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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

April 17, 2020

The Honorable Steven T. Mnuchin  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, DC 20220

The Honorable Jerome H. Powell  
Chairman  
Board of Governors of the Federal Reserve  
System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20551

Dear Secretary Mnuchin and Chair Powell:

The COVID-19 (coronavirus) pandemic is an unprecedented global health emergency. More than 30,000 Americans have died and the virus threatens to overwhelm our healthcare system.<sup>1</sup> Businesses across the country, especially those in the retail, service, and hospitality industries, have had to close their doors. In the last month, 22 million Americans have filed for unemployment.<sup>2</sup>

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act to address the public health emergency and its economic impact. In addition to critical funding for hospitals, communities, and unemployment benefits for workers, the bill includes up to \$454 billion in funding from Treasury that the Federal Reserve Board can use to create up to \$4.5 trillion in lending to help businesses support their workers who have been affected by the pandemic. The CARES Act also established a Congressional Oversight Commission to conduct oversight of the Treasury and Federal Reserve's implementation of the Act and its efforts to provide economic stability related to the coronavirus pandemic.<sup>3</sup>

Last week, the Federal Reserve announced several new and updated programs to provide up to \$2.3 trillion in loans intended to support the economy during the coronavirus pandemic, leveraging part of the \$454 billion in taxpayer money authorized under the CARES Act. We are concerned that the Treasury and Federal Reserve have not provided sufficient transparency into the structure and administration of these programs or adequate explanation for the decisions made so far.

The CARES Act gave significant discretion to the Treasury Secretary with respect to the programs created under section 13(3) of the Federal Reserve Act, but the Federal Reserve, which Congress oversees, also plays an essential role in creating and administering these lending

<sup>1</sup> Coronavirus in the U.S.: Tracking deaths and confirmed cases by state. Washington Post. March 27, 2020. Last accessed on April 16, 2020. [https://www.washingtonpost.com/graphics/2020/national/coronavirus-us-cases-deaths/?itid=ik\\_inline\\_manual\\_3](https://www.washingtonpost.com/graphics/2020/national/coronavirus-us-cases-deaths/?itid=ik_inline_manual_3).

<sup>2</sup> Department of Labor. April 16, 2020. Unemployment Insurance Weekly Claims. <https://www.dol.gov/ui/data.pdf>; <https://fred.stlouisfed.org/series/ICSA>.

<sup>3</sup> Pub. L. No. 116-136, Sec. 4020.

facilities. Congress granted the lending authority under the CARES Act with the expectation that Treasury will use these Federal Reserve facilities to help states and municipalities, small and medium size businesses in support of our whole economy. In addition, the CARES Act loan facilities should require important worker protections and place restrictions on corporate spending for stock buybacks, dividends and capital distributions, and excessive compensation.

Yet, neither the Federal Reserve nor the Treasury has communicated objective criteria for the allocation of funds by Treasury through the facilities or how the statutorily required restrictions will be enforced. Furthermore, none of the facilities require participants to ensure that economic assistance directly benefits workers. The documentation published to date for each facility does not provide sufficient detail and creates more uncertainty for local governments, small businesses, workers, and homeowners and renters. While states, cities, municipalities, and small businesses across the country are desperate for relief, Treasury and the Federal Reserve are instead allocating almost a fifth of relief provided in the CARES Act to prop up existing corporate facilities for Wall Street.

Both Treasury and the Federal Reserve have a responsibility to make sure the law is followed and to prioritize the people who need help the most. This means that Treasury and the Federal Reserve must apply the majority of the \$454 billion in equity to support small and mid-sized businesses, non-profit organizations, and states and municipalities and to stabilize the housing market.

It is clear that these programs are complicated and that the Federal Reserve and Treasury are working quickly, but without more details and thorough explanations to the public and Congress, large, medium, and small businesses, policy makers, and working Americans will not be able to plan accordingly. Under the CARES Act, the Federal Reserve Board must keep a record of its votes and the reasoning for the important decisions it makes during this pandemic.<sup>4</sup> The Federal Reserve remains accountable to Congress and the American people, and it is required to responsibly communicate the need and justification for its actions in a transparent way.

