

- **Ed. Note:** We're all gonna die! Eventually. In the course of assembling this week's newsletter, we came across a few Covid-related items that may not necessarily be pertinent to your practice, but that might be of value to clients or other members of the firm. These include: [federal banking updates](#), [force majeure](#), [employment](#), and [higher ed](#).
- [The SEC's Fixed Income Market Structure Advisory Committee Approves Two New Recommendations.](#)
- [Talking about The Thing: Squire Patton Boggs](#)
- [Fitch Webinar: Coronavirus Effects for U.S. States and Local Governments](#)
- [Muni Market Support for Federal Reserve Intervention Grows.](#)
- [BDA Urges Fed to Take Action to Assist Municipal Market.](#)
- And finally, Location, Location, Location? is brought to us this week by [Hochstein v. Cedar County Board of Adjustment](#), in which the Supreme Court of Nebraska weighed in on a neighborhood dispute. Neighbor A owns a "4,500 animal unit feedlot." Neighbor B owns the 900 acre adjoining farm, on which it applied to build a home. Now one might expect this dispute to concern the mitigation of what must be the unthinkable stench emanating from the feedlot. Nope. Neighbor B was petitioning to build his home CLOSER to the stench. And at no point did the opinion bother to explain, a) WHY Neighbor B wanted to cozy up to the feedlot, or 2) WHY Neighbor A would begin to care. Goddamn you Nebraska Supreme Court! We'll be circulating a petition.

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## IMMUNITY - ALABAMA

### Ex parte City of Millbrook

**Supreme Court of Alabama - March 6, 2020 - So.3d - 2020 WL 1071325**

Civic center patron who fell on a sidewalk at the end of a ramped walkway leading from the front of the civic center to the parking lot brought negligence action against city based on allegation that city failed to maintain, repair, or design the sidewalk to ensure its safety for pedestrian traffic.

The Circuit Court denied city's motion for summary judgment. City petitioned for a writ of mandamus.

The Supreme Court held that city failed to establish that the civic center facilitated the recreational use of land.

City failed to establish that civic center facilitated the recreational use of land, as required for civic center to fall within the definition of "outdoor recreational land" given in recreational-use statutes limiting liability for non-commercial public recreational use of land, and thus city was not entitled to mandamus relief from the denial of its motion for summary judgment in negligence action by civic center patron who fell on a sidewalk at the end of a ramped walkway leading from the front of the civic center to the parking lot; city's mandamus petition included no discussion of the relationship of the civic center to the surrounding land or how the civic center facilitated the recreational use of

that land.

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## **ENVIRONMENTAL - CALIFORNIA**

### **[King and Gardiner Farms, LLC v. County of Kern](#)**

**Court of Appeal, Fifth District, California - February 25, 2020 - Cal.Rptr.3d - 2020 WL 913788 - 20 Cal. Daily Op. Serv. 1691 - 2020 Daily Journal D.A.R. 1786**

Farm company and environmental organizations filed separate petitions for writ of mandate and complaint for declaratory and injunctive relief against county, naming oil associations as real parties in interest and alleging that ordinance facilitating oil and gas exploration, drilling, and production violated California Environmental Quality Act (CEQA) and State Planning and Zoning Law.

Actions were consolidated. Following trial, the Superior Court found environmental impact report (EIR) was deficient in analyzing environmental impacts of ordinance on rangeland and of road paving mitigation measure, but denied all other CEQA claims, and issued judgments. Petitioners appealed.

The Court of Appeal held that:

- EIR improperly deferred formulation of mitigation measures for water supply impacts;
- EIR improperly delayed implementation of mitigation measures for water supply impacts;
- Insufficient evidence supported county's implied finding that all feasible measures to mitigate water supply impacts had been adopted;
- County's failure to disclose specific information about mitigation measures and extent of water supply impacts prejudicially violated CEQA;
- Purported mitigation measures for conversion of agricultural land would not render impacts of ordinance insignificant;
- EIR insufficiently responded to comments proposing clustering of oil and gas infrastructure; and
- Standard of whether ambient noise would increase beyond maximum in general plan due to ordinance was inadequate threshold of significance.

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## **CITY CHARTER AMENDMENT - FLORIDA**

### **[City of Naples v. Ethics Naples, Inc.](#)**

**District Court of Appeal of Florida, Second District - February 21, 2020 - So.3d - 2020 WL 854895**

City filed a declaratory judgment action against sponsor of citizens' initiative to amend city charter to create an independent ethics commission responsible for amending the city's ethics code, challenging the proposed amendment as unconstitutional.

Sponsor counterclaimed for writ of mandamus, and both moved for judgment on the pleadings. The Circuit Court entered judgment in favor of sponsor. City appealed.

The District Court of Appeal held that:

- City's failure to challenge proposal in its entirety was fatal to city's pre-election challenge against the constitutionality of the proposal to amend city charter, and

- Ballot title and summary for proposed amendment fairly and accurately informed voters of the chief purposes of the amendment and were not misleading to the public.

City's failure to challenge, in its entirety, citizen initiative's proposal to amend city charter to create an independent ethics commission responsible for amending city's ethics code was fatal to city's pre-election challenge to the constitutionality of the proposal to amend the city charter, and thus measure would be placed on ballot, although city had challenged the mechanism for appointing members to the ethics commission; city had not challenged the first subsection which would create the independent ethics commission, the provisions setting forth the ethics commission's authority and responsibilities and the minimum requirements of the ethics code, or the provision establishing an office of ethics and governmental integrity that would report to the ethics commission.

Ballot title and summary for citizen initiative's proposed amendment to city charter to create an independent ethics commission, set minimum requirements for the ethics code, and establish an ethics office, fairly and accurately informed voters of the chief purposes of the amendment, as required by statute, and were not misleading to the public, although mandatory language in one section did appear incongruous with advisory function of the commission in the rest of the proposal; ethics commission was specifically described as independent, commission's authority over ethics code was described as setting minimum requirements rather than creating an entirely new ethics code, and language used in summary and title aligned with full text of the proposed amendment.

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## **COMPOST - IDAHO**

### **[Department of Environmental Quality v. Gibson](#)**

**Supreme Court of Idaho, Boise, December 2019 Term - March 11, 2020 - P.3d - 2020 WL 1164516**

Department of Environmental Quality (DEQ) brought civil enforcement action against operator of composting facility under Environmental Protection and Health Act.

After bench trial, the District Court assessed civil penalty and issued injunction. Operator appealed.

The Supreme Court held that:

- Rule governing motions to amend or alter judgment was proper procedural mechanism for operator's request that trial court "reconsider" its findings;
- Operator's argument of federal preemption was an affirmative defense, and thus failure to timely assert argument resulted in its waiver;
- Facility was a "non-municipal solid waste facility" rather than a "municipal solid waste landfill," and therefore facility was subject to regulation under Department of Environmental Quality's solid waste management rules rather than under state Solid Waste Facilities Act;
- Statute setting out time limit for civil or administrative proceedings to recover for violation of Environmental Protection and Health Act is not a statute of repose;
- Investigation of facility by employee of Department did not constitute a search that could be subject to Fourth Amendment;
- Grass clippings and leaves left at facility were "solid waste" subject to regulation under Environmental Protection and Health Act; and
- As a matter of first impression, statute providing for award of attorney fees to prevailing party in proceedings involving state agencies or political subdivisions allows court to award fees on a claim-by-claim basis.

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## **SCHOOL DISTRICTS - MISSISSIPPI**

### **[Butts v. Aultman](#)**

**United States Court of Appeals, Fifth Circuit - March 19, 2020 - F.3d - 2020 WL 1301048**

County residents who lived outside of city filed § 1983 action against county, school board, and state officials alleging that state legislature's decision to administratively consolidate two school districts and restructure school board responsible for governing newly-formed district violated their equal protection right to participate equally in district's decision-making process.

After transfer, the United States District Court denied plaintiffs' motion for temporary restraining order and preliminary injunction, and granted defendants' motion to dismiss. Plaintiffs appealed.

The Court of Appeals held that:

- Fact that new district's interim board would consist entirely of members of one former district's board did not violate equal protection rights of residents in other former district;
- Plaintiffs lacked standing to assert claim that statute administratively consolidating district violated their equal protection rights; and
- New school board did not discriminate against former county school district employees on basis of geographic affiliation.

State law providing that, once two school districts were administratively consolidated, new district's interim board would consist entirely of members of one former district's board, who had been appointed by city board of aldermen, did not violate equal protection rights of residents in other former district, absent allegation that state acted with intent to impinge on fundamental right or to invidiously discriminate against suspect class; it was rational for legislature to conclude that board transition period would best promote efficient and smooth consolidation, and that statute gave state officials additional time to prepare for upcoming elections for permanent board.

County residents who lived outside of city lacked standing to assert claim that state statute administratively consolidating city school district and county school district violated their equal protection right to participate equally in district's decision-making process, even though only two of new school board's five members were to be elected by residents outside of city, despite fact that they accounted for 57% of county's population, where remaining three members were to be appointed by city board of aldermen.

After city school district and county school district were administratively consolidated, new school board did not discriminate against former county school district employees on basis of geographic affiliation, in violation of Equal Protection Clause, when it fired them and retained former city school district employees, where city was higher performing school district than county, and superintendent may have felt that most seamless and efficient way to implement consolidation would be to absorb county district into better-performing city district.

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## **ZONING & PLANNING - NEBRASKA**

### **[Hochstein v. Cedar County Board of Adjustment](#)**

**Supreme Court of Nebraska - March 20, 2020 - N.W.2d - 305 Neb. 321 - 2020 WL 1313824**

Landowner, an operator of a livestock feeding operation (LFO), sought review of county board of

adjustment's grant of zoning permit to neighbors to construct residence on their adjoining farm in agricultural intensive district.

The District Court affirmed. Landowner appealed.

The Supreme Court held that proposed residence was not a "non-farm residence" that would be subject to setback requirements from LFO.

Landowners' proposed residence on their farm adjoining neighbor's livestock feeding operation (LFO) in agricultural intensive district was necessary or incidental to the normal conduct of a farm, and thus was not a "non-farm residence" that would be subject to setback requirements from LFO under county zoning regulations, even if landowners cash leased the 240-acre tract on which residence was to be constructed to a corporate entity and residence was over three miles away from location on which landowners raised pheasants and livestock, where the permitted principal uses in district included an owner residence.

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## **ZONING & PLANNING - OHIO**

### **[Columbus Bituminous Concrete Corporation v. Harrison Township Board of Zoning Appeals](#)**

**Supreme Court of Ohio - March 11, 2020 - N.E.3d - 2020 WL 1160915 - 2020 -Ohio- 845**

Landowner sought review of decision of township board of zoning appeals denying its application for a conditional use zoning certificate to conduct quarrying and mining of sand and gravel.

The Court of Common Pleas affirmed. Landowner appealed. The Court of Appeals affirmed. Landowner sought review, which was granted.

The Supreme Court held that board could not deny application based on zoning resolution's general standards that did not relate to public health or safety.

Township board of zoning appeals lacked authority to deny landowner's application for conditional use permit to engage in quarrying and mining of sand and gravel based on general standards contained in zoning resolution applicable to all conditional uses, irrespective of whether compliance with those general standards was in the interest of public health and safety, under statute providing that townships could adopt resolutions pertaining to mining activities "only in the interest of public health and safety," but rather board was required to apply general standards to conditional use application only to extent that doing so was in interest of public health and safety and, if health and safety concerns were raised, it could address those concerns only through conditions on approved application.

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## **PUBLIC CONTRACTS - TEXAS**

### **[Edminster, Hinshaw, Russ and Associates, Incorporated v. Downe Township](#)**

**United States Court of Appeals, Fifth Circuit - March 19, 2020 - F.3d - 2020 WL 1291637**

Engineering firm brought action against township to recover fees it claimed it was owed under professional services agreement.

The United States District Court entered summary judgment in firm's favor, and township appealed.

The Court of Appeals held that choice-of-law provision in parties' agreement had no effect in determining township's liability.

Texas choice-of-law provision in professional services agreement between Texas engineering firm and New Jersey township's mayor had no effect in determining township's liability for fees under agreement, where mayor had no authority under New Jersey law to bind township unless township's governing body passed resolution awarding contract, and township's governing body never approved agreement.

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## **ZONING & PLANNING - VERMONT**

### **[In re Snyder Group, Inc.](#)**

**Supreme Court of Vermont - February 21, 2020 - A.3d - 2020 WL 857431 - 2020 VT 15**

Objectors sought review of city's approval of subdivision application submitted by developer to construct a planned unit development (PUD) with units of transfer of development rights (TDR) from a separate parcel.

The Superior Court, Environmental Division, entered summary judgment determining that city's zoning bylaw concerning TDR with respect to PUD applications was invalid. Developer appealed and objectors cross-appealed.

The Supreme Court held that:

- TDR bylaw satisfied statutory requirement of specifying sending and receiving areas for acquiring development rights;
- TDR bylaw satisfied statutory requirement of defining development rights and specifying minimum development rights that were required to be secured;
- TDR bylaw satisfied statutory requirement of defining amount of density increase allowable in receiving areas and quantity of development rights necessary to obtain those increases;
- TDR bylaw satisfied statutory requirement of defining density increase in terms of an allowable percentage decrease in lot size, increase in building bulk, or other specified means; and
- TDR bylaw was not unconstitutionally vague on its face.

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## **[Some States Much Better Prepared Than Others for Recession.](#)**

As the widely expected recession sparked by the COVID-19 pandemic takes hold, the impact in some states will be unnecessarily harsh — especially if the recession is relatively deep — due to the state's failure to adopt policies that support families and communities during a downturn, our review of state policies in four key areas finds. More specifically, people in states with inadequate budget reserves, weak unemployment insurance systems, relatively inaccessible Medicaid programs, and/or expensive higher education systems are particularly likely to struggle during the recession if they lose their jobs or enter the recession looking for work with few family resources to support them. Mississippi is the most poorly prepared. It's the only state that ranks in the bottom ten across all four categories, while Florida, Louisiana, New Hampshire, and South Dakota rank among the worst in three categories. That said, every state likely will face significant budget gaps in the coming

months, even those best prepared for the downturn, and will need aggressive help from the federal government.

The pressures on state finances from the COVID-19 pandemic and resulting likely recession are mounting and will quickly become severe. Sales taxes, which make up a third of state revenues, are rapidly collapsing as restaurants and stores across the country close their doors and lay off their workers. Data are not yet available on the full scope of this collapse, but there is little doubt it is drastic, perhaps unprecedented. Income taxes, which make up another third of state revenues, also will decline sharply as mass layoffs rapidly push down people's income and therefore their income taxes. Plus, the steep drop in the stock market means that wealthy people will soon begin reporting massive capital losses on their quarterly tax returns, further reducing state revenue.

[Continue reading.](#)

## **CBPP**

BY MICHAEL LEACHMAN & JENNIFER SULLIVAN

MARCH 20, 2020

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### **[Force Majeure Events - Will Your Project Contract Require a Response to the Coronavirus Pandemic?](#)**

As the number of those impacted by the coronavirus ("COVID-19") pandemic continues to grow, affected parties across all industries look for guidance on how to deal with this novel situation. Governments and private parties are analyzing project contracts as they take precautionary actions to prevent the spread of COVID-19. In this midst of all of this confusion, two questions arise: What does the COVID-19 pandemic and the steps being taken in response mean for your project contracts? And, will an excusable delay/force majeure clause provide any protection for the impacts of COVID-19?

Force majeure or other excusable delay clauses ("force majeure clauses") grant parties contractual relief from some or all performance when specified events beyond the control of the parties occur and impair the ability of one or both of the parties to perform (a "Force Majeure Event"). The question of whether a force majeure clause in a project contract will address schedule or cost impacts attributable to the effects of the COVID-19 pandemic involves a three step analysis.

First, determine whether the force majeure clause provides relief to either the owner or the contractor (or both) in the event of a situation like the COVID-19 pandemic. The force majeure clause will typically define in detail what constitutes a Force Majeure Event. Force Majeure Events are often defined to include events like natural disasters, terrorist attacks, labor action, government-declared emergencies, epidemics and pandemics.

Second, determine any limitations that apply to the protections under the force majeure clause. Many such clauses only allow relief if the Force Majeure Event materially impacts the work to be performed and the work schedule under the contract. The clause may similarly dictate that the event affected the project site or geographical area in which the project is located. Most project contracts require the contractor to take commercially reasonable measures to mitigate the impact of a force majeure event. This duty to mitigate is critical to consider as some work, for example design work, can still proceed remotely and is less likely to be materially impacted by a pandemic such as COVID-

19. Construction, utility and other field work as well as work related to operation and maintenance of projects in the operating phase, on the other hand, may be more likely to be impacted by precautionary measures put in place to combat the spread of COVID-19.

Lastly, determine what relief can be sought. This step in the analysis allows the parties to the contract to plan and manage the likely project impacts. Project contracts may vary in the nature of relief provided and relief may even vary depending on the type of Force Majeure Event in question. Force majeure clauses in design-bid-build contracts normally allow time extension only, without the right to additional compensation. Clauses in alternative delivery contracts may be similarly limited, or may allow additional compensation for costs incurred as a direct result of the event, or may provide for the parties to share certain costs. Additionally, some contracts may exclude cost relief for matters where the contractor's insurance provides coverage.

With the uncertainty surrounding the COVID-19 pandemic, more and more infrastructure projects are likely to be directly impacted. Now is the time to conduct a full analysis of your project contracts and plan for the potential impact of COVID-19.

### **Nossaman Infra Insight Blog**

By David Aguilar, Elizabeth Cousins on 03.18.2020

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### **[State-Specific Coronavirus Employer Q&A.](#)**

Based on questions we have received over the last several days, here are some general principles that employers should keep in mind when navigating issues related to COVID-19:

1. Communicate with employees, but be mindful of privacy rights and considerations.
2. Have a centralized, internal communication and planning team. This team should be made up of individuals from operations, human resources, security, legal, and information technology.
3. Make a safe workplace a top priority.
4. Do not discriminate, and apply workplace policies in a fair and neutral manner.
5. Evaluate options for leave of absences, whether paid or unpaid.
6. Have a plan for layoffs or a temporary shut-down.
7. Stay up to date on the latest developments for the locations in which operations are conducted.

Below are general answers to specific questions that may arise in considering the above-mentioned principles. COVID-19 is a very complex topic and is constantly evolving, and therefore, it is important to stay abreast of new information, as well as federal, state, and local advisories in an employer's areas of operation. **Note that the answers below focus mainly on federal law and state laws of Indiana, Ohio, Illinois, Kentucky, and Minnesota.**

#### **NOTE:**

**\*\*This is not meant to be construed as legal advice or guidance on a particular circumstance as each issue that arises for a particular employer will require a fact-intensive evaluation of many factors, including without limitation the employer's policies, the severity of COVID-19 as indicated by public health officials, and local or nationwide emergency regulations and directives.**

**If you have questions regarding your particular situation or circumstances, please feel free**

**to contact any member of Taft's Employment & Labor Relations Group directly.**

### **When should an employer require employees to stay at home?**

Employers can legally request and require an employee to stay home for the COVID-19's 14-day incubation period if the employee presents a real threat to other employees. Such employees include those who are ill or are experiencing any of the COVID-19 symptoms, those who have been exposed through another individual, or those who have traveled to countries where there is a high exposure risk.

Employers may also decide to suspend operations for a period of time if directed to do so by a local, state, or federal governmental authority or if it becomes more prudent to prevent employees from coming into work (for example, if there are confirmed cases of COVID-19 in the area). In this case, employers could consider teleworking arrangements with employees.

To avoid any sort of discrimination issues (especially on the basis of national origin and/or perceived disability), employers should put the duty on the employee to come forward and self-report such symptoms or exposure risks. In addition, employers should be sure to treat all employees in a specific job category in the same and consistent manner.

### **What if an employee tests positive for COVID-19?**

Employers should immediately send home all employees who have worked with that particular employee within the last 14 days, and should also notify any clients, customers, or other third parties with whom the employee had contact. Employers also should not identify by name the individual who tested positive (see below for privacy concerns).

### **Can an employer prevent employees from personal travel?**

Not necessarily. While an employer cannot typically prohibit legal travel, the employer may choose to deny time off if the denial is based on the destination, business cost of a resulting quarantine, or other legitimate business-driven reasons. The reason cannot be the national origin of the employee. Employers can require employees to self-quarantine for the 14-day incubation period once they return home from travel.

Employers should educate their employees before they engage in such travel and that such travel may result in quarantine or self-monitoring for a prolonged period of time. In addition, employers should monitor those employees returning from such travel for signs of illness.

### **What if an employee shows symptoms of COVID-19?**

An employer may ask an employee if he or she is experiencing symptoms of COVID-19, but make sure the inquiry is limited to relevant symptoms. If the employee feels ill or is experiencing symptoms, the employer may send him or her home and encourage him or her to see a doctor.

**On March 18, 2020**, the EEOC issued [guidance](#) clarifying that employers may ask an employee who calls in sick if he or she is experiencing COVID-19 symptoms - which the EEOC identifies as fever, chills, cough, shortness of breath, or sore throat. Relatedly, the EEOC advises that employers may delay the start date for an applicant or withdraw a job offer made to an applicant (if the employer would need the employee to start immediately) if the applicant has been diagnosed with COVID-19 or exhibited symptoms of it.

### **Can an employer take the temperatures of its employees?**

According to the EEOC's March 18, 2020 guidance, yes. (Prior to the issuance of this new guidance, the answer had not been entirely clear.) While measuring an employee's temperature is a medical examination under the ADA, the EEOC's new guidance states: "Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions, employers may measure employees' body temperature."

The EEOC also clarified that an employer may also screen applicants for COVID-19 and take an applicant's temperature, so long as it is performed after a conditional job offer and the employer does so on a consistent basis.

Still, as a practical matter, an employee or applicant may be infected with the COVID-19 coronavirus without exhibiting recognized symptoms such as a fever, so temperature checks may not be the most effective method for protecting the workforce.

Can an employer ask employees to disclose whether they have a medical condition that could make them especially vulnerable to COVID-19 complications if they are not experiencing any symptoms?

No. Making disability-related inquiries of employees without symptoms is prohibited by the ADA.

