October 15, 2020

Below is our COVID-19 Update for October 15, 2020:

**Both the Senate and the House are in recess.**

**Supreme Court of the United States Hearing – Day 4**

* After a quick procedural motion that was delayed by Committee Democrats, Senate Judiciary Committee Chairman Lindsey Graham (R-SC) set the vote on whether to advance Judge Amy Coney Barrett’s nomination out of the Judiciary Committee for October 22.
* Following that decision, the Committee heard from a number of outside witnesses today including lawyers and others in the legal field, character witnesses who could speak to Judge Barrett’s background both as a jurist and an academic, and witnesses who spoke to what potential decisions by the Supreme Court could mean for everyday Americans.
	+ The witnesses representing the American Bar Association (ABA), which regularly presents a rating for Supreme Court nominees, testified that the ABA is extending its highest possible rating to Judge Barrett and sees her as well qualified to be a Supreme Court Justice.
	+ There were legal witnesses from both sides of the aisle who highlighted points for praise and points of concern regarding Judge Barrett’s background.
	+ Multiple non-legal witnesses, who were invited by Democrats on the committee, again highlighted healthcare, among other topics, as points for concern.
	+ Other character witnesses highlighted Judge Barrett’s judicial and personal successes and qualities.

**COVID-19 Relief**

* As we have reported, Senate Majority Leader Mitch McConnell (R-KY) is expected to hold procedural votes for another COVID-19 relief package as soon as Monday. According to Leader McConnell, the package is expected to have a $500B topline, significantly below the $2.2T proposed by House Speaker Nancy Pelosi (D-CA) and the $1.8T proposal from the White House. As a reminder, even if the package were to advance out of the Senate, it is not expected to be considered by the House. Senate Democrats have indicated they will be in lock step with the House, and thus the procedural vote is most likely to fail.
	+ Nevertheless, it is still unclear whether Senate Republicans will include provisions with bipartisan support, such as an extension of the Payroll Support Program (PSP), in the package to increase the pressure on Democrats.
	+ Senate Judiciary Committee Chairman Lindsey Graham (R-SC) commented that he supports relief above $1.8T but dismissed the proposal from Speaker Pelosi as containing unrelated provisions aimed at boosting Democrats’ chances to win the election.
* Amid continued messaging regarding additional relief, Speaker Pelosi and Treasury Secretary Steven Mnuchin continue to negotiate.
* Elevate still does not anticipate that additional COVID-19 relief will be enacted before the election.

**Congress**

**Senate**

* In advance of a Senate Commerce Committee hearing featuring the CEOs from Facebook, Twitter and Google, Sen. Ted Cruz (R-TX) sent a [letter](https://www.cruz.senate.gov/files/documents/Letters/FSV%20-%202020.10.14%20--%20Twitter%20New%20York%20Post%20Letter%20-%20FSV.pdf) to Twitter CEO Jack Dorsey accusing the platform of censoring the stories users can see to influence voters’ views of former Vice President Joe Biden and the Presidential election. This was in response to Twitter’s handling of a polarizing New York Post article on Joe Biden and his son, Hunter Biden. Sen. Josh Hawley (R-MO) also sent a [letter](https://www.hawley.senate.gov/sites/default/files/2020-10/Hawley-Letter-to-Twitter-New-York-Post-Biden.pdf) to Dorsey on the matter. The two Senators sent similar letters to Facebook CEO Mark Zuckerberg.
	+ House Judiciary Committee Ranking Member Jim Jordan (R-OH) also sent a [letter](https://republicans-judiciary.house.gov/wp-content/uploads/2020/10/2020-10-14-JDJ-to-Facebook-re-Biden.pdf) to Zuckerberg questioning Facebook’s commitment to free speech and fair elections over its handling of the article.
* Sens. Graham, Cruz, and Hawley announced that the Senate Judiciary Committee will vote on Tuesday on whether to authorize subpoenas to compel Jack Dorsey to testify before the committee next Friday.
	+ Sen. Cruz, who is the Chairman of the Judiciary Subcommittee on the Constitution, said that Dorsey will be asked to address “why Twitter is abusing their corporate power to silence the press and to cover up allegations of corruption.”
* Judiciary Chairman Graham’s Online Content Policy Modernization Act ([S. 4632](https://www.congress.gov/bill/116th-congress/senate-bill/4632)), which was slated for committee markup this morning, has been held over for future consideration by the Judiciary Committee.
	+ As a reminder, this bill would pare back internet companies’ liability protections under Section 230.
* Sen. Kamala Harris (D-CA), the Democratic Vice-Presidential candidate, suspended campaign travel after a member of her flight crew and her communications director tested positive for COVID-19. Her travel will remain suspended through this weekend.

