudulent schemes related to COVID - 19.

BANK OF ENGLAND

The Bank of England provided links to Letters, New Releases, Market Notices and Monetary Policy Committee releases on its [Response to Coronavirus website](#). In addition to general links related to [Government Response](#) and [Government guidance to employers and businesses](#), the Bank of England provided links to the following:

- [Press Conference following the announcement of measures to respond to the economic shock from COVID-19](#) (March 11, 2020)
- [Term Funding Scheme with additional incentives for SMEs \(TFSME\) – Market Notice](#) (March 11, 2020)
 - Announcement of Term Funding Scheme to offer four-year funding at or very close to Bank Rate.
- [Statement by the PRA accompanying measures announced by the Financial Policy Committee](#) (March 11, 2020)
 - Prudential Regulation Authority statement following announcement by the Bank of England's Financial Policy Committee of its decision to set the UK countercyclical capital buffer (CCyB) rate at 0% with immediate effect.
- [Bank of England measures to respond to the economic shock from COVID-19](#) (March 11, 2020)
 - The Bank's three policy committees announced a comprehensive and timely package of measures to help UK businesses and households bridge across the economic disruption associated with COVID-19. MPC reduced Bank Rate and launched new Term Funding Scheme with additional incentives for SMEs; FPC released the UK Countercyclical Capital Buffer; and PRC issued Supervisory Guidance.
- [Statement from the Governor of the Bank of England, Mark Carney, and incoming Governor, Andrew Bailey](#) (March 15, 2020)
 - Statement about the coordinated central bank action to enhance the provision of global U.S. dollar liquidity.
- [Coordinated central bank action to enhance the provision of global U.S dollar liquidity](#) (March 15, 2020)
 - The Bank of Canada, the Bank of England, the Bank of Japan, the European Central Bank, the Federal Reserve, and the Swiss National Bank announced a coordinated action to enhance the provision of liquidity via the standing U.S. dollar liquidity swap line arrangements.

- **HM Treasury and the Bank of England launch a COVID Corporate Financing Facility (CCFF)** (March 17, 2020)
 - HM Treasury and the Bank of England announced a COVID Corporate Financing Facility (CCFF) to provide additional help to firms to bridge through COVID-19-related disruption to their cash flows.
- **Joint HM Treasury and Bank of England COVID Corporate Financing Facility (CCFF) - Market Notice 18 March 2020** (March 18, 2020)
 - HM Treasury and the Bank announced they would be coordinating to ensure that COVID-19 initiatives were complementary and that they would, collectively, have maximum impact, consistent with the Bank and HM Treasury's independent responsibilities.
- **Asset Purchase Facility (APF): Asset Purchases and TFSME - Market Notice 19 March 2020** (March 19, 2020)
 - In light of actions to tackle the spread of COVID-19, and evidence relating to the global and domestic economy and financial markets, the Monetary Policy Committee (MPC) held an additional special meeting on 19 March.
- **Exchange of letters between the Governor and the Chancellor on the Asset Purchase Facility – March 2020** (March 19, 2020)
- **Monetary Policy Summary for the Special Monetary Policy Committee meeting on 19 March 2020** (March 19, 2020)
 - The Monetary Policy Committee at a special meeting on 19 March voted to cut Bank rate to 0.1% and increase its holdings of UK government and corporate bonds by £200 billion.
- **Bank of England announces supervisory and prudential policy measures to address the challenges of COVID-19** (March 20, 2020)
 - Statement followed the announcement by the Bank of England setting out measures to respond to the economic shock from COVID-19 from its three policy committees on 11 March 2020.
- **Statement by the Bank of England on key financial workers who are critical to the Covid-19 response** (March 20, 2020)
- **The Bank of England put in place amendments to Regulatory Reporting for insurers** (March 20, 2020)
 - Allows delay of certain regulatory reporting under Solvency II and other UK regulatory reporting for insurers.
- **The Bank of England and major UK banks published a joint statement on helping households through the crisis** (March 23, 2020)
- **The Bank of England activated the UK Contingent Term Repo Facility** (March 24, 2020)
 - Allows banks and building societies which are signed up to the Bank's Discount Window Facility to bid for further liquidity from the Bank.
- **The Bank of England issued guidance to banks on the application of IFRS9, capital requirements and loan covenants** (March 26, 2020)
 - The letter covers three areas: IFRS 9 accounting and the regulatory definition of default; the treatment of borrowers who breach covenants due to Covid-19; and regulatory capital treatment of IFRS 9.
- **The Bank issued a statement on VAR back testing** (March 30, 2020)

