Summary of H.R. 748-CARES Act (McConnell Phase 3 Bailout Bill)

Professor Adam J. Levitin
Financial Restructuring & Business Bankruptcy
Georgetown University Law Center

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*This is a preliminary and summary document.*
H.R. 748-CARES Act

• Senate GOP proposal
  • H.R. because revenue bills have to officially start in the House.

• Title I—Guaranties of Forgivable Loans to Small Businesses
• Title II—Unemployment Insurance Expansion and Tax provisions
• Title III—Support for the Health Care System and Miscellany.
• Title IV—Direct Government Loans
H.R. 748-CARES Act-Title I

• Forgivable small business loan guaranty program.

• Small Business Administration (SBA) currently has ~$150B in loans guarantied.
  • Loans made by banks.
  • Collateralized, often with personal guaranty.
  • SBA normally guaranties 50%-85% of loans and charges a fee of 2-3% for doing so.

• Title I program is $300B in small business loan guaranties for “paycheck protection program”
  • Loans made by banks, but guarantied by government at 100%.
  • Loan proceeds restricted for use on payroll (on employees earning up to $100k), rent, mortgages, utilities, interest payments; no acquisitions.
  • Loan amounts up to 2.5x 2019 payroll.
  • No collateral, no personal guaranty, no guaranty fee.
  • 5.50% interest rate (100bp is a servicing fee for banks).

• Principal is fully forgivable, but not interest.
  • But forgiven principal not treated as income for tax purposes.
H.R. 748-CARES Act-Title II

• Expands existing unemployment insurance (UI) program.
  • Greater eligibility
  • Increased benefits

• Tax provisions
  • Tax credits paid in advance (Mnuchin Mnoney).
    • $1200/adult + $500/child.
    • Phased out for higher income (at around $200k income for household, no money).
  • Delay of employer payroll taxes.
    • Provides immediate liquidity source for businesses.
    • But still owed.
  • NOL and interest deduction provisions.
H.R. 748-CARES Act-Title III

• 6 months of interest free deferment for some federal student loans.
  • Covers Direct Loans and federally-held FFEL loans.
  • Does not cover Perkins Loans or commercially-held FFEL loans.
  • Does not freeze administrative collection efforts against borrowers in default.

• Other important stuff we won’t focus on here:
  • Health care supply provisions.
  • Medicare/Medicaid provisions.
H.R. 748-CARES Act-Title IV

• $500B in four loan programs:
  1) $50B for passenger airlines
  2) $8B for freight airlines
  3) $17B for “businesses essential to national security”
  4) $425B for Treasury to backstop Federal Reserve lending to “eligible businesses” under section 13(3) of Federal Reserve Act.

• Eligibility
  • No definition of national security essential businesses.
  • Small businesses may not qualify for $425B facility because they can obtain credit otherwise via title I SBA facility.

• First three programs are direct loans from Treasury; fourth program is for loans made by the Fed.
  • Backstop of Federal Reserve 13(3) lending is necessary because many 13(3) borrowers will not be sufficiently creditworthy on their own to qualify under Fed’s 13(3) regulations.
  • Fed loans are not forgivable. Unclear if the Treasury direct loans are forgivable.

• Terms and conditions are largely up to Treasury Secretary.
  • No limitations on use of proceeds other than regarding stock buybacks and exec comp caps.
  • Exec comp capped at 2019 levels for those earning over $425k.
  • Required maintenance of existing employment “to the extent practicable”.
  • Fed may still have its own terms/conditions for 13(3) lending programs.

• $100M in administrative costs authorized, with Treasury Secretary given full discretion about hiring for program administration.
H.R. 748-CARES Act-Issues

• Consumer aid is limited.
  • No debt collection moratorium other than for some federal student loans.
  • No increase in SNAP benefits or Social Security Disability Insurance

• Oversight is lacking.
  • Enormous discretion given to Treasury Secretary
    • Who gets a direct loan and on what terms
    • No requirement of equal treatment
    • Employment of administrators
    • Interface with Fed 13(3) authority unclear.
  • No Special Inspector General, no Oversight Panel, no COVID Inquiry Commission, unlike 2008 bailouts.
  • No reports on identity of recipients required for six months (i.e., until close to November Presidential election).

• Few strings attached.
  • Weak executive compensation and stock buyback limits
  • No dividend or other distribution limitations
  • Prohibition on voting equity interests and not required to take equity stakes.
  • No limitations on use of funds.

• Airline bailout compares poorly to auto manufacturer bailout in 2009.