

Pillsbury's Washington Weekly Briefing: COVID-19 Developments

April 29, 2020

Addressing the ongoing
federal responses
to COVID-19

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THE CARES ACT AT-A-GLANCE

\$2.3 Trillion Stimulus Package
(expected \$4 trillion in economic activity)

\$500 billion
in loans for distressed
companies



\$242 billion
for public health

\$260 billion
in unemployment
insurance benefits



\$150 billion
for hospitals to invest in
equipment and infrastructure

\$377 billion
in small business loans



\$150 billion
to assist hard-hit state and
local governments

\$250 billion
in direct checks to
qualifying individuals/
families



\$32 billion
in airline-related support

The Small Business Administration's Paycheck Protection Program: Managing the Shake Shack Effect

- The federal government has approved more than \$600 billion for programs through the Small Business Administration.
- SBA released new guidance on April 23th, companies will have to prove they need the funds:
 - "Do businesses owned by large companies with adequate sources of liquidity to support the business's ongoing operations qualify for a PPP loan?"
 - "[B]efore submitting a PPP application, all borrowers should review carefully the required certification that 'current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant,' "
 - "[I]t is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification."
- SBA guidance provides for a "safe harbor." *Any borrower that applied for a PPP loan prior to the issuance of this regulation and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.*

Coronavirus oversight panel staffs up

REUTERS

Mnuchin warns some U.S. firms could face criminal liability over coronavirus loans

WASHINGTON (Reuters) - The U.S. Treasury Department will audit every loan for more than \$2 million given under the Paycheck Protection Program for businesses hurt by the coronavirus fallout, Treasury Secretary Steven Mnuchin said on Tuesday.

Watchdogs scramble to keep tabs on billions in stimulus spending

CORONAVIRUS

House creates new select coronavirus oversight committee over GOP objections

"This is about taking responsibility," Pelosi says.

POLITICO

Bloomberg Law

Pandemic Watchdog Activates Site to Track Trillions in Spending

abc NEWS CORONAVIRUS GOVERNMENT RESPONSE

Experts warn about big dollar fraud in \$2.2 trillion coronavirus relief package

Former watchdog warns one program could be "be defrauded in massive ways."

TARP cop wants bank accountability

Senate panel to step up TARP oversight: chairman



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

September 6, 2013

Congressional Committees:

Subject: *Troubled Asset Relief Program: GAO's Oversight of the Troubled Asset Relief Program Activities*

The Emergency Economic Stabilization Act of 2008 (EESA) authorized the creation of the Troubled Asset Relief Program (TARP) to address the most severe crisis that the U.S. financial system had faced in decades.¹ EESA provided GAO with broad oversight authorities for actions taken under TARP and required that we report at least every 60 days on TARP activities and performance.

GAO's Oversight Has Been Comprehensive

THE WALL STREET JOURNAL.

TARP Oversight Panel Urges Transparency, Accountability



SIGTARP



430

Criminally Charged



373

Convicted



291

Sentenced to Prison

Including

93

Homeowner Scammers



85

Bank Borrowers



76

Bankers



\$11 Billion =
Recovered from Investigations

31x
Return on Investment

Semiannual Report to Congress, April 1, 2019 – September 30, 2019, Office of the Special Inspector General for the Troubled Asset Relief Program.

Oversight Body	Responsibilities	Powers
Special Inspector General for Pandemic Response	Audits and investigations of the making, purchase, management, and sale of loans and loan guarantees. Report to AG upon belief of violation of law.	Make reports, subpoena records, take testimony, execute warrants.
Pandemic Response Accountability Committee	Conduct oversight of CARES Act funds and prevent and detect fraud, waste, abuse, and mismanagement. Report to AG upon belief of violation of law.	Subpoena documents and testimony, hold public hearings.
Congressional Oversight Commission	Conduct oversight of CARES Act implementation, and submit reports to Congress.	Hold hearings, take evidence, and obtain data and information from any agency.
Government Accountability Office	Reports, testimonies, legal opinions, audits on federal spending and programs.	Statutory authorities; broad access rights to agency information.
House Select Committee	Monitor implementation of coronavirus relief measures.	Operates under Rules of the Committee on Oversight and Reform

Compliance Questions

1. Do you have an adequately resourced and fulsome compliance program addressing your company's current legal and compliance risks?
2. Is that program subject to regular updating and testing to regularly integrate new requirements and test its effectiveness to address new challenges?
3. How do you establish, within that program or a new program, adequate controls, policies and procedures for the new requirements your organization faces for both CARES Act loan obligations and reopening conditions?
4. Do all relevant stakeholders, including the Board, employees and third-party business partners, understand their obligations and know how to report issues?
5. How should you plan to communicate and train relevant stakeholders regarding the company's new and existing legal and compliance obligations?

Elements of a Compliance Program

- Tone from the top
- Code of conduct, policies and procedures
- Risk assessment processes
- Training and communications
- Confidential reporting/internal hotline
- Investigations
- Vendor management controls
- Adequately resources legal and compliance team
- Incentives and discipline
- Monitoring and testing
- Analysis, remediation and updating

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Questions?

