First Report of the Congressional Oversight Commission on the Use of CARES Act Funds

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Original post here.

In response to the Covid-19 crisis, Congress has passed four economic stabilization and health funding bills. The Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27 contains the most substantial relief measures, with $2.2 trillion to be allocated. Among other programs, Title IV, Subtitle 4 of the Act (subtitled the Coronavirus Economic Stabilization Act (CESA)) provides the Treasury with $500 billion for direct lending to specified businesses in the aviation industry and businesses critical to national security (up to $46 billion) and for supporting Federal Reserve emergency lending programs to be established under section 13(3) of the Federal Reserve Act ($454 billion).

The CESA provides for the establishment of a Congressional Oversight Commission to publish regular reports on the use of these funds. Per the Act, the commission includes five members, four members appointed by the leaders of the House and Senate and a chairman jointly appointed by the speaker of the House and the Senate majority leader, after consultation with minority leaders. As of the publication of the first report on May 18, the chairman position has not been filled; even so, the commission provided guidance on how it intended to conduct its role and reported on the status of the programs for which it had responsibility, most of which were not yet operational.

Oversight Role

The commision was established to provide oversight regarding the use of the $500 billion allocated under CESA. It is also charged with overseeing the implementation of related programs by the Treasury and Fed. It is required to report to the Congress every 30 days on the following points:

- The use by the Fed of authority under Subtitle A, including with respect to the use of contracting authority and administration of the provisions of Subtitle A.
- The impact of loans, loan guarantees, and investments made under Subtitle A on the financial well-being of the people of the United States and the United States economy, financial markets, and financial institutions.
- The extent to which the information made available on transactions under Subtitle A has contributed to market transparency.
- The effectiveness of loans, loan guarantees, and investments made under Subtitle A of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers. (p.5).

In its first report the commision sets out questions that provide insight into the areas that it will seek to explore in undertaking its duty. These questions include inquiry into a number of areas that have seen much discussion since the bill passed and some new areas including: the amount of risk the government is willing to undertake, ensuring the funds reach the intended parties, maximizing the impact of funds on markets and the economy, the effectiveness of direct vs.

indirect distribution channels, and accountability for compliance with the terms of the Act. Questions include:

- How will the Treasury and Fed (the "agencies") assess the success or failure of this program?
- How can the agencies best determine how much of the Treasury's $454 billion to allocate among Fed lending facilities and when to allocate such funds in order to help support and stabilize the economy?
- How can the agencies best estimate the risk of loss to taxpayer funds in each Fed lending facility?
- How will the Fed ensure it complies with all restrictions to emergency lending under Section 13(3) of the Federal Reserve Act, including those prohibiting lending to insolvent borrowers?
- Are the agencies prepared to lose taxpayer dollars in an effort to facilitate more lending and support to a broader set of entities?

The full list of questions can be accessed at page 14 of the report, which also includes specific questions regarding the individual programs.

Status of Programs

The commission noted that as of May 18, the Treasury has not disbursed any of the $46 billion reserved for direct lending; it further noted that the Treasury had published application procedures and requirements for these funds in March and April and that it was processing applications for loans received from airlines and other businesses critical to national security. The commision also noted that the Treasury had disbursed grant funds to airlines under the Payroll Support Program, a program authorized under a different provision of the CARES Act and not under their jurisdiction.

On April 9, the Treasury announced its intention to use available funds under CESA to make equity investments into special purpose vehicles established under Fed lending programs. The commission noted that so far the Treasury has pledged $185 billion of the $454 billion available to be invested in these facilities. This includes $75 billion intended for the Main Street Lending Programs, $35 billion for the Municipal Liquidity Facility (MLF), $50 billion for the Primary Market Corporate Credit Facility (PMCCF), and $25 billion for the Secondary Market Corporate Credit Facility (SMCCF).

The commission noted that on May 11, the Treasury invested $37.5 billion of the $75 billion equity investment committed for the Corporate Credit Facility LLC, the SPV established by the Fed for the PMCCF and SMCCF. No other of the committed amounts have yet been invested. It also noted that the size of these investments can grow as a large share of the appropriated funds remains unused.

Other Fed facilities, including the Term Asset-Backed Securities Loan Facility (TALF), the Commercial Paper Funding Facility (CPFF), the Money Market Mutual Fund Liquidity Facility (MMLF), and the Primary Dealer Credit Facility (PDCF), do not fall under the commission's jurisdiction according to its report. All but the last of these programs also have the benefit of $10 billion in Treasury credit support through Emergency Stabilization Act funds that the Treasury agreed to provide prior to passage of the CARES Act.

The commission noted that although the Fed has not started lending through the CARES Act Fed Facilities, with the exception of the SMCCF which was operational by May 12, the announcement of the programs in general has had a positive impact on market conditions, citing recovering equity prices and decreased bond spreads.