- The Bank notes it will temporarily allow firms to offset increases due to new exceptions through a commensurate reduction in risks-not-in-VAR (RNIV) capital requirements.
- **The Bank issued a statement on counter party credit risk exposures** (March 30, 2020)
- **The Bank issued a letter to the leading UK deposit taking institutions concerning dividends and cash bonuses** (March 31, 2020)
 - **It also issued a statement to the same effect the same day.**
- **The Bank issued a statement about regulatory reporting and disclosure.** (April 2, 2020)
 - This statement followed on from the EBA's statement on Supervisory Disclosure and Pillar 3 disclosures in light of COVID-19.
- **Joint PRA and FCA Statement on 'Senior Managers and Certification Regime and Coronavirus: Our expectations of firms'** (April 3, 2020)
 - This is the same as the statement issued by the FCA on April 3, 2020 (above).
- **Bank of England confirms that the systemic risk buffer rates remain the same as at December 2019 in response to COVID-19 pandemic** (April 9, 2020).
- **Clarification by the Bank of England for insurers on IFRS 9, capital requirements and loan covenants** (April 23, 2020).
- **The Bank issued a statement on the regulatory treatment of the UK Coronavirus Business Interruption Loan Scheme (CBILS) and the UK Coronavirus Large Business Interruption Loan Scheme (CLBILS)** (April 27, 2020).
- The **Bank of England issued a statement on credit risk mitigation eligibility and leverage ratio treatment of loans under the BBLs**. The Bank's statement set out the Prudential Regulation Authority's observations on the risk weighted treatment of exposures under the scheme, particularly eligibility for recognition as unfunded credit risk mitigation under the Capital Requirements Regulation.
- **The Bank of England released a statement regarding guidance on the application of regulatory capital and IFRS 9 requirements to payment holidays granted or extended to address the challenges of COVID-19** (May 22, 2020).
- The **Bank of England released a Q&A on Capital Requirements Regulation requirements for property valuation during the pandemic** (May 29, 2020). In particular, given the disruption in the property market caused by COVID-19, firms have identified difficulties in conducting physical inspections due to social distancing measures, obtaining reliable property valuations and determining appropriate approaches to suspended or unreliable house price indices.
- **Statement on the use of electronic signatures on documents or forms required to be provided to the Prudential Regulation Authority** (June 2, 2020). The Bank confirmed that electronic signatures were acceptable but reserved the right to request wet signatures on documents returned to the Bank where necessary.
- **Letter from Sam Woods on IFRS 9 and capital requirements** (June 4, 2020). Through a "Dear CEO" letter by Sam Woods, Deputy Governor for Prudential Regulation and Chief Executive Officer of the Prudential Regulation Authority, updated its previous guidance concerning payment deferrals permitted in light of the impacts of COVID-19. This guidance provides illustrative examples in the Monetary Policy Review and Interim Financial Stability Review and contains an Annex covering treatment of COVID-19 related payment deferrals under IFRS 9 and the Capital Requirements Regulation (CRR).