In light of these concerns, please respond to the following questions by April 24, 2020. The responses to these questions will be critical to Congress's oversight of the Treasury's and Federal Reserve's use of authority. Your answers will also help us evaluate the impact of your actions on the well-being of Americans and the U.S. economy, financial markets, and financial institutions, market transparency, and minimize costs and maximize benefits for taxpayers.<sup>5</sup> The American public deserves to understand how these facilities are run and that funding is allocated fairly and in a way that helps the real economy.

1. **How do Treasury and the Federal Reserve work together?** How does the Federal Reserve identify the need, size, and amount of each facility and on what data does the Federal Reserve rely to make the determination? Please provide the policies or procedures in place between the Department of the Treasury and the Federal Reserve to ensure that all statutory obligations, including prohibitions on stock buybacks and dividends, worker protections, and reporting requirements, under the CARES Act and the

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<sup>4</sup> Sec. 4009.

<sup>5</sup> Sec. 4020.

Federal Reserve Act are met. Also, please identify the personnel involved in developing and operating the programs at each agency.

- 2. What is the Federal Reserve's strategy?** What is the process for how the Federal Reserve determines which actions it will take as a response to this crisis, and on what data does it rely? How do the Secretary of the Treasury's objectives influence the Federal Reserve's strategy? How do the Federal Reserve and the Treasury resolve differences when their priorities are not aligned?

Unlike the 2008 financial crisis, this crisis was sparked by a global health pandemic. But the Federal Reserve is reprising many of the same tools it used in 2008, and has gone even further to help big business and Wall Street: broadening the scope of its lending authority and repurchase agreement operations, reducing regulatory requirements, and establishing new facilities to support large U.S. corporations. To what extent did the Federal Reserve consider moral hazard concerns before reestablishing and expanding these facilities? How does the Federal Reserve plan to mitigate the moral hazard effects of providing funding to financial institutions and companies that took on excessive debt or risk?

Please explain the prioritization of the lending facilities under the CARES Act. How do these decisions address the unique economic disruption resulting from the pandemic? How have the Federal Reserve's action been designed to achieve maximum benefit and participation by affected entities?

- 3. How will the Federal Reserve evaluate the impact of its strategy to stabilize the economy and support households and businesses?** What data and metrics will the Federal Reserve cite to show the effects of its actions on financial markets, credit availability, or the economy? Have these actions increased lending for individuals and small businesses? How will the Federal Reserve evaluate how its actions will affect financial markets and the real economy in the short-term and long-term? What is Treasury's role in this evaluation?

The Federal Reserve initially established a number of facilities intended to support the flow of credit to households and businesses—the Commercial Paper Credit Facility, Money Market Mutual Fund Liquidity Facility, Primary Market Corporate Credit Facility, Secondary Market Corporate Credit Facility, and the Term Asset-Backed Securities Lending Facility. How many households and small businesses does the Federal Reserve anticipate these facilities will support and how will the Federal Reserve measure the impact of such actions? On what data or metrics did the Federal Reserve rely in deciding to redirect additional taxpayer funds to the corporate credit facilities? What factors will the Federal Reserve consider if it decides to increase it further?

What data and metrics will the Federal Reserve use to evaluate the effects of its actions on the number of businesses that are able to remain open and operating? How will they monitor whether businesses have maintained employment levels? How will the Federal Reserve ensure that liquidity for institutions issuing Paycheck Protection Program (PPP)

loans is distributed fairly, regardless of the size or geographic location of the institution? How will Treasury and the Federal Reserve ensure that funding under all of the facilities is allocated without regard to institution size, so that smaller lenders are not left out?

**4. Will the strategy help protect workers?**

Why did the Federal Reserve create Main Street facilities that do not require businesses to retain and protect workers? How is funding to corporations determined and why do corporate credit facilities have no requirements on large U.S. corporations to retain and protect workers? Why do the Federal Reserve and Treasury fail to prioritize companies that retain workers, protect collective bargaining rights, and that do not outsource jobs?

