

Senate Banking Hearing – “The Quarterly CARES Act Report to Congress” 5/19/2020

Fed Chairman Jay Powell and Treasury Secretary Steven Mnuchin testified before the Senate Banking Committee today regarding implementation of the CARES Act and the various credit facilities authorized by that legislation. The CARES Act requires that the Fed and Treasury provide a report and testify to Congress every quarter – this was the first hearing as required by the legislation. The below summary highlights opening statements of the Chairman/Ranking member and witnesses, as well as certain topics discussed that are of interest to the SBIA and BDC Council membership.

In his opening statement, **Chairman Mike Crapo** emphasized the importance of getting the 13(3) lending facilities authorized by the CARES Act up and running, including the Municipal Liquidity Facility and the Main Street Lending Program. Crapo also discussed the importance of the Paycheck Protection Program (PPP) and noted that to date the overall loan size under PPP is \$118,000, while the average loan since the second round of PPP funding has been roughly \$70,000.

Ranking Member Sherrod Brown talked about his concerns over lower wage workers during his opening statement, stating that “when millions of workers are laid off or were making low wages to begin with...our economy grinds to a halt.” He stated his position that workers are being left behind and that those deemed “essential” are having their health and livelihood put at risk. He called on the Senate to take up the House-passed Heroes Act immediately.

In his testimony, **Treasury Secretary Mnuchin** noted that Treasury has so far committed \$195 billion from its Exchange Stabilization Fund for Federal Reserve Lending Programs under the CARES Act and that Treasury has the remaining \$259 billion to “create or expand programs as needed.” The authorized programs include:

- ☐ The Commercial Paper Funding Facility
- ☐ Primary Dealer Credit Facility
- ☐ Money Market Mutual Fund Liquidity Facility
- ☐ Term Asset-Backed Securities Loan Facility
- ☐ Primary Market Corporate Credit Facility
- ☐ Secondary Market Corporate Credit Facility
- ☐ Main Street Business Lending Program
- ☐ Municipal Liquidity Facility
- ☐ PPP Lending Facility

Chairman Powell stated that the Fed is committed to using its “full range of tools” to combat the economic fallout from the pandemic and outlined the steps that the Fed has taken so far. These include outright purchases of Treasury and asset backed securities, discount window and liquidity measures, facilities to directly support flow of credit to businesses and households with Treasury backing, and temporary regulatory relief measures to free up bank balance sheets.

During Q&A, **Chairman Crapo** asked about the remaining \$259 billion that Treasury has not yet committed to the 13(3) programs under the CARES Act. Mnuchin stated that Treasury is fully prepared to allocate the remainder of that funding and that the reason it has not been allocated yet is Treasury/Fed is still working to get the facilities up and running. Mnuchin also stated unequivocally that the Treasury is ready and willing to take risk and prepared to take losses on these programs.

Senator Pat Toomey said it is essential that the economy start the process of re-opening. Toomey asked Chairman Powell when the Fed expects the Main Street Lending Program to get up and running – Powell responded they expect the program to begin operating by the end of this month. **Toomey reiterated his position that nonbank lenders, including BDCs, be deemed eligible lenders to participate in the Main Street Lending Program, saying that BDCs can be effective conduits for businesses under the program.**

Senator Jon Tester asked about disclosures regarding businesses that borrow under the CARES Act facilities. Secretary Mnuchin stated that Treasury intends to provide full disclosure and transparency for CARES Act borrowers.

Senator Mark Warner said that the Main Street Lending Program needs to get up and running and that Treasury and the Fed should be “very aggressive” in making it work. Warner asked Mnuchin how much the Treasury was prepared to lose under the program – Mnuchin said that they have “continued to adapt” MSLP in order to reflect both demand and risk, and reiterated that Treasury expects and is prepared to take “some losses” on the MSLP and other facilities. Warner asked Chairman Powell regarding the penalty rate on the facilities; Powell demurred on the question and said the higher rate exists to defer borrowers who use the facility to save a few dollars.

Senator Mike Rounds asked about the June 30th loan forgiveness date for PPP loans and the flexibility that Treasury has regarding the date. Mnuchin acknowledged that companies have some issues with the 8-week period and that Treasury would be willing to work with Congress regarding flexibility on that date. **Senator Tillis** also brought up concerns over the 8-week period and need for flexibility around it.

Senator Elizabeth Warren pressed Secretary Mnuchin about requirements for businesses that use the MSLP and other facilities to use those funds to maintain payroll. Mnuchin explained that the CARES Act did not include that explicit requirement; however, the term sheets of the MSLP require reasonable efforts to maintain payroll.

Senator Kyrsten Sinema stated her concerns over the difficulties that businesses face in meeting the loan forgiveness requirements, and Mnuchin stated that it was never the intention of Treasury or SBA to make the loan forgiveness aspect of PPP loans a difficult process.