

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

THOMAS J. DONOHUE
CHIEF EXECUTIVE OFFICER

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5300 ♦ 202/463-5327 FAX
JROBINSON@USCHAMBER.COM

March 16, 2020

The President
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

The Honorable Nancy Pelosi
The Speaker of the House of Representatives
United States Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. President, Speaker Pelosi, and Majority Leader McConnell:

The U.S. Chamber of Commerce and its members applaud the Administration and Congress for their recent actions to protect the American people from the spread of the Coronavirus and mitigate its direct and indirect economic effects. The national emergency declaration and the strong, bipartisan relief legislation providing targeted relief will deliver needed support for workers and their families.

The need to curtail and even suspend many aspects of commerce to reduce transmission of the virus are unprecedented, but now necessary. As a result, businesses of all sizes across the nation and across most every industry are experiencing a significant drop in revenue. Without revenue, many businesses are unable to pay their employees or meet other financial obligations. The Chamber believes that, for almost all businesses, this is a temporary event. Much of the spending and investment forgone today will take place when the pandemic subsides. It is critical at this moment that the federal government assists individuals, families, and businesses as they traverse this period of lost income. No family and no business should go bankrupt just because of the temporary disruption in income caused by the Coronavirus.

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The Administration and Congress are in the process of providing meaningful support for employees in the form of paid sick and family leave and streamlined availability of unemployment benefits. The Chamber supports these efforts.

Now, the Chamber calls on the Administration and Congress to take critical steps to support America's employers during this period. Supporting employers is key to supporting employees. Specifically, we call on Congress and the Administration to consider enacting the following three proposals in addition to the detailed actions identified by Chamber members through our recently formed Coronavirus task forces.

First, enact legislation cancelling the payment of all payroll taxes typically paid by employers for the months of March, April, and May. Each month, employers remit more than \$100 billion to the federal government in the form of Social Security, Medicare, and unemployment taxes. Collectively, these taxes add just over 15% to the cost of employing the average employee. Temporarily cancelling the collection of these taxes will reduce the cost for employers for continuing to pay employees regardless of whether they are working or on sick leave and increase liquidity for employers to help them respond to losses in revenue. Further, for employers with fewer than 500 employees, cancellation of the taxes combined with the refundability for paid sick and family leave included as part of the Families First Coronavirus Response Act will provide meaningful additional financial support.

Second, enact legislation expanding and streamlining loan programs for small businesses with fewer than 500 employees experiencing revenue loss as a result of the Coronavirus. The Small Business Administration (SBA) disaster loan program for those impacted by the Coronavirus should be immediately made available nation-wide, eliminating the state-by-state and county-by-county certification process. Additionally, we recommend giving SBA the authority to streamline its disaster loan approval process for amounts below \$350,000 in order to provide emergency capital more quickly to small businesses in need. This should include removing the requirement that small businesses demonstrate that they cannot access credit elsewhere before receiving a SBA-disaster loan.

Third, enact legislation enabling the creation of credit facilities to provide loans and loan guarantees to employers with more than 500 employees experiencing significant revenue loss as a result of the Coronavirus. Specifically, legislation should expand the use of the Federal Reserve Discount Window through the liberalization of the restrictions of Section 13-3 of the Federal Reserve Act. Then the U.S. Treasury, Federal Reserve, Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) should work in combination with banks to establish a system of credit

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facilities, to provide loans and loan guarantees that can be accessed by businesses with more than 500 employees to address disruptions created by the Coronavirus emergency. Banking regulators should temporarily suspend and review requirements such as the Liquidity Coverage Ratio and provide flexibility in their supervisory expectations for banks extending credit to businesses. These actions should allow for an orderly operation of a program of loans and loan guarantees.

Taken together, these three steps, in addition to the other actions outlined in the appendix to this letter, will ensure that businesses of all sizes and across all sectors have increased liquidity and access to necessary financing to help them weather the temporary loss in revenue caused by the Coronavirus.

In the coming days, the Chamber will submit additional recommendations to address the challenges confronting American businesses as we all seek to successfully navigate this evolving and difficult period.

Thank you all for your leadership. The Chamber looks forward to continuing to work with you to help our nation as we confront this challenge together.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Donohue", with a stylized flourish at the end.

