

Ed Mills | (202) 872-5933 | ed.mills@raymondjames.com
Chris Meekins | (703) 351-5294 | chris.meekins@raymondjames.com
Alex Anderson, Sr. Res. Assoc. | (202) 872-5936 | alex.anderson@raymondjames.com

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Deal Reached - \$2 Trillion Fiscal Stimulus Set for Approval

White House and Senate leaders have reached a deal (and have finally released the text) to provide an estimated \$2 trillion in fiscal stimulus to combat the economic impact of COVID-19, and provide the healthcare industry the financial support, equipment, and protection it needs to combat the virus. After reviewing the text of the legislation, much of the Senate bill released last week forms the foundation of the bill – providing direct payments to individuals, \$350 billion for small business relief/paycheck protection, 4 months of unemployment insurance with an unlimited funding, \$500 billion in relief for impacted industries (including a credit facility aimed at providing an estimated \$4 trillion+ in loans and loan guarantees), \$150 billion for state and local governments, and an estimated \$150 billion for healthcare. The legislation also contains provisions related to distributions from retirement funds and moratoriums on evictions and some mortgage payments.

We anticipate the Senate will pass the legislation in the coming hours, following a vote on an amendment related to the unemployment benefits in the bill (which is expected to fail). We expect the House of Representatives to pass the legislation tomorrow or Friday at the latest. The current plan in the House is to allow a voice vote for passage. The reason for a voice vote is that it will allow some House Republicans to voice their opposition (who would likely block a unanimous consent request), but to avoid requiring all Members to return to DC and face potential exposure to COVID-19. Alternatively, a full House vote could delay final passage by a day. We expect the bill to be signed immediately following House and Senate passage.

While this is wrapping up phase 3 of fiscal stimulus, conversations have already begun on phase 4. We expect that Congress may need to provide additional fiscal stimulus in the coming weeks, should the economic impact of COVID-19 continue. The bill released this week by Speaker Pelosi provides a marker for the additional priorities for Congressional Democrats – including additional support for state and local governments and funding to ensure vote-by-mail and other absentee voting options for the 2020 election. State and local governments will have \$150 billion and financing available to them through the Treasury and Federal Reserve funding facility, but with lost tax receipts during the virtual economic lockdown and most having balance budget requirements, we will be watching to see if this aid is sufficient to avoid widespread layoffs of state and municipal workers. This was an issue highlighted by Governor Cuomo (D-NY) in response to the current bill.

Key Changes: The Small Business relief has transformed to an even more robust paycheck protection plan, with the inclusion of a grant program, expansions on eligibility and loan forgiveness. The unemployment insurance has been expanded from 3-months to 4-months, with a boost of \$600 per week and support for furloughed workers. The unemployment section could easily bring the total of this bill above \$2 trillion – as the bill contains unlimited funding. The support of impacted industries was not as materially changed as we would have expected. There is more transparency and a prohibition on the President and Members of Congress receiving benefits from the fund, but the most onerous provisions (equity stakes and limits on compensation) are limited to loans given to the airline industry, air cargo industry and national security businesses. The remaining \$454 billion in funds do not have these restrictions. The addition of a tax credit for employer retention, should provide some economic support. A 120-day eviction moratorium is included, and not explicit in the package, we expect the Federal Reserve will have to create a credit facility to support the servicing industry and fund advances.

In an attempt to provide relevant details on the major provisions of the bill, we have provided a bill summary on the following pages.

Please read domestic and foreign disclosure/risk information beginning on page 6 and Analyst Certification on page 6.