### **Should leave taken as a result of COVID-19 be designated as FMLA?**

Yes. For an employee to invoke their 12 weeks of unpaid FMLA leave, he or she must have a "serious health condition" and otherwise satisfy the FMLA eligibility criteria. Based on recent reports, COVID-19 would qualify as a serious health condition depending upon the specific situation. Accordingly, an otherwise eligible employee with COVID-19 or an employee who is taking care of a qualifying family member with COVID-19 would be permitted to take protected FMLA leave.

However, employees who refuse to come to work out of fear of contracting COVID-19 would not qualify for FMLA leave.

Also, it is important to keep in mind that many states have paid sick leave and family medical leave laws that may be implicated in the event an employee (or dependent family member) contracts COVID-19. Be sure to check the state and local laws of each jurisdiction in which the employer operates or has employees.

**\*\*Update:** The U.S. House of Representatives passed the Families First Coronavirus Response Act on March 14, 2020, and the bill has been sent to the Senate. It includes many provisions that apply to employers, such as emergency-based FMLA and paid sick leave. The bill is expected to undergo revisions prior to being passed by the Senate, and therefore, a more detailed update regarding the passed version of the bill will follow.

### **Is telework an option?**

As a general rule, there is no requirement that an employer allow employees to telecommute. In determining whether to allow particular employees to telecommute, an employer should ensure that its flexible workplace policies are administered in a way that does not discriminate against an employee because of a protected characteristic (such as race, sex, national origin, age, disability, etc.). An employer should be prepared to offer a legitimate, nondiscriminatory explanation for why it may choose to allow some employees to work from home and not others.

In addition, employers should have a system in place to track hours worked by non-exempt employees to ensure that proper wages (including overtime if applicable) are paid.

Employers should also consider possible implications under the ADA (and related accommodation laws) when deciding whether, and in what circumstances, it will allow employees to work from home. Under the ADA, employers have an obligation to provide reasonable accommodations to employees with a disability unless doing so will present an undue hardship. Intermittent or temporary telecommuting arrangements may be a reasonable accommodation for such employees if they can successfully perform the essential functions of a job without coming to work. By allowing temporary telecommuting arrangements in response to COVID-19, an employer may impact its ability to decline temporary telecommuting arrangements as a reasonable accommodation to persons with disabilities in the future. Therefore, employers should carefully consider the precedent set by allowing employees to telework in response to COVID-19 when the essential functions of their position cannot be adequately performed at home. If the employer allows employees to telecommute where it would not otherwise do so because of the unique challenges posed by the COVID-19 outbreak, it should make clear in its communications that the telecommuting accommodation is being granted due to the extraordinary circumstances posed by the virus.

### **What if an employee has children affected by a school closure?**

At this time, there is no federal law that requires employers to provide leave (whether paid or unpaid) for employees caring for healthy children who are unable to attend school. However, the Families First Coronavirus Response Act (in its current form) includes paid leave for employees caring for children as a result of a school closure. We will have more information on this once the bill is reviewed and passed by the Senate.

In addition, state laws may impose different requirements. For example, California requires most employers to provide unpaid leave to parents, guardians, grandparents, stepparents, foster parents or persons standing in loco parentis to a child for child care during unexpected school closures. Similarly, New York City mandates that employers provide employees with leave necessitated by the “employee’s need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency.” Chicago’s paid sick leave ordinance provides that employees may take paid sick leave when their child needs care because their school is closed due to a public health emergency.

Even if there is no requirement in a particular state to pay employees while staying home to care for children during a school closure, employers should consider different options to support employees during this period. Some options include allowing affected employees to telework, attempting to coordinate reduced work schedules or coordinated childcare among affected employees or allowing affected employees to run a deficit in paid time off programs that can be repaid over time.

### **What if an employee refuses to come into work in order to avoid contracting COVID-19?**

The employer should address this issue on a case-by-case basis and determine the basis of the particular employee’s refusal before requiring the employee to come to work.

The Occupational Safety & Health Act permits employees to refuse to work if they believe on reasonable grounds that there is a dangerous condition at the work site or that the work constitutes a danger to their health and safety. If the office at which the employee works has confirmed cases of the virus, then it may be best to allow those employees to telework or to take leave time.

In addition, the National Labor Relations Act allows employees to engage in concerted action regarding the conditions of employment. Accordingly, an employee may be protected from discipline for refusing to come to work if the refusal is part of a concerted protest against unsafe working conditions.

## **Does contraction of COVID-19 generally implicate the ADA?**

Generally no. In most cases, COVID-19 is a transitory condition and is, therefore, not a qualified “disability” under the ADA.

Keep in mind, however, that this answer could change in the event an employee develops lasting exacerbation of existing conditions or experiences symptoms that substantially limit a major life activity for a more extended period of time. In these circumstances, the employer should gather information regarding the medical impairment and engage in the interactive process with the employee to determine whether the employee can perform the essential functions of the job and, if so, what reasonable accommodations can be afforded to the employee to enable him or her to perform those essential functions.

## **How should employers prevent harassment or discrimination of those suspected of being infected?**

Employers must take steps to prevent discrimination and harassment against individuals who are disabled or perceived as disabled because they are exhibiting symptoms suggestive of having contracted COVID-19. In order to accomplish this, employers should ensure the confidentiality of all employees’ medical information and leave details to prevent harassment. Employers should consider reminding employees of anti-harassment and discrimination company policies, and should make sure that leave policies and other applicable workplace policies are being applied in a uniform, equitable, and neutral manner. And as always, employers must be vigilant about promptly responding to and investigating any complaints of harassment or bullying in the workplace.

## **If an employee contracts COVID-19, what information should be shared with other employees?**

If an employee contracts a confirmed case of COVID-19, the employer should inform its other employees of possible exposure to COVID-19 in the workplace. This should be done by simply stating that an unidentified employee with whom they may have had recent contact has been exposed to or has tested positive for COVID-19.

Employers should not, however, disclose to co-workers the identity of the infected employee. Communications with employees about medical conditions should be kept confidential and medically-related documents kept in a location separate from the employee’s personnel file.

## **Do employers need to pay exempt employees during periods of leave or a temporary shutdown?**

No, unless the employee is still performing work. Employers must pay exempt employees their full salary for any week in which they perform any work, even if the employee is telecommuting. If an employer furloughs an exempt employee for an entire workweek, then no salary is owed for that full week and the employee’s exempt status will not be impacted.

## **Do employers need to pay non-exempt employees during periods of leave or a temporary shutdown?**

No. Employers must pay non-exempt employees only for hours actually worked.

Note that an exception does exist for non-exempt employees who receive fixed salaries for a fluctuating workweek. Such employees must receive their full salary of any week in which they performed any work.

## **Should an employer shut down facilities to avoid liability?**

It depends. As mentioned above, the Occupational Safety and Health Act states that employers have a legal obligation to provide a safe workplace and requires employers to protect employees against “recognized hazards” to safety or health that may cause serious injury or death. Here, OSHA will likely rely upon recommendations issued by the Centers for Disease Control, the World Health Organization, or similar resources to determine the extent of a “recognized hazard.”

Employers need to be mindful of when it becomes reasonably likely that employees at a worksite will be exposed to COVID-19, whether by the nature of the profession (i.e., first responders, health care workers, transportation workers) or by the presence of employees in the workplace who have tested positive for the virus. Employers will need to develop a plan with procedures in place to protect their workforce—and, the time is now to start developing such a plan. Such a plan can include: conducting employee awareness training, developing procedures for issuing and the use of personal protective equipment, developing a means of reporting illness or exposure, and preserving documentation and records.

The prudent approach is to give employees the option to telecommute (if possible) or to take leave during this time. At the point in time when the employer determines that employees are at a higher risk of exposure by coming into work, then employers should re-evaluate and decide whether to cease operations at a particular facility (especially for those employees who cannot telecommute due to job duties).

## **Does the WARN Act apply to an employee furlough or temporary closing?**

The Worker Adjustment Retraining Notification Act generally requires employers with 100 or more employees to provide at least 60 calendar days of notice to its employees prior to any plant closing or mass layoff. A plant closing is defined as 50 or more countable employment losses at a single site of employment in a 90-day period that results from ceasing operations in one or more operating units. A mass layoff is defined as 50 or more countable employment losses at a single site of employment in a 90-day period that also involves 33% of the active workforce at the site.

Notably, if employees are laid off for less than six months, then the employees do not suffer an employment loss and WARN Act notice requirements are not triggered. Keep in mind that it may be difficult to know how long the layoff will stay in place, so providing notice may be the most prudent approach.

In addition, the WARN Act provides an exemption when layoffs occur due to unforeseeable business circumstances. The employer, however, must still provide “as much notice as is practicable, and at that time shall give a brief statement of the basis for reducing the notification period.” Accordingly, if the employer is in a position to evaluate the impact on its workforce, the employer must provide notice to employees who will be affected by a temporary shutdown. In addition, the employer must provide a statement to employees that explains why more extensive notice could not be provided—in this circumstance, it would be the unforeseeable nature of COVID-19 and its impacts on the workplace.

The WARN Act also has an exception for a “natural disaster.” However, the Act does not specifically address whether a pandemic qualifies as a natural disaster, and therefore, it is not advisable to rely on this exception to avoid notice requirements.

## **What about state-specific WARN Acts?**

Several states have “mini-WARN” laws, which may provide further notice requirements and apply to layoffs of a short duration. Indiana and Kentucky do not have a mini-WARN law and, therefore, Indiana and Kentucky employers must comply only with the federal WARN Act.

In addition to compliance with the federal WARN Act, an Ohio employer who lays off or separates fifty or more employees in a seven-day period because of a lack of work is required to furnish notice to the director of Ohio Department of Job and Family Services (ODJFS) the dates of layoff or separation and the approximate number of individuals being laid off or separated. Such notice must be made at least three days before the first layoff.

Similarly, Illinois employers who lay off, at a single site of employment, either 33% of their employees (excluding part-time employees) including at least 25 total employees (excluding part-time employees), or, who lay off at least 250 employees (excluding part-time employees), must give 60 days prior notice of the layoff. Notice is to be given to the employees and the Department of Commerce and Economic Opportunity and the chief elected official of each municipal and county government where the layoff occurs. Notably, Illinois law provides for an exception to the notice requirement if the Illinois Department of Labor determines that the need for a notice was not reasonably foreseeable at the time the notice would have been required, and specifies what notice should be provided to the Department of Labor in order for that finding to be made.

Minnesota’s “mini-WARN” law requires any employer providing notice under the federal WARN act to also report to the Minnesota Commissioner of Employment and Economic Development the names, addresses, and occupations of the employees who will be or have been terminated. The mini-WARN law encourages Minnesota businesses “considering a decision to effect a plant closing, substantial layoff, or relocation of operations ... to give notice of that decision as early as possible” to the Commissioner, employees of the affected establishment, any employee organization representing the employees, and the local government where the establishment is located.

### **Do employer-instituted shutdowns entitle workers to unemployment benefits?**

Yes, employees are generally entitled to unemployment benefits if they are furloughed when a facility temporarily shuts down and all other unemployment requirements are met.

In Indiana, the requirements include (1) being able, available and actively searching for work, (2) losing a job through no fault of the employee, and (3) the employee earned enough wages to qualify for payments. Indiana allows an employee to file a claim as soon as he or she becomes unemployed. There is also a one week waiting period after an employee files a claim, during which the employee will not receive benefits.

In Ohio, unemployment benefits are available to individuals who are totally or partially unemployed due to no fault of their own. The employee must be able to work, available for work, and actively seeking suitable work. Like Indiana, Ohio allows an employee to file a claim as soon as he or she becomes unemployed. There is generally a one-week waiting period after an employee files a claim, during which the employee will not receive benefits. However, by Executive Order on March 16, 2020, Ohio Governor Mike DeWine announced that individuals who are totally or partially unemployed, or who are participating in the SharedWork Ohio Program will not be required to serve a waiting period before receiving unemployment insurance or SharedWork benefits. Ohio employers can refer to the [ODJFS website](#) for specific information about Coronavirus and Unemployment Insurance Benefits.

In Illinois, employees temporarily laid off because of COVID-19 can qualify for UI benefits as long as they are able and available for and actively seeking work. Under emergency rules recently adopted,

the individual need not register with the employment service. Further, if the individual is confined to their home due to (1) a medical professional's diagnosis of COVID-19, (2) necessary care for a family member diagnosed as having COVID-19, or (3) due to government recommended/imposed quarantine, is eligible for UI benefits if all other requirements are met. Illinois employers can refer to the [Illinois Department of Employment Security website](#) for further information about COVID-19 and UI benefits.

On March 16, Minnesota Governor Tim Walz signed an executive order making workers affected by COVID-19 eligible for unemployment benefits. Under the executive order, applicants are eligible for unemployment benefits if (1) a healthcare professional or health authority recommended or ordered that they avoid contact with others, (2) they have been ordered not to come to their workplace due to the outbreak, and (3) their children's school district, daycare, or other childcare provider is unavailable, and no reasonable accommodation from their employer or other childcare arrangement was available.

In Kentucky, unemployment benefits are available to individuals who are unemployed through no fault of their own, are able and available to work and are making a reasonable effort to obtain new work, and register for work when they file their claim. Kentucky allows an employee to file a claim as soon as he or she becomes unemployed. There is generally a one-week waiting period after an employee files a claim, during which the employee will not receive benefits. However, on March 16, 2020, Kentucky Governor Andy Beshear, by Executive Order, said Kentucky will waive the waiting period for unemployment compensation for those who are losing their jobs because of COVID-19 and will waive any work search requirements while the state of emergency is in effect.

Keep in mind that unemployment benefits will vary by state, and there may also be waiting time periods in place before benefits are provided.

### **What if the employee's hours are just reduced, then is the employee eligible for unemployment?**

It depends. In Indiana, employees may also qualify for partial benefits if the employer reduces the work hours to less than the employee's regular full-time work week. Any severance pay or other employer-provided compensation will be deducted from the employee's unemployment benefit.

In Ohio and Illinois, employees may also qualify for partial benefits if the employer reduces the work hours to less than the employee's regular full-time work week. In both states, an individual is "partially unemployed" in any week if, due to involuntary loss of work, the total remuneration payable to the individual for such week is less than the individual's weekly benefit amount.

In Minnesota, employees are eligible for unemployment benefits if their hours are "substantially reduced," meaning reduced to below 32 hours per week.

In Kentucky, employees also may be eligible for partial benefits if they are still employed by their regular employer but are working less than their normal full-time hours due to lack of available work.

Some states also have "work share" programs. These programs are meant to soften the blow of full layoffs by allowing employers to reduce hours for full-time employees, who then may collect prorated unemployment benefits for the lost hours. To take advantage of a work share program, the employer must submit a plan to state officials for approval, and the requirements for a particular plan vary drastically by state. Some employers that implement work share programs continue to fund employee benefits while the program is in place. SharedWork Ohio is Ohio's voluntary layoff

aversion program. Illinois and Minnesota similarly have work share programs in place. Indiana and Kentucky have not implemented an official work share program.

**If an employee is ill and unable to work, will he or she be eligible for unemployment benefits?**

Not likely. In Indiana, Ohio, Illinois, and Kentucky, claimants for unemployment benefits must be “able” to work. An ill employee likely would not meet that requirement. Similarly, in Minnesota, claimants must be “available for suitable employment.”

**If employees are no longer working, are they still entitled to group health plan coverage?**

Not necessarily. Employers should check their group health plan document to determine how long employees who are not actively working may remain covered. Once this period expires, active employee coverage must be terminated (unless the carrier or self-funded plan sponsor otherwise agrees to temporarily waive those eligibility provisions) and a COBRA notice must be sent. Keep in mind that employees do not have to be terminated or permanently laid off to be eligible for COBRA.

If the applicable plan is self-funded and the employer would like to waive plan eligibility provisions, the employer must first make sure that any stop-loss coverage insurance carriers agree to cover claims relating to participants who would otherwise be ineligible for coverage.

**If an employee contracts COVID-19, does workers’ compensation apply?**

It depends on the circumstances. Taft has prepared a client alert on this point available [here](#). Generally speaking, any illness or injury arising out of or in the course of employment would trigger workers’ compensation—this includes a contagious illness that is contracted at work or while traveling for work. The problem is that, in most circumstances, it is difficult to know for sure how and where a particular employee contracts an illness.

If the employee travels for work from a place with little or no risk of contraction to a place with a high risk and is diagnosed within the 14-day incubation period after such travel, then it is likely that the illness will be deemed covered by workers’ compensation. However, if an employee incidentally contracts COVID-19 from an infected co-worker, there likely will not be workers’ compensation liability.

In addition, the State of Washington recently directed its Department of Labor and Industries to ensure workers’ compensation protections for health care workers and first responders. The directive instructs the Department to change its policies regarding coverage for these two groups and to “provide benefits to these workers during the time they’re quarantined after being exposed to COVID-19 on the job.” While Indiana, Ohio, Illinois, and Kentucky have not issued a similar directive to date, they and other states may follow suit in the upcoming days or weeks. In Minnesota, if an emergency responder contracts an infectious or communicable disease that they are exposed to in the course of employment outside of a hospital, the disease is presumed to be an occupational disease due to the nature of their employment.

**Taft Stettinius & Hollister LLP** - Sukrat Baber, Brian G. Dershaw, Justin D. Flamm, Heather A. Jackson, Connie M. Kremer, Samuel N. Louwagie, Melissa A. Macchia, Evan Priestle and Gregory J. Stenmoe

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## [US Federal Banking Agencies Introduce Measures to Protect US Financial System Against COVID-19-Related Risks and Assist Consumers Affected by COVID-19.](#)

*The three US federal banking agencies have taken steps to enable the financial system to continue functioning during the pandemic.*

During the course of this week, the three US federal banking agencies — the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) — have taken a series of actions intended to enable the US financial system to continue functioning in the midst of COVID-19 and to encourage banks to meet the financial services needs of their customers who are affected by the pandemic.

**These actions include the following measures:**

- **Decreasing Interest Rates:** In recognition of the near-term disruption to economic activity and the risks to the economic outlook posed by COVID-19, the Federal Open Market Committee of the Federal Reserve lowered the target range for the federal funds rate to 0.0% - 0.25% on March 15, 2020.
- **Reduction in Reserve Requirements:** The reserve requirements for thousands of depository institutions will be eliminated when the Federal Reserve's reduction in the reserve requirement ratio to 0% becomes effective on March 26, 2020. This liquidity-promoting measure is intended to help support the flow of credit to households and businesses by enabling depository institutions to more readily engage in lending.
- **Availability of Intraday Credit:** To support the liquidity needs of households and businesses as well as the continued functioning of the payment systems, the Federal Reserve has encouraged the use by depository institutions of intraday credit extended by Reserve Banks on both a collateralized and uncollateralized basis.
- **Use of Federal Reserve Discount Window:** The discount window enables the Federal Reserve to provide depository institutions with ready access to funding to allow such institutions to manage their liquidity risks and protect their customers, particularly during times of market stress. To assist with meeting the demands for credit from households and businesses that are struggling during the current economic climate, the Federal Reserve has encouraged more active use of the discount window by depository institutions by lowering the primary credit rate to 0.25% as of March 16, 2020, and permitting borrowing from the discount window for up to 90 days, prepayable and renewable by the borrower on a daily basis. The Federal Reserve also announced that it would continue to accept the same broad range of collateral for discount window loans, including securities and loans that meet certain eligibility criteria. The FDIC and the OCC have also encouraged banks subject to their respective supervision to use the discount window.
- **Reliance on Capital and Liquidity Buffers:** The federal banking agencies have encouraged banks to provide assistance to households and businesses whose credit needs are being adversely impacted by COVID-19 by using their capital and liquidity buffers to lend and take other supportive actions in a manner that promotes the safety and soundness of the financial system. Any automatic limitations on capital distributions that may be triggered as a result of a bank falling below certain capital levels will be phased in gradually in order to promote continued lending by banks.
- **Establishment of Commercial Paper Funding Facility (CPFF):** The Federal Reserve is establishing the [CPFF](#) to alleviate the strain caused by the pandemic on the commercial paper market, which directly finances a variety of economic activities. The CPFF will be structured as a credit facility to a special purpose vehicle (SPV), and the SPV will support the flow of credit to households and businesses by serving as a liquidity backstop to facilitate the issuance of term

commercial paper by eligible US issuers. As of March 17, 2020, the SPV will purchase unsecured and asset-backed commercial paper rated A1/P1 directly from eligible companies. The Federal Reserve Bank of New York (FRBNY) has committed to lend to the SPV on a recourse basis, and the Treasury Department's Exchange Stabilization Fund (ESF) will provide US\$10 billion of credit protection to the FRBNY. The SPV will cease purchasing commercial paper on March 17, 2021, unless the Federal Reserve extends the CPFF.

- **Establishment of Primary Dealer Credit Facility (PDCF):** Beginning March 20, 2020, the [PDCF](#) will offer overnight and term funding with maturities up to 90 days for at least six months, subject to further extension if necessary. The PDCF will support the Federal Reserve's goal of supporting households and businesses affected by the pandemic by allowing primary dealers to promote smooth market functioning and facilitate the availability of credit. Credit extended to primary dealers under the PDCF may be collateralized by a broad range of investment grade debt securities, including commercial paper and municipal bonds, and a broad range of equity securities. The interest rate charged will be the primary credit rate, or discount rate, at the FRBNY.
- **Establishment of Money Market Mutual Fund Liquidity Facility (MMLF):** In recognition of the crucial role that money market funds serve as a common investment tool for families, businesses, and a variety of companies, the Federal Reserve has established the [MMLF](#) program to enhance the liquidity and functioning of the money markets. Through the establishment of a MMLF, the Federal Reserve Bank of Boston will make loans available to eligible financial institutions secured by high-quality assets purchased by such financial institution from money market mutual funds. The Treasury Department, through the ESF, will provide US\$10 billion of credit protection to the Federal Reserve in connection with the MMLF. On March 19, 2020, the federal banking agencies released an [interim final rule](#) and request for comment to ensure the effective use of the MMLF by financial institutions. Among other things, the interim final rule accounts for the fact that financial institutions will not be taking any credit or market risk in association with MMLF activities by modifying the federal banking agencies' capital rules to enable such institutions to receive credit for the low risk of their MMLF activities. The interim final rule is currently effective, and the period to receive comments will close within 45 days following publication in the Federal Register.
- **US Dollar Liquidity Arrangements With Other Central Banks:** The Federal Reserve is establishing temporary US dollar liquidity arrangements (swap lines) with the central banks of Australia, Brazil, Denmark, Korea, Mexico, Norway, New Zealand, Singapore, and Sweden. As with swap lines already established between the Federal Reserve and other central banks, these new facilities are intended to ease the strains in global US dollar funding markets in order to mitigate the impact of such strains on credit supply to households and businesses, both within the US and abroad. Such arrangements will be in place for at least six months, and the new facilities will support the provision of US dollar liquidity in amounts that will vary depending on the particular central bank.
- **Community Reinvestment Act (CRA) Consideration:** The federal banking agencies released a [joint statement](#) on March 19, 2020, regarding CRA consideration for activities engaged in by financial institutions in response to COVID-19. Among other things, the joint statement clarifies that financial institutions will receive CRA consideration for community development activities in response to the COVID-19 national emergency, including those that (i) help to revitalize or stabilize low- or moderate-income geographies as well as distressed or underserved non-metropolitan middle-income geographies, and (ii) support community services targeted to low- or moderate-income individuals. The statement will be effective through the six-month period after the national emergency declaration is lifted, unless extended by the federal banking agencies.

