

116TH CONGRESS
2D SESSION

H. R.

To provide for the establishment of a COVID–19 Small Business Recovery Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. VELA introduced the following bill; which was referred to the Committee on

A BILL

To provide for the establishment of a COVID–19 Small Business Recovery Fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business Comeback Act”.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) APPLICANT. —The term “applicant” means a business filing an application for recovery compensation under this Act.

(2) BUSINESS. — The term “business” is intended broadly to refer to any type of for-profit business concern, nonprofit organization, veteran’s organization, or Tribal business concern, and shall include individuals who operate under a sole proprietorship or as an independent contractor, and eligible self-employed individuals.

(3) COLLATERAL SOURCE.—The term “collateral source” means all compensation received by the applicant as a result of the losses for which the applicant is seeking compensation under this Act, including payments by Federal, State, or local governments, related to losses arising from the COVID-19 pandemic.

(4) COVID-19 PANDEMIC. —The term “COVID-19 pandemic” means the national emergency proclaimed by the President on March 13, 2020.

(5) ELIGIBLE APPLICANT. —The term “eligible applicants” means any type of for-profit business concern, nonprofit organization, veteran’s organization, or Tribal business concern, and shall include individuals who operate under a sole proprietorship or as an independent contractor, and eligible self-employed individuals.

(6) ELIGIBLE SELF-EMPLOYED INDIVIDUAL. —The term “eligible self-employed individual” has the meaning given the term in section 7002(b) of the Families First Coronavirus Response Act (Public Law 116-127).

(7) FINANCIAL INSTITUTION. —The term “financial institution” means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)).

(8) LOW-TO-MODERATE INCOME COMMUNITY. —The term “low-to-moderate income community” means a census tract where the annualized family income of the households or residents in the census tract are below 80% of the HUD median income for the county where the census tract is located.

(9) MINORITY-OWNED BUSINESS. —The term “minority-owned business” shall have the same meaning given the term under section 342(g)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(g)(4)).

(10) SECRETARY. —The term “Secretary” means the Secretary of the Treasury.

(11) SPECIAL ADMINISTRATOR. —The term “Special Administrator” means the Special Administrator appointed under this Act.

(12) STATE. —The term “State” means any State of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

(13) UNITED STATES. —The term “United States” means the several States and includes the territorial sea and the continental shelf of the United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280, 2281).

(14) WOMEN-OWNED BUSINESS. —The term “women-owned business” shall have the same meaning given the term under section 342(g)(6) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(g)(6)).

SEC. 3. PURPOSE.

(a) It is the purpose of this Act to ensure domestic economic recovery from the COVID-19 pandemic by ensuring that businesses in impaired sectors can resume their function as strong engines of the economy and employers by –

(1) Offsetting operating expenses for businesses that are partially or completely shut down as a result of COVID-19 related closures, and supporting employers’ ability to retain employees and rehire employees laid off as a result of the COVID-19 pandemic;

(2) Encourage businesses to reopen by providing them the necessary assistance and resources to survive the COVID-19 pandemic;

(3) Assisting employees of eligible employers who have contracted or have been exposed during their employment to COVID-19, who are unable to work and who would otherwise not be eligible for assistance;

(4) Providing support for small businesses and women- and minority-owned businesses; and

(5) Providing assistance in a manner that complements the assistance programs established under the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136).

(b) Any funds paid to an applicant under this Act shall be used exclusively for the purpose of domestic economic recovery as set forth in subsection (a).

(c) Prioritization. —The Special Administrator shall prioritize compensation payments under this Act, based on —

(1) the level of impairment a business is experiencing as a result of the COVID-19 pandemic;

(2) whether the business operates in a rural or low-to-moderate income community, as determined by the Special Administrator;

(3) whether the business is a women-owned business or a minority-owned business; and

(4) whether the business is a small business, including an independently owned franchise, as determined by the Special Administrator.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL. — The Secretary shall appoint a Special Administrator on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, or public administration, and acting through such Special Administrator, shall—

(1) administer the recovery compensation program established under this Act;

(2) promulgate all procedural and substantive rules for the administration of this Act; and

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Administrator under this Act.