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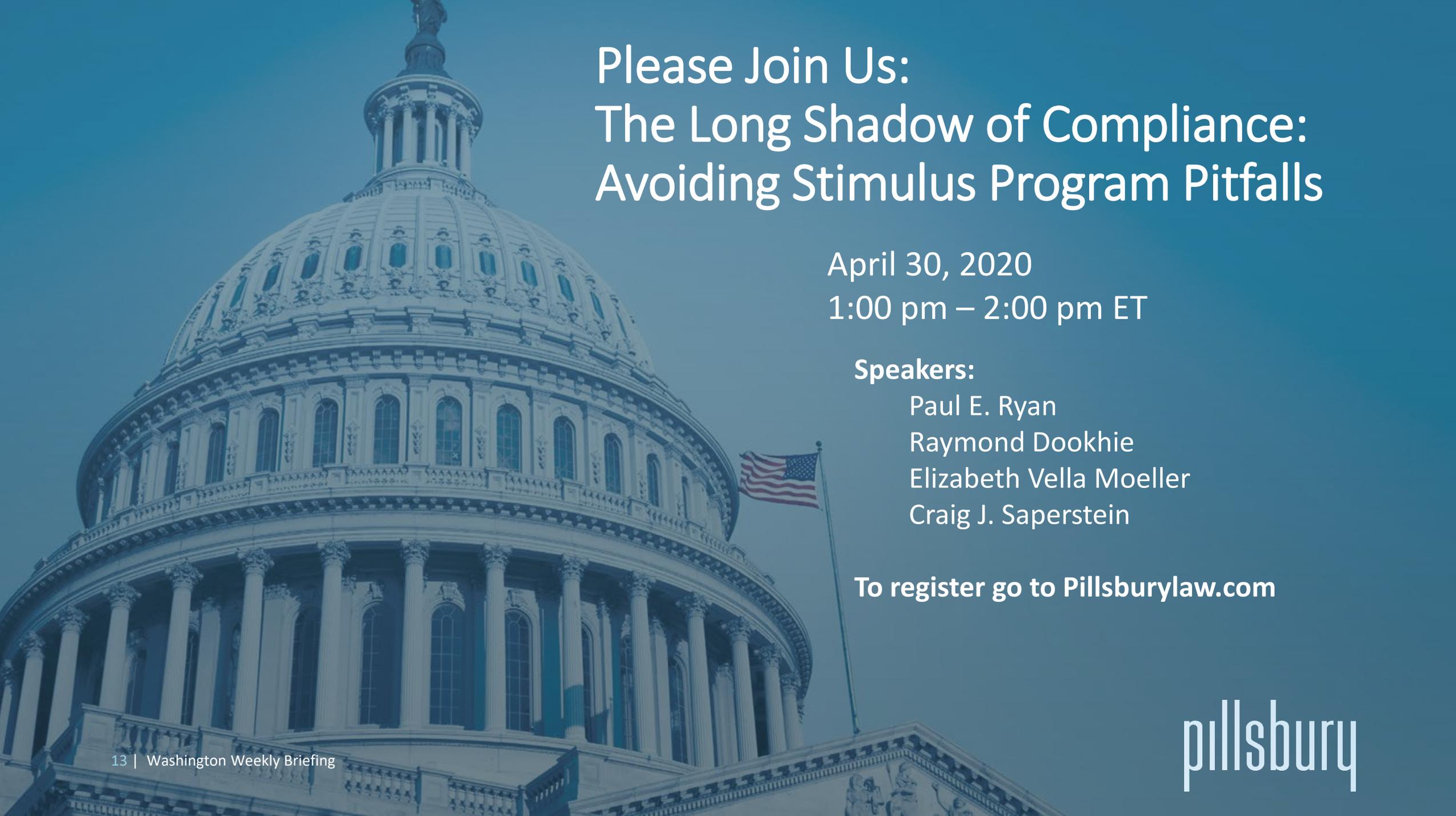
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Please Join Us: The Long Shadow of Compliance: Avoiding Stimulus Program Pitfalls

April 30, 2020

1:00 pm – 2:00 pm ET

Speakers:

Paul E. Ryan

Raymond Dookhie

Elizabeth Vella Moeller

Craig J. Saperstein

To register go to [Pillsburylaw.com](https://www.pillsburylaw.com)

Pillsbury's COVID-19 Resources:

If you have questions about how the Coronavirus impacts you or your business, please contact us.

COVID-19 (Coronavirus) Resource Center:

<https://www.pillsburylaw.com/en/services/covid-19-coronavirus.html>

Trending Topics:

- [CARES Act \(Stimulus\)](#)
- [Crisis Management](#)
- [Insurance & Contract Disputes](#)
- [Liquidity & Financial Markets](#)
- [Stay-at-Home Orders](#)
- [Workforce & Employment Law](#)

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