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## **Global Privacy and Security Compliance Law Blog**

**Latham & Watkins LLP** - Alan W. Avery and Pia Naib

March 19 2020

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### **[Talking about The Thing: Squire Patton Boggs](#)**

Yes, The Thing touches everything.

COVID-19 affects the muni bond world in some fairly obvious ways. The general mandate is “everybody do less.” Decreasing activity in general translates to decreased business revenues and decreased tax revenues, which means less money available to repay bonds. This has set the disclosure world ablaze, as securities lawyers ponder what to say to the market about the pandemic. That very practical question is far beyond the bounds of this blog and will be dealt with ad nauseum elsewhere, such as [this piece](#) in *The Bond Buyer*.

There are a few less obvious ways that the disease will affect the tax requirements for tax-advantaged bonds. We’ll look at them in a series of posts. Click through for a teaser. (I guess that makes the previous sentence a meta-teaser?)

[Continue reading.](#)

## **The Public Finance Tax Blog**

**By Johnny Hutchinson on March 16, 2020**

**Squire Patton Boggs**

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### **[COVID-19 Guidance for Institutions of Higher Education: Holland & Knight](#)**

#### **Highlights**

- The fast-changing developments of COVID-19 have left institutions of higher education scrambling to address a wide range of unexpected legal issues.
- This Holland & Knight alert addresses some of the questions more frequently asked by colleges and universities, which should exercise caution and continue to monitor official guidance from federal and state agencies.

The fluid and fast-changing impact of the new coronavirus (COVID-19) has left institutions of higher education (IHEs) scrambling to address unexpected legal issues. This guidance addresses some of their more frequently asked questions.

#### **1. What Happens When IHEs or Their Vendors Cannot Perform Contracts Due to the Virus?**

The coronavirus is certain to test jurisprudence pertaining to force majeure clauses, impossibility of performance, and, relatedly, so-called “acts of God.” State law will govern these issues. Force majeure clauses are typical in commercial contracts. The ultimate resolution of their applicability will depend closely on the terms of the contract and the specific circumstances concerning performance. Such clauses usually identify “causes beyond the control” of the contracting party. Disputes about whether the clause applies in a given case will commonly focus on what is causing one party to fail to perform a contractual obligation. Those clauses that specifically reference epidemics or pandemics will have the greatest force.

Impossibility of performance or commercial impracticability can be defenses to contract performance. Under the impossibility of performance doctrine, a party is discharged from performing a contractual obligation when the obligation is impossible to perform due to unforeseeable circumstances. Mere inconvenience or increased cost does not ordinarily meet the standard. An “act of God” may be the reason for the impossibility of performance. “Acts of God” are also commonly listed in force majeure clauses. Each state addresses this issue slightly differently, but Acts of God have been described as acts or occurrences “so extraordinary and unprecedented that human foresight could not foresee or guard against” them and for which negligence or want of diligence, judgment or skill played no part. See *Fla. Power Corp. v. City of Tallahassee*, 154 Fla. 638, 646, 18 So. 2d 671 (1944); *Cain v. Atlantic Coast Line R. Co.*, 74 S.Ct. 89, 54 S.E. 244, 247 (1906).

## **2. May IHEs Inquire of Employees About COVID-19 Exposure? When May They Have a Duty to Inquire?**

The General Duty Clause of the Occupational Safety and Health Act, 29 U.S.C. § 654(a)(1), and many corollary state statutes, require employers to furnish to each worker “employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm.” Accordingly, the [Occupational and Safety Administration \(OSHA\) advises](#) that employers implement policies that will result in the “prompt identification and isolation of potentially infectious individuals.” OSHA requires employers to record COVID-19 illnesses among the workforce when the virus is contracted in the workplace. These records must be submitted to OSHA on [Form 300A](#) and maintained onsite.

An employer’s failure to inquire of employees about exposure could give rise to legal claims. Workers’ compensation claims are also possible for respiratory diseases to the extent an employee can establish causation from the workplace environment and that his or her occupation presents a particular hazard of the disease occurring so as to distinguish other occupations. Therefore, IHEs should consider excluding or sending home an employee who is symptomatic or returning from travel from high-risk locations specified by the Centers for Disease Control and Prevention (CDC).

During a pandemic, exceptions to the American with Disabilities Act’s (ADA) restrictions on employer health inquiries allow employers to inquire about an employee’s potential infection with the disease and travel from high risk locations. See the U.S. Equal Employment Opportunity Commission’s (EEOC) [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#). The ADA’s “direct threat” rule allows inquiries because an employee infected with COVID-19 will pose a direct health and safety threat to co-workers and others in the workplace. 29 C.F.R. § 1630.2(r). The bona fide occupational qualification defense may also be applicable on these facts. In contrast, an employee who is ill with something else such as the seasonal influenza does not have a disability under the ADA. State and municipal disability laws should also be consulted.

The [CDC recommends that employers separate sick employees from other employees](#). Asking an employee who has been absent from work for a medical reason for the absence is not a violation of the ADA. Nor is requiring an employee to provide a doctor’s note certifying fitness to return to work.

The [CDC also recommends](#) that if an employee is confirmed to have COVID-19, employers should inform co-workers immediately so that they can seek appropriate medical screening or care. Employers should provide general information to employees if an employee is infected, but should not specifically disclose the identity of any infected employee, except, as discussed below, with persons who can prevent or lessen a serious and imminent threat to the health or safety of the public. See 45 C.F.R. § 164.510(a); cf. 45 C.F.R. § 164.508. The personal information disclosed should be the minimum necessary to accomplish the purpose.

Employers may ask employees if they believe they have come into contact with someone who has been exposed to the virus, but may not ask employees whether they have a medical condition that could make them especially vulnerable to the virus. Furthermore, due to the Genetic Information Nondiscrimination Act (GINA) and corollary state laws, employers are restricted from inquiring about family members or their recent potential exposure. 42 U.S.C. §199gg-91(d)(16)(A); 29 C.F.R. § 1635.3(c) (protected genetic information includes “[t]he manifestation of disease or disorder in family members of the individual (family medical history)”). An employee who is asked by the employer to self-quarantine for the COVID-19’s incubation period (which is currently identified as 14 days) may be eligible for protected leave under the Family and Medical Leave Act (FMLA) and corresponding state laws. Any information gathered about an employee’s health must be kept separate from his or her general employment file and treated as a confidential medical record.

### **3. May IHEs Inquire of Students About Coronavirus Exposure? When May They Have a Duty to Inquire?**

Colleges and universities are commonly places of public accommodation with on-campus housing. The ADA provides that a public accommodation may exclude an individual if that individual poses a “direct threat” to the health or safety of others that cannot be mitigated by appropriate modifications in the public accommodation’s policies or procedures, or by the provision of auxiliary aids. 28 C.F.R. § 36.208(a). In addition, [according to the U.S. Department of Justice \(DOJ\)](#), “The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others.” State and municipal public accommodation and housing discrimination laws should also be consulted.

The failure of an IHE to inquire of students about exposure could give rise to legal claims. State landlord and tenant laws commonly require landlords and tenants of residential properties to comply with the requirements of applicable health codes. Landlords are ordinarily responsible for the sanitary condition of common areas. Threats or dangers to public health may also constitute a public nuisance under applicable municipal laws. Were tenants in client facilities to become infected with COVID-19, the buildings or portions of buildings could be deemed unfit for human habitation until remediated.

The Federal Housing Administration’s Office of Multifamily Housing (MFH) [recommends that property owners and agents follow CDC guidelines](#) and the direction of local health officials, especially in the event of property quarantine. Accordingly, IHEs may have a duty to inquire about the potential exposure of students to COVID-19 and to separate them from others. The information solicited should be the minimum necessary to accomplish the purpose. Any records created by personnel on behalf of the IHE are likely to be “education records” within the meaning of the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232g(a)(4)(A); 34 C.F.R. § 99.3 (definition of “education records”). Records created and maintained by a healthcare worker not acting for the school would not qualify as education records.

### **4. Must Institutions Report a Threat of Exposure and, if So, What Should They Report?**

The [CDC recommends](#), and the U.S. Department of Education endorses, sharing accurate information with staff, students and faculty about steps the IHE is taking to prevent and limit exposure risks. In addition to the obligation as an employer to report confirmed-cases to OSHA, IHEs should also notify local health officials about potential virus exposure, as permitted by local law.

In emergencies, when necessary to prevent or lessen a serious and imminent threat to the health or safety of the public, healthcare providers may share protected health information (PHI) without prior written consent with persons in a position to prevent or lessen the threatened harm. See [Joint Guidance](#) on the application of FERPA and the Health Insurance Portability and Accountability Act (HIPAA); 45 C.F.R. § 164.512(j). According to the U.S. Department of Health and Human Services (HHS), examples include state and local health departments, the U.S. Food and Drug Administration, and CDC.

Similarly, FERPA provides that personally identifiable information (PII) from a student's education records, including student health records, may be disclosed by educational agencies and institutions to appropriate parties in connection with a health or safety emergency, without the consent of the parent or eligible student, if knowledge of the information is necessary to protect the health or safety of the student or other individuals. 20 U.S.C. § 1232g(b)(1)(I); 34 CFR §§ 99.31(a)(10) and 99.36. HHS has stated that [an emergency includes the outbreak of an epidemic](#). 45 C.F.R. §§ 164.501 and 164.512(b)(1)(i).

A school that provides healthcare to students in the normal course of business, such as through its health clinic, may be a "health care provider" under specific HIPAA analysis. If a school that is a "health care provider" transmits any PHI electronically in connection with a transaction for which HHS has adopted a transaction standard, it typically would be a covered entity under HIPAA. However, many schools that meet the definition of a HIPAA-covered entity do not have to comply with all of the requirements of HIPAA rules as related to students because, with limited exceptions, the school's student health records are considered "education records" or "treatment records" under FERPA. See 45 CFR § 160.103 (definition of PHI ¶¶ (2)(i), (ii)). The HIPAA Privacy Rule specifically excludes from its coverage those records that are protected by FERPA by excluding such records from the definition of PHI. As relates to the records of nonstudents (such as staff) treated at a school healthcare clinic, those records would be regulated by HIPAA. Likewise, the records of hospitals associated with IHEs would be regulated by HIPAA.

HIPAA permits covered entities to disclose PHI, without a patient's authorization, to persons at risk of contracting or spreading a disease, 45 C.F.R. § 164.512(b)(1)(iv), and PHI about the patient as necessary to treat the patient or to treat a different patient.<sup>1</sup> Treatment includes the coordination or management of healthcare and related services by one or more healthcare providers and others; consultation between providers; and the referral of patients for treatment. See 45 CFR §§ 164.501, 164.502(a)(1)(ii), 164.506(c).

With students and staff in dozens of countries across the world, institutions may face a request from a foreign government agency or institution for health information in order to combat COVID-19. For staff medical records, HIPAA allows disclosures to foreign government agencies, but only if a domestic public health authority directs the disclosure. 45 C.F.R. § 164.512(b)(1)(i). Requests from partner foreign institutions (for either staff or student records) cannot be satisfied, absent written authorization. For student records, FERPA allows for disclosure to foreign public agencies if "it is necessary to protect the health or safety of the student or other individuals."

## **5. When Institutions Cancel Classes, Educational Programs or Close Their Campuses, What Are Their Obligations Under Title IV?**

Many IHEs are extending spring break or closing their campuses. The [CDC reports](#), “When classes are suspended, IHE may stay open for staff or faculty (unless ill) while students temporarily stop attending in-person classes. Keeping the IHE facilities open a) allows faculty to develop and deliver lessons and materials electronically, thus maintaining continuity of teaching and learning; and b) allows other staff members to continue to provide series and help with additional response efforts.”

On March 5, 2020, the U.S. Department of Education [issued “broad approval” for IHEs to use online technologies to continue students’ educations](#) without violating Title IV or the Higher Education Act (HEA). The Department is also allowing IHE accreditors to waive their distance education requirements for institutions implementing distance learning solely due to COVID-19. For distance education, institutions may communicate with students via email, use chat features, set up conference calls, and allow for submission of work electronically. DOE has also authorized IHEs to enter into temporary consortium agreements with other institutions, so that students can complete courses. In addition, an IHE may continue to pay federal work-study wages to students during a closure if it occurred after the beginning of the term, the institution is continuing to pay its other employees and the institution continues to meet its institutional wage share requirement.

If an institution ceases operation during a payment period or a student fails to return when an institution reopens, the requirement for return of Title IV funds kicks in. But if an institution reopens during the same payment period and students return to class at that time, the students are considered to have reentered the same period and retain Title IV eligibility. Importantly, IHEs may also [petition DOE to approve a reduced academic year](#).

## **6. When Students Withdraw from Classes or Educational Programs, What Are the Consequences Under Title IV?**

The U.S. Department of Education is [permitting students to take an approved leave of absence](#) for COVID-19-related concerns or limitations, even if a student notifies the institution in writing after an approved leave of absence has begun. In such an event, the institution may retain the Title IV funds to apply when the student continues enrollment and must ensure that the student is permitted to complete the coursework. IHEs are invested with professional discretion to adjust on a case-by-case basis the cost of attendance. IHEs may offer non-standard term schedules to students who have been recalled from travel abroad programs or canceled out of experiential learning opportunities after the semester began.

## **7. May Quarantines Be Enforced Against Employees and Students?**

COVID-19 meets the definition for “severe acute respiratory syndromes” as set forth in Executive Order 13295, as amended by Executive Orders 13375 and 13674, and, thus, is a federally “quarantinable communicable disease.”<sup>2</sup> Apart from a public order, private employers may require employees to self-quarantine if they pose a “direct threat” or “a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.”<sup>3</sup> The assessment by the CDC or public health authorities would provide the objective evidence needed for this determination. If the condition is met, the individual is not protected by the ADA in this context.

[OSHA advises employers](#) to “develop policies and procedures for immediately isolating people who have signs and/or symptoms of COVID-19, and train workers to implement them.” [OSHA recommends](#) isolating people “suspected of having COVID-19 separately from those with confirmed cases of the virus to prevent further transmission.”

## **The SEC's Fixed Income Market Structure Advisory Committee Approves Two New Recommendations.**

The Securities and Exchange Commission's (SEC) Fixed Income Market Structure Advisory Committee (FIMSAC) held its latest meeting on February 10, 2020.<sup>1</sup> The SEC formed FIMSAC to provide advice to the SEC on the efficiency and resiliency of the fixed income markets and identify opportunities for regulatory improvement. During the February meeting, FIMSAC considered and voted to approve:

- a recommendation from the Technology and Electronic Trading Subcommittee regarding reporting additional indicators for corporate bond trades to the Financial Industry Regulatory Authority's (FINRA) Trade Reporting and Compliance Engine (TRACE); and
- a recommendation from the Municipal Securities Transparency Subcommittee involving the timeliness of financial disclosures in the municipal securities markets.

FIMSAC also convened a panel to consider internal fund crosses.<sup>2</sup>

On November 13, 2019, the SEC renewed the charter for FIMSAC for another year.<sup>3</sup> With its newly renewed charter, FIMSAC will continue discussions regarding potential enhancements to the fixed income markets during the coming year. FIMSAC's next meetings for this year are currently scheduled for April 27, 2020 and August 3, 2020 (although the dates are subject to change). In addition to considering issues discussed in the February meeting, FIMSAC is considering a request from SEC Chairman Jay Clayton to analyze and comment on various structural and macroeconomic factors in the fixed income markets, including, without limitation:

- developments in monetary policy and corresponding financial conditions as they relate to the fixed income markets;
- the transition away from LIBOR;
- developments in the sub-investment grade and leveraged finance markets, including covenant packages; and
- developments in the municipal finance markets, including issuer disclosure.

### **Introductory Remarks**

In his introductory remarks for the February meeting, FIMSAC Chairman Michael Heaney summarized the work performed by FIMSAC over the past two years, including having provided the SEC with 10 recommendations on nine topics.<sup>4</sup> Chairman Heaney also described the progress to date in implementing two of the recommendations. On April 9, 2018, FIMSAC introduced a recommendation for a pilot program to study the market implications of changing the reporting regime for block-size trades in corporate bonds.<sup>5</sup> To implement this recommendation, FINRA requested comment on a proposed pilot program to study the recommended changes to corporate bond block trade dissemination.<sup>6</sup> FINRA received over 30 comment letters, which expressed divided views on the proposal. FINRA continues to evaluate next steps for such a pilot program.

In addition, on October 29, 2018, FIMSAC recommended that the SEC, in conjunction with FINRA, establish a reference data service for corporate bonds which would contain specified data elements

on TRACE-eligible corporate bond new issues.<sup>7</sup> On December 4, 2019, the SEC, pursuant to delegated authority, approved FINRA's proposal to establish a central depository for public dissemination of new-issue corporate bond reference data that was in line with FIMSAC's recommendation.<sup>8</sup> On December 12, 2019, however, the SEC stayed approval of the service in response to a petition to review the delegated approval, until it orders otherwise.<sup>9</sup>

### **Recommendation to Enhance Data Reported to TRACE for Corporate Bond Trades**

One panel of the FIMSAC meeting discussed the Technology and Electronic Trading Subcommittee's preliminary recommendation to improve price transparency for certain types of fixed income transactions reported to TRACE. The recommendation addressed two particular types of trades for which the TRACE reported price may not be reflective of the current market price, namely completed spread trades awaiting a Treasury spot and portfolio trades. After discussing issues raised by the proposal, FIMSAC voted to approve the subcommittee's recommendation, with 17 votes in favor and no votes in opposition or abstentions.<sup>10</sup>

Completed spread trades awaiting a Treasury spot<sup>11</sup> are reported to TRACE following the completion of the spotting process, even if the parties agreed to the spread much earlier in the day. As corporate bond spreads and Treasury prices can move throughout a day, the delayed spot process allows for a potential mismatch between the assumed value of the trade when the spread is agreed on and the price reported to TRACE following the Treasury spot later in the day. To address this issue, FIMSAC recommends that the SEC, in conjunction with FINRA, require that reporting parties include a flag or modifier for delayed spot trades that will alert market participants that the spread-based economics of the trade had been agreed on earlier in the day, and that the reporting party on a delayed spot trade be required to report the time at which the spread was agreed on.

In addition, with respect to portfolio trades, FIMSAC recommends that the SEC, in conjunction with FINRA, require that reporting firms use a TRACE modifier to identify whether a particular trade was executed as part of a portfolio trade. For purposes of this recommendation, a "portfolio trade" is defined to mean a trade that is executed between only two parties involving a basket of securities of at least 30 unique issuers for a single agreed price for the entire basket and that was executed on an all-or-none or most-or-none basis. FIMSAC believes that requiring a modifier for the TRACE report of a bond that is part of a portfolio trade would allow market participants to know with certainty that the price was agreed on as part of a portfolio and therefore may not reflect the independent market price for the particular bond.

FIMSAC also believes that market participants would benefit from a complete and accurate picture of the number and volume of fixed income trades that are executed electronically in order to track e-trading trends and to better inform transaction cost analysis. FIMSAC, however, did not provide a recommendation that FINRA and the Municipal Securities Rulemaking Board (MSRB) incorporate an "electronic trade" modifier for the fixed income markets due to the issues raised by the varying regulatory treatment afforded electronic trading platforms (i.e., regulated as broker-dealers, alternative trading systems or not at all). Once there is a unifying regulatory framework for all fixed income electronic trading platforms, FIMSAC believes that FINRA and MSRB should establish an appropriate definition of an "electronic trade" that could form the basis for a comprehensive electronic trading flag.

### **Recommendation Regarding Timeliness of Municipal Issuer Disclosure**

Another panel discussed the Municipal Securities Transparency Subcommittee's preliminary recommendation regarding timeliness of municipal issuer disclosure. After discussion of the proposal, FIMSAC voted in favor of the recommendation, with 14 votes in favor, two votes in

opposition and no abstentions.<sup>12</sup>

FIMSAC recommends that the SEC be given additional statutory authority to (1) provide a mechanism for the SEC to enforce compliance with continuing disclosure agreements and other obligations of municipal issuers to protect municipal securities bondholders, and (2) provide a safe harbor from private liability for forward-looking statements for municipal issuers that satisfy certain conditions, including, but not limited to, appropriate risk disclosure relating to such forward-looking statements, and if projections are provided, disclosure of significant assumptions underlying such projections and that the financials are provided in good faith.

FIMSAC also recommends that the SEC explore ways in which it could make disclosure deadlines for annual financial information and audited financial statements more certain and predictable. This recommendation is intended to give investors more certainty regarding when a municipal issuer has agreed to provide annual financials. FIMSAC further recommends that the SEC seek wide-ranging public comment about the concerns raised by market participants about disclosures in the municipal markets and the potential need for the SEC to establish a disclosure framework, including time frame obligations for municipal issuers. After reviewing comments, the SEC can determine whether it would be appropriate for the SEC to seek legislation to give the SEC additional (but still limited) authority over municipal disclosures. Finally, FIMSAC recommends that the SEC explore ways in which it can raise municipal issuers' awareness of the potential consequences of providing less timely and less robust disclosure information, such as the potential for the market to demand higher yields from such municipal issuers.