**House**

* The House Democratic Caucus announced plans to hold leadership elections on November 18 and 19. The Democratic Steering and Policy Committee is then expected to meet November 30 to nominate committee chairs.
* Reps. Michael Burgess (R-TX) and Cathy McMorris Rodgers (R-WA) are viewed as the frontrunners to take over the Ranking Member position on the House Energy and Commerce Committee.
	+ As a reminder, current Ranking Member Greg Walden (R-OR) is set to retire at the end of this Congress.

**Administration**

* The Department of Transportation’s (DOT) Inspector General announced that it will audit the Federal Aviation Administration’s (FAA) oversight of counter drone systems and, more specifically, how they are being used by other agencies.
	+ This audit is in response to House Republican complaints that the Department of Homeland Security and Department of Justice were exceeding counter drone authorities granted by a 2018 FAA Reauthorization.
	+ The Inspector General will begin the audit later this month, per the request by House Transportation and Infrastructure Committee Ranking Member Sam Graves (R-MO) and Aviation Subcommittee Ranking Member Garret Graves (R-LA).
* DOT Secretary Elaine Chao announced the publication of the FAA’s Streamlined Launch and Reentry Licensing Requirements [Final Rule](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.faa.gov%2fspace%2fstreamlined_licensing_process%2fmedia%2fSLR2_Final_Rule_450.pdf&c=E,1,YUssIsMr2dbpiijMPL35z14FFmGwpgLOd2nGrL3pD7wFJM7jOCZ7LXmcnaagA--Z-Gif1xxvoEr0PnYHuDODmEVFMwmfVRTRU0UhLXT9KHLK2w,,&typo=1) for commercial space transportation launches and reentries.
	+ The rule consolidates four regulatory parts and applies a single set of licensing and safety regulations for all types of vehicle operations. It also provides flexibility for operators to meet safety requirements and encourages launch and reentry operators to suggest and implement design and operational solutions to meet the regulatory standards.
	+ The FAA will seek public comments for a period of 30 days on High Consequence Protection, High Fidelity Flight Safety Analysis, and Computing Systems and Software.
* Secretary Chao also [announced](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.transportation.gov%2fbriefing-room%2fus-transportation-secretary-elaine-l-chao-announces-over-220-million-grants-americas&c=E,1,RkZgJWHPMpl_AeDaol5-80LmtZ_7I-XI28YkJOohioBGcFkhTzOuhpMqjP69_6PX8QJcA-Il-3Go0oXqB2eELityuywWP3M0BfT6slyrztLtTw,,&typo=1) the award of more than $220M in discretionary grant funding to improve port facilities in 16 states and territories through the Maritime Administration’s (MARAD) Port Infrastructure Development Program (PIDP). A full list of recipients is available in the hyperlinked press release.
	+ The PIDP aims to improve facility and freight infrastructure by providing planning, operational, and capital financing and project management assistance to improve capacity and efficiency.
	+ Nearly half the projects are located in Opportunity Zones, which were established to revitalize economically distressed communities.
* Federal Communications Commission (FCC) Chairman Ajit Pai announced the FCC will move forward with a rulemaking process to examine whether to narrow Section 230 protections for internet companies. The announcement comes amid continuing tensions between the companies and lawmakers regarding allegations of political bias on social media platforms.
* Treasury Secretary Steven Mnuchin stressed the importance of the European Union (EU) and United Kingdom reaching a post-Brexit trade deal, stating that deal is more important than whether President Trump would impose new tariffs on EU auto exports if reelected for a second term.
* The Environmental Protection Agency (EPA) finalized a rule on fuel quality in an effort to streamline fuel programs known as “Part 80.” The final rule consolidates these programs under “Part 1090” and includes programs regulating reformulated gasoline, anti-dumping, diesel sulfur, gasoline benzene and sulfur, E15 misfuelling mitigation, and fuel detergents.
* The Federal Energy Regulatory Commission (FERC) announced that it is open to establishing market rules that will allow for putting a price on carbon dioxide emissions, though it did not take action to implement a price.
	+ As a reminder, last month FERC held a technical conference on carbon pricing, where utility lawyers, power company investors, and company executives agreed that FERC could account for carbon pricing under tariffs sought by grid operators.
	+ This willingness to accommodate a price on carbon dioxide emissions contrasts the Administration’s policies.
* The Department of Labor released new [data](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.dol.gov%2fui%2fdata.pdf&c=E,1,iwdmF4DpWptAiJ_OYNAGyr3p1EZrA7OkF5NWLVH_LoVpETKRmQUk9dwkjAVz6sbcWIIcc7Gh9nTZxoL6kH9t6tfV8wrENOjKfapXjeMLn_yh&typo=1) showing that unemployment claims have risen to 898,000, the highest increase in two months. The economy is still 10.7M jobs short on recovering the 22M jobs that have been lost since early spring.