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Paycheck Protection/Small Business Relief

- \$349 billion in SBA 7(a) loans to small businesses to cover payroll from 2/15/2020-6/30/2020.
- Covers payroll for individual employees up to \$100,000 in annual compensation, expands definition of eligible employees.
- Small business is defined at 500 or fewer employees or (if applicable) a number chosen by the Small Business Administration.
- Restaurants and Lodging (North American Industry Classification (NAIC) Code 72) that does not employ more than 500 employees per physical location eligible for loan. The waiver of affiliate rules include "any business concern operating as a franchise that is assigned a franchise identified code by" the SBA. [SBA affiliate code list](#).
- Allowable use of funds: Group health care benefits, payroll, interest payments on mortgage interest obligations, rent, utilities, and interest on any other debt obligations.
- Loans calculated on average monthly payroll x 2.5 up to a maximum of \$10 million. Maximum interest rate of 4%, minimum deferred repayment of 6 months, but can be up to 1-year.
- These 7(a) loans have a zero risk weight for federal bank capital requirements, cannot be sold to secondary market until loan recipient has requested the loan forgiveness provided. Excluded from troubled debt relief restructuring (TDR) under CECL, until regulators deem appropriate. Lenders reimbursed 5% of the balance for processing loan. Loans have 100% SBA guarantee. Additional lenders will be added to 7(a) program to facilitate program.
- \$10 billion in grants up to \$10,000, \$17 billion to pay existing SBA loans
- Loan forgiveness: Borrowers will have any payroll costs, mortgage payments, rent payments, and utility payments reduced from principal amount of loan. Loan forgiveness is a calculation of % of employees retained during covered period – 2/15/20 - 6/30/20.
- Utility defined as: Electricity, gas, water, transportation, telephone, or internet access for which service began before 2/15/2020.

Unemployment Assistance

- Unemployment coverage for 4-months.
- Additional \$600 per week over state-level assistance.
- States fully reimbursed for coverage.
- Outreach campaign to prevent layoffs via other programs.
- No limitation on funds.

Checks to Individuals

- \$1,200 per adult (\$2,400 for joint filers), plus \$500 per dependent.
- Phased out for individuals with adjusted gross income above \$75,000.
- Direct deposit for previous direct deposit tax returns.

Retirement Funds

- Withdrawals up to \$100,000 exempt from certain tax penalties – deemed “coronavirus-related distribution.”
- Loans up to \$100,000 from qualified plans not treated as distribution, current loans extended by 1-year.
- No Required minimum distributions (RMD) in 2020.
- Distributions may be repaid over 3-year period.
- Covered period is 1/1/20-12/31/20.
- Eligibility – Individual or spouse test positive for COVID-19, experiences adverse financial consequences of being quarantined, furloughed or laid off or having work hours reduced due to a lack of child care, closing or reduced hours of a business owned or operated by an individual, or factors determined by the Secretary of the Treasury.

- Taxable income spread over 3-year period.
- Minimum contributions to single-employer pension plans are delayed until January 1, 2021.
- Please see full text of bill for specific provisions, as many are technical tax-related issues.

Support for Impacted Industries/General Economic Support

- \$500 billion fund.
- \$454 billion for loans and loan guarantees to, and other investments in, programs established by the Federal Reserve to eligible businesses, states, and municipalities.
- \$50 billion for airlines, \$8 billion for air cargo carriers, \$17 billion national security business.
- Credit fund: Purchase obligations or other interests directly from issuers or from secondary markets.

Treasury Loan and Loan Guarantee Fund and Federal Reserve Programs

- Criteria: Credit is not reasonably available at the time of transaction, it is a prudent loan, loan is sufficiently secured or made at a rate that reflects the risk of the loan, and to extent practicable not less than the interest rate based upon market conditions pre-COVID-19. Borrower must have occurred or is expected to incur losses that the continued operation of the business are jeopardized.
- Rates on loans: Determined by the Treasury Secretary based on the risk and the current average yield on US Treasuries of comparable maturity.
- Duration: Short as possible, not longer than 5-years.
- Support for medium-sized businesses: financing to banks and other lenders that make loans to businesses/nonprofits between 500-10,000 employees w/ rate capped at 2%. Payments deferred for 6 months or longer at the determination of Treasury Secretary. 90% of workforce must be retained at full comp/benefits until September 30. No dividends/buybacks while loan outstanding. No outsourcing/offshoring jobs for 2 years after repayment of loan.
- Fed loan programs allow for direct loans.
- Prohibitions while the loan is outstanding: No buybacks (loan term plus 1-year). Treasury can waive buyback provision for loans through Fed facility, if not necessary to protect US taxpayers.
- No loan forgiveness, businesses receiving support must maintain employment levels as of March 24 to extent practicable but not reduce employment by more than 10% from that date.
- Treasury Secretary will publish application and minimum requirements within 10-days of enactment. Real-time reporting of loans, President, Vice President, Members of Congress, Cabinet heads prohibited from receiving benefits.
- Financial institutions including depositories, brokers, dealers, and others can be hired by Treasury to facilitate these programs as financial agents.
- Sets up Congressional 5 member oversight panel on government business aid with reports due to Congress by Fed/Treasury every 30 days.