### **Internal Fund Crosses Panel**

The final panel of the FIMSAC meeting discussed the risks and benefits of internal fund crosses, and the potential advantages and disadvantages of providing relief from certain regulatory requirements related to such crosses. Certain panelists noted that such crosses can be beneficial to both the buyer and seller, and may assist funds with liquidity risk management. Certain panelists also noted the practical difficulty of obtaining and using bids and quotes for purposes of complying with Rule 17a-7 under the Investment Company Act of 1940, and the improved coverage and quality of pricing services that are now available. The discussion also recognized the need to prevent inappropriate self-dealing in cross trades.

To view all formatting for this article (eg, tables, footnotes), please access the original [here](#).

**Wilmer Cutler Pickering Hale and Dorr LLP** - Andre E. Owens, Cherie Weldon and Mahlet Ayalew

March 17 2020

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## **[S&P: U.S. State Unemployment Insurance Claims Are Not An Immediate Challenge To State Liquidity](#)**

NEW YORK (S&P Global Ratings) March 23, 2020-While the economic fallout from potentially massive unemployment levels will be a credit challenge for U.S. states, S&P Global Ratings does not believe that near-term state liquidity pressure will stem directly from payments on unemployment insurance claims that have recently spiked because of the coronavirus pandemic.

This is because the program structure allows states to receive federal loans, if necessary, to cover

state unemployment insurance trust fund deficiencies, if any, under current law. These federal loans must eventually be paid back to the federal government, however, through higher taxes on businesses or through other means.

During the Great Recession, some of these federal loans became quite substantial (see “Unemployment Insurance Fund Bonds Help States Pay Off Federal Unemployment Loans,” published Sept. 6, 2012, on RatingsDirect) and in some cases prompted states to issue bonds carrying lower interest rates to pay off higher-interest federal unemployment insurance loans. In the first quarter of 2012, loans from the federal unemployment account reached \$40.7 billion. In 2011, California’s unemployment loan from the federal government peaked at \$11.0 billion alone. As of Dec. 31, 2019, federal unemployment account loans were only \$63.3 million, attributable entirely to the Virgin Islands, and aggregate state unemployment trust fund balances were \$75.7 billion. While the federal government has indicated that certain states have below-optimal levels of state trust fund balances (such as California at \$3.3 billion as of Jan. 1, 2020), we believe the ability to tap into federal loans relieves short-term unemployment trust fund liquidity pressures for any particular state.

If states meet certain technical requirements and maintain a certain threshold of unemployment insurance tax rates on businesses over time, they can initially receive these federal unemployment trust fund loans interest-free. Qualifying states receive interest-free federal unemployment loans if a state takes a federal advance after Jan. 1, and repays it by Sept. 30, of the same year. After that, interest charges are imposed and if the state continues to fail to repay the loan by Nov. 10, of the year in which a second Jan. 1, has passed, then all taxable employers in a state will be subject to a reduced credit of 0.3% on the Federal Unemployment Tax Act tax, for which the credit reduction grows in subsequent years depending on state tax rates and changes in state law. For 2020, 31 states meet the eligibility criteria for interest-free borrowing.

The Louisiana Workforce Commission announced on March 19 that employers within the state will get a temporary deferral from paying their first-quarter 2020 unemployment taxes to June 30. If similar deferrals spread to other states, it could cause the amount of federal unemployment loans to rise higher than what they might be otherwise, but again would be unlikely to cause near-term state liquidity issues. These funds would still need to be repaid to the federal government from later business taxes, but potentially at a higher tax rate.

S&P Global Ratings will continue to monitor unemployment insurance trust funds and the extent to which higher taxes that are imposed on businesses to replenish these funds could reduce economic competitiveness, or cause a state to issue tax-backed debt to repay federal loans. However, we believe the short-term credit effects are limited.

This report does not constitute a rating action.

S&P Global Ratings, part of S&P Global Inc. (NYSE: SPGI), is the world’s leading provider of independent credit risk research. We publish more than a million credit ratings on debt issued by sovereign, municipal, corporate and financial sector entities. With over 1,400 credit analysts in 26 countries, and more than 150 years’ experience of assessing credit risk, we offer a unique combination of global coverage and local insight. Our research and opinions about relative credit risk provide market participants with information that helps to support the growth of transparent, liquid debt markets worldwide.

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## **S&P: Updated Scores For U.S. Metropolitan Statistical Areas Based On Various Criteria For 2019**

S&P Global Ratings has updated its scores for U.S. metropolitan statistical areas (MSAs) based on its local government GO criteria, priority-lien criteria, water/sewer criteria, and special assessment debt criteria (see “U.S. Local Governments General Obligation Ratings: Methodology And Assumptions” (published Sept. 12, 2013, on RatingsDirect), its “Priority-Lien Tax Revenue Debt” (published Oct. 22, 2018), “U.S. Public Finance Waterworks, Sanitary Sewer, And Drainage Utility Systems: Rating Methodology And Assumptions” (published Jan. 19, 2016), and “Special Assessment Debt Criteria” (published April 2, 2018).

Overall, 31 of the 384 MSA scores changed with 18 improving and 13 weakening. Additionally, one MSA was added: Poughkeepsie-Newburgh-Middletown, N.Y. This number of changes is lower than it has been during the past three years. The changes are due almost entirely to the employment growth aspect of the MSA score, which represents a comparison of each MSA’s percentage change in employment over the past five years against the sum for all MSAs. The change in employment is measured through 2019, and does not take into account recent or projected economic changes in 2020 accompanying the COVID-19 pandemic.

Other factors influencing the changes include:

[Continue reading.](#)

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## **Cities Reel From Hammer Blows of Sports, Events Going Dark.**

- **Cutting big-ticket events ripples through local economies**
- **Spokane’s arenas to lose \$1.5 million from loss of tournaments**

March was looking like a great month for Spokane: The eastern Washington city was going to host games in the NCAA’s March Madness basketball tournament as well as the Pacific Northwest Qualifier, which brings thousands of volleyball players and their families.

But both have been canceled because of the coronavirus pandemic, at a cost of more than \$1.5 million in revenue for the Spokane Public Facilities District, which runs the venues for the events.

“This is a major hit to our economy,” said Stephanie Curran, chief executive officer of the facilities district.

City and state officials across the U.S. are confronting the sweeping economic toll wrought by the virus that has emptied stadiums, arenas, hotels, restaurants and other businesses that just a few weeks ago were bustling.

Concerts and tours have been canceled along with New York’s Broadway theaters. Major League Baseball, the National Basketball Association and the National Hockey League last week suspended operations and the NCAA canceled all spring championship events.

### **Sports and Taxes**

Major sporting events can provide large infusions of tax revenue for host cities. The city of Omaha, Nebraska, has seen its three biggest events of the year — the NCAA basketball tournament, College

World Series baseball tournament and Berkshire Hathaway's annual meeting — canceled within the past week.

Those events have a combined economic impact of roughly \$100 million for the city, an estimated \$5 million to \$10 million of which is city tax revenue, said Stephen Curtiss, the city's finance director.

"It's not the ideal scenario for us as a city," he said. Event-related tax revenues account for 1%-1.5% of the city's general fund, a loss he said would pale in comparison to the hotels, restaurants and other businesses that have closed or limited operations after federal officials urged people to avoid gatherings of 10 or more people.

Some \$9 billion in tax-free municipal bonds to have been issued to finance sports stadiums and arenas that could remain empty for months due to the virus, nearly half in New York and Florida, according to Bloomberg Intelligence.

Florida's Miami-Dade County, for example, services the debt that financed the Miami Marlins' baseball stadium in part with hotel taxes, and the area is seeing a 9% decline in bookings, said Eric Kazatsky, senior municipals strategist at Bloomberg Intelligence. If that revenue stream dries up, the county would need to tap other revenue streams to service that stadium debt.

"When you hit an unexpected rough patch in the economy, you could find yourself in a situation where the municipality is on the hook," he said.

In New York City, budget officials estimate some \$3.2 billion in tax revenue will be lost over the next six months as the virus hollows out entertainment, tourism, hotel and other key sectors of its economy. Hotels are projected to be at 20% occupancy through June while restaurant sales are forecast to be down by 80%. Some \$1.4 billion in spending cuts are needed to preserve services vital to the city's most vulnerable, according to the city comptroller's office.

Social distancing measures will push thousands of small businesses in Maryland into bankruptcy without additional cash from the state or federal government to get them through the near-term shutdown of normal life caused by the virus, said Peter Franchot, Maryland's comptroller.

The economic turmoil will eventually become a threat to the state's tax revenues. Franchot said an accurate estimate isn't possible until the scope of the outbreak is better understood, but his staff has told him state tax revenues could be reduced by 15% to 20%. Such a dramatic decline could push state officials to make emergency spending cuts, which is what unfolded in the wake of the 2009 financial crisis, he said.

"I hope it doesn't happen, but it could based on a lengthy self-quarantine lockdown of the state's economy," Franchot said.

Big-ticket events have vast effects on the the regional economies of the cities that host them, said Anirban Basu, an economist and chief executive officer at Sage Policy Group Inc. in Baltimore.

"The supply chain around these events is extraordinarily extensive and it's difficult to know when these supply chains actually end because they're so extensive," he said.

Cities that are heavily dependent on hotel rooms, ticket taxes, casinos and other event-based sources stand to see the greatest pressure in the near term, which could lead to service reductions as officials adjust to maintain balanced budgets.

"All of that revenue is about to tumble, so to try to cobble together savings, you're going to see

services curtailed," Basu said.

Spokane has also canceled its St. Patrick's Day parade, a middle school basketball tournament that regularly fills the Spokane Convention Center and the girls' volleyball tournament that spreads over two weekends and is the area's highest grossing event, Brian Coddington, communications director for the city of 200,000.

The city is trying to assess the impact on local revenue, adjusting hiring plans and trying to figure out options.

"The information is coming quickly and there are a lot of variables we don't know, like how long the impact might last," Coddington said.

To soften the blow, Mayor Nadine Woodward, who took office Jan. 1, and other Spokane Valley officials are promoting an #OrderUpSpokane program to encourage people to buy takeout or pickup from local restaurants.

"All the businesses are really responding and trying to do the best they can to adjust to this," Coddington said. "We're asking people to be really creative about how they are making adjustments in their daily lives."

## **No Choices**

In normal times, there's little financial loss to a community from the cancellation of an event, said Andrew Zimbalist, an economics professor at Smith College in Northampton, Massachusetts. For people who live near a stadium or an arena, it's often a choice between paying for the night out at the event or spending the money at a local restaurant or different location.

"Now they just can't go to the local theater or the local concert because those places are shut down too," Zimbalist said. "There's less money the households are spending in the local economy. If you don't spend money at the ball park, there's no place to spend it."

Greensboro, North Carolina, hotel entrepreneur Dennis Quaintance said the abrupt nature of the cancellations added to the sting for his companies.

First the Atlantic Coast Conference basketball tournament was called off, and then the NCAA March Madness games.

"We went from about 100% occupancy to about 10% in one day," Quaintance, chief executive officer of the employee-owned Quaintance-Weaver Restaurants & Hotels, said in an interview.

"If none of that had been on the books, we would have had different business that didn't go away," he said.

## **Bloomberg Markets**

By Ryan Beene, Todd Shields, and Susan Decker

March 18, 2020, 8:23 AM PDT Updated on March 18, 2020, 9:22 AM PDT

— *With assistance by Danielle Moran*

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## **Fitch Rtg: Oil Price Plunge to Pressure US Energy States & Locals**

Fitch Ratings-Austin/San Francisco/New York-17 March 2020: The sharp decline in oil and natural gas prices will reduce economic output and revenues in US states, cities, counties, and single-purpose districts with significant energy sector exposure, says Fitch Ratings. Governments' vulnerabilities to these fiscal pressures will be compounded by the broader economic pressures caused by the coronavirus outbreak and related containment efforts, although the situation remains uncertain and is evolving rapidly.

The current price decline may represent a longer-term shift in the demand and supply landscape, causing these states and local governments to adjust to a longer period of negative or reduced growth in the building blocks of their revenue bases. This could lead to a change in Fitch's assessment of the underlying economic fundamentals of these credits and in some cases, a reassessment of these ratings.

States that have increased their financial resilience since the 2014-2016 natural resources downturn are expected to weather the current tumult with a limited rating impact, although those outcomes are predicated on the continuation of sound fiscal policies, which include provisions for an extended period of market weakness. Energy states whose revenue systems are less reliant on natural resources development, feature more diverse economies, or have accumulated significant reserves, such as Colorado and Texas, are also expected to maintain greater financial stability.

A sustained drop in oil prices could negatively affect the ratings of a handful of local government issuers with a high degree of economic and taxpayer concentration in the energy sector. However, most local governments in oil producing regions appear well prepared for a transitory period of stress and have withstood temporary prior price declines of up to one to two years with minimal ratings migration.

The effects to the energy sector will be a function of the duration of depressed oil prices and a government's level of economic diversity, structure of its revenue framework, spending flexibility and current level of reserves. The nature of a local government's participation in the industry and location in their state will also determine how vulnerable it may be to declining prices. Communities with 'downstream' energy facilities such as petrochemical manufacturing may benefit from lower energy prices.

Generally, Fitch believes US energy states and most local governments have sufficient fiscal tools to address near-term economic and financial stress linked to energy price drops. However, strained energy markets coupled with the coronavirus pandemic creates significant uncertainty as to the extent to which policy actions can address a longer-term shift in the demand/supply equation, requiring state and local officials to make greater and more fundamental budgetary adjustments than they have in past energy industry downturns.

Following the 2014-2016 natural resources downturn, when the price of West Texas Intermediate dropped to a low of \$36.82 per barrel (bbl) from more than \$100.00/bbl, sharp declines in financial resilience or weak budgetary responses resulted in rating downgrades for the states of Alaska, Louisiana, Oklahoma and West Virginia. These states have rebuilt their financial resilience since the downturn and are now rated 'AA-', 'AA-', 'AA' and 'AA', respectively, all with Stable Rating Outlooks, although Alaska's multiple downgrades from 'AAA' reflected its inability to advance financial policies that ensure stable financial performance.

Texas' rating of 'AAA' remained intact through this period of stress due to its greater economic and revenue diversity and sizable reserves. Montana also sustained its 'AA+' rating due to increased economic diversification and conservative fiscal policies. As oil and natural gas development has expanded in the US over the past several years, current oil and natural gas price turmoil may cause economic harm to a broadened group of US states.

As it did during the 2014-2016 period, Fitch is monitoring 15-20 local governments with energy concentration in Texas, California and Alaska that are at elevated risk for negative rating action. Issuers consist primarily of smaller communities in production areas but also include industry headquarter cities. Fitch ultimately took no negative rating actions on at-risk issuers during the last energy downturn as prices recovered, alleviating much of the economic concern. In the current environment, we expect the combination of reduced exploration activity and coronavirus economic pressures will be felt most acutely in the smaller, more concentrated oil-based economies, while larger cities may experience less severe effects, given the size and diversity of their regional economies.

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**[Fitch Rtgs: Coronavirus Fallout to Lower Public Power Demand, Affordability](#)**

Fitch Ratings-New York/Austin-20 March 2020: US public power systems are expected to face

limited immediate credit pressures related to the spread of the coronavirus, but an economic slowdown will weigh on longer-term performance, says Fitch Ratings. Significantly lower electric demand poses the most significant near-term risk for public power systems. While Fitch expects most systems to support revenue requirements and operating margins by raising retail rates, declining levels of employment and household income could strain affordability metrics over time and undermine rate-setting strategies, weakening credit quality.

Systems serving territories that rely heavily on travel and tourism, along with those subject to large shutdowns, are most likely to face immediate pressures as these regional economies suffer and electric demand falls precipitously. The effect of a sudden drop in energy sales on these issuers and their responses are expected to vary and will likely depend on the length of time demand is suppressed. Systems that rely heavily on purchased power, or those where fuel is a major expense, may be able to offset the effect of lower sales through lower purchases; whereas systems with higher fixed costs will experience the highest declines in margins and require the most pronounced increases in rates to preserve financial performance. Where economic weakness throughout the servicer territory limits an issuer's ability or willingness to increase rates, negative rating action may be warranted.

The effect on electric demand and prospective rate increases at other public power systems is expected to be more muted. Commercial and industrial sales will likely decline along with economic output but residential sales could rise reflecting increased isolation and changes in working habits. Fitch considers the effect of stressed demand on an issuer in its rating methodology and as part of each review. At this time, we expect that the resulting stress from the coronavirus will be in line with our applied stress for most issuers.

Declines in major operating expenses and more resilient rate structures could also lower revenue requirements, further limiting upward pressure on rates in the near term. Prices related to natural gas supplies have already reached levels consistent with Fitch's stress case and interest rates continue to test historical lows. Recent trends toward a higher component of fixed charges in retail rates should also lessen the effect of lower energy sales on revenue collection. Robust cash balances maintained by most issuers should further buffer the impact of any near-term disruption in cash flow.

Over the longer term, performance and credit quality could be negatively affected by sustained lower demand and pressures on household income, residential electric affordability and future rate setting. Improved affordability has helped to preserve demand and support rate-setting initiatives in recent years, bolstering financial performance. Residential electric costs consumed an estimated 2.2% of median household income (MHI) in 2019, well below the level of 2.8% in 2010.

Over the same period, financial performance throughout the sector has improved. Medians for Fitch-calculated coverage of full obligations and net adjusted debt/adjusted funds available for debt service (FADS) improved to 1.44x and 6.00x from 1.27x and 7.30x, respectively. To the extent lower MHI and weaker affordability result in more restrained rate-setting and demand declines, FADS will fall. This could weaken credit metrics and trigger rating actions for issuers on the cusp of a lower rating category.

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## **Fitch Rtg's: Federal Coronavirus Aid Key Short-Term Boost to US States**

Fitch Ratings-New York-19 March 2020: The federal government is funneling billions of dollars to US states to offset the growing implications of the coronavirus but the scope of states' fiscal pressures and the ultimate effect on ratings is uncertain, says Fitch Ratings. Since early March, the federal government has provided nearly \$1 billion in direct public health aid for US states and local governments, opened up access to the \$40 billion federal Disaster Relief Fund (DRF) and enacted legislation providing billions more to states through a 6.2 percentage point (pp) increase in the Medicaid matching rate. For context, the US Census Bureau estimates states collected \$257 billion in tax revenue in first-quarter 2019.

Lower-rated states, such as Illinois rated 'BBB', New Jersey rated 'A' and Connecticut rated 'A+', are more vulnerable to the adverse economic conditions posed by the coronavirus pandemic. This is due to lower levels of financial resilience than other states, which Fitch rates in the 'AA' or 'AAA' categories, indicating exceptionally strong or a very strong capacity for payment of financial commitments. A sustained period of disrupted economic activity would test all states' resilience and pressure ratings. Shutdowns in many parts of the country signal an unprecedented decline in economic activity for an unknown period and the full scope of necessary public health spending remains unclear. Fitch is reaching out to all rated states to assess their initial responses and any near-term credit pressure points.

The three federal aid measures will provide an important boost to state budgets, particularly for lower-rated states, although revenue losses and crisis spending may quickly escalate and remain high for some period. On March 6, Congress and President Trump enacted the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (H.R. 6074) allocating \$8.3 billion for domestic (\$6.7 billion) and international (\$1.6 billion) relief efforts. The bill included \$950 million in aid to state and local health departments, including tribal entities, with half to be distributed within 30 days and the remainder available through Sept. 30, 2022. This aid flows through the Centers for Disease Control and appears likely to be distributed based on states' need.

On March 13, following requests from members of Congress and Washington's governor, the president declared a Stafford Act national emergency. The declaration authorizes use of the DRF to reimburse states and locals at a 75% rate for related spending. On Feb. 29, the Federal Emergency Management Agency reported the DRF balance at \$42.643 billion.

On March 18, Congress and the president enacted a second bill, the Families First Coronavirus Response Act (H.R. 6201) that includes potentially the most significant fiscal aid for states, including the territories and the District of Columbia, a 6.2pp increase in the Federal Medical Assistance

Percentage (FMAP) for Medicaid for every quarter of the national emergency. FMAP is the rate at which the federal government reimburses states for Medicaid spending.

Medicaid is one of the largest line items in state budgets with the Medicaid and Children's Health Insurance Program (CHIP) Payment Access Commission reporting states spent \$230 billion in federal fiscal year 2018, while the federal government contributed nearly \$400 billion. The Center on Budget and Policy Priorities estimates the H.R. 6201 increase could provide \$35.7 billion in federal aid over a full year, or roughly \$9 billion each quarter.

In prior downturns, FMAP increases played important roles in supporting state budgets and credit quality. The 2009 federal stimulus bill increased FMAP by 6.2pp for all states, with provisions for additional increases based on states' unemployment rates leading to FMAP rate increases of at least 9pp and as high as 15.56pp. In total, the Kaiser Family Foundation (KFF) estimated the 2009 FMAP increase provided \$103 billion to states. In 2003, Congress increased the FMAP rate 2.95pp providing \$10 billion in aid to offset the 2001 recession according to KFF. The ultimate value of the H.R. 6201 FMAP rate increase will depend on states' Medicaid spending, which could be notably higher than in prior downturns given the public health nature of the pandemic.

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## **[Fitch Ratings: Reviewing Infrastructure Issuers for Coronavirus Vulnerability.](#)**

Fitch Ratings-New York-18 March 2020: The coronavirus pandemic represents a significant challenge to the global economy, and therefore, to the performance of transactions in the infrastructure and project finance space, according to Fitch Ratings. The wide range of transactions, from enterprise to project structures, single-assets to multi-asset, demand-based to contracted, and single jurisdiction to multi-jurisdiction provide for a wide variety of potential impacts. Given the fast-

moving nature of events, this release outlines our approach to reviewing the infrastructure and project finance ratings monitored by Fitch in the context of this crisis. This may evolve over time as the situation changes. However, providing insight into Fitch's approach to this crisis at this stage will provide visibility into our process and thinking in a volatile environment. It is Fitch's view that demand-based transactions will be most affected at the outset with contracted transactions feeling the knock-on effects as the crisis evolves.