EU REGULATORS

EUROPEAN COMMISSION (Commission)

- **Communication to the European Parliament and the Council** (April 28, 2020):
 - IFRS 9: The Commission expects banks to fully use judgement and flexibility within the confines of IFRS 9 to mitigate unwarranted impact of the COVID-19 crisis on banks' expected credit loss provisions. Banks' assessment of a significant increase in credit risk should be based on the remaining lifetime of the financial assets concerned. Private or statutory moratoria are considered unlikely to constitute substantial modifications under IFRS 9.
 - Classification of non-performing loans: The Commission basically confirms the principles set forth in the EBA Guidelines on moratoria on loan repayments of April 2, 2020 (see below).
 - Role and responsibility of the banking sector: Banks are held responsible for keeping liquidity flowing and shall continue to lend households and business. The Commission urges all banks in the EU to refrain from making dividend distributions and carrying out share buy-backs aimed at remunerating shareholders during the period of the COVID-19 crisis. Furthermore, banks are invited to adopt a conservative approach to the payment of variable remuneration.
 - Monitoring and follow-up: The Commission, together with the ECB, the EBA and national authorities, will monitor how banks will use the flexibility and freed-up capital and assess to what extent the relief measures contribute to the supply of bank credit. Besides proposed amendments to the Capital Requirements Regulation (see below), measures to help consumers will be considered in the review of the Consumer Credit Directive and the Mortgage Credit Directive.
- **Proposal for a Regulation amending Regulations (EU) No 575/2013 and (EU) 2019/876 as regards adjustments in response to the COVID-19 pandemic** (April 28, 2020): Provides, inter alia, for an extension of transitional arrangements for mitigating the impact of IFRS 9 provisions on regulatory capital; preferential treatment under the NPL prudential backstop for exposures guaranteed or counter-guaranteed by the public sector in the context of measures aimed at mitigating the economic impact of the COVID-19 pandemic; deferral of the date of application of the leverage ratio buffer; modifications to the calculation of the leverage ratio; acceleration of the date of application of the exemption of certain software assets from capital deductions.
- **Q&A on the Banking Package to facilitate bank lending** (April 28, 2020): Provides a summary of the above documents.

EUROPEAN CENTRAL BANK (ECB)

The ECB has issued a letter to the significant institutions, several press releases and an FAQ on ECB supervisory measures in reaction to the coronavirus:

- **Letter to significant institutions on contingency preparedness in the context of COVID-19** (March 3, 2020): Reminded supervised institutions that preparations for employee safety and business continuity should include consideration of the main risks associated with a potential pandemic, and listed some examples for appropriate action (e.g., assessing whether alternative and sufficient back-up sites could be established in light of possible pandemic, assessing and urgently testing the capacity of existing IT infrastructure, and assessing risks of increased cyber-security fraud)
- **Press release on operational precautions linked to coronavirus** (March 4, 2020): Described internal ECB-measures such as a temporary no visitors-policy.

- **Press release on temporary capital and operational relief in reaction to coronavirus** (March 12, 2020): Among other things, announced that banks were allowed to fully use capital and liquidity buffers; relief in the composition of capital provided for by CRD V as of January 2021 would be brought forward; and ECB would consider rescheduling on-site inspections.
- **Press release on provision of further flexibility to banks in reaction to coronavirus** (March 20, 2020): Introduction of relief measures with regard to NPL, e.g. supervisors would exercise flexibility regarding the classification of debtors as “unlikely to pay” when banks call on public guarantees granted in the context of coronavirus, and supervisors would deploy full flexibility when discussing with banks the implementation of NPL reduction strategies.
- **Recommendation on dividend distributions during the COVID-19 pandemic** (March 27, 2020): ECB Recommended that at least until October 1, 2020 no dividends (defined as any cash pay-out that is subject to the approval of the general assembly) are paid out and no irrevocable commitment to pay dividends is undertaken by the credit institution for the financial year 2019 and 2020 and that credit institutions refrain from share buy-backs aimed at remunerating shareholders.
- **Letter to banks regarding IFRS 9 in the context of the coronavirus (COVID-19) pandemic** (April 1, 2020): Guidance on the use of forecasts to estimate the ECL during the COVID-19 pandemic.
- **FAQ on ECB supervisory measures in reaction to the coronavirus** (April 3, 2020): Provides more details on the measures announced in the abovementioned publications.
- **Letter to banks regarding supervisory reporting measures in the context of the coronavirus (COVID-19) pandemic** (April 15, 2020): Announced that banks will be permitted to delay submission of supervisory data by one month for remittance dates between March 2020 and May 2020, except for LCR (liquidity coverage ratio) and ALMM (additional liquidity monitoring metrics) templates, and by two months for information on funding plans.
- **Press release on temporary relief for capital requirements for market risk** (April 16, 2020): Announced a temporary reduction in capital requirements for market risk, by allowing banks to adjust the supervisory component of these requirements.
- **The European Central Bank published its Opinion on amendments to the Union prudential framework in response to the COVID-19 pandemic** (May 20, 2020). The Opinion concerns the April 28, 2020 proposal from the European Commission to increase the capacity of credit institutions to lend and absorb losses related to the pandemic, which the Bank welcomed as they assist the banking system to mitigate the economic impact of the pandemic and support recovery, while preserving the key elements of the prudential framework. The Opinion also expressed support for the amendments’ leverage ratio modifications, and provided possible further changes to certain aspects of market risk requirements.