Airlines

- \$50 billion total funding.
- \$25 billion in loan and loan guarantees/\$25 billion for airline worker salaries.
- Suspension of certain excise taxes through 1/1/21.
- Equity stakes (but just for airline, air cargo and national security funds): Compensation for federal government shall be “commensurate to the risk assumed,” Treasury is required to liquidate any equity interest acquired as soon as reasonably practicable (consistent with maximum returns for the US government), Treasury shall not exercise any voting power with respect to any shares of common stock.
- Executive compensation restrictions (just for airlines, air cargo and national security loans): Compensation for employees earning more than \$425,000 is capped at 2019 compensation/severance cap at two times 2019 compensation.

- Support to continue essential air service.

Business Tax Provisions

- Delay of employer payroll taxes (50% due 12/31/2021 and 50% due 12/31/2022).
- Return of use of net operating loss (NOL).
- Changes Trump Tax Act minimum tax liability provisions.
- Increases limits on business interest from 30% to 50% for tax years 2019 and 2020.
- Establishment of worker-retention tax credit.
- Property improvements for retail, hotels, restaurants are deductible from taxes - fixing glitch in new tax law.

Bank Provisions

- Allows FDIC to provide unlimited deposit insurance through 12/31/20.
- Lowers community bank ratio to 8%, banks below will be given reasonable grace period to satisfy ratio.
- Temporary relief from troubled debt restructuring (TDR).
- Optional temporary relief from Current Expected Credit Losses (CECL) through the earlier of 12/31/2020 or the termination of the current public health emergency.
- Waives lending limit and adds non-bank financial companies to assist in distributing funds.
- Temporarily waives credit union business loan cap through 12/31/2020.
- Zero risk weighting and 100% guarantee on SBA 7(a) loans.

Healthcare Funding

- \$100 billion provider fund to help offset costs to hospitals and other providers.
- Eliminates Medicare 2% sequester through the end of the year.
- Encourages telehealth use through lessening requirements during the emergency.
- \$4.3 billion for state and local outbreak response measures (equipment, testing, mitigation, etc).
- \$16 billion in funding for increasing the strategic national stockpile of drugs, protective equipment, and other medical supplies.
- \$45 billion in additional funding for FEMA's Disaster Relief Fund for state and local emergency response.
- Eases some conditions laid out under activation of the Defense Production Act such as required procedural findings to hasten production of critical medical resources. \$1 billion in funding to hasten production of critical items.

Medicare diagnostic payment rate reporting delay

- Medicare reporting period for private sector payment rates on diagnostic laboratory tests is delayed for one year from the current designated dates.

Speeding up over the counter drug approval

- Over the counter (OTC) drugs can be determined to be safe and effective by the FDA secretary without an approved drug application.

Educational Provisions

- \$30 billion in overall emergency education funding for instructional continuity.
- Payments suspended for federal student borrowers through September 30, 2020 with no interest accrual during suspended period.
- Federal loan repayment requirements waived for students that withdraw from institutions during the emergency situation.
- Satisfactory credit completion requirements for loans waived without appeal by students.

Miscellaneous/Mortgage Provisions

- 120-day moratorium on evictions.
- Forbearance to be granted on federally-backed mortgage loans for 60 days extendable up to 120 days thereafter.
- \$10 billion borrowing authority for USPS.
- \$10 billion for airports.
- \$25 billion for mass transit systems/\$1 billion for Amtrak.
- \$340 billion: emergency appropriations supplemental for government agency response efforts. A full breakdown by government agency/program is available [here](#).

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