
Hughes Hubbard & Reed

CARES Act Developments and Newly Proposed Fiscal Stimulus Legislation as of July 31, 2020

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July 31, 2020 – This week the Federal Reserve extended its lending facilities through the end of 2020. Senate Republicans announced a \$1 trillion stimulus plan that addresses the federal supplement for unemployment benefits, employee tax credits, a second stimulus check to individuals, an expansion of the Paycheck Protection Program, and limitations on liability for coronavirus infections, among a host of other proposals. Negotiations are underway with House Democrats and the White House regarding the substance of the stimulus package; the House has already passed its version of this stimulus package, which contains major differences.

Regulatory Developments Relating to the Pandemic

Government Lending Facilities Extended to Year's End

On July 28, the Federal Reserve Board extended through December 31 its lending facilities that were scheduled to expire on or around September 30. The extensions apply to the Primary Dealer Credit Facility, the Money Market Mutual Fund Liquidity Facility, the Primary Market Corporate Credit Facility, the Secondary Market Corporate Credit Facility, the Term Asset-Backed Securities Loan Facility, the Paycheck Protection Program Liquidity Facility, and the Main Street Lending Program. The Municipal Liquidity Facility is already set to expire on December 31, with the Commercial Paper Funding Facility set to expire on March 17, 2021.

- [Press release](#)

Legislative Proposals

The Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act

On July 27, Senate Majority Leader Mitch McConnell (R-KY) and several Republican senators discussed on the Senate floor provisions of the HEALS Act, which would create an approximately \$1 trillion stimulus plan as a follow-up to the CARES Act. The proposed legislation will likely consist of multiple bills, including the American Workers, Families and Employers Assistance Act and the Continuing Small Business Recovery and Paycheck Protection Program Act (see below). In addition to the provisions of these Acts, the current proposal also includes \$105 billion to reopen public and private schools.

S. 4318: American Workers, Families and Employers Assistance Act

On July 27, Senator Chuck Grassley (R-IA) introduced a bill that would extend the federal supplement for unemployment benefits and establish a number of employee tax credits, among other things.

- Second Stimulus Check. The bill authorizes another one-time, \$1,200 stimulus check for individuals with AGIs up to \$75,000; \$2,400 for married couples with AGIs up to \$150,000; and \$500 for dependents, regardless of age (payments are subject to AGI-based phase-outs).

- Enhanced Unemployment Benefits. The CARES Act established a \$600/week federal supplement for unemployment benefits that expires on July 31, 2020. The bill would continue those payments up through October 5, 2020, but at a reduced rate of \$200/week. Then a new benefit would take its place through Dec. 31, 2020: an amount, up to \$500/week, that when combined with state unemployment payments, would equal 70% of an individual's lost wages.

- Payroll Tax Credits. Employers would be able to take a payroll tax credit equal to 50% of wages capped at \$10,000 per quarter and \$30,000 per year.

- Work Opportunity Tax Credit (WOTC). The WOTC is currently available to employers who hire individuals from certain targeted groups who have consistently faced significant employment barriers. Under the bill, one such group would consist of "2020 qualified COVID-19 unemployment recipients."

- Safe and Healthy Workplace Tax Credit. The bill would establish a refundable payroll tax credit equal to 50% of an employer's "qualified employee protection expenses" incurred from March 12, 2020 through January 1, 2021.

- Independent Contractors. The bill would allow businesses to offer tax-free assistance to independent contractors without jeopardizing their independent contractor status. Such assistance would include financial aid and coverage of health care expenses.

- [Press release](#)

S. 4321: Continuing Small Business Recovery and Paycheck Protection Program Act

On July 27, Senator Marco Rubio (R-FL) and Senator Susan Collins (R-ME) introduced a bill that would broaden and extend the PPP loan program by (1) expanding forgivable expenses to include supplier costs, worker protection expenditures, and certain operational expenditures; (2) allowing borrowers to select a preferred 8-week period through 2020 in which to use the forgivable loan proceeds; (3) simplifying the forgiveness application process for smaller loans; (4) expanding the scope of PPP eligibility to include certain 501(c)(6) organizations, with 300 or fewer employees, excluding professional sports, political campaigns, and lobbying expenses; and (5) establishing a more favorable PPP loan calculation for farmers and ranchers. The bill authorizes second-draw PPP loans of up to \$2 million for certain small businesses that had a 50% reduction in gross revenues. The bill sets

aside \$25 billion in funds for business with 10 or fewer employees. It also authorizes long-term, low-cost loans of up to \$10 million to recovery-sector businesses.

- [Press release](#)
- [Summary](#)

S. 4317: Safeguarding America's Frontline Employees To Offer Work Opportunities Required to Kickstart the Economy (SAFE TO WORK) Act

On July 27, Senator John Cornyn (R-TX) introduced a bill that would limit the liability of individuals, business, and health care providers for exposing others to the coronavirus. Under the bill, plaintiffs would have to establish gross negligence or willful misconduct by clear and convincing evidence. Legal actions would be limited by a one year statute of limitation, and punitive damages could not exceed compensatory damages.

- [Press release](#)

H.R. 7809: The Helping Open Properties Endeavor (HOPE) Act

On July 29, Representatives Van Taylor (R-TX), Al Lawson (D-FL), and Andy Barr (R-KY) introduced bipartisan legislation that would provide economic support to the commercial real estate market, especially for businesses with Commercial Mortgage-Backed Securities (CMBS).

- [Press release](#)
- [Text of bill](#)

H.R. 7821: The Worker Relief and Security Act

On July 27, Representatives Don Beyer (D-VA) and Derek Kilmer (D-WA) introduced legislation that would automatically extend the \$600 weekly federal unemployment benefits for the duration of the pandemic, and then continue providing enhanced compensation and additional coverage determined by national and state total unemployment rates.

- [Press release](#)
- [Text of bill](#)

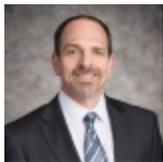
H.R. 7777: Paycheck Protection Small Business Forgiveness Act

On July 27, Representatives Chrissy Houlahan (D-PA) and Fred Upton (R-MI) introduced bipartisan legislation that would expedite forgiveness for Paycheck Protection Program (PPP) loans of \$150,000 or less, which make up about 86% of PPP loans.

- [Press release](#)
- [Text of bill](#)

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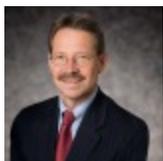
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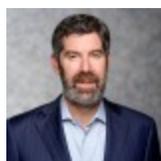
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