EUROPEAN BANKING AUTHORITY (EBA)

- **Statement on actions to mitigate the impact of COVID-19 on the EU banking sector** (March 12, 2020): In order to enable banks to address any operational challenges, the EBA postponed the EU-wide stress test exercise to 2021; in addition, the EBA recommended that national supervisory authorities plan supervisory activities, including on-site inspections, in a flexible way, and possibly postpone those deemed non-essential.
- **Statement on the application of the prudential framework regarding Default, Forbearance and IFRS9 in light of COVID-19 measures** (March 25, 2020):
 - Loans in default: Public moratoria (and similar private moratoria) shall not trigger the past due criterion as such; delays are counted based on the modified schedule of payments. If loans are renegotiated in a way that the financial position of the lender does not diminish, there is

- no default on the grounds of a distressed restructuring under the unlikely to pay criterion.
- Classification of forbearance: General moratoria will not necessarily lead to a reclassification of a loan under the definition of forbearance, and the moratoria being introduced as a response to COVID-19 pandemic are generally not to be considered borrower-specific with this regard.
 - IFRS9: Public or private moratoria, aimed at addressing the adverse systemic economic impact of the COVID-19 pandemic, should not by themselves automatically trigger the conclusion that a significant increase in credit risk has occurred. In assessing the credit risk, institutions would be expected to distinguish between obligors for which the credit standing would not be significantly affected by the current situation in the long term, from those that would be unlikely to restore their credit worthiness.
- **Statement on consumer and payment issues in light of COVID19** (March 25, 2020):
 - Consumer protection: Institutions shall act in the interest of the consumer, in particular when engaging with customers regarding temporary measures for consumer and mortgage loans in identified cases. Such measures must be granted in compliance with EU law (in particular, the rules on information disclosure). New/additional charges in relation to contingency measures as well as the cross selling of products shall be carefully considered from a legal and reputational perspective. The acceptance of general temporary measures should not automatically affect the consumer's credit rating.
 - Payment services: Payment services providers shall facilitate consumer's ability to make payments without the need for physical contact by making use of the exemption from strong customer authentication for contactless payments and thereby applying the maximum threshold of EUR 50 per transaction.
 - **Statement on postponed activities** (March 25, 2020): EBA extends the deadlines of ongoing public consultations by two months, postpones all public hearings already scheduled and runs them remotely, and extends the deadlines for specified data collection exercises.
 - **Statement on dividends distribution, share buybacks and variable remuneration** (March 31, 2020):
 - Distribution/share buybacks: The EBA urges all banks to refrain from dividends distribution or share buybacks which result in a capital distribution outside the banking system; within banking groups, capital should be allocated efficiently and prudently.
 - Variable remuneration of staff: Variable remuneration should be set at a conservative level; a larger part of the variable remuneration could be deferred for a longer period and a larger proportion could be paid out in equity instruments.
 - **Statement on supervisory reporting and Pillar 3 disclosures in light of COVID-19** (March 31, 2020):
 - Supervisory reporting: Subject to exceptions, institutions should be allowed up to one additional month for submissions due between March and end of May 2020. EBA suggests that competent and resolution authorities do not prioritise their supervisory actions towards ad-hoc data collections that are not specifically needed to monitor institutions in the context of the COVID-19 outbreak. The QIS exercise based on June 2020 data is cancelled.
 - Pillar 3 disclosures: The EBA encourages competent authorities to be flexible when assessing the institutions' compliance with the deadlines for the publication of their Pillar 3 reports. On the other hand, the need for additional Pillar 3 disclosures on prudential information necessary in order to properly convey the institution's risk profile should be assessed.

