October 19, 2020

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

**The Senate is in session. The House is in recess.**

**COVID-19 Relief**

* House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Steven Mnuchin spoke again today on COVID-19 negotiations. State and local funding, the earned income tax credit, childcare funding, and health care provisions remain major points of contention.
  + The House and Senate Appropriations Committees are holding bipartisan staff-level conversations about drafting a COVID relief bill, which could allow for rapid drafting and passage of a relief package after the election.
* White House Chief of Staff Mark Meadows expressed his belief that some Senate Republicans support the Administration’s $1.88T proposal. However, as we have reported Senate Majority Leader Mitch McConnell (R-KY) is unlikely to consider legislation that does not have majority support within the Republican caucus.
* Treasury Secretary Steven Mnuchin and House Speaker Nancy Pelosi (D-CA) continued negotiations over the weekend. Progress is being made in some areas, most notably on language regarding testing, but the two sides remain apart on other major issues such as state and local relief.
  + Speaker Pelosi indicated Sunday that Tuesday, October 20 is the cutoff date for negotiations to conclude if a package is to pass before the election.
* Senate Majority Leader Mitch McConnell (R-KY) reiterated that the Senate will hold a procedural vote on the $500B targeted relief package on Wednesday, October 21. Leader McConnell commented that there would be sufficient time to pass both the package and to confirm Judge Barrett before the election.
  + Leader McConnell also indicated that the Senate would vote on standalone legislation related to the Paycheck Protection Program on Tuesday, October 20.
* It remains unlikely that additional relief will be enacted before the election.

**Congress**

**House**

* Rep. Ted Budd (R-NC) and six other House Republicans introduced the House version of the Limiting Section 230 Immunity to Good Samaritans Act ([H.R. 8596](https://www.congress.gov/bill/116th-congress/house-bill/8596?q=%7B%22search%22%3A%5B%22congressId%3A116+AND+billStatus%3A%5C%22Introduced%5C%22%22%5D%7D&s=1&r=30)). The Senate companion bill is led by Sens. Josh Hawley (R-MO), Marco Rubio (R-FL), Mike Braun (R-IN), Tom Cotton (R-AR), and Kelly Loeffler (R-GA).
  + According to a [press release](https://budd.house.gov/news/documentsingle.aspx?DocumentID=967), the bill would allow Americans to file lawsuits against big tech companies who breach good faith user agreements, censor political speech, and suppress content. The bill also prohibits big tech companies from receiving Section 230 protections unless they change their terms of service to promise to operate in good faith and be subject to a $5,000 fine, actual damages, and attorney’s fees if they violate the agreement.
* Congressional-Executive Commission on China Ranking Member Chris Smith (R-NJ) introduced a bill ([H.R. 8610](https://www.congress.gov/bill/116th-congress/house-bill/8610?q=%7B%22search%22%3A%5B%22congressId%3A116+AND+billStatus%3A%5C%22Introduced%5C%22%22%5D%7D&s=1&r=16)) to withdraw normal trade relations treatment from products of China. The bill would also expand the eligibility requirements for products of China to receive normal trade relations treatment in the future.
* Reps. Doris Matsui (D-CA) and Jim Langevin (D-RI) introduced the Enhancing K-12 Cybersecurity Act ([H.R. 8612](https://www.congress.gov/bill/116th-congress/house-bill/8612?q=%7B%22search%22%3A%5B%22congressId%3A116+AND+billStatus%3A%5C%22Introduced%5C%22%22%5D%7D&s=1&r=14)) to enhance cybersecurity at K-12 schools by promoting access to information, better tracking cyberattacks nationally, and increasing the amount of cybersecurity experts in schools. According to a [press release](https://matsui.house.gov/news/documentsingle.aspx?DocumentID=2010), the bill would:
  + Direct the Cybersecurity and Infrastructure Security Agency (CISA) Director to establish a Cybersecurity Clearinghouse to disseminate information, best practices, and grant opportunities to improve cybersecurity.
  + Establish a Cybersecurity Registry within CISA to track incidents of cyberattacks on elementary and secondary schools.
  + Authorize $400M in funding to create the K-12 Cybersecurity Human Capacity Grant Program to address cybersecurity threats through expanded workforce capacity and improved network and cyberinfrastructure.