**Other News**

* United Airlines CEO Scott Kirby commented that the carrier is prepared to bring back 13,000 furloughed employees as soon as additional Federal relief is passed. He also advocated for implementation of a COVID-19 testing strategy for airlines.
	+ The move is likely to be mirrored by other carriers and once again raises pressure on COVID-19 relief negotiations.
	+ Kirby also commented that he does not expect demand for flights to return to “normal” until 2024.
* A Magistrate Judge held a hearing on the Justice Department’s recent request to halt her ruling that prevented the Trump Administration’s proposed WeChat ban from taking effect in September. The decision is expected to be issued by October 23.
* Over 100 advocacy groups sent a [letter](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fmazon.org%2fassets%2fdownload-files%2fFY-21-NDAA-Organizational-Military-Hunger-Sign-On-Letter-1.pdf&c=E,1,nR0H_1G-6l1_q5Os1139_iBAw24vXYVarpH_XuESpX-W32ozNG1ca40eQfL5Nm75bJxNt28bf54Z0jhiTQVor-_1tDXWSwXEE5Xs30C9AIESgm0,&typo=1) to the Senate Armed Services Committee urging them to back a proposed new allowance aimed at combating food insecurity among military families in a final version of the National Defense Authorization Act (NDAA).
	+ The House approved the provision in their version of the NDAA, but it is not included in the Senate version. The Administration has also opposed the measure.
* Former National Security Adviser H.R. McMaster co-authored a lessons-learned [report](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.hoover.org%2fsites%2fdefault%2ffiles%2fresearch%2fdocs%2f479940494-preparing-for-the-next-pandemic-mobilizing-and-integrating-responses-across-the-government-and-the-private-sector.pdf&c=E,1,culGoAY5AWcPGENv8scTPH2EnlTyaHMuYh4TZiQTsco6nuPAUacoK3Y112oaN2OWOoI6VWnIcFl1yOX7Y1j4NQfS1pgF6svxK29U8Fm6uPQ,&typo=1) on the U.S. response to COVID-19, which offers a comprehensive blueprint for “how to improve biomedical innovations and emergency response.” The report found that:
	+ Obstacles to effective coordination across federal agencies, between local, state, and federal governments, and among critical public- and private-sector organizations hampered the speed and effectiveness of medical response and implementation of measures to reduce the spread.
	+ The military was successful in responding to needs quickly and flexibly, but federal and state governments must put in place new policies, procedures, and structures to supplement the military’s rapid response.
	+ Companies need more market incentives to maintain a minimum level of domestic sourcing capacity for raw materials and for manufacturing capacity.
	+ The U.S. must strengthen cooperative manufacturing and distribution networks with American allies.
* The National Retail Federation released [data](https://nrf.com/media-center/press-releases/imports-set-new-record-retailers-replenish-inventories-and-stock-early) showing that imports in the month of September set a new record as retailers replenished inventories and stock up early for the holidays. Imports increased over 17% in September, but export growth remains flat.
* YouTube announced that it will no longer allow content that targets individuals and groups with conspiracy theories, specifically QAnon. The new rules, which YouTube will begin to enforce immediately, are an expansion of existing hate and harassment policies and prohibit content that “threatens or harasses someone by suggesting they are complicit in one of these harmful conspiracies.”
* The National Student Clearinghouse Research Center [found](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.studentclearinghouse.org%2fblog%2ffall-2020-undergraduate-enrollment-down-4-compared-to-same-time-last-year%2f&c=E,1,qsVM6Dyzh5yrNpMVAW2U74DKYKAtfrQtFzzrIkYczchvDfni3362NgUJEsisFJm6FPTR3CuUU5G_ytmDgYdje2kmi_qTYew_KwGib9xPbO7ZNeNs3BSlCqLvKQaFrw,,&typo=1) that undergraduate enrollment has decreased this fall at many colleges and universities, as undergraduate populations shrank by 4% and first-year student counts fell by 16.1%.
	+ Graduate student enrollment increased by 2.7%.
* The American Hotel and Lodging Association sent a [letter](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.ahla.com%2fsites%2fdefault%2ffiles%2fHotel%2520Industry%2520Letter%2520Requesting%2520MSLP%2520Changes.pdf&c=E,1,FtVrmf_IvocBkoI_ccOr9KwwYw64PP7izUce3AjuyBMnaH0egyY_uq0wJaTyBJ9zq4UtP6yeZS2Umgob45ZwfUywDZW_qorbg5dDI0i8Fg,,&typo=1) to President Trump again requesting additional relief and urging President Trump to use executive action to direct the Federal Reserve to amend and expand the Main Street Lending Program.

