
Hughes Hubbard & Reed

CARES Act Developments and Newly Proposed Fiscal Stimulus Legislation as of June 12, 2020

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June 12, 2020 – This week the Federal Reserve expanded its Main Street Lending Program by improving the terms of the loans that will be on offer; it indicates that it anticipates launching the program within days. Meanwhile, the President signed legislation Congress passed last week that makes significant modifications to the Paycheck Protection Program (PPP). The Paycheck Protection Program Flexibility Act (PPPFA) gives PPP borrowers significantly more flexibility in how and when they use PPP funds and makes it easier to obtain loan forgiveness. Also, Treasury Secretary Steven Mnuchin testified before the Senate Committee on Small Business and Entrepreneurship about the need for another round of economic stimulus and relief.

CARES Act Developments

Federal Reserve Expands Main Street Lending Program

On June 8, the Federal Reserve expanded its Main Street Lending Program by improving the terms of the loans that will be on offer. It lowered the minimum loan amount, raised the maximum loan limit, adjusted the principal repayment schedule to begin after two years, and extended the term to five years, providing borrowers with greater flexibility in repaying the loans. The Federal Reserve said the Main Street program would be open for lender registration soon and that it would be actively buying loans shortly afterwards.

- [Press release](#)
- [MSNL term sheet](#)
- [MSPL term sheet](#)
- [MSEL term sheet](#)
- [Program home page with link to updated FAQ](#)

SBA Clarifies Paycheck Protection Program Forgiveness Condition

On June 8, the Small Business Administration clarified one of the conditions a borrower must meet in order to obtain forgiveness of a PPP loan. Under the CARES Act, the portion of a PPP loan used for payroll costs, mortgage interest, rent and utility expenses is forgivable. SBA regulations further limit forgiveness of the non-payroll costs (i.e., mortgage interest, rent and utility expenses) to 40% of the total amount forgiven. The SBA clarified that this does not mean that a borrower would be ineligible for any forgiveness at all if the borrower uses less than 60% of its PPP loan for payroll costs during the forgiveness "covered period." Rather, if a borrower uses less than 60% of its PPP loan for payroll costs, the borrower will continue to be eligible for partial loan forgiveness, but the loan forgiveness amount will be limited such that at least 60% of the loan forgiveness amount was used for payroll costs.

DOL Issues Guidance Regarding Workplace Face Masks

On June 9, the Department of Labor issued an FAQ regarding the use of face coverings, surgical masks and respirators in the workplace. The new guidance outlines the differences among these different face masks, noting that employers should not use surgical masks or cloth face coverings when respirators are needed. The guidance reiterates the need for social distancing measures, even when workers are wearing cloth face coverings, and recommends following the Centers for Disease Control and Prevention's guidance on washing face coverings.

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

Pub. L. 116-142: Paycheck Protection Program Flexibility Act of 2020

On June 5, legislation was signed into law that makes significant modifications to the Paycheck Protection Program (PPP). The law extends the covered period in which loan proceeds must be spent to be eligible for forgiveness under the PPP from eight to 24 weeks (or Dec. 31, 2020, if earlier), reduces the amount that must be spent on payroll from 75 percent to 60 percent of the amount to be forgiven, replaces the two-year loan repayment limit with a five-year limit for future PPP borrowers (also available to current borrowers who renegotiate their loan terms), allows payroll deferment, allows deferral of principal and interest payments until the lender receives the forgiveness amount from the SBA, and extends the June 30 rehiring deadline to Dec. 31. It also provides that the forgiveness amount, which under the PPP is reduced in proportion to employee headcount reductions from pre-pandemic levels, will not be reduced for any employee reductions that are attributable to a business not being able to reopen fully due to government restrictions relating to the pandemic. The Treasury Department clarified that if a borrower uses less than 60 percent of the loan amount for payroll costs during the forgiveness covered period, the borrower will continue to be eligible for partial loan forgiveness, such that at least 60 percent of the loan forgiveness amount will have been used for payroll costs.

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

Legislative Proposals

Testimony by Treasury Secretary Steven Mnuchin before the Small Business Committee

On June 10, Treasury Secretary Steven Mnuchin testified before the Senate Committee on Small Business and Entrepreneurship about the need for another round of economic stimulus and relief. In his testimony, Secretary

Mnuchin defended the Paycheck Protection Program, which has loaned approximately \$511 billion to 4.5 million small businesses to date. Although more than \$130 billion in PPP loan money is still available, Secretary Mnuchin testified that there is “no question that small businesses in many industries will need more help.” He stated that the administration plans to spend the next month looking into support measures, including those that would encourage businesses to rehire workers. He also that the SBA will relax restrictions on PPP loans for borrowers with criminal records by reducing the time they would be barred from applying after a conviction from five years to three years. One member of the committee, Senator Ben Cardin (D-MD), said that he plans to introduce a proposal allowing borrowers with fewer than 100 employees to take out a second PPP loan. Secretary Mnuchin testified alongside Jovita Carranza, the Administrator of the Small Business Administration.

H.R. 7090: Coronavirus County Relief and Stability Act

On June 4, Representative Paul Cook (R-CA) introduced bipartisan legislation that would provide greater economic relief to counties with populations under 500,000. Specifically, the legislation would provide a minimum of \$1 million to every county in the United States, plus additional funds depending on population exceeding 500,000. Previous legislation only provided direct assistance to counties with populations greater than 500,000.

- [Press release](#)

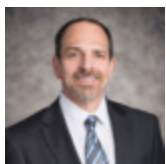
H.R. 7094: Flexibility for States and Localities Act

On June 4, Representative Warren Davidson (R-OH) introduced legislation that would give states greater discretion over how to spend CARES Act relief funds. Rep. Davidson noted that it would be more efficient to allow governors and mayors to decide how to allocate funds within their states based on their knowledge of local needs, rather than relying on a one-size-fits-all federal program.

- [Press release](#)

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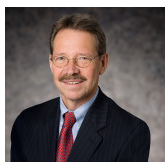
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