**Senate**

* The Senate Judiciary Committee will vote Tuesday, October 20 to authorize subpoenas for Twitter CEO Jack Dorsey and Facebook CEO Mark Zuckerberg to appear before the committee regarding their platforms’ perceived political bias. The subpoenas could require Mr. Dorsey and Mr. Zuckerberg to appear before the Senate Judiciary Committee as soon as Friday, October 23.
  + As a reminder, both Mr. Dorsey and Mr. Zuckerberg are also expected to appear before the Senate Commerce, Science and Transportation Committee next week along with Google CEO Sundar Pichai.
* On Thursday, October 22 the Senate Judiciary Committee will hold an Executive Business meeting to consider several nominations, including Judge Amy Coney Barrett’s nomination to the Supreme Court. The Committee will also consider Chairman Lindsey Graham’s (R-SC) Online Content Policy Modernization Act (S. 4632) regarding online platforms’ Section 230 protections.

**Administration**

* The Department of Justice is expected to file its antitrust lawsuit against Google as soon as Monday, October 19. The lawsuit is expected to be filed without support from Democratic AGs. Democratic AGs and even some Republicans have decided not to sign on to the Federal suit because they argue it is too limited. Two separate cases, one led by Colorado’s Democratic and Nebraska’s Republican AG and another led by Texas’s Republican AG, will be filed against Google separately in the future.
* The Department of the Treasury [released](https://www.fiscal.treasury.gov/files/reports-statements/mts/mts0920.pdf) September Highway Trust Fund receipts on Friday, October 16. The receipts show a 22% increase over September 2019. However, published reports indicate that Treasury may be catching up on receipts that were not logged earlier in the year meaning these number may not be as encouraging as they seem. Similarly, the 79% decrease in receipts reported in May was likely exaggerated.
* The European Union Aviation Safety Agency (EASA) indicated that the Boeing 737 MAX could fly again in Europe before the end of the year. This could mean that the Federal Aviation Administration (FAA) could unground the aircraft even sooner, as EASA has said it will wait for an FAA decision.
  + Separately, American Airlines has indicated it is prepared to schedule 737 flights pending an FAA decision.
* The Environmental Protection Agency (EPA) finalized a rule Friday, October 16 that would allow unlined coal ash ponds to remain in operation if the operating utility can demonstrate that the impoundment of the coal ash is unlikely harm the environment. The rule is the latest effort by the EPA to roll back regulations implemented by the 2015 coal ash rule.
* President Trump granted California’s disaster declaration regarding the ongoing wildfires on Friday, after first denying the request. The declaration will allow Federal funding to be provided to the state for wildfire cleanup. As a reminder, President Trump and the Federal Emergency Management Agency has previously denied California’s request for a funds and a disaster declaration.
* Chief Judge Brian Morris of the U.S. District Court in Montana declared the three resource management plans (RMPs), the Lewistown RMP, Missoula RMP, and Miles City RMP amendment, as having no force or effect amid the ongoing legal battle regarding William Perry Pendley’s authority at the Bureau of Land Management (BLM).
  + As a reminder, Judge Morris is the same judge who ruled that Pendley served as Acting Director of BLM unlawfully for 424 days.

**Other News**

* Canada has extended the closure of the U.S.-Canada border to nonessential travel until November 21, citing public health and the safety of Canadians. With Canada facing its own second wave of COVID-19, governments are unlikely to ease border restrictions any time soon.
  + As a reminder, the border closure was set to expire on October 21.
* Brazilian President Jair Bolsonaro confirmed on that U.S. and Brazilian negotiators have agreed on a mini trade deal covering trade facilitation, best regulatory practices, and anti-corruption measures. This deal includes a new agreement on research, development, testing, and evaluation in the defense sector.
  + Bilateral discussions will continue to reach a more comprehensive trade agreement. Bolsonaro also is interested in a tax agreement and a partnership to redesign global production chains.
* The United Kingdom’s (UK) Transport Secretary Grant Shapps said that a testing regime for travels should be in place by December 1. The exact start date depends on the private sector’s ability to provide the tests. Shapps added that the scheme should be privately managed to avoid putting further pressure on the National Health Service.
  + The UK government favors a “Test and Release” option which would see passengers self-isolate for a week before getting tested, in order to reduce the 14-day quarantine.
* Amid continued back and forth on a global digital tax, the European Commission remains prepared to enact a European Union-wide digital tax. As a reminder, the French government will begin collecting a digital tax in December. The U.S. government has opposed these taxes because it argues the tax will unfairly target U.S. companies.
* According to a new [report](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.ceres.org%2fnews-center%2fpress-releases%2ffirst-its-kind-report-finds-us-banking-sector-far-more-exposed-climate&c=E,1,ijKDIKFnYMEcRe7Bkm5b6feiNj_mBmTzVelzxz_f-8Lo_iUDyoQ1qNEQ__-Y5joN0HnbA0Tyrqv6BnOQqsuQUX0DSGBWgzcR2jh-NY1Cr9EG&typo=1) from sustainability organization Ceres, just over half of syndicated loans among major U.S. banks are vulnerable to an economic shift away from carbon-intensive goods and industries. This also means these loans are more at risk from climate change.