Thomas J. Donohue
CEO, U.S. Chamber of Commerce

cc: Members of the United States Congress
Secretary of the Treasury Steven Mnuchin
Chairman of the Board of Governors of the Federal Reserve System Jerome Powell

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Appendix of Additional Recommendations

Recently, the U.S. Chamber of Commerce formed four task forces to identify challenges on the ground from the Coronavirus and present solutions for the Administration and Congress to enact. These four task forces (supply chain and trade disruption, business operation and revenue disruption, employee support, and small and medium enterprises) are focused on gathering input from the American business community to help policymakers undertake responsible, fact-based planning for the current situation. These task forces will continue to meet remotely and provide recommendations to policymakers as the situation continues to unfold. In the meantime, outlined below are our initial recommendations that should be considered now, organized by task force topic area.

The Chamber appreciates the work of the task force members in developing recommendations for an unprecedented and rapidly evolving situation. The Chamber stands ready to provide additional information on each recommendation and to revise these proposals as appropriate. We also understand the need of policymakers to prioritize and sequence legislative and regulatory actions.

Supply Chain and Trade Disruption

- The Administration and Congress should work with other G-20 nations to establish a global standard for the movement of air cargo pilots and crew members to ensure international networks continue to operate. This standard should ensure that air cargo pilots and crewmembers who do not interact with the public in the performance of their jobs should be exempt from 14-day quarantine requirements if they follow governmentally-recognized health protocols. G-20 nations should also provide specialized immigration and hotel accommodations for such individuals when rest requirements need to be met.
- The Administration should work with the express carrier industry to ensure there is sufficient capacity to carry critical medical supplies from Europe and Asia that are normally transported by passenger plane to the United States.
- The Administration should work with other governments to oppose export controls and other restraints on trade in vital medical equipment such as masks and respirators as such measures compromise the effectiveness of international public health efforts to confront the global threat posed by the epidemic.

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- The Office of the U.S. Trade Representative should immediately expand its recent exemptions of Section 301 tariffs on medical equipment to include any product used in the provision of medical care.
- The Administration should partner with foreign governments to adopt an evidence- and risk-based approach to guide the future resumption of international travel.
- The Administration should ensure all health authorities carefully target drug supplies to locations facing the most critical needs and avoid universally lifting prescription limits in order to ensure that drug supplies are not stressed, and additional availability issues are not created.
- The Administration should defer any plans to expand “Buy American” rules. Such a move would immediately exacerbate shortages of pharmaceutical products, medical equipment, and other critical goods.
- The Administration and Congress should take steps to combat price gouging on goods critical to containing the Coronavirus, especially holding accountable parties who profit from stolen and counterfeit goods.
- The Administration should maintain the current waiver to the hours of service regulations for commercial motor vehicle drivers delivering goods critical for Coronavirus response efforts for the duration of the emergency.

Business Operation and Revenue Disruption

- The Administration and Congress should extend all tax and employee benefit filing and premium payment deadlines occurring on or after March 15, 2020 and before October 15, 2020 to give taxpayers additional time to file and remit payments through October 15, 2020.
- The IRS should provide relief to obtain funding waivers for pension plan contributions through 2020.
- Congress should provide a premium holiday in 2020 for the variable rate premium paid to the Pension Benefit Guaranty Corporation (PBGC). The PBGC single-employer program ended its 2019 fiscal year in a positive net position of \$8.656 billion.

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- Congress should enact legislation that ensures employers who implement practices to reduce the risk of the Coronavirus in the workplace are protected against frivolous litigation.
- The Administration should encourage regulators to provide financial institutions with flexibility regarding the credit conditions of small and medium-sized businesses facing short-term challenges, including offering extended grace periods and short-term loans. Some further steps include -
 - Federal banking regulators could affirm/clarify existing guidance on banks' ability to draw down liquidity reserves (including High Quality Liquid Assets) and the response to a bank that has a Liquidity Coverage Ratio (LCR) that falls below 100%.
 - The Federal Housing Finance Agency (FHFA) could relax Federal Home Loan Bank (FHLB) collateral requirements and the eligible list of counterparties by expanding types of eligible collateral (e.g., SBA loans) and provide advantageous advance terms to banks in affected areas.
 - The Federal government could expand mortgage support through the Federal Housing Authority (FHA) to facilitate refinancing of home mortgages for individuals who apply for relief for the Coronavirus disaster.
 - Congress could expand the Community Reinvestment Act (CRA) credit so federal regulators could provide CRA credit for extensions of credit and investments in healthcare infrastructure (e.g., hospitals, public health infrastructure, etc.).
 - State insurance regulators could allow modest, temporary increases in qualifying loan and equity instruments held as reserve investments and could authorize extraordinary dividends.
- The Securities and Exchange Commission (SEC) should increase the ability of public and private companies to access the capital markets.
 - The SEC could extend its Order issued on March 4, 2020 to provide relief beyond April 30, 2020 in order to include most SEC registrants as it relates to their Form 10-Q for the quarter ended March 31, 2020.
 - For registration statements of existing issuers that are current and timely, the SEC could permit for those registration statements to be effective when filed. This action would enable certain smaller issuers that do not qualify as well-known seasoned issuers to more readily access capital.
 - The SEC could use its exemptive authority to create a unique, emergency Securities Act registration exemption to facilitate timely access to capital for smaller private companies during the period impacted by the Coronavirus.
- The Administration should declare geographic designations for GSE and Government guarantor mortgage relief:

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- Confirm disaster applicability when entities other than Federal Emergency Management Administration (FEMA) declare a disaster/crisis (state/local).
 - Utilize Extension Modification (extends maturity date without interest) which follows up to 12-month forbearance period.
 - Utilize full disaster protocols, such as no late fees and credit reporting, calls and letters.
 - Issue a specific directive, similar during to one issued during the government shutdown, to suppress negative credit reporting for those with the Coronavirus or impacted as a result of the virus.
- To increase taxpayer liquidity, consider relief including, but not limited to, suspending or increasing the limitation for tax items such as interest deductions and net operating losses and relaxing the application of the GILTI and BEAT provisions. Additionally, where applicable, consider allowing for temporary carryback and carryforward of certain tax items.

Employee Support

- The Administration and Congress should provide protections to employers under medical privacy laws, the Americans with Disabilities Act and the various civil rights laws to allow businesses to inquire about employee health information relating to the Coronavirus to ensure a safe workplace.
- Congress should enact liability protection legislation that will allow businesses to require employees to engage in proper hygiene procedures.
- Congress should clarify in legislation that for the duration of the national emergency, companies that offer protections to independent contractors such as masks, medical screening, or income support will not be considered employers for federal, state, or local purposes.
- The Department of Labor (DOL) should issue guidance stating that employers who provide protections to employees of other companies present at their facilities will not be considered joint employers under the Fair Labor Standards Act.
- Congress should pass legislation that would hold harmless companies that must reveal the identity of someone diagnosed with the Coronavirus. This should apply during the duration of the national emergency when such disclosure is necessary to allow other employees to seek medical care or to self-quarantine.

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- The IRS should expand hardship distributions from retirement plans to allow such distributions to individuals who may not be able to work due to the Coronavirus.
- For the duration of the emergency, DOL should provide relief related to retirement plans, such as allowing for good faith compliance for loan verification, timely employee contributions and loan payments, and blackout notices.
- Employers across several industries need to have the ability to onboard new workers and reverify certain workers to maintain their operations as best they can under these unique circumstances. With many employers instituting telework arrangements to prevent the spread of the Coronavirus, requiring that this process be done in person will inhibit the ability for companies to hire new workers and maintain current workers that must be reverified. Relaxing the enforcement for the requirement that this process be done in person and reconsidering the prohibition on the use of teleconferencing for the I-9 verification process will provide employers with the flexibility to meet their workforce needs.
- At a time when many employers have imposed telework requirements, DOL should clarify that the agency does not consider employees' homes "worksites" for purposes of OSHA enforcement and numerous posting notices, including Labor Condition Applications.
- The U.S. Citizenship and Immigration Services (USCIS) should allow employers to use scanned, photocopied, and electronic signatures as acceptable alternatives to original signatures on all USCIS forms.

Small and Medium Enterprises

- The Administration should appoint a high-level single point of contact to "synthesize" and serve as a clearinghouse of U.S. government information for small businesses. This will help small businesses navigate the many federal agencies and departments implementing measures to help small businesses weather the pandemic.
- The Administration should prioritize coordination and assistance across the federal agencies and departments that are working to assist small businesses to the greatest extent possible. For example, any small business that qualifies for a SBA Disaster Loan should automatically be given IRS quarterly tax payment forbearance without the small business needing to update the IRS.

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- The Administration and Congress should take steps to ensure small businesses have working capital during the pandemic. Measures for small business bridge financing should include:
 - Waiving the requirement that small businesses prove they cannot access credit elsewhere before receiving SBA-backed financing up to \$35,000 for a limited time frame and within responsible credit-score criteria; and
 - Automatic referral by SBA to their lender-match program for other financing options if a small business does not qualify for a SBA loan.