(b) RECOVERY COMPENSATION SERVICES.—To the extent the Special Administrator determines is necessary to implement the provisions of this Act in a timely manner, the Special Administrator is authorized to contract with third parties to review business applications, recommend compensation determinations, arrange payments, and perform audits on behalf of the Special Administrator. Any third-party contracting to provide recovery compensation services pursuant to this subsection shall be compensated on a cost basis pursuant to guidelines established by the Special Administrator in consultation with the Oversight Board.

(c) LIMITATION OF LIABILITY. —

(1) The provisions of this Act and the services provided under subsection (b) shall be enforced by the Secretary. Any party contracting with the Special Administrator to assist in recovery compensation services pursuant to subsection (b) shall not bear any liability for the performance of such duties except for gross negligence, willful misconduct, or fraud.

(2) There shall be no liability imposed on any party for not contracting with the Special Administrator as described in paragraph (1). Any financial institution not contracting with the Special Administrator that provides assistance or information to an applicant with respect to the compensation program established under this Act without receiving compensation for providing such assistance or information shall not bear any liability for the provision of such assistance or information except for gross negligence, willful misconduct, or fraud, provided that nothing in this subsection shall be construed to alter any duty or obligation owed by such party to an applicant under otherwise applicable state or federal law or by agreement with the applicant.

(3) State laws or regulations conflicting with the directions of the Special Administrator pursuant to subsection (b) are preempted to the extent of such actual or implied conflict.

(4) Governing Law and Jurisdiction. —The district courts of the United States shall have original and exclusive jurisdiction over any action arising out of a contract described in subsection (b).

(d) CONFIDENTIALITY. —

(1) Retention of privilege.—The submission of any nonpublicly available data and information by an applicant to the Special Administrator under this Act shall not constitute a waiver of, or otherwise affect, any privilege arising under federal or state law (including the rules of any federal or state court) to which the data or information is otherwise subject.

(2) Continued application of prior confidentiality agreements.—Any requirement under federal or state law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between an applicant and any third party which provides an applicant's nonpublicly available data or information to the Special Administrator, regarding the privacy or confidentiality of any data or information in the possession of the third party, shall continue to apply to such data or information after the data or information has been provided to the Special Administrator under this Act.

(3) The Special Administrator, and any third party which obtains an applicant's nonpublicly available data or information, is prohibited from sharing or selling such information except as required by law. The Special Administrator or third-party may share information as necessary to meet the obligations under this Act, so long as the third party agrees in writing to maintain the confidentiality of the information.

(e) AUDIT AUTHORITY. —

(1) In General.— The Secretary, and the Special Inspector General established by this Act, shall have access, for purposes of audit, to the records and other pertinent documents of the Special Administrator, any third party described in subsection (b), and any applicant, including with respect to collateral source records and documents, used in carrying out this act.

(f) REPORTS. —

(1) In General. — The Special Administrator shall submit weekly reports to Congress that shall include—

(A) a listing of the eligible businesses receiving recovery compensation under this Act;

(B) a listing of each contract the Special Administrator made with third-party service providers under subsection (b), including information with respect to the services being provided under such contracts;

(C) a listing of all outstanding appeals of compensation determinations; and

(D) an estimate of the total amount of recovery compensation payments made under this Act that is current as of the date on which the report is submitted.

(2) **Timing.** — The reports required under this subsection shall be submitted not later than 7 calendar days after the date that recovery compensation is first paid under this Act, and every 7 calendar days thereafter.

(f) **SPECIAL ADMINISTRATOR.** — The Special Administrator shall be subject to the prohibition on acts affecting personal financial interest under section 208 of title 18, United States Code, and shall be subject to limitations on outside employment and outside income pursuant to title V of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(h) **AUTHORIZATION OF APPROPRIATIONS.** — There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Administrator (including the contracts described in subsection (b)) in carrying out this Act.

SEC. 5. DETERMINATION OF ELIGIBILITY FOR RECOVERY COMPENSATION.

(a) **FILING OF APPLICATION FOR RECOVERY COMPENSATION CLAIM.** —

(1) **IN GENERAL.** — An applicant may file an application for recovery compensation under this Act with the Special Administrator. Except as provided under paragraph (3), the application for recovery compensation shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for recovery compensation and the amount of recovery compensation sought.

(2) APPLICATION FORM. —

(A) IN GENERAL. —

(i) The Special Administrator shall develop an application form that shall be simple to file and audit for fraud that applicants shall use when submitting applications