- **Statement on actions to mitigate financial crime risks in the COVID-19 pandemic** (March 31, 2020): The EBA emphasizes the importance of AML/CFT measures. In particular, institutions should take risk-sensitive measures to establish the legitimate origin of unexpected financial flows, where these financial flows stem from customers in sectors that are known to have been impacted by the economic downturn and COVID-19 measures. Competent authorities shall make use of embedded in the EU's AML/CFT framework and consider, for example, a temporary postponement of non-essential onsite inspections on a case-by case basis even after current restrictions on movement have been lifted, a move towards virtual meetings and inspections where appropriate, or an extension of submission dates for AML/CFT questionnaires.
- **Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis** (April 2, 2020):
 - Prudential effect of general payment moratoria: General (legislative or non-legislative) payment moratoria should not change the classification of exposures under the definition of forbearance (art. 47b CRR) or change whether they are treated as distressed restructuring (art. 178 para. 3 lit. d) CRR). For purposes of the definition of default, institutions should count the days past due based on the revised schedule of payments, resulting from the application of any moratorium (past due-criterion); institutions should perform the assessment of unlikelihood to pay based on the most up-to-date schedule of payment, resulting from the application of the general payment moratorium (unlikely to pay-criterion).
 - Definition of general payment moratoria: Moratoria must fulfill certain requirements to qualify as general payment moratoria, such as (inter alia): The moratorium applies to a large group of obligors predefined on the basis of broad criteria; the moratorium does not change any other terms and conditions of the loans than the schedule of payments (e.g., not the interest rate); the moratorium does not apply to new loan contracts granted after the date when the moratorium was announced; the moratorium was launched in response to the COVID-19 pandemic.
- **Final draft Regulatory Technical Standards on prudent valuation under Article 105(14) of Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR)** (April 22, 2020): Since the COVID-19 pandemic has triggered extreme levels of volatility, the EBA is proposing amendments to Delegated Regulation (EU) No. 101/2016 in order to mitigate the increase in aggregated amounts of additional valuation adjustments to trading book positions. These adjustments shall be valid until 31 December 2020.
- **Statement on the application of the prudential framework on targeted aspects in the area of market risk in the COVID-19 outbreak** (April 22, 2020):
 - Postponement of the application of certain new reporting requirements introduced by CRR 2 applicable to institutions whose trading book and business subject to market risk exceed certain thresholds: The EBA intends to submit its ITS to the European Commission with a postponed starting date for such reporting, and recommends the European Commission to consider the same delay in the date of application of the delegated act.
 - Postponement of final two implementation phases of the margin requirements for non-centrally cleared derivatives: The requirement to implement initial margins for counterparties above EUR 50 bn (due to start September 2020) and for counterparties above EUR 8 bn (due to start September 2021) shall be postponed by one year.
 - Increase in the Value-at-Risk (VaR) risk metrics and multiplication factors under the Internal Models Approach (IMA) for market risk: Besides some flexibility allowed by the CRR to mitigate these effects, EBA recommends that the annual review of the Stressed VaR observation period provided for by the CRR could be postponed to the end of 2020 and should not constitute a supervisory priority at the moment.