**5. What reforms will the Federal Reserve impose on corporations that are taking taxpayer money?** Why do the Federal Reserve's corporate credit facilities fail to include restrictions on stock buybacks, dividends, and excessive compensation for entities that receive loans or funding backed by taxpayer dollars? The Federal Reserve must disclose the names of each company that requests assistance and the amount of support it receives in addition to the other disclosure requirements of the CARES Act. All of these disclosures and the corresponding reports are required to be transmitted to Congress and the public – how will you provide these disclosures so they are in an accessible, searchable format?

**6. How will the Federal Reserve monitor compliance and ensure that funding is allocated in an objective and non-partisan way?** How will Treasury and the Federal Reserve verify conflict of interest certifications required under section 4019 the CARES Act? To what extent does the Treasury influence the Federal Reserve's decisions? How will your agencies track and enforce compliance with requirements under the CARES Act or other terms established under the Federal Reserve facilities? What steps will Treasury and the Federal Reserve take if requirements are not met?

**7. Are small businesses and working Americans getting a fair shake?** The Federal Reserve term sheets raised more questions than answers for many people struggling to get by during the coronavirus pandemic. Small businesses, sole proprietorships, unions, non-profits, and other people and entities without ready access to lawyers and financial advisors need to understand how and whether they are eligible to participate in Federal Reserve programs. How will the Federal Reserve ensure that its programs are accessible directly to Americans? Is the Federal Reserve taking any direction from Treasury that limits direct accessibility of these programs?

**8. Will the strategy help states, cities, and localities that are facing budget shortfalls while trying to provide sufficient public health and safety resources to fight the coronavirus?** Please explain how you established the parameters of the Municipal Liquidity Facility (MLF). How will funding be allocated within those parameters? On what data did Treasury and the Federal Reserve rely in determining the population threshold for cities and counties eligible to participate in the MLF? Why do these parameters exclude the 35 cities with the largest black populations?<sup>6</sup> What challenges

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<sup>6</sup> <https://www.brookings.edu/research/a-chance-to-improve-the-equity-impact-of-the-feds-municipal-lending-facility/>.

does the Federal Reserve consider as an impediment to expanding the MLF’s criteria to include large metropolitan areas that do not meet the current threshold? Please provide the analysis, if any, on the MLF’s disparate impact on majority-minority communities, which are disproportionately impacted by the coronavirus and historically have been underserved by financial institutions. How will you ensure that funding to states and municipalities is not influenced by any political determination, but based on need and other objective criteria?

9. **What is the scope of the Federal Reserve’s statutory authority?** What is the Federal Reserve’s understanding of the statutory limits on its use of funds? How does the Federal Reserve justify its actions under the CARES Act and the Federal Reserve Act? What 13(3) limitations, restrictions, and regulations has the Board of Governors prescribed for lending facilities using equity authorized under the CARES Act and how do they apply to each facility? How can the Federal Reserve use its authority to provide direct relief to workers and families, small and mid-sized businesses, non-profit organizations, and states and municipalities? For programs established outside of CARES Act authority, what alternatives did the Federal Reserve consider?
10. **What are Treasury and the Federal Reserve doing to prepare for the future?** What other facilities or actions is the Federal Reserve planning so that consumers, small businesses, and localities get direct relief? Has Treasury suggested or rejected any specific facilities or actions? What is the timing for any of these actions? What steps will the Federal Reserve take to maintain stability across the single-family and multifamily housing markets to support the needs of homeowners, renters, and the broader housing system?

Thank you and we look forward to your response.

Sincerely,

/s/ Sherrod Brown  
Sherrod Brown  
Ranking Member

/s/ Charles E. Schumer  
Charles E. Schumer  
Minority Leader

/s/Chris Van Hollen  
Chris Van Hollen  
United States Senator

/s/ Elizabeth Warren  
Elizabeth Warren  
United States Senator .

/s/ Catherine Cortez Masto  
Catherine Cortez Masto  
United States Senator

/s/ Brian Schatz  
Brian Schatz  
United States Senator

/s/ Tina Smith  
Tina Smith  
United States Senator