

# Coronavirus



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For more information,  
contact:

Ted Hester  
+1 202 626 2901  
[thester@kslaw.com](mailto:thester@kslaw.com)

Dan Donovan  
+1 202 661 7815  
[ddonovan@kslaw.com](mailto:ddonovan@kslaw.com)

Alicia O'Brien  
+1 202 626 5575  
[aobrien@kslaw.com](mailto:aobrien@kslaw.com)

Tom Spulak  
+1 202 661 7948  
[tspulak@kslaw.com](mailto:tspulak@kslaw.com)

William Clarkson  
+1 202 626 8997  
[wclarkson@kslaw.com](mailto:wclarkson@kslaw.com)

## King & Spalding

Washington, D.C.  
1700 Pennsylvania Avenue,  
NW  
Washington, D.C. 20006-  
4707  
Tel: +1 202 737 0500

## With New Select Investigative Subcommittee, House Democrats Double Down on COVID-19 Oversight

On April 23, 2020, the U.S. House of Representatives voted 212-182 to establish the Select Subcommittee on the Coronavirus Crisis (the "Subcommittee") as a select investigative subcommittee of the House Committee on Oversight and Reform ("HCOR"). Charged with conducting a "full and complete investigation" of the federal COVID-19 response, the Subcommittee will have significant investigative authorities, including the power to issue subpoenas and compel witness testimony. While Congress is already actively exercising its oversight authority to question aspects of both government and private sector responses to COVID-19, the new Subcommittee will likely emerge as one of the most active and aggressive of the various COVID-19 congressionally established oversight entities.

Although the Subcommittee is formally part of the House Committee on Oversight and Reform, it is provided with independent investigative authorities, similar to the Senate Permanent Subcommittee on Investigations, but broader and more powerful than those of other House subcommittees. Affected private sector entities, in particular, should take note of the following Subcommittee authorities:

- **Unilateral Subpoena Power:** The Subcommittee Chair may unilaterally authorize and issue subpoenas for documents and information, as well as taking depositions and producing information by interrogatory (H. Res. 935, Sec. 4(a)(1-2));
- **Deposition Authority:** As allowed under the current HCOR rules, Subcommittee counsel may conduct authorized depositions without a Subcommittee Member present (H. Res. 935, Sec. 4(a)(4));
- **Witness Questioning:** Generally, committee members are provided 5 minutes each to question hearing witnesses. Under the Select Subcommittee, however, the Chair may allow Subcommittee Members to



extend witness questioning beyond their allotted five minutes. Furthermore, the Subcommittee Chair may authorize Subcommittee staff to directly question witnesses (H. Res. 935, Sec. 4(a)(5)); and

- **Other Committees’ Records:** House committees in possession of any COVID-19 related records, which would presumably include those obtained during the course of their own oversight and investigative activities, shall provide copies of such records to the Subcommittee within seven days of either the authorizing resolution’s adoption or receipt of such records. Those records will then “become” the Subcommittee’s records (H. Res. 935, Sec. 5).

At the conclusion of its investigation, the Subcommittee is required to issue a final report of its investigative findings to the House. It is also authorized to issue interim reports and provide legislative recommendations “as it may deem advisable.” Although the Subcommittee will “cease to exist” within 30 days of submitting its final investigative report, it is not subject to periodic reporting deadlines or a specified end date. However, it is important to note that, if the Subcommittee doesn’t issue its final report before the sine die adjournment of this Congress, it will have to be established again in the next Congress beginning in January 2021.

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*As the country emerges from the COVID-19 crisis, companies should recognize that congressional investigations will significantly affect and likely propel parallel government investigations by federal and state enforcement agencies. Perennially recognized by Chambers USA, King & Spalding’s Congressional Investigations practice is uniquely positioned to help clients understand and mitigate significant investigative, public relations, and political risks relating to COVID-19.*

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