- **Statement on additional supervisory measures in the COVID-19 pandemic** (April 22, 2020):
 - Supervisory review and evaluation process (SREP): For the 2020 SREP, the usual thorough and comprehensive assessment of all risk and vulnerabilities of institutions shall be replaced by a risk-driven supervisory assessment focusing on the most material risks and vulnerabilities driven by the crisis. The ability of institutions to respond to current challenges, including operational continuity, will be key elements of the supervisory focus.
 - Recovery planning: Recovery plans, which aim at restoring the institutions' financial and economic viability under stress, should be kept reviewed and updated in order to be implemented timely and effectively if needed. Institutions should be allowed to submit only key elements of their recovery plans in 2020 to the competent authorities, with the possibility to postpone the submission of other parts of the plans until the following assessment cycle.
 - Digital operational resilience: The EBA calls on financial institutions to ensure, inter alia, appropriate information & communication technology (ICT) and security risk management, that the capacity of their IT systems support their most critical activities, and that the business continuity plans are up to date and adapted. Furthermore, the EBA calls on competent authorities to apply reasonable supervisory flexibility when assessing the implementation of the EBA Guidelines on ICT and security risk management.
 - Securitisation: The EBA provides details on the application of its Guidelines on moratoria of April 2, 2020 (see above) to securitisations and on the interaction between the concept of "implicit support" under art. 250 CRR and general payment moratoria within the meaning of the aforementioned EBA Guidelines.
- **Joint committee of the European Banking Authority, the European Securities and Markets Authorities, and the European Insurance and Occupational Pensions Authority released its final report regarding European Market Infrastructures Regulation Regulatory Technical Standards (EMIR RTS) related to amendments to the bilateral margin requirements.** (May 4, 2020).
 - The committee's report presents new draft regulatory technical standards on the risk mitigation techniques for OTC derivative contracts not cleared by a central counterparty (bilateral margining) that the European Supervisory Authorities have developed under Article 11(15) of Regulation (EU) No 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories (EMIR). Notably, the committee extended the deadline for completing the final two implementation phases of the margin requirements by one year. The final implementation phase will take place on September 1, 2022, for covered entities with an aggregate average notional amount (AANA) of non-centrally cleared derivatives greater than EUR 8 billion; as an intermediate step, from September 1, 2021, covered entities with an AANA of non-centrally cleared derivatives greater than EUR 50 billion will be subject to the requirements.
- **The European Banking Authority published a Thematic Note** titled *The EU Banking Sector: First Insights into the COVID-19 Impacts* (May 25, 2020). The Note acknowledges that banks entered the crisis in better shape than they did in previous crises, however, vulnerabilities remain in several areas including persistently low interest rate margins which look to continue to remain low for the foreseeable future. In addition, despite continuous improvements in asset quality over the past few years, the non-performing loan (NPL) ratio in several countries and banks is still well above pre-global financial crisis levels and funding conditions have significantly deteriorated since February 2020.
- The **EBA issued guidelines on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 crisis in a Final Report** (June 2, 2020). The guidelines cover reporting and disclosure requirements related to certain supervisory measures applied in response to the pandemic, in particular: reporting requirements to monitor the use of payment

moratoria and the evolution of the credit quality of the exposures subject to such moratoria in accordance with the EBA-Guidelines of April 2, 2020; reporting requirements for the new loans subject to specific public guarantees set up to mitigate the effects of the COVID-19 crisis, and reporting requirements on other forbearance measures applied in response to the COVID-19 crisis; disclosure requirements for exposures subject to the payment moratoria in accordance with the EBA-Guidelines on moratoria as well as disclosure requirements for the new loans subject to the specific public guarantees set up to mitigate the effects of the COVID-19 crisis.

EUROPEAN SECURITIES AND MARKETS AUTHORITY (ESMA)

ESMA has published a general recommendation to financial market participants, followed by several specific public statements:

- **Recommendation for COVID-19 impact** (March 11, 2020): ESMA made general recommendations to financial market participants with regard to business continuity planning, market disclosure, financial reporting and fund management.
- **Public statement** (March 18, 2020): Postponement of the reporting obligations related to securities financing transactions.
- **Public statement** (March 20, 2020): Taping requirement under MiFID II could be replaced by other measures (such as written minutes), if the coronavirus situation did not allow for taping (e.g., due to the sudden remote working by a significant part of staff).
- **Public statement** (March 25, 2020): ESMA provides issuers with guidelines on the accounting implications of the economic support and relief measures on recognized financial instruments and their conditions. If the support measures provide temporary relief to debtors affected by COVID-19 and the net economic value of the loan is not significantly affected the modification of the terms of the instrument would be unlikely to be considered as substantial.
- **Public statement** (March 26, 2020): Postponement of the reporting obligations related to securities financing transactions under the SFTR and under MiFIR.
- **Press release** (March 27, 2020): ESMA confirms application date of equity transparency calculations for equity instruments under MiFID II/MiFIR.
- **Public statement** (March 27, 2020): ESMA expects national authorities not to prioritise supervisory action against issuers whose securities are admitted to trading on regulated markets in respect of upcoming publication deadlines under the Transparency Directive with regard to annual/half-yearly financial reports.
- **Public statement** (March 31, 2020): ESMA recommends that national authorities consider postponing deadlines related to the publication of certain reports by execution venues and investment firms.
- **Risk Dashboard Risk up-date** (April 2, 2020): ESMA updated its risk assessment in light of the COVID-19 pandemic for securities markets, trading venues, central clearing and asset management (funds).
- **Public statement** (April 9, 2020): ESMA expects national authorities not to prioritize supervisory action against fund managers in respect of certain upcoming deadlines for the publication of annual and half yearly reports for a specified period of time.
- **Public statement** (April 9, 2020): ESMA expects national authorities not to prioritize supervisory action against interest rate benchmark administrators and contributors to interest rate benchmarks relating to the timeliness of fulfilling external audit requirements for interest rate benchmarks under the Benchmarks Regulation.
- **Q&A on Guidelines on Alternative Performance Measures (APMs)** (April 17, 2020): Provides

guidance to issuers on the ESMA APM-Guidelines, APMs being financial measures of historical or future financial performance, financial position, or cash flows, other than a financial measure defined or specified in the applicable financial reporting framework. The Q&A encourages issuers to use caution when adjusting APMs and when including new APMs to address the impact of COVID-19. Besides, the Q&A invites issuers to provide narrative information regarding the modifications made, the assumptions used and the impact of COVID-19, and to provide information on measures taken or expected to be taken by issuers to address the impact that the COVID-19 outbreak may have in their operations and performance.

- **Joint committee of the European Banking Authority, the European Securities and Markets Authorities, and the European Insurance and Occupational Pensions Authority released its final report regarding European Market Infrastructures Regulation Regulatory Technical Standards (EMIR RTS) related to amendments to the bilateral margin requirements.** (May 4, 2020). See summary under EBA section above.
- **Public statement** (May 6, 2020): In light of current market circumstances, as well as increasing retail investor activity, ESMA reminded investment firms of their MiFID II conduct of business obligations. In particular, ESMA pointed to the product governance, information disclosure, suitability and appropriateness requirements for retail customers. With regard to the suitability test (which applies to investment advice and portfolio management services), ESMA emphasizes that investment firms should pay particular attention to the possible ramifications of the COVID-19 crisis for the client's personal situation and the risk profile of his financial instruments to ensure that these financial instruments are suitable for him.
- **The European Securities and Markets Authority issued a Thematic Report on EU CLO credit ratings.** (May 14, 2020) The report presented the merits and risks of the major credit rating agencies' practices when rating CLOs. The report also addressed the potential impact of COVID 19, noting that its current information collected in March 2020 failed to account for the impact of the pandemic. However, the ESMA observed that credit quality of the CLO loan portfolio had started to deteriorate, with CRAs downgrading or issuing negative outlooks on some leveraged loans included in CLO portfolios.
- **Public statement** (May 14, 2020): ESMA supports the ESRB's recommendation on liquidity risks in investment funds.
- **The European Securities Market Authority issued a Public Statement on the implications of COVID-19 outbreak on the half-yearly financial reports** (May 20, 2020). The Statement addressed the preparation of interim financial statements according to International Financial Reporting Standards and the interim management reports for the 2020 half-yearly reporting periods, and highlighted the need for issuers to provide updated information that is useful to investors to adequately reflect the current and expected impact of the COVID-19 pandemic on the financial position, performance and cash-flows of issuers. The ESMA also emphasized the importance of providing information on the identification of pandemic-related principal risks and uncertainties to which issuers are exposed.