**Federal Register Notices**

* The Federal Aviation Administration (FAA) requested public comments on an information collection to determine the extent to which U.S. airlines and certificated U.S. airports have been able to implement recommended practices to reduce and mitigate the risks of COVID-19 transmission during air travel. Comments must be submitted by November 18. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f19%2f2020-23069%2fagency-information-collection-activities-requests-for-comments-clearance-of-an-emergency-approval-of&c=E,1,C11poAq2uiMDwRdx2AaaOTAzOdUpXHFJkePhRrUoPzinYnqr7f5_ZZ1-SSukcDDCQiYE7E8ZWwNJYXAjqfBatqn4iknPZt7cmQVXxHNXrfR0-gONwgASYRU,&typo=1).
* The FAA announced a virtual meeting of the NextGen Advisory Committee (NAC) that will be held on November 17 from 1:00-4:00pm ET. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f19%2f2020-23088%2fnextgen-advisory-committee-notice-of-public-meeting&c=E,1,iRUSfUdQbFSerJEIPPuoxjcNtRaSNV3Vs_33KVLEqAUp5ROjrg7GMxH96uANwkLYACQfX1hAhyXPkaB0MsHR3iaCLkuFDYzA9qTIyG8QyQtf7nuVcELkGc1VnT6l3Q,,&typo=1).
* The United States Trade Representative invited applicants for the United States-Mexico-Canada Agreement (USMCA) binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a USMCA Party. These applicants would serve for the period April 1, 2021, through March 31, 2022. Applications must be received by November 16. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f19%2f2020-22999%2fapplications-for-inclusion-on-the-binational-panels-roster-under-the-united-states-mexico-canada&c=E,1,DFMAz3iMH9Z2Fv2QO7SKyZXiWi83LerPzFeW7SSWY4SX9bgDcLb2Ot1gzIRN62ohSXxQ5gKdIRrVPkseN5pNF0dMZotyG_CzyOAQ5tyP1w,,&typo=1).
* The Federal Energy Regulatory Commission proposed rules to establish a reasonable period of time for a certifying authority to act on a water quality certification request related to natural gas and liquified natural gas projects for which either an application filed pursuant to section 3 or section 7(c) of the Natural Gas Act (NGA). Comments are due by November 18. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f19%2f2020-20327%2fwaiver-of-the-water-quality-certification-requirements-of-section-401a1-of-the-clean-water-act&c=E,1,ZJulf_lBNYdBoBJQxU5b8UueF1awSTR_y-EX96TQAgA5jivZTEXFx_14MOVRlQa6Gi0q3u5zKHY4mEj49dt7mQHZantRU0XaYPoDW6dtWYn7qA,,&typo=1).
* The Pacific Fishery Management Council's Budget Committee will hold an online meeting to consider budget issues as outlined in the Budget Committee agenda for the November 2020 Council Meeting on November 4 at 1:00pm PST. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f19%2f2020-23050%2fpacific-fishery-management-council-public-meeting&c=E,1,q32THOwyiyGW3L_hi3E245NQQHNffqmB7Y00D41-u369si5mZTA_4OHvKTvv81z3ah6kO1Lx3CghXPnsZrEDqigbVThdxmFfZ0olO3HfAQmtLAIbIg,,&typo=1).
* The Small Business Administration (SBA) posted an interim final rule relating to the implementation of Sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This interim final rule revises interim final rules by providing additional guidance concerning the forgiveness and loan review processes for PPP loans of $50,000 or less and lender responsibilities with respect to the review of borrower documentation of eligible costs for forgiveness in excess of a borrower's PPP loan amount. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f19%2f2020-23091%2fbusiness-loan-program-temporary-changes-paycheck-protection-program-additional-revisions-to-loan&c=E,1,8cO4inIDQas2k7sJn08rSFOKEnAZv-v7Dj0GwyhCbzdiDvj-WEErjXL2lidGGqAL53lLvKvjjDfMUNQ7EWTI7Z8uvXPwOYnILiRE6bAX94sRcwbi5yXO&typo=1).