**Federal Register Notices**

* An open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (ERISA Advisory Council) will be held on November 13 from 10:00am-3:30pm ET. The meeting will discuss potential recommendations for the Secretary of Labor on the issues of Examining Top Hat Plan Participation and Reporting and Considerations for Recognizing and Addressing Participants with Diminished Capacity. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f15%2f2020-22766%2f203rd-meeting-of-the-advisory-council-on-employee-welfare-and-pension-benefit-plans-notice-of&c=E,1,SK8s7_VcvayI6NsbiG0r5YuuAdaIhVoqfx0um15bPqpX3DSaftL1G9PMc8CVrwZ8DqqHo1t6CEiMj1QS9gz28MfqZOqh_7G2CFF8ALOlWj7io_o,&typo=1).
* The Federal Communications Commission (FCC) requested comments on new application fee rates. Comments are due by November 16. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f15%2f2020-21530%2fschedule-of-application-fees&c=E,1,cQM9kYkHprSf9VLhwWDiqoUSavtNsaECNZaHTWZVtxLIWBCG14eFZNeVI--YDZy8NsN3fhJi1Tr7d4jXqDdb8Tu4kY0L9sIuEq27oGNKFz9-cq_npIrdGfLSyQ,,&typo=1).
* The FCC announced that the renewal of the charter of the FCC Consumer Advisory Committee (CAC) has been approved by the General Services Administration (GSA) for a two-year period. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f15%2f2020-22751%2fannouncement-of-renewal-of-charter-of-the-fcc-consumer-advisory-committee&c=E,1,A0v8IzCsmHtNjfxrwGKNeLvbSE1VToSRL-77ENRjYwyTeSqptEHACS3Ed1H72cwFHAGMNm6aptZxDZFsrwOh0tPw3T1C6g1L7ardflwhPUDUrzvZwgexETNd1bY,&typo=1).
* The Bureau of Labor Statistics Data Users Advisory Committee will hold a meeting on November 10 from 12:00-4:00pm ET. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f15%2f2020-22825%2fdata-users-advisory-committee-notice-of-meeting-and-agenda&c=E,1,5RJjNa90WHUtzxULJf4lilJU1rmN6fPGCDQOC5SJpCFf5HUqErlcflt7Ax7kdF-TP69EaeRnm8pDMmeDubxLthPNyRq3A-iZkzCa2bWZIYq1ZEnajQWxLg,,&typo=1).
* The Transportation Security Administration (TSA) will hold a meeting of the Surface Transportation Security Advisory Committee (STSAC) on November 5 from 1:00-4:00pm ET. The meeting will discuss Committee and Subcommittee briefings on activities, key issues, and focus areas for FY 2020—Cybersecurity Information Sharing, Emergency Management and Resiliency, Insider Threat, and Security Risk and Intelligence. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f15%2f2020-22749%2fsurface-transportation-security-advisory-committee-stsac-meeting&c=E,1,eNY-3ST-UkgmM3B5bi8nFw9XFS5ME4zZI7foRn3TNgM5L3LchvWxL79D9UHYzdu3WsLigd-sg8b9Mb500_VGLtx73JpJqseDAYoih4ujmVHTT461Qvo-jXtJbQ,,&typo=1).