Fitch has categorized our ratings into higher and lower risk sub-sectors and is currently grouping credits within those sub-sectors based on their flexibility to absorb this stress at their current rating level. This review will take 10 days to two weeks but Fitch will prioritize sectors with a higher magnitude of potential rating impact for action during that period. Where rating actions are not warranted Fitch will provide commentary with credit-specific views. Lower risk sub-sectors will be reviewed according to our normal annual surveillance procedures.

The impacts of the coronavirus pandemic, while still evolving, create risks that are far beyond what has been experienced in the infrastructure and project finance sectors in many decades. While the Global Financial Crisis (GFC) provides a benchmark and demonstrated the stability of core infrastructure assets (enterprises and projects), the rapid shutdown of major global economies that is being experienced now creates the potential for the near-term economic impact to be materially worse, and creates uncertainty on the future collateral effects on contractual arrangements and the nature of the recovery.

The following are considerations tied to Fitch's Key Rating Drivers for infrastructure and project finance ratings:

**DEMAND-BASED ASSETS MOST VULNERABLE:** Demand-based assets, particularly those in the transportation space, have been and are expected to continue being most significantly impacted, with airports exposed to declines that appear worse than those experienced after the 9/11 terrorist attacks, and ports seeing declines comparable to or exceeding drops seen through the GFC. The knock-on underlying economic impacts, potential reticence for travelers to return to the skies or to cruise vessels as quickly as in the past, changes in the supply chain for goods, and counterparty exposure related to airlines and shipping companies all put into question the pace of the recovery. Toll roads are affected with commuter volumes significantly declining. Though these assets are exposed to broader economic weakness and the nature of the recovery, they are also more likely to have volumes return faster as life returns to some normalcy. Managed lanes, which are more prevalent in the U.S., are especially vulnerable to acute traffic declines as they are congestion relievers. However, most benefit from debt deferability provisions under the U.S. government's TIFIA loan program that mitigate short-term demand volatility.

**CONTRACTED ASSETS HAVE COUNTERPARTY RISKS:** Contracted assets, particularly those in the energy space, are primarily exposed to the credit quality of their counterparties. The relative historical stability of utility counterparties (power and water) provides some comfort, though modest rating downgrades in those sectors would relate to transactions that are currently directly capped by a major counterparty. The increased prevalence of commercial and industrial (non-utility like) counterparties in energy transactions creates some risk of added volatility in counterparty credit quality.

**MERCHANT RISK ELEVATED:** Fitch rates one purely merchant power asset and a number of contracted transactions with merchant tails. Volatility in commodity prices and uncertain demand in the energy and power markets are expected to put pressure on current power prices and longer-term price growth. These transactions are structured with higher financial margins in the merchant period as a mitigant to contract rollover risk, so revised rating case margins could now be tighter.

These impacts will vary by market.

**SPORTS EXPOSURE MIXED:** The sports sector has a combination of contracted revenues and demand-based revenues. The league financings are secured by media contracts so are exposed to any material weakening in credit quality in the major media players. The team, stadium and arena financings have some of the benefit of media revenues but are more exposed to variable revenues tied to demand, such as tickets, sponsorships and advertising. The presence of annual and multi-year contracts in the case of stadium and arena financings, the historical practice of not providing refunds but instead providing credits against future contracts and ticket purchases to smooth cash-flow, and a fully-funded debt service reserve fund of at least six months provide protection.

**CONSTRUCTION DELAYS LIKELY:** Projects in construction may have logistical impacts from labor and materials shortages and unpredictable interface issues that cause delays and cost increases.

**OPERATING UNDERPERFORMANCE LIKELY:** While operations would typically not be a systemic concern for our infrastructure and project finance ratings, coronavirus may cause the performance of assets to be affected if operations are impacted by labor and material shortages, although this should only be a short-term concern. Delays in scheduled maintenance activities should also not be a material concern in most situations, provided the delays are not protracted.

**FORCE MAJEURE DECLARATIONS LIKELY:** The coronavirus pandemic and governmental actions taken to contain it will trigger force majeure provisions in certain contracts. Where force majeure contractual defenses are unavailable, legal doctrines such as impossibility, impracticability and frustration will also come into play. Disputes around excuses for nonperformance inevitably will be hotly contested and rife. Fitch will consider specific language in material agreements that may cause performance impacts or delays to be uncompensated from revenue, operating or construction counterparties as well as the elevated potential for disputes creating a higher level of credit risk.

**BUSINESS INTERRUPTION CLAIMS UNCERTAIN:** Many infrastructure enterprises and projects have business interruption insurance. However, policy language and exclusions vary. A case-by-case analysis is required to determine whether revenue loss resulting from the coronavirus pandemic will be covered. This heightens the importance of management's discretionary internal liquidity policies and structured liquidity in infrastructure transactions.

**REFINANCE RISK ELEVATED:** Transactions with bullet debt that have maturities in the next three to six months, particularly those with large bullets and weaker credit profiles, will be more exposed to sharp spikes in credit spreads. In the infrastructure space, these tend to be large enterprises with diversified operations but if they are already facing operational challenges this crisis could exacerbate the impact. Project financings with bullet debt are typically limited to those with long-tenured concessions or very long useful lives, so they retain some ability to roll over debt with short-term instruments pending a more favorable long-term financing environment.

Infrastructure assets also have key risk mitigants that warrant consideration:

**GOVERNMENT INTERVENTION LIKELY -** The powers and actions of government (national, state and local, coordinated multi-sovereign), particularly as they relate to transportation infrastructure enterprises and projects, have the potential to have both adverse and positive impacts. These include the administrative actions and regulations that have already restricted economic and social activity. However, transportation infrastructure is the backbone of every economy, so governments are heavily incentivized to provide financial and other support to stabilize the economy and vulnerable industries (such as the airlines) to facilitate an orderly recovery. Where government policies are known or highly likely Fitch will consider the impact in its analysis.

**ENTERPRISES MORE PROTECTED:** Most infrastructure enterprises have a diverse number of assets and, in some cases, are located in various jurisdictions, have assets with quasi-monopolistic characteristics and long useful lives, both restricted and unrestricted liquidity, balance sheet flexibility as growth capex plans can be modified, and management discretion on the distribution or application of surpluses that provide material resilience to navigate the events of the next three to six months.

**PROJECTS HAVE STRUCTURAL PROTECTIONS:** Most project structures, while being single asset in most cases, have strong capital structures that restrict how revenues are applied, including requiring equity distribution tests that protect lenders by tying up cash due to underperformance before dividends can be transferred to sponsors. Most projects also have fully cash-funded debt service reserve funds. Those with six month reserves are more vulnerable to a prolonged event and a slow recovery.

Fitch's rating committees will focus for each transaction on the potential magnitude and impact of the downturn and the ability to recover, while maintaining critical levels of liquidity for the current rating level. Fitch will continue to target a 'through-the-cycle' view with a focus on the extent that operating cash flow can service debt at the existing rating level, the ability to maintain existing levels of liquidity, the ability to recover to a financial profile consistent with the current rating level by 2022, and, to the extent liquidity is tapped, the time it takes to replenish critical reserves. Fitch recognizes that near-term metrics could breach indicative rating thresholds in 2020 and 2021. The focus will be less on any one metric and more on the ability to withstand this crisis and revert within two to three years to a more stable credit profile that is consistent with the current rating.

It bears repeating that while a number of the precepts listed above vis-a-vis infrastructure assets are conventional thinking, the scenario that might play out here could be much worse than anything previously contemplated - in particular, the rapid pace of decline. As a result, tenets of the past that infrastructure is stable and will only be mildly impacted - which was true even in the GFC - may be tested. Only time will tell, so the scenarios that Fitch considers, including its Rating Case, may well imply a higher percentage of rating actions than have been seen before.

Certain transactions where the risks are very apparent will warrant quick action by Fitch, with limited discussion with issuers. In other instances, there will be more flexibility for discussions with issuers and their expert advisors who are also critical to Fitch's analytical process. Fitch is mindful that, besides the credit impacts of this crisis, issuers have other pressing challenges to confront, including dealing with employee, customer and public life and safety. Our analysts will work with issuers whenever possible to ensure they have timely notification, so they are available to review and discuss our decisions and commentary. However, it is also important to note that Fitch has obligations to investors that warrant timely communication of our decisions, i.e. by the next day, so we ask for issuer's understanding and accommodation of our process.

Fitch will maintain an ongoing dialogue with issuers, as we monitor the evolution of this crisis and provide periodic credit commentary to investors.

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## **[Congress Passes Second Coronavirus Response; State and Local Priorities in the Mix for Next Stimulus Package.](#)**

On March 5, Congress quickly cleared the first legislative response to coronavirus in the form of \$8.3B in emergency supplemental spending. The funding in the supplemental was more federally focused and geared towards ramping up resources at the agencies (i.e. Center for Disease Control and Prevention (CDC)) serving as the first lines of defense against the pandemic. During the past week, the House passed HR 6201 (Families First Coronavirus Response Act) to provide broader relief to those impacted by the virus.

Among the provisions included in the measure are: two weeks of emergency paid leave for sick and quarantined workers, tax credits for employers to provide up to three months of paid time off due to extended absences from work due to the virus, \$1B in grant funding to help states manage and expand unemployment insurance programs during the crisis, funds to provide free coronavirus testing; and funding for enhanced food security initiatives like student meals, seniors' nutrition and food banks, Supplemental Nutrition Assistance Program (SNAP) and additional funding for Medicaid.

While the measure was initially adopted by the House early March 14, a subsequent bill containing "technical corrections" was adopted on March 16. Of note to GFOA members, a prohibition was included to prevent state and local governments from benefiting from the credits available to some private employers to offset the costs of the new mandates requiring expanded sick leave and family medical leave. GFOA, along with other organizations representing state and local governments, sent a letter to leaders to request the provision be removed.

The provision was retained and the Senate approved the bill on March 18. Congressional leaders and White House officials have already started negotiating another measure to further address the economic impact of the virus.

**As the next stimulus response is debated, GFOA urges members to reach out to their congressional delegation through their LOCAL offices - as Capitol Hill phone lines are very busy to:**

- Remind them that state and local employers must pay payroll taxes under 26 USC 3111, and must now meet new sick leave and family medical leave requirements, and
- Urge them to treat state and local employers (including those exempt from 26 USC 3111) on par with private employers by allowing them to qualify for the payroll credits for the new requirements for paid sick leave and paid family leave.

Further, as the next stimulus response is expected to focus on efforts to counter the current economic downturn, it could potentially include GFOA priorities like reinstating advance refunding and increasing the bank qualified limit. [Click here](#) for resources on GFOA's priorities for finance

tools to help spur infrastructure investment. To review a recent Public Finance Network (PFN) letter on the stimulus efforts in Congress, [click here](#).

**For this next stimulus measure, GFOA urges members to reach out to their congressional delegation and ask them to include language to:**

- *Restore advance refunding of tax-exempt bonds* (HR 2772) so states and local governments and other qualifying entities can free up billions of dollars they can reallocate and spend on other projects which in turn, strengthens local infrastructure networks, and
- *Increase access to capital for small borrowers* (HR 3967) by increasing the bank qualified borrowing limit from \$10 million to \$30 million, and having it apply at the borrower level so the small issuers (both governmental and nonprofit) who may be hardest hit during the downturn can access capital for immediate project needs.

GFOA will continue to monitor and report on the legislative developments as they occur. [Click here](#) for GFOA's Resource Center for Coronavirus response.

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## **[SIFMA Statement on the Municipal Bonds Emergency Relief Act.](#)**

Washington, D.C., March 20, 2020 - SIFMA today issued the following statement from President and CEO Kenneth E. Bentsen, Jr. on the Municipal Bonds Emergency Relief Act.

"SIFMA applauds the introduction of the Municipal Bonds Emergency Relief Act, which aims to support the municipal bond market during this volatile time. The municipal bond market is one of our nation's most remarkable financial institutions, providing a mechanism whereby more than 50,000 state and local government units can raise money for public purposes that benefit communities and ensure their sustainability. We appreciate the attention paid to this important sector of the markets and thank Senator Menendez for introducing this legislation to help states and localities use these financing tools to address the current crisis."

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## **[Fed Expands Money Market Liquidity Facility to Municipal Market.](#)**

WASHINGTON — The Federal Reserve Board on Friday said it was expanding its program of support to enhance the liquidity and functioning of state and municipal money markets.

Loans will now be available "to eligible financial institutions secured by certain high-quality assets purchased from single state and other tax-exempt municipal money market mutual funds," through the Money Market Mutual Fund Liquidity Facility the Fed set up on Wednesday, the U.S. central bank said in a statement.

**By Reuters**

March 20, 2020

(Reporting by Howard Schneider and Lindsay Dunsmuir; Editing by Franklin Paul)

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## **As Ridership and Revenues Plunge, Transit Agencies Seek Financial Aid.**

**The coronavirus has far fewer people riding buses and trains. Tax revenues going towards transit are in line to take a hit as well.**

Public transit agencies across the U.S. are looking to the federal government for billions of dollars of financial help as the coronavirus outbreak causes ridership and fare revenues to plummet.

Large transit agencies in New York City, San Francisco and Washington, D.C. all issued dire warnings about their finances in recent days, describing tens of millions of dollars in anticipated monthly losses that they say will pressure their budgets.

“As more people stay home following the advice of medical experts, the MTA is now facing financial calamity,” said Patrick Foye, who leads New York’s Metropolitan Transportation Authority, which operates the subway, trains and buses in the New York City region.

Foye made a plea to his state’s congressional delegation in a letter sent earlier this week.

MTA ridership has been down about 60% on subways and 49% on buses, the letter says. The authority projects that its finances could take an over \$4 billion hit by the end of 2020. That calculation doesn’t include an expected drop in state and local taxes dedicated to the MTA.

Foye is asking for about \$4 billion in federal aid to cover losses of \$3.7 billion, assuming ridership trends this week continue for six months, along with coronavirus-related expenses.

Bus and subway ridership, like many other normal day-to-day activities across the country, has collapsed as government officials have ordered businesses closed and events cancelled and told people to stay home as much as possible to help slow the virus’ spread.

Transit operators have continued to run service, in part, so that employees like medical professionals, child care providers, first responders, utility employees and those involved in the transportation of goods can continue to get to work.

But ridership from those workers alone can’t keep fare revenues afloat near usual levels.

The nation’s 14 largest mass transit systems rely on fares for about 30% of their operating revenue, while government subsidies provide another 23% and taxes make up about 40%, according to a brief that credit rating agency Moody’s Investors Service published on Thursday.

Like fare revenues, state and local tax collections are also expected to fall as the coronavirus, and efforts to bring the disease under control, put a severe drag on the economy.

There’s a huge degree of uncertainty over how bad the toll will be for public budgets, as nobody knows how long the health crisis will continue and how severe the economic damage will be.

But the American Public Transportation Association says it anticipates a 75% drop in public transit farebox revenue over the next six months for a total loss of \$6 billion. Additionally, the group estimates that sales tax revenues dedicated to transit will fall by about \$4.8 billion.

Citing these revenue losses and additional costs tied to the virus, like the extra cleaning of facilities and vehicles, APTA is calling on Congress to provide \$12.8 billion for public transit.

About 220 elected officials, transit agencies, advocacy groups and others signed a letter sent to congressional leaders on Wednesday urging lawmakers to allocate a similar sum, at minimum.

“Some agencies may have more slack than others,” said Scott Goldstein, policy director for Transportation For America, the group that drafted the letter. “But every agency is at risk.”

Transportation For America is warning against a “spread-the-peanut-butter” approach to distributing funding, where smaller amounts are distributed to a large number of places. Instead, the group argues that aid should be targeted toward places that need it most.

“If your funding source is a local sales tax that evaporates, that may have an effect on how much you need,” Goldstein said.

He added that even before the coronavirus took hold, many transit agencies around the U.S. had stretched budgets, maintenance and capital project backlogs and underfunded expansion plans. “A lot of them are struggling,” he said. “This is just adding fuel to that fire.”

Transportation for America and others are making a case that current “formula funding” programs, which the federal government use to distribute money that flows to transit agencies, are ill-suited for helping to solve the financial difficulties these agencies are now facing.

One issue is that those funds are typically directed towards capital expenses rather than operating costs.

Last week, the Federal Transit Administration did announce that it would give agencies in states where the governor has declared an emergency related to the coronavirus greater flexibility to use federal formula funds for operating costs, in addition to capital expenses.

The FTA also raised the cap on what share of those expenses could be covered with federal funds to 80% from 50%.

Goldstein said that these changes are a good initial step. But he also pointed out that using funds that were earmarked for capital projects to pay for emergency operating costs isn’t a real solution. In general, he said, transit agencies are already short on funding for capital costs—like buying new buses, or making station upgrades

Foye, with the MTA, said in his letter that, “flexing federal funds currently allocated for capital projects cannot be the solution.”

The U.S. Department of Transportation has found that an estimated 40% of buses and 23% of rail transit assets are in marginal or poor condition, with a backlog of deferred maintenance and needed equipment replacement that is in the ballpark of \$98 billion.

“What we need is additional funding,” Goldstein said. “And we need it for operating.”

Congressional lawmakers and the White House are currently considering plans for massive federal stimulus measures, with the aim of bolstering the nation’s economy as the virus outbreak has effectively shut down or dramatically slowed many sectors.

There’s talk of a relief package that could be in the \$1 trillion range.

Senate Majority Leader Mitch McConnell on Thursday unveiled his plan, which would include cash payments for many Americans, along with billions in “loans and loan guarantees” for industries like

the airlines and cargo air carriers.

It's in this context, that transit agencies are seeking aid for themselves.

Paul Wiedefeld, general manager and CEO of the Washington Metropolitan Area Transit Authority, said in a letter sent to congressional lawmakers from the nation's capital region, that the agency is expecting losses of about \$52 million a month.

At the same time, WMATA—which runs the subway system that serves the D.C. area—has over the past two months or so spent \$17 million on costs like special equipment to protect workers from the virus, and additional cleaning of vehicles and equipment, he said.

“Traditional transit formulas are not designed to address our unique circumstances,” Wiedefeld wrote. “We need immediate operating funding.”

In New York, Foye noted that the MTA had already committed to finding \$2.8 billion in savings in the years ahead. “No agency of our size can find additional billions in savings equivalent to the damages we have and will sustain as a result of this pandemic,” he added.

Leaders for San Francisco's Bay Area Rapid Transit system, which moves over 400,000 people on a typical weekday, are describing a similar situation. BART's Board President Lateefah Simon and General Manager Bob Powers have both been pushing state, local and federal officials to provide the agency with emergency funding.

Much of the Bay Area is now under a “shelter-in-place” order, intended to help slow the spread of the virus by drastically cutting down on the number of people going outside of their homes.

By Wednesday, BART ridership had fallen to about 48,000, down by around 365,000 or 88% compared to a February four-week average.

The agency says that a sustained ridership loss of 85%, combined with a slump in economic activity affecting other revenues, could erode its monthly income by about \$55 million.

BART says that it has looked at methods to cut costs, but that most of its operating expenses are related to labor. Options for reducing these costs are limited, the agency says, as it continues to provide service and maintains a ramped-up cleaning program.

On Thursday, the agency did say it would temporarily curtail service hours. Beginning Monday, it plans to stop running weekday trains at 9 p.m., instead of midnight. Weekend hours will be dialed back as well. BART says it is also taking other cost-saving measures, like placing restrictions on overtime, hiring and employee travel.

“This is a financial crisis for BART,” Simon, the agency's board president, said in a statement. “This level of catastrophic revenue loss is not sustainable and threatens future service.”

ROUTE FIFTY

BY Bill Lucia

MARCH 19, 2020

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## **Muni Market Support for Federal Reserve Intervention Grows.**

- **Groups call on central bank to buy more munis amid selloff**
- **Congressional approval needed to purchase long-term muni-bonds**

The Federal Reserve is wading into the \$3.9 trillion municipal-bond market. But the central bank still has more levers it could pull in the asset class that's been stung with the worst monthly rout on record.

Last week, the Fed [expanded](#) its emergency lending program to provide liquidity to money market funds so it would include purchases of short-term municipal bonds, and on Monday, it [tacked on](#) support for variable-rate demand notes. Despite the rare intervention, the chorus of calls for more help is getting louder. In the last week, lawmakers, state officials and lobbying groups have all advocated for the unusual move of the central bank buying municipals, at least temporarily.

The state and local debt market is in the midst of its worst rout in history due to a wave of selling by mutual funds and exchange-trade funds that's led to a liquidity crunch. For issuers, the soaring borrowing costs could make it more expensive for them to raise money in both the short- and long-term. Meanwhile, the coronavirus outbreak is wreaking havoc on government finances as revenue is falling at the same time costs are skyrocketing.

"States and issuers are being faced with other matters right now — it'd be nice not to deal with this one," said David Erdman, who handles debt sales for the state of Wisconsin.

The Federal Reserve is authorized to buy short-term municipals maturing in six months or less. But lobbying groups like the Bond Dealers of America, which represents banks and dealers, have said they would support the central bank going further than that and buy longer-dated securities temporarily. But that would likely require congressional or Treasury funding to backstop the Fed against credit risk.

### **Quantitative Easing**

"Given the significant role that states are playing at the forefront of the response to the Covid-19 virus, we want to make sure the resources are available financially for states as this progresses," said Shawn Wooden, who oversees debt sales for the state of Connecticut. Wooden is among a group of Democratic treasurers who last week called on the Fed to intervene.

Allowing the Fed to buy municipals through quantitative easing is likely "quite difficult" because it would require Congress to change its charter, Morgan Stanley strategists said in a report last week. Lawmakers' effort to pass a stimulus bill — which a lawmaker said would expand the Fed's ability to buy municipals — sputtered over the weekend.

But the Morgan Stanley strategists said that the Fed still had the authorization to buy revenue anticipation notes, which are sold by governments waiting for tax collections to come in. They said it would give governments access to liquidity in a "worst-case scenario."

The Fed on Monday moved to address a municipal-bond market niche that's been hit hard with much higher borrowing costs for issuers. The bank will include variable-rate demand notes as eligible collateral as part of its lending program to money-market funds, which may help reduce yields on those securities, according to Barclays Plc. Yields on a closely-watched index of variable-rate debt hit 5.2% last week, the most since 2008.

Still, the entry of the Fed could be a slippery slope in a market with millions of bond CUSIPs and varying credit ratings, said Kyle Gerberding, director of trading for Asset Preservation Advisors.

“Which ones do they buy? Which ones do they not?” he said.

Citigroup’s Vikram Rai said he believed that the Fed’s involvement would help as banks face limits on how much more they can step in to alleviate the selling pressure. Dealer inventories of municipals excluding variable-rate debt rose to \$14.5 billion as of March 11, up from just \$11.4 billion in mid-January, according to the most recent Federal Reserve Bank of New York data.

“It seems like an extreme suggestion, but we’re in uncharted waters,” Rai said. “This is the only way to temper the volatility in the market.”

## **Bloomberg Markets**

By Amanda Albright

March 23, 2020, 10:49 AM PDT

— *With assistance by Craig Torres*

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### **[Fed Could Snap Up Municipal Debt Under New Senate Proposal.](#)**

- **Bill would amend the Federal Reserve Act for emergencies**
- **Measure would allow Fed to buy municipal bonds of any maturity**

A Senate bill introduced Friday would allow the Federal Reserve to purchase municipal debt, in an effort to ease the economic strain of the coronavirus pandemic on state and local governments.

The measure from Senator Bob Menendez, a New Jersey Democrat on the Senate Banking Committee, would amend the Federal Reserve Act to allow the Fed to buy municipal bonds under “unusual and exigent circumstances.” The rule would be triggered by events like the rapid spread of a virus, other health emergencies or crises.

“States and localities are on the front lines in the fight against COVID-19 and need assistance from the federal government to be able to finance the increasing costs of the response to this health emergency,” Menendez said in a statement. “The Municipal Bonds Emergency Relief Act would do that by allowing the Federal Reserve to provide support to state and local governments for this crisis and similar future emergencies.”

The bill, which does not have any Republican cosponsors, would allow the Fed Board to authorize Federal Reserve banks to purchase municipal bonds on the open market. Five or more members of the board would have to vote to enact the procedure for it to work.

The Fed is already partially authorized to buy municipal bonds. Under Section 14 of the Federal Reserve Act, it can buy short-term municipal debt. This would expand that authority to debt of “any maturity.”

## **Stemming Market Runs**

The Fed on Friday amended the terms of a money market facility it launched earlier this week so

that it could accept municipal debt of 12 months or less. The move is aimed at stemming runs in the market for municipal commercial paper. It isn't aimed at solving the liquidity problems in the market for longer-term muni debt.

Menendez was not satisfied with the Fed's move because while it would help municipalities with highly rated debt like New York City and others, it wouldn't help cities such as Newark with lower-rated debt, according to a person familiar with his thinking.

"Glad the Federal Reserve is moving in the right direction, but much more needs to be done," the senator said in a tweet. "Congress must pass my Municipal Bonds Emergency Relief Act to extend this help to all cities and states."

The global health crisis has hammered municipal bonds as states and localities strain resources to prepare a medical response, try to help local businesses and suffer revenue losses as they ask people to stay at home.

Municipal bonds are headed for an 8% drop in March, their worst month of performance since 1981, according to Bloomberg Barclays indexes.

## **Bloomberg Markets**

By Daniel Flatley

March 20, 2020, 6:41 AM PDT Updated on March 20, 2020, 10:28 AM PDT

— *With assistance by Craig Torres*

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## **[Fed Could Provide Massive Support for Business, States in Bill.](#)**

Congress could hand the U.S. Treasury at least \$425 billion to backstop potentially much larger support by the Federal Reserve for business and municipal borrowers as part of an economic aid package being hammered out by the Trump administration and Congressional leaders.

The latest draft of the Republican-written bill, which GOP lawmakers are trying to finalize and pass Monday, would authorize the Treasury to use \$425 billion "to make loans, loan guarantees, and other investments in support of programs or facilities established by the Board of Governors of the Federal Reserve System for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, states or municipalities."

Earlier Sunday, Treasury Secretary Steven Mnuchin said the bill would provide up to \$4 trillion in liquidity through broad-based lending programs operated by the Fed.

### **Lever Up**

Details were unclear, but some analysts took the view that the money identified to support Fed programs would seed much larger assistance from the U.S. central bank.

"This is money the Fed can lever up," said Michael Feroli, chief U.S. economist at JPMorgan Chase & CO. in New York. "It's a very positive step. I hope the \$4 trillion is enough but there's no guarantee."

Senate Banking Committee Chairman Mike Crapo told Bloomberg News that the legislation would expand the Fed's authority to include state and local governments as entities it can lend to, and buy debt from, to assist them.

Crapo said he supports the measure and would expect other Republicans to do so as well, but also noted that a supplemental appropriations bill would provide direct support to states.

Democrats on Sunday were not yet on board.

### **Emergency Lending**

Last week, the Treasury backstopped two new emergency lending facilities rolled out by the central bank with a combined \$20 billion. That was seen as enough to support up to approximately \$1.7 trillion of eligible short-term securities.

The Fed has come under pressure from lawmakers and some former central bankers to extend support beyond shorter-dated debt markets and purchase long-run corporate and municipal bonds.

Companies, states and cities have found it increasingly difficult to borrow money as investors flee for safety amid the expanding coronavirus pandemic and the economic havoc its creating.

### **Cash Drain**

"The cash drain on households and businesses, and state and local governments, is going to punch a massive hole in the global glut of savings, and this is an aggressive effort to fill that gap," said Lou Crandall, chief economist at Wrightson ICAP.

Federal Reserve spokeswoman Michelle Smith declined to comment on what the legislation signaled on future Fed moves.

It's unclear whether the Fed would require separate congressional approval for buying long-dated corporate and municipal bonds. Eric Rosengren, president of the Boston Fed said March 6 the Fed would need lawmakers' consent to make such direct purchases.

But that might be open to debate.

Joseph Gagnon, a former Fed official now at the Peterson Institute for International Economics in Washington, has said he believes the Fed can extend credit to any entity as long as the collateral received in exchange is deemed adequate.

### **Bloomberg Economics**

By Christopher Condon, Rich Miller, and Colin Wilhelm

March 22, 2020, 1:56 PM PDT

— *With assistance by Saleha Mohsin, Ryan Beene, and Daniel Flatley*

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## **[Muni-Bond Liquidity Crisis Hits Governments With Rates Up to 11%.](#)**

- **Sell-off in variable-rate bonds as managers meet redemptions**

## • **Shades of 2008 crisis, with billions of bonds resetting higher**

The sell-off sweeping through the municipal-bond market is hitting cities, public-transit systems, hospitals and local governments with spiraling interest bills on floating-rate debt, dealing a new financial hit just as they contend with the economic toll of the coronavirus pandemic.

The jump is a result of the rapid pullback from the market over the last two weeks, which has left mutual-fund managers dumping the most liquid securities to raise cash to cover investors' withdrawals. The variable-rate bonds are among the easiest to offload because they can always be sold at full face value to Wall Street banks, which have been forced to reset the interest rates sharply higher to avoid being stuck with unwanted inventories.

"If you're a portfolio manager and you need cash — or you think you will need cash and you want to get ahead of the curve, you're going to sell whatever is the most liquid," said Patrick Luby, who tracks the municipal market for CreditSights Inc.

The pressure has driven up the yields on tens of billions of dollars of bonds by the most since the market froze up during the 2008 credit crisis. Those on debt issued by New York's Metropolitan Transportation Authority, which is seeking a federal bailout after subway and train travel tumbled, jumped to 9% when they reset Thursday, up from around 1% last week, according to data compiled by Bloomberg. Dozens of other bond issues have seen similar increases, including those sold by Indianapolis, the Columbus, Ohio airport and New York's water system. Those issued by Maryland's industrial development authority for Occidental Petroleum Corp. hit 11%.

The hikes come as Wall Street's municipal-bond desks are dealt blow after blow, with state and local debt headed for the worst monthly rout since 1984, according to Bloomberg Barclays indexes. With investors pulling money, managers are racing to raise cash.

Variable-rate municipal bond are one of the easiest investments to unload because they can always be sold at 100 cents on the dollar as frequently as every day, allowing fund managers to avoid locking in losses if they instead sold longer-dated securities that have fallen steeply during last two weeks. Banks are required to buy the securities if there aren't enough buyers, giving them a strong incentive to raise the rates so they don't have to hold the debt themselves.

The rising rates echo what happened in 2008, when much of the variable-rate municipal market unraveled after the real estate bubble burst. The market for so-called auction-rate securities collapsed completely as investors dumped them en masse, while the yields on other bonds surged.

The sell-off is coming just as banks' inventories of the securities usually swell around this time of the year as Americans sell them in order to pay their tax bills.

### **Bloomberg Markets**

By William Selway and Danielle Moran

March 19, 2020, 9:39 AM PDT

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### **[BDA Urges Fed to Take Action to Assist Municipal Market.](#)**

Today, March 18, 2020, following feedback received from membership, the BDA submitted a letter

to the Federal Reserve Chairman Jerome Powell addressing particular needs of the municipal markets to offset the negative impacts of the Coronavirus and in response to the announcement of the establishment of a Primary Dealer Credit Facility (PDCF).

The letter, which can be viewed [here](#), implores the Fed to:

- Expand the PDCF to include non-Primary Dealers of municipal securities; and
- Expand the CPFF to include municipal VRDNs.

The BDA plans to continue conversations with the Fed and Treasury, as well with Member of Congress in order to direct solutions to the volatility being seen in the municipal market.

The BDA will provide updates as they become available and plans to hold regular member calls to discuss solutions going forward.

## **Bond Dealers of America**

March 18, 2020

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### **[House Committee Considers Muni Market Support.](#)**

The House Financial Services Committee released an [outline of Chair priorities](#) for next steps in stimulus response to the Coronavirus outbreak. Included in the outline were two municipal bond provisions aimed to help the market by supporting issuers. While all details are yet to be made public, the draft calls for:

- **Support State, Territory, and Local Government Financing:** This provision would authorize a program that requires the Federal Reserve to support state, territory, and local debt issuance in response to the Coronavirus outbreak given the critical role these governments are playing.
- **Waive Matching Requirements for Municipal Governments:** This provision would waive the requirement that state, territory or local governments first obtain matching funds prior to receiving certain federal grants.

The Senate is also taking steps towards a vote on the [next round of stimulus](#). While the current Senate draft does not include any municipal bond related provisions, the BDA continues to work with our partners on Capitol Hill to ensure they are addressed going forward.

The BDA will continue to provide updates as they become available.

Update - 3/20/2020 - [Fed Expands Money Fund Program to Include Municipal Funds](#)

## **Bond Dealers of America**

March 20, 2020

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### **[Municipalities Face Short-Term Cash Crunch, Pushing Up Borrowing Costs.](#)**

The municipal bond market may be exempt from taxes, but it hasn't been sheltered from a record-

setting investor cash grab.

A muni-market selloff that started last week is snowballing, pushing up state and local authorities' cost of borrowing over a one-week period. Investors pulled \$12.2 billion from municipal bond funds over the week ended March 18, the most of any week on record, according to Lipper. The second-largest outflow was \$4.5 billion.

Interest rates have spiked to 5.2% on floating-rate municipal securities called Variable Rate Demand Notes, or VRDNs, up from 1.3% last week. That short-term rate—the cost of borrowing for one week—was higher than municipalities' longer-term rates. The 30-year benchmark municipal bond yield was 3% on Thursday afternoon.

[Continue reading.](#)

## **Barron's**

By Alexandra Scaggs

Updated March 19, 2020 4:59 pm ET / Original March 19, 2020 4:14 pm ET

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### **[The Fed Is Now Buying Munis, More or Less.](#)**

The Federal Reserve is expanding its program to bolster money-market funds by extending its support to municipal debt, as well.

The Fed's original money-market lending program, introduced late Wednesday, was created to finance banks' purchases of short-term corporate securities known as commercial paper (specifically from money-market funds). After this latest expansion, the Fed will also finance similar bank purchases of municipal debt maturing in less than one year.

In a typical transaction, a bank will buy short-term municipal bonds from a money-market fund or funds, and then pledge those bonds to the Fed as collateral for a cash loan. As of today, the interest rate on that loan would be 0.5%. These Fed loans will end at the same time the municipal bonds reach maturity. So the program is, in effect, the Fed buying the bonds from banks, in exchange for regular interest payments from those banks.

[Continue reading.](#)

## **Barron's**

By Alexandra Scaggs

March 20, 2020 12:13 pm ET

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### **[Move by Fed May Help Shore Up Short-Term Borrowing for States and Localities.](#)**

**The municipal bond market is experiencing a massive crunch as investors react to the**

## **coronavirus pandemic.**

The Federal Reserve took action this week that could help bolster state and local governments' access to short-term borrowing as the coronavirus crisis pressures their finances.

For some states and localities, short-term debt is an important source of cash for covering expenses at times when tax revenues are not rolling in. But the virus outbreak has been driving turmoil in the municipal bond market, threatening the flow of this type of lending.

Demand for municipal debt has collapsed as the disease outbreak disrupts nearly every corner of the U.S. economy. The pandemic-driven downturn is also stoking worries that state and local tax revenues could take a sizable hit, while at the same time governments spend big to combat the disease.

"Basically there are no buyers for municipal bonds at both the long end and the short end of the curve," said Michael Belsky, executive director of the Center for Municipal Finance at the University of Chicago's Harris Public Policy school.

Fleeing investors caused the roughly \$3.8 trillion municipal bond market to hemorrhage a record \$12.2 billion from municipal-bond mutual funds during a week's time ending Wednesday.

Some state and local government advocates are making a case that the federal government should intervene deeper into the municipal bond arena to help states and localities weather the pandemic. There's at least one proposal in the U.S. Senate to head that direction.

Emily S. Brock, director of the federal liaison center for the Government Finance Officers Association, applauded the latest move by the Fed. But she added: "We do need to open up the spigot a little bit wider in order to get that shot of adrenaline in our space."

States, cities and other local government entities around the U.S. commonly issue long-term debt to finance things like school construction and highway and mass transit projects. Bonds like these are usually paid off over many years.

But some also borrow on a short-term basis to maintain adequate financial liquidity. Tax payments can come in bursts at different times of year, while on the other side of the ledger governments must have consistent funding on hand to cover wages and other operating costs.

"There's a mismatch," said Bart Hildreth, a budgeting and finance professor at Georgia State University's Andrew Young School of Policy Studies. "You have cash flow deficits during the year."

To deal with this dynamic, states and localities might borrow short-term with the anticipation of collecting tax revenues in the months that follow and then using that money to repay the debt.

Unlike a 20-year bond that might be issued to build a bridge, this sort of short-term "cash flow borrowing" tends to involve debt that matures within the course of a fiscal year.

"It's a pretty regular feature of the borrowing plans of the moderate- to large-sized governments," Hildreth said. "Same thing with states."

But a concern now is that the upheaval in the municipal bond market is causing the investor cash that would normally be available for short-term state and local borrowing to dry up.

"Nobody's purchasing," said Brock. "All of the supply is being held on the dealers' books. And so we

have a bit of a challenge.”

This is where a move the Fed announced on Friday could help. Earlier in the week, the central bank announced that it was establishing a new Money Market Mutual Fund Liquidity Facility.

The general idea with this entity is to channel money towards money market mutual funds, supporting the flow of credit, and also keeping the funds functioning smoothly while the economy is in flux and as they meet investor demand for withdrawals. The funds are a common investment for households and businesses.

Under the program, the Federal Reserve plans to offer loans to banks and other financial institutions that purchase certain assets from the funds as collateral. What the Fed did on Friday is expand the list of eligible collateral to include highly-rated, short-term municipal debt, with a maturity of one year or less.

Tim Blake, managing director of public finance at Moody’s Investors Service, said a main benefit for state and local governments from the Fed facility is that it could provide investible money that the money market funds could use to purchase short-term state and local debt.

That could be especially important at a time when states and localities are facing huge uncertainties over how the coronavirus will affect their costs and revenues.

“There are probably going to be many government issuers and not-for-profit issuers that are seeing significant revenue declines in the coming months, and the need for some borrowing,” he said.

“This would allow the funds to purchase cash flow notes issued by governments,” Blake added.

Belsky, at the University of Chicago, said that, “basically the federal government is becoming the investor of last resort.”

Hildreth noted the Federal Reserve did not extend similar programs put in place in response to the Great Recession to cover short-term municipal debt. “Many of us thought they should have done it back then,” he said. “It shows that they have assessed the situation more severely this time that state and local governments are facing.”

But how effective the program will be in aiding state and local governments will depend partly on how banks respond.

“It’s really whether they need to use that asset or not,” said Natalie Cohen, president and founder of National Municipal Research. “How meaningful it’s going to be is questionable.”

Brock suggested there are ways the federal government could go further to help state and local governments through the municipal bond market. For instance, if the federal government were to somehow hold municipal debt of all types and maturity durations, or if it purchased what are known as Variable Rate Demand Notes.

This week, U.S. Sen. Bob Menendez, a New Jersey Democrat who serves on the Senate Banking Committee, introduced a bill that would allow the Federal Reserve’s board to authorize federal reserve banks to directly buy and sell muni bonds of any maturity under “unusual and exigent circumstances.”

The senator said that his legislation would provide state and local governments with federal support in financing the costs tied to the coronavirus outbreak, and other future emergencies.

But Tom Kozlik, head of municipal strategy and credit with Hilltop securities, said in a brief issued on Friday that there is not enough information available yet to know if the bill would solve the liquidity crunch facing the long- and short-term municipal bond market.

“The devil could be in the details here,” he wrote.

Looking ahead, Belsky pointed out that many of the nation’s public works projects are financed using municipal bonds. If the nation slips into a full-blown recession due to the coronavirus, he said, infrastructure investment could be key to kickstarting a recovery.

## **Route Fifty**

By Bill Lucia,

MARCH 21, 2020

*Bill Lucia is a senior reporter for Route Fifty and is based in Olympia, Washington.*

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## **[NABL Sends Letter to Congress/Treasury on COVID-19 Economic Stimulus Package.](#)**

In response to the COVID-19 pandemic and the economic stimulus package moving through Congress, NABL has submitted a letter to Congress, as well as to Steven Mnuchin, Secretary of the U.S. Treasury.

In the letter, NABL asks Congress and the Treasury to adopt certain bond-related proposals that will allow state and local governments to access much needed capital now, at a time when support to our communities is of paramount and immediate concern. Additionally, the tools we discuss will position state and local governments to mitigate damages affecting our nation.

**You can find the letter [here](#).**

### **IMMEDIATE MEMBER REQUESTS:**

**(1) Please send the NABL letter to your Senator and Congressperson.** It is important they hear from their constituents especially as decisions are happening so fast. Find your Senator [here](#) and your Congressperson [here](#). You can either deliver the letter as an attachment (if their contact form allows), or hyperlink the letter, available on NABL’s website [here](#).

**(2) Senator Menendez/Senator Perdue Municipal Bonds Emergency Relief Act.** We are asking our members to encourage your Senators to support the inclusion of the [Municipal Bond Emergency Relief Act](#) in the final package currently under construction. This bill would encourage the Federal Reserve to invest in municipal securities immediately. It is important you convey: (a) the liquidity crisis in the tax-exempt market, and (b) how much it would help if the Fed was authorized to acquire municipal bonds.

For any questions, please contact Jessica Giroux, Director of Governmental Affairs at [jgiroux@nabl.org](mailto:jgiroux@nabl.org), (518) 469-1565.

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## [Yields on Transportation-Related Muni Bonds Are Climbing. It's Too Soon to Buy.](#)

Debt issued by entities like New York's Metropolitan Transportation Authority has fallen in price, sending yields higher, as the coronavirus crisis chokes off ridership, and revenue, but analysts say it is too soon to buy.

The MTA and other transportation-related issuers appealed for federal help this week, and Moody's said Friday it expects government support for the agency, "given MTA's unmatched essentiality to the regional and national economy, especially during a post-coronavirus recovery." But the credit-rating company still said it may downgrade the MTA's transportation-revenue bonds.

Municipal debt in general has sold off sharply, pushing up borrowing costs for states and local authorities and prompting the Federal Reserve to expand efforts intended to keep markets running smoothly to include short-term munis. The transportation-related corner of the market has been under particular strain.

[Continue reading.](#)

### **Barron's**

By Leslie P. Norton

Updated March 21, 2020 3:41 pm ET / Original March 20, 2020 7:01 pm ET

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## [Hospitals, Cities Hit by Surging Interest Rates in 2008 Echo.](#)

- **As cash yanked from market, yields on variable-rate bonds jump**
- **The rates on tens of billions of dollars of debt surge**

On Wednesday, as a hospital system in Memphis, Tennessee, was preparing for how to combat the spreading coronavirus, the havoc the pandemic was causing on Wall Street rippled down with its own financial hit.

Investors were rapidly hoarding cash as the economy grinds to a near halt, creating an exodus from the corner of the municipal-bond market where the health-care provider had raised cash.

With short-term yields surging, U.S. Bank more than doubled the interest rate on \$124 million of variable-rate bonds issued by Methodist Le Bonheur Healthcare to 5% — threatening to add almost \$4 million a year to its annual debt payments.

The liquidity crisis that's racing through financial markets is delivering similar blows to local governments, hospitals and non-profits nationwide. At least \$34.6 billion of municipal bonds with yields that reset daily have seen their interest rates surge by 2 percentage points or more in the last two days, according to data compiled by Bloomberg. And an index of tax-exempt debt with variable interest rates reset to yield 5.2% on Wednesday, the most since 2008.

"There's a tremendous amount of fear and concern in the market right now, and I think that when you see that panic signal going off, it's not a surprise that clients are rushing to cash," said Kristian

Lind, a senior portfolio manager for Neuberger Berman.

The interest-rate hikes come as Wall Street's municipal-bond desks are dealt blow after blow, with state and local debt headed for the worst monthly rout since 1987, according to Bloomberg Barclays indexes. With investors pulling money out of mutual funds, managers are being forced to dump securities to raise cash.

Variable-rate municipal bond are one of the easiest investments to unload because they can always be sold for 100 cents on the dollar as frequently as every day. Banks are required to buy the securities if there aren't enough buyers, giving them a strong incentive to raise the rates so they don't have to take unwanted debt into their inventories.

Kristin Kelly, a spokesperson for U.S. Bank, which serves as what's known as the remarketing agent on the Methodist Le Bonheur's debt, declined to comment. Sarah Farley, a spokeswoman for the health-care provider, did not have an immediate comment.

The rising rates echo what happened in 2008, when much of the variable-rate municipal market unraveled after the real estate bubble burst. The market for so-called auction-rate securities collapsed completely as investors dumped them en masse, while the yields on other bonds surged to 8%.

An index of variable-rate munis spiked higher as investors hit exits  
Brian Mayhew, the chief financial officer of the Metropolitan Transportation Commission in San Francisco, watched that debacle foist spiraling bills on his agency and is now seeing it unfold again.

He said he's been told to expect a "shock" when the rate resets on his agency's bonds, whose interest payments are about \$4 million a year. A 1 percentage point increase in its interest rate would increase costs by about \$350,000 a month, he said.

The higher rates are "real money," said Mayhew.

The sell-off is coming just as banks' inventories of the securities usually swell around this time of the year as Americans sell them in order to pay their tax bills. Lind, the Neuberger Berman portfolio manager, said the financial market havoc has created a "perfect storm" that's giving banks a strong incentive to increase the interest rates to lure buyers back.

"Whoever can set their rates the cheapest is most likely going to be sitting on less inventory between now and tax time," he said.

### **Abrupt Shift**

The Memphis health care system is among the dozens that have been affected. Bonds issued by the state of Oregon issued for veterans' projects were reset to yield 5% on Wednesday, up from 1.92% on Monday. Bonds issued for an art museum in Kansas City, Missouri, which had to shut its doors until April due to the coronavirus, also saw its bonds reset to 5%, up from 1.92% on Monday.

The tax-time uptick in yields is usually a short-lived phenomenon, and this time may be no different. But it's an abrupt shift for borrowers that had been paying near zero interest rates for years.

Mayhew joked that he would consider buying his tolling agency's debt because the shift higher in yields is likely to be short lived.

"I don't think we're going to hate the whole market if we get a couple of bad months," Mayhew said.

## Bloomberg Markets

By Amanda Albright and Danielle Moran

March 18, 2020, 10:47 AM PDT Updated on March 18, 2020, 1:31 PM PDT

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### [Fitch Rtgs: Coronavirus Pressure Builds for NFP Hospitals, Health Systems](#)

Fitch Ratings-Austin/New York-19 March 2020: Not-for-profit (NFP) hospitals and health systems, particularly those that are higher rated, should have sufficient financial cushion to absorb an increase in operating costs and the effects of a shift in volumes associated with the spread of the coronavirus without meaningfully affecting credit profiles over the short term, says Fitch Ratings. While we do not initially expect sector-wide rating changes, smaller single-site facilities with lower liquidity levels are at heightened credit risk. Beyond the near term, risks associated with the economic disruption caused by the outbreak are expected to increase pressures on operating margins for all providers.

For the majority of rated credits, Fitch expects that the coronavirus will cause delayed earnings as elective procedures are temporarily suspended, but these will resume after the crisis abates.

Lower rated, typically smaller, single site facilities, and those credits with comparatively lower liquidity levels, particularly in areas with a high concentration of people who are 65 and older, are more vulnerable to near-term pressures. Credits such as these will be far more constrained at their current rating level as they are unable to easily absorb declining reimbursement as more lucrative elective surgical cases are replaced by medical volumes. They will also be challenged to manage the rising expense pressure due to the influx of coronavirus volumes that will require additional staffing and supplies, potentially at a significant premium.

Hospital staffing levels may become a greater concern if a significant number of staff become subject to isolation or furlough. This could not only reduce hospital capacity but also increase costs in the form of premium staffing, such as agency employment and overtime. The sector's ability to begin quickly testing for the virus in order to more rapidly identify and quarantine an infected patient or rule out infections among staff will be critical for containment and will help hospitals managing their care resources.

All hospitals have protocols in place for viral outbreaks, and prior epidemics, such as Influenza A H1N1, and natural disasters that have significantly challenged operations have typically not affected hospital credit. However, while the healthcare sector has responded extremely well to past crises, the scale of the coronavirus pandemic is unprecedented. Severe disruptions to operations and longer-term economic pressures could affect provider and consumer decisions for years to come. With this outbreak, hospitals will very likely end up at peak capacity levels or beyond for an undetermined amount of time, with high demands for specific services such as intensive care unit beds and ventilators. The mortality rate of the coronavirus at least initially appears to be much higher than that of ordinary influenza and the duration and severity of the epidemic in the US remains uncertain. The crisis in Italy has shown how health systems can quickly become overloaded and struggle to triage healthcare needs.

While the immediate effects of the outbreak will be challenging but manageable for higher rated hospital credits, medium- and longer-term risks will weigh on the sector, particularly if the outbreak continues throughout 2020 and macroeconomic conditions deteriorate for a prolonged period.

Lower-rated hospitals with lower liquidity buffers that take a significant financial loss over the next few months will be limited in their ability to respond to any operational issues, particularly in light of significant declines in unrestricted liquidity levels with recent market activity.

Over the medium term hospitals may face sustained increases in supply costs, ongoing spending for future preventative measures, and delays in expansion projects, which would lead to deterioration in operating margins and pressure ratings. Longer-term rating concerns relate to the virus' negative economic effects on local economies, which in turn could lead to reduced volumes and a weakened payor mix well after the initial effects of the coronavirus are managed. This is particularly a risk for smaller, less diverse economies, particularly locations dependent on travel, tourism and entertainment, oil production, and hospital districts that depend on tax revenues.

This is an exceptionally fluid situation at the moment, and Fitch will continue to monitor incoming information and update the market with opinions, analysis, and rating actions as appropriate.

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The above article originally appeared as a post on the Fitch Wire credit market commentary page. The original article can be accessed at [www.fitchratings.com](http://www.fitchratings.com). All opinions expressed are those of Fitch Ratings.

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## **TAX - CALIFORNIA**

### **[Los Angeles Leadership Academy, Inc. v. Prang](#)**

**Court of Appeal, Second District, Division 8, California - March 10, 2020 - Cal.Rptr.3d - 2020 WL 1149697 - 20 Cal. Daily Op. Serv. 2122**

Nonprofit charter school and two related nonprofit public benefit corporations brought action against county assessor, seeking refund of property taxes and special assessments, and declaratory relief that they had no obligation to pay such taxes and assessments as long as property was held for benefit of the school at time of its operation.

The Superior Court entered judgment for assessor. Charter school and public benefit corporations appealed.

The Court of Appeal held that charter school's property was not exempt from property taxation, nor was it impliedly exempt from special assessments.

Charter school could not be treated as a school district for taxation purposes, and thus, its property was not exempt from property taxation under the constitutional exemption for property owned by the state or a local government, nor was such property impliedly exempt from special assessments; although Charter Schools Act (CSA) provided equal eligibility with public schools for share of state and local education funding, CSA assigned no sovereign authority and exempted it from laws governing school districts.

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## **[Fitch Webinar: Coronavirus Effects for U.S. States and Local Governments](#)**

**March 26, 2020 at 1:00pm EDT**

Please join Laura Porter, Arlene Bohner, Michael Rinaldi and Eric Kim for a discussion and Q&A on how COVID-19 will pressure State and Local Governments March 26 at 1pm ET.

[Register Now](#)

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## **[Fitch Webinar: Coronavirus Impact on NFP Hospitals and Life Plan Communities](#)**

**March 25, 2020 at 11:00am EDT**

Laura Porter - Managing Director, Global Group Head of Public Finance & Infrastructure  
Kevin Holloran - Senior Director, US Public Finance Margaret Johnson - Director, Senior Living Sector Lead

[Register Now](#)

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## **[Puerto Rico Oversight Board to Ask for Delay in Debt Restructuring Due to Coronavirus.](#)**

(Reuters) - Puerto Rico's federally created financial oversight board will ask a court to delay the U.S. commonwealth's debt restructuring hearing due to the coronavirus outbreak, it said on Saturday.

"The Oversight Board will present a motion in court to adjourn consideration of the proposed Plan of Adjustment's disclosure hearing until further notice", the Financial Oversight and Management Board for Puerto Rico said <https://bit.ly/2Ua0dUP>.

Puerto Rico commenced a form of municipal bankruptcy in May 2017 to restructure about \$120 billion of debt and liabilities.

The oversight board said last month it was aiming for Puerto Rico to exit bankruptcy by the end of the year after it had reached a deal with an expanded group of bondholders to cut the commonwealth's debt by \$24 billion.

The board asked Judge Laura Taylor Swain to approve a schedule that would culminate with a

confirmation hearing on a so-called plan of adjustment for Puerto Rico's core government debt and pension obligations starting in October.

The government of Puerto Rico had objected to moving forward with the new debt plan.

**By Reuters**

March 21, 2020

(Reporting by Kanishka Singh in Bengaluru; Editing by Sonya Hepinstall)

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## **Fed Backstops Corner of Municipal Debt Markets Amid Calls for Support.**

**The Federal Reserve said it would backstop money market funds that invested in municipal bonds, making sure they can meet redemptions.**

WASHINGTON — The Federal Reserve tiptoed into the market for municipal debt on Friday, a small move that economists, lawmakers and state treasurers say should be expanded as the coronavirus places huge financial pressure on local governments.

The Fed will now let banks tap cheap loans by pledging short-term, highly rated municipal debt as collateral. That gives banks an incentive to buy local debt from money market mutual funds, creating demand for securities that had become hard to trade amid broader financial turmoil.

The move could keep the mutual funds, popular investments among ordinary workers and companies, from crashing as investors cash out. The funds will now be able to sell off their municipal bond holdings to satisfy those redemptions. It could also help soothe the market for local bonds — used to finance everything from sewer projects to public transportation — where interest rates have surged as investors flee amid coronavirus economic fears.

But it is a limited fix. The setup is probably too narrow to pave the way for state and local governments to issue bonds they might need to raise money going forward, economists said. Democratic lawmakers, a group of state treasurers, and interest groups have all urged the Fed to help municipalities more directly.

“They are trying to fix a market liquidity issue,” Skanda Amarnath, research director at Employ America, a Fed-focused advocacy group, said of the central bank's move. “You aren't actually addressing the issue of getting the funds to the entities.”

Friday's announcement expanded an emergency lending program that the Fed had announced this week. The central bank said in a [release](#) late Wednesday that it would establish a so-called Money Market Mutual Fund Liquidity Facility, backed by \$10 billion from the Treasury Department. That program was intended to prevent runs on the funds, which many investors use as a short-term place to stash cash for a small return.

The initial program looked much like a version the Fed used in 2008. The municipal debt addition will “enhance the liquidity and functioning of crucial state and municipal money markets,” the Fed said in its Friday statement.

The central bank has been coming out with new programs daily to keep markets functioning. From

Wall Street to Main Street, Americans are hoarding cash as the coronavirus upends businesses and threatens to plunge the nation into a deep recession.

On Friday alone, it pumped up its efforts to keep dollar funding flowing overseas, increased its daily interventions in the market for short-term loans among banks and ramped up the pace of its mortgage-backed security purchasing schedule. All of those measures were squarely aimed at reducing pressures at the core of the financial system.

Among other things, the credit crunch means there are relatively few buyers for municipal bonds. As a result, yields on those securities have [skyrocketed](#).

The timing couldn't be worse for the municipal market to dry up. State and local governments have immense funding needs as they try to respond to the public health emergency posed by the virus, and tax revenues are expected to fall as workers lose their jobs.

Some lawmakers have been calling on the Fed to help. Representative Maxine Waters, the California Democrat who leads the House Financial Services Committee, has even [proposed requiring](#) the Fed "to support state, territory and local debt issuance in response to the coronavirus outbreak." Senator Bob Menendez, a New Jersey Democrat, has [proposed legislation](#) that would let the Fed snap up local bonds of all maturities.

The central bank could legally buy very short-term municipal debt outright, based on the powers it is granted under the Federal Reserve Act. But it has avoided that path, partly because of the political implications. Doing so would amount to government finance, something central banks globally avoid.

"Munis are a whole different ballgame," said Ernie Tedeschi, policy economist at Evercore ISI. "Now all of the sudden you run into problems about favoritism, regionalism and picking winners and losers."

A group of state treasurers sent the Fed's chair, Jerome H. Powell, a letter on Friday requesting that it use that authority anyway. The Democratic Treasurers Association wrote that "states are taking unprecedented actions to expand health care capacity" and that "at the same time, tax revenues are reducing and financial market turbulence could freeze the municipal bond market."

"We are seeking the Federal Reserve's support to ensure that financing constraints do not hinder the necessary response," they said.

## **The New York Times**

By Jeanna Smialek

March 20, 2020

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### **[Fed Backstop for U.S. Muni Market May Ease Some Rate Pressures.](#)**

CHICAGO — The battered U.S. municipal bond market could get a limited boost from the Federal Reserve's announcement it was expanding its money market support program to include short-term muni debt as collateral, analysts said on Friday.

Yields in the \$3.8 trillion market where states, cities, schools and other issuers sell debt, have

climbed dramatically amid a selling frenzy by investors scrambling for cash as coronavirus fears wreak havoc on markets.

Loans will now be available “to eligible financial institutions secured by certain high-quality assets purchased from single state and other tax-exempt municipal money market mutual funds,” through the Money Market Mutual Fund Liquidity Facility the Fed set up on Wednesday, the U.S. central bank said in a statement.

The move is limited to highly rated muni debt with maturities that do not exceed 12 months.

Even so, the iShares National Muni Bond ETF , which tracks overall municipal bond sector, jumped almost 4% after the news and was last up about 0.9%.

Greg Saulnier, a Municipal Market Data (MMD) analyst, said while help was desperately needed, there was no immediate change in the tone of the overall market, where yields on MMD’s top-rated, tax-exempt benchmark scale were poised on Friday to add to Thursday’s 50 basis-point hike.

“I don’t know how much impact that’s going to have on stabilizing the rest of the market,” he said, noting the Fed was only targeting short-term debt.

But Matt Fabian, the head of market and credit research at Municipal Market Analytics, welcomed the move as a way to help stabilize municipal bond liquidity.

“It will greatly reduce the pressure on the muni money markets to cover investor redemptions while not tanking the value of the underlying municipal bonds they hold, specifically short maturity bonds and notes,” he said in an email.

He added that most of the market’s liquidity pressure “is exactly in this part of the curve, because investors are converting many of their financial assets to cash without regard to what those assets are,” he added.

Investors pulled \$4.28 billion from tax-exempt money market funds in the week ended March 18, according to Lipper. An astounding \$12.2 billion fled muni bond funds.

Dan Solender, director of the municipal bond group at Lord Abbett, said short-term borrowing costs could fall.

“Right now many of these money market securities are stuck on dealer/bank balance sheets and they keep moving rates higher to try to entice buyers,” he said in an email. “So it will help to clear up some balance sheet space, which could be used to buy longer municipal bonds, but it remains uncertain how much of an impact that would have.”

MMD’s one-year, short-term spot rate has risen from 0.70% on March 10 to 2.02% at Thursday’s close.

**By Reuters**

March 20, 2020

(Reporting by Karen Pierog; Editing by Alden Bentley and Tom Brown)

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## **Puerto Rico Overseers Hit Pause on \$35 Billion Bond Restructuring.**

### **Oversight board cites coronavirus pandemic for its action**

The board overseeing Puerto Rico's finances said a push to restructure \$35 billion in debt would be paused indefinitely as the U.S. territory struggles to contain the spread of coronavirus.

The oversight board said Saturday it wouldn't move forward on a controversial proposed write-down of bond and pension liabilities while Puerto Rico focuses on stopping the spread of Covid-19 cases.

The settlement proposal is backed by competing bondholder groups and representatives of public retirees and was scheduled to be debated in court in October. The oversight board said it would adjourn those court proceedings "until further notice."

Delaying the restructuring plan puts bondholders at risk of more severe write-downs on their claims if tax revenues are depressed in the fallout from the pandemic and restructuring terms are altered. Bondholders had become more optimistic in recent months about a possible end to the bankruptcy, which began in 2017, as the oversight board built support around settlement terms.

The proposed deal, backed by investment firms including GoldenTree Asset Management LP and Aurelius Capital Management LP, would write down \$35 billion in Puerto Rico debt by 70%, to \$11 billion. Public pensions would also be scaled back, though a majority of retirees would collect their full promised benefits. Some financial creditors, including bond guarantors with billions of dollars on the line, aren't supportive of the proposal.

The broad market turmoil stemming from the pandemic has rocked municipal debt, sparking a selloff even among bonds issued by financially-stable state and local governments. The impact has been more acute for the high-yield bond funds that have sought out less creditworthy borrowers, including Puerto Rico, to generate returns. The S&P Municipal Bond Puerto Rico Index, a broad basket of the territory's debt, has declined more than 20% this month.

Public health authorities on Saturday reported the first confirmed death from Covid-19 in Puerto Rico, an Italian national who had arrived on a cruise ship. Puerto Rico has 21 confirmed cases of coronavirus as of Saturday, according to health officials.

The island territory, still coping with the devastating 2017 hurricane season, has imposed a nightly curfew, closed schools and exempted some basic necessities from sales taxes in response to the pandemic.

The oversight board, which shares power with elected leaders, said Saturday it "will provide appropriate, much needed support for those dislocated as a result of the Covid-19 situation and those that are not able to access eligible federal support."

Before the pandemic reached Puerto Rico, Gov. Wanda Vázquez and top lawmakers said they wouldn't support the oversight board's proposal unless pension cuts were removed. Since the arrival of the pandemic, some lawmakers have advocated sending assistance payments to individuals affected by the slowdown in business activity.

### **The Wall Street Journal**

By Andrew Scurria

Updated March 21, 2020 7:09 pm ET

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## **[Muni Market Goes Topsy-Turvy. The Federal Reserve Has Stepped In to Help.](#)**

It's not every day that closed-end municipal bond funds with relatively low leverage start trading at a 10% discount to their net asset value. For anyone who has watched markets over the past week, however, it is clear that these aren't normal times.

Investors fled municipal bond funds en masse during the week ended March 18, with the \$12.2 billion outflow setting a record.

That rush into cash caused the muni market's yield curve to invert—in other words, it pushed short-term municipal bond yields above longer-term yields, as managers tried to sell more-liquid securities. The benchmark bond yield for a AAA-rated three-month muni bond, for example, climbed by 0.6 of a percentage point to 2.84% by early Friday. The five-year AAA bond, in contrast, was yielding 2.66%.

[Continue reading.](#)

### **Barron's**

By Alexandra Scaggs

March 20, 2020 4:26 pm ET

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## **[The First OZ Fund to Deploy Capital to Businesses, with Len Mills & Natalie Elder.](#)**

What is the capital raising and investment portfolio strategy for the first Opportunity Zone Fund to deploy capital to business ventures? Len Mills is CEO of Verte OZ, a venture capital Opportunity Zone fund launched in September 2019 that invests in high-growth disruptive businesses. Natalie Elder is Verte's head of investor relations. Click the play button below to listen to my conversation with Len and ...

[Read More »](#)

### **Opportunity Db**

March 18, 2020

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## **[Fed Backstops Corner of Municipal Debt Markets Amid Calls for Support.](#)**

**The Federal Reserve said it would backstop money market funds that invested in municipal bonds, making sure they can meet redemptions.**

WASHINGTON — The Federal Reserve tiptoed into the market for municipal debt on Friday, a small move that economists, lawmakers and state treasurers say should be expanded as the coronavirus places huge financial pressure on local governments.

The Fed will now let banks tap cheap loans by pledging short-term, highly rated municipal debt as collateral. That gives banks an incentive to buy local debt from money market mutual funds, creating demand for securities that had become hard to trade amid broader financial turmoil.

The move could keep the mutual funds, popular investments among ordinary workers and companies, from crashing as investors cash out. The funds will now be able to sell off their municipal bond holdings to satisfy those redemptions. It could also help soothe the market for local bonds — used to finance everything from sewer projects to public transportation — where interest rates have surged as investors flee amid coronavirus economic fears.

[Continue reading.](#)

### **The New York Times**

By Jeanna Smialek

March 20, 2020

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### **[Fed Includes Municipal Debt in Money-Market Lending Backstop.](#)**

#### **Fed also will provide daily swap line operations with five other central banks**

The Federal Reserve on Friday expanded a lending operation that will accept municipal debt as collateral amid funding strains that could intensify as cities and states combat the coronavirus pandemic.

The changes apply to a lending facility to backstop the \$3.8 trillion money-market mutual-fund industry unveiled on Wednesday. The Fed originally limited the program to the \$800 billion in prime money-market funds, which invest in very short-term corporate debt, but on Friday extended it to certain municipal money-market mutual funds. Municipal bond money-market funds contain \$134 billion, according to the Fed.

The Fed said it will also accept highly-rated municipal debt of less than 12 months as collateral for the facility. While that might help alleviate some strains in muni-debt markets, the bulk of stresses have been in longer-dated securities that aren't eligible for the facility.

[Continue reading.](#)

### **The Wall Street Journal**

By Nick Timiraos and Heather Gillers

Updated March 20, 2020 1:37 pm ET

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## **[New Illinois Executive Order Will Help with Approval of Bond Deals: Ice Miller](#)**

Gov. Pritzker recently issued [Executive Order 02020-07](#) (Executive Order), which declared all counties in Illinois as a disaster area (Gubernatorial Disaster Proclamation). The Executive Order, among other things, suspended the requirements under the Open Meetings Act requiring or relating to remote attendance at public meetings. Ice Miller attorneys assisted with the drafting of this legislation. This Executive Order was issued to implement social distancing in response to COVID-19.

Section 6 of the Executive Order specifically suspends, for the duration of the Gubernatorial Disaster Proclamation, the Open Meetings Act requirement that public officials be physically present at public meetings. Public bodies are “encouraged” to: (1) postpone consideration of public meetings whenever possible; (2) provide video, audio, and/or telephonic access to meetings to ensure members of the public can monitor the meetings; and (3) update their websites and social media to keep the public apprised of changes to their meetings and of activities related to COVID-19.

The Executive Order does not relieve public bodies from:

- the requirement that the meetings be open to the public;
- the requirement of holding public meetings at times and places convenient to the public;
- 48-hour public notice and agenda requirements under the Open Meetings Act;
- the requirement that any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body compliance with open meeting rules adopted by the public body;
- rules of order and procedure that are in effect;
- statutory voting requirements;
- recording and keeping of minutes of the meeting.

We recommend that the agenda for any public meeting be posted at the governing body’s principal office and on its website, and we recommend that the public notice clearly state changes in schedule or format of the meeting. We also suggest that call-in or write-in capability be established for virtual meetings where members of the governing body are attending remotely and that instructions be included in the notice. The media notification requirements still apply. The electronic meeting should be held the same way that an in-person meeting would be held to the extent practicable (welcome, roll call, hearing and closure of the hearing, old business, new business, etc.).

While the Executive Order suspends public meeting requirements under the Open Meetings Act, it also implicates meetings and hearing requirements under other statutes, including those related to municipal bonds. For example, the Bond Issue Notification Act (BINA) requires that the governing body “permit persons desiring to be heard an opportunity to present written or oral testimony.” The hearing may be part of the governing body’s regularly scheduled meeting. All other applicable requirements including notice would still need to be satisfied for any BINA hearing. Similarly, for conduit bond issues, Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) hearings may be done at such meeting or at a different location as authorized by the issuer so long as notice and other applicable federal income tax requirements are satisfied.

We recommend that each public body review its remote attendance rules to see if changes are needed to facilitate the remote participation allowed under the Governor’s Order.

March 19 2020

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## **[NFMA Volunteers Needed - GASB Exposure Draft on Notes to Financial Statements](#)**

GASB recently released an [Exposure Draft on Communication Methods in General Purpose External Financial Reports That Contain Basic Financial Statements: Notes to Financial Statements](#).

The NFMA would like to form a working group of members to: 1) review the document; 2) propose comments to the GASB from the NFMA to the Board of Governors; and 3) draft the comment letter based on feedback received from the Board.

The proposal describes who the intended users of note disclosures are (more sophisticated users), and what constitutes essential information (used for decision-making and assessing accountability). Since note disclosures are of high importance to analysts, I think it is important that we provide the NFMA's feedback.

Comments are due by April 17, 2020. Ideally, there will be a volunteer for the project leader role who will coordinate the efforts of the group, as well others who volunteer to serve as working group members. Please contact Lisa Good at [lgood@nfma.org](mailto:lgood@nfma.org) and Lisa Washburn at [lwashburn@mma-research.com](mailto:lwashburn@mma-research.com) if you are interested.

Lisa Washburn  
NFMA Industry & Media Liaison

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## **[Fed Expands Emergency Program to Include Muni Funds After Rout.](#)**

- **Move seen as 'starting point' for battered muni bond market**
- **Fed could expand program to include variable-rate debt**

The Federal Reserve [said](#) Friday it had expanded its emergency program to provide liquidity to money market mutual funds, allowing the purchase of assets from single-state and other tax-exempt municipal money market funds.

Shares of BlackRock Inc.'s iShares National Muni Bond ETF, the biggest municipal-bond exchange-traded fund, traded higher after the announcement.

"Thank you to @federalreserve," U.S. Treasury Secretary Steven Mnuchin said in a tweet. "Today I approved the expansion of the Money Market Mutual Fund Liquidity Facility to include municipal securities. This will create additional liquidity to support the states and municipalities!"

[Continue reading.](#)

### **Bloomberg Economics**

By Christopher Condon, Danielle Moran, and Amanda Albright

## **S&P Bulletin: NYC Generally Well Positioned To Handle COVID-19's Near-Term Economic Effects**

NEW YORK (S&P Global Ratings) March 18, 2020—S&P Global Ratings said today that New York City's (AA/Stable) strong liquidity threshold positions it well for the evolving COVID-19 situation in the near term.

In support of this view, we cite a high average cash balance of about \$7.6 billion for fiscal 2019, an average daily cash balance of \$5.6 billion (six months ended Dec. 31), and total cash receipts that are up 5.3% in the first half of fiscal 2020 over the prior year. These factors partly offset our belief that New York City could experience acute economic effects amid ongoing severe limitations on global travel, given its role as an international tourist hub and as the No. 1 U.S. port of entry (according to the U.S. Department of Commerce).

Furthermore, the city predicts its cash balances daily, which is operationally instrumental when one-time shock events such as COVID-19 occur. In addition, the city's forecast for wage growth (driving its personal income tax revenue projections) for 2020 is 2.3%, conservatively lower than the nation's forecast of 2.9% (prior to incorporating the events of COVID-19).

Over the short term, we also believe that the federal government could infuse some financial support to stabilize the city's operations, as occurred following the events of Sept. 11, 2001, particularly to assist New York State and the city with Medicaid costs. In addition, with the city's public schools closed at least until April 20, the governor reports that the state will hold districts harmless if they do not meet the 180 days of required instruction; we anticipate that this will translate to no significant loss in state aid supporting the city's education costs (approximately 30% of expenditures in fiscal 2019).

As we stated in our report "COVID-19's Potential Effects In U.S. Public Finance Vary By Sector" published March 5, 2020 on RatingsDirect and our updated economic forecast published March 17, 2020 ("A U.S. Recession Takes Hold As Fallout From The Coronavirus Spreads"), we expect the virus to create a material headwind to growth in the near term, leading to negative economic growth in the first two quarters of 2020. We believe New York City's economy will suffer the same if not more significant headwinds over the medium term given the mayor's decision to limit restaurant and bar service to takeout and delivery options and as residents engage in social distancing and corporate directives to work from home, limiting discretionary spending and consumption habits. These changes are expected to lead to softening trends in sales tax revenue. (Collections accounted for about 10% of the city's revenue in fiscal 2019.) Furthermore, with Broadway dark until at least April 12 and a lack of tourism affecting hotel and motel activity, we believe the city's personal income tax receipts will likely show the lingering effects of COVID-19 into fiscal 2021 (which begins July 1, 2020) and calendar 2021 given S&P Global Ratings' expectations for a slow U-shaped economic recovery.

As compared with most local governments, the 'AA' general obligation rating reflects S&P Global Ratings' view of New York City's more pronounced exposure to global events that could affect its operations and revenue projections. We continue to monitor the city's response and economic softening that occurs as a result of COVID-19 and the potential effect on the rating.

This report does not constitute a rating action.

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## **BlackRock, Nuveen Unwind Leveraged Muni Trades Roiled by Havoc.**

- **Mutual funds unwind \$1.2 billion tender-option bond trusts**
- **Move contributes to flood of debt hitting the market**

Large municipal-bond funds run by BlackRock Inc., Nuveen, Pacific Investment Management Co. and Invesco Ltd. are unwinding a leveraged investment strategy that backfired this month, contributing to the flood of debt that's been unloaded during a record-setting sell-off.

Last week, fund companies began liquidating about 75 so-called tender-option bond trusts holding \$1.2 billion worth of state and local government debt, according to data compiled by Bloomberg. The trusts issue floating-rate notes to money-market funds and use the cash to buy higher-yielding long-term bonds. Mutual funds seek to pocket the difference in yield between the two.

But the strategy is backfiring because yields on short-term debt have skyrocketed as investors pull cash out of money-market funds and banks struggle to resell the notes. A weekly index of tax-exempt debt with variable interest rates spiked to 5.2% on Wednesday, the most since 2008 and almost 2 percentage points more than yields on 30-year top-rated municipal debt.

To pay off short-term notes, mutual funds are selling municipal bonds held in the trusts as collateral. That has been putting more pressure on the market, which this month has suffered its biggest losses in at least four decades amid concern about the economic and financial fallout from the coronavirus.

"There comes a point where the rate gets too high and there's no money left for the investor," said Chad Farrington, a managing director at DWS Investment Management. "If funding costs get to certain level you must reduce the leverage."

On Monday, in an effort to relieve funding pressure in the muni market, the Federal Reserve agreed to purchase short-term securities from tax-exempt money market funds, including the variable rate demand obligations that make up almost 75% of short-term tax-exempt bonds, according to Citigroup Inc. While that appears to have eased some of the liquidity strains, with prices broadly unchanged Monday, short-term yields haven't come down.

The jump in short-term rates came as investors pulled \$5.3 billion out of tax-exempt money-market funds the week ending March 18, according to the Investment Company Institute. That pullback caused dealer inventory of variable demand notes to swell to \$5.7 billion on March 11, a 80% increase in two weeks, according to the Federal Reserve Bank of New York. The funds sold them back to banks that act as remarketing agents and liquidity facilities. When fresh data comes in this week, the inventory will likely be much higher.

The leverage employed by mutual fund companies has amplified losses in the closed- and open-end funds as rates climbed during the sell-off.

As of Friday, returns on 15 BlackRock closed-end muni funds that use tender-option bonds and preferred shares as leverage have dropped more than 20% this month and one, the BlackRock Maryland Municipal Bond Trust, has lost 30%, according to data compiled by Bloomberg. Five of Nuveen's closed-end funds have lost more than 20% and one has lost 30.5%. Nuveen's open-end High Yield Municipal Bond Fund, which also employs tender-option bonds, has dropped 21.7% this

month.

Invesco and Pimco's muni closed-end fund share prices declined 15% to 25% this month.

Those drops are far bigger than the overall municipal market's. The Bloomberg Barclays index of investment grade munis has declined 10.3% this month, the biggest drop since at least 1980, and high-yield municipal bonds have fallen 19.1%.

Spokespeople at BlackRock, Invesco and Pimco declined to comment. A spokesperson from Nuveen didn't immediately return phone and email messages requesting comment.

The tender-option bond market is about \$50 billion, less than a quarter its size before the 2008-2009 financial crisis, when hedge funds that used the securities were forced into fire sales. At the time, investors shunned the debt because it was guaranteed by bonds insurers like MBIA Inc. and Ambac Financial Group Inc., which were stripped of their AAA ratings because of losses tied to toxic mortgages.

The tender-option bond programs work like this: A fund deposits highly-rated bonds in a trust, which then issues two securities — a floating-rate bond backed by a bank that is typically sold to a money market fund and another security, known as an "inverse floater," retained by the mutual fund. The fund receives the "residual" income of the underlying bonds in the trust after paying interest on the floating-rate bonds and trust administration fees.

As short-term interest rates rise, the inverse floater produces less income and in extreme cases may pay none. The mutual fund has the ability to unwind the trust by paying off the short-term bonds and turning over the residual. The long-term bonds that were placed in the trust may be used to pay-off the floating-rate notes, which could push market prices down further.

## **Bloomberg Markets**

By Martin Z Braun

March 23, 2020, 10:47 AM PDT

— *With assistance by Matthew Himel, and Natalia Lenkiewicz*

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### **[Bond ETFs Will Never Be the Same After Coronavirus.](#)**

**Instant price discovery and liquidity have come at the expense of unprecedented losses.**

Fixed-income exchange-traded funds have always been, and will continue to be, a contentious subject. Just the idea of a liquidity mismatch between the products and the underlying securities raises tough questions. Which is the more accurate reflection of a market: the benchmark index full of bonds that don't trade or the ETF that does?

As with most things, the truth probably lies somewhere in the middle. But for now, bond ETFs across the world are trading at staggering discounts to their net asset values in what some have dubbed an "illiquidity doom loop." More recently, that spiral has ensnared even funds that invest in some of the most stable fixed-income securities in the world. It's one thing if the largest high-yield municipal-bond fund is going berserk — as I wrote last week, that could be chalked up in part to steeply

repricing a few securities tied to senior-living facilities. It's quite another for supposedly safe assets to get hammered. For better or worse, fixed-income ETFs can never be looked at quite the same way going forward.

A Bloomberg News [article](#) on Friday spotlighted the \$6.2 billion iShares Short Maturity Bond ETF (ticker: NEAR). As the name suggests, it holds very short-term corporate debt, with an average duration of less than a year. Some of its biggest holdings include debt from Charter Communications Inc., Ford Motor Co., General Electric Co. and CVS Health Corp., all of which matures within the next eight months. Some of these businesses have had their struggles, yes, but they're not going belly-up imminently, even with the coronavirus outbreak.

[Continue reading.](#)

## **Bloomberg Opinion**

By Brian Chappatta

March 23, 2020, 3:00 AM PDT

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### **[Record Exodus From Muni-Bond Funds Fuels Worst One-Day Rout.](#)**

- **Outflow is nearly triple previous record of \$4.5 billion**
- **Pullback comes as sell-off sends yields surging at record pace**

Investors pulled a record \$12.2 billion out of municipal-bond mutual funds in the week ended Wednesday on concern about the widening impact of the coronavirus pandemic, triggering waves of forced selling by money managers that sent yields surging at the fastest pace ever.

The exodus, almost three times larger than the previous record, was the third straight weekly outflow as fears over the pathogen tipping the U.S. economy into recession deepened. Investors also yanked a record \$5.3 billion out of high-yield municipal bond funds, which hold securities most at risk from a worsening economy. Last week, those funds lost \$1.7 billion.

But even the safest municipal securities have been punished, creating deep liquidity strains as buyers run for the exits en masse as the virus-induced slowdown threatens to hammer public transit systems, cities, airports and others that borrow in the \$3.9 trillion market. On Thursday, benchmark 30-year yields soared by 50 basis points to 2.99%, matching the record-setting jump from a week ago.

"It's been an incredible reversal in a short amount of time," said Brian Musielak, director of fixed-income portfolio management at Commerce Investment Advisors, who said he was shocked by the size of the outflow and the day's performance.

#### **Fear-driven sell-off creating liquidity strains**

Investors earlier this month began pulling money out of municipal-bond mutual funds for the first time in more than a year, ending a streak of 60 consecutive weeks of inflows that was just four weeks shy of tying a record. The individual buyers who are the municipal market's biggest investors often move in unison, pouring in cash when prices are rising and pulling it out when they decline.

The turmoil caused by the coronavirus pandemic has been widespread. Investors withdrew an

unprecedented \$35.6 billion from U.S. funds that buy up investment-grade debt, according to Lipper. The Dow Jones Industrial Average has fallen 31% in the last 30 days and all but wiped out gains made since President Donald Trump was elected in November 2016.

Nuveen, one of the biggest muni bond fund managers, put \$740 million of its municipal portfolio up for sale Thursday, according to people familiar with the matter. The sale comes as mutual funds are under heavy pressure to cover withdrawals.

The rout marks a dramatic reversal for a market where prices reached record highs earlier this year as a steady flood of cash poured in. That dynamic has abruptly changed as investors retreat, creating a liquidity crunch just as analysts are now trying to gauge how the virtual shutdown of the economy will ripple down to local governments. The concerns have effectively locked states and cities out of the financial markets, with Wall Street banks shelving all the biggest bond offerings because of the turmoil.

“It’s amazing how things turn on a dime,” said Jeffery Timlin, a managing director at Sage Advisory Services, who said just a month ago there weren’t enough bonds to meet demand. Now he said mutual funds and exchange-traded funds have become “forced sellers.”

“It creates a negative feedback loop,” he said. “Some selling begets more selling begets more selling. Everybody is scared and nobody wants to buy.”

## **Bloomberg Markets**

By Romy Varghese and Amanda Albright

March 19, 2020, 12:45 PM PDT Updated on March 19, 2020, 2:28 PM PDT

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## **[NMZ: Beware The Virus's Impact On High-Yield GO And Revenue Bonds](#)**

### **Summary**

- The Nuveen High-Yield Municipal Bond Fund NMZ is likely to be hit hard by the economic impacts of the COVID pandemic.
- The CEF is exposed to low-rated transportation and healthcare bonds that may be hit the hardest.
- NMZ also has high exposure to struggling city governments that are likely to face steeper financing costs and lower tax revenue.
- To make matters worse, NMZ primarily holds volatile long-term bonds and is leveraged roughly 1.5X.

[Continue reading.](#)

### **Seeking Alpha**

by Harrison Schwartz

Mar. 16, 2020

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## [Sleepy Municipal-Bond Market Goes 'Dystopian.'](#)

With Barclays Center gone dark, about the only action left involving the arena can be found in, of all places, the bond market. Because it could be a long while before there's another Nets game or concert, bonds backed by luxury-suite sales, sponsorships, concessions and other income streams at Barclays have slumped by 6%—a startling move in the normally somnambulant world of municipal bonds.

In fact, New York municipal bonds of all stripes are getting thumped as investors brace for the full economic impact of Covid-19.

"The word I use is dystopian," said Matt Fabian, a partner at Municipal Market Analytics, an independent research firm.

Muni bonds are ordinarily among the market's safest investments, with a default rate of 0.18%, and New York's bonds are considered best-in-class. The credit ratings for New York City and the state are both one notch below AAA, according to Moody's, which on Feb. 20 praised the state for taking "proposed strong measures to correct its unfavorable spending trend."

That was before the coronavirus struck, though. Gov. Andrew Cuomo last week described the economic cost of the outbreak as "incalculable." Mutual funds such as the Pimco New York Municipal Income Fund II have fallen below their net asset value—a sign investors fear a surge in defaults in a market used to pay for schools and fire and police departments.

"Look around the municipal bond market and you'll see issuers with high expenses, budget issues and big pension obligations," said Ed Grebeck, CEO of debt-strategy firm Tempus Advisors. "I think the market is due for a reckoning."

Plenty of people have incorrectly forecast doom before, but it's also true that during the past several years the \$3.8 trillion muni bond market has gone to help pay for more speculative developments such as ballparks, nursing homes and convention centers. The bonds are regularly used to pay for college dormitories, and now that universities have sent students home, those bonds look riskier.

That said, defaults are highly unlikely among big New York muni-bond issuers, such as the Metropolitan Transportation Authority or the Port Authority. Fares or tolls could be raised, and the government surely would step in to provide financial support if necessary. In the case of the Barclays Center, Moody's says it has strong reserves and long-term contracted revenue, so it can pay bondholders even if the arena remains dark for a while.

But some of the new generation of muni-bond borrowers might have no choice but to default.

For instance, American Dream, the big new mall in East Rutherford, N.J., was paid for in part with \$1.1 billion in municipal bonds. The mall, which had not fully opened yet, shut its doors Monday to help slow the spread of Covid-19. Fabian predicted the mall's owners soon will be negotiating to restructure bond payments. He reckons owners of other struggling muni bond-backed enterprises will follow.

"You'll probably see businesses blaming things on the virus that aren't the virus's fault," Fabian said.

by Aaron Elstein

March 17, 2020 01:16 PM

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## **[Navigating The Muni Market In Today's Environment.](#)**

### **Summary**

- In our view, it's premature to predict the full impact of the coronavirus outbreak on society and the US and global economies until the impacts of the COVID-19 pandemic are behind us.
- After returning 4.62% for the year-to-date (YTD) through February, the Bloomberg Barclays High Yield Index returned -8.67% during the week of March 9, leaving YTD returns at -4.68% as of 3/13/20.
- We have focused on purchasing high-quality bonds over the last several years, even in our high-yield portfolios, as quality spreads have been narrow.

[Continue reading.](#)

### **Seeking Alpha**

*By Sheila Amoroso, Senior Vice President, Director, Municipal Bond Department, Franklin Templeton Fixed Income; Christopher Sperry, CFA, Vice President, Portfolio Manager, Franklin Templeton Fixed Income; Daniel Workman, CFA, Vice President, Portfolio Manager, Franklin Templeton Fixed Income; and Francisco Rivera, Vice President, Municipal Bond Department, Franklin Templeton Fixed Income*

Mar. 18, 2020

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## **[Muni Bond and Other ETFs Are Trading at Big Discounts. Here's Why, and What to Do.](#)**

Municipal bond exchange-traded fund investors probably had no clue what hit them on Monday. Muni bonds are supposed to be staid, steady-eddy investments, and are largely owned by high-net-worth retail investors seeking tax-free income. Because they tend to be particularly buy-and-hold investments, they can be illiquid. And that can be a big problem, as some investors found out this week.

On March 16, the bonds in the \$1 billion SPDR Nuveen Bloomberg Barclays High Yield Municipal Bond ETF (ticker: HYMB) portfolio fell 0.7%—pretty good, considering the stock market's 12% loss. But the ETF itself plummeted 9.5%, far more than the bonds themselves fell.

The truth is, when markets become volatile, many ETFs, especially those invested in illiquid market sectors, behave more like closed-end funds, trading at premiums and discounts to their underlying portfolio values or net asset values (NAVs) to use a Wall Street term. This can happen in supposedly safe investments, like the \$14 billion Pimco Enhanced Short Maturity Active ETF (MINT). Pimco's MINT has long been thought of as an alternative to a money market fund; it invests in similar securities that yield a bit more. But MINT was trading at a 0.39% discount—the equivalent of

“breaking the buck,” a sacrosanct imperative of money funds. In more egregious cases, such as In the SPDR Nuveen ETF’s case, the price dislocation was so bad it ended the day trading at \$45.84 a share—an 18.6% discount to its \$56.34 NAV, according to Morningstar Direct. That is dramatic in any case, but especially for a large ETF that rarely had a discount of more than 1 percentage point in the past three years.

[Continue reading.](#)

## **Barron’s**

By Lewis Braham

March 18, 2020 12:41 pm ET

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## **[Tax-Exempt Weekly Rates Beat 10-Year Muni Bond Rates. Time To Dump Long Bonds?](#)**

Given the announcement that the U.S. Federal Reserve cut rates to nearly 0%, first thing this morning I started looking for the market reaction, particularly in short rates in high grade municipal paper. My terminal blinked that available tax-exempt variable rate debt obligations (called VRDO among the professional muni crowd) was at \$17 billion.

That caught my attention. That market was an estimated \$135 billion, so when more than 10% of outstanding paper is sitting on the desks of banks like JPMorgan Chase, Bank of America, Morgan Stanley and Barclays, that says something. VRDOs generally come in \$100,000 denominations. Resets can be as short as daily and as long as monthly. They are listed by broker/dealers, but they are on e-trading platforms as well, such as ClarityBidRate. The fact that just the prior week the available supply number was under \$11 million made it more poignant.

[Continue reading.](#)

## **Forbes**

by Barnet Sherman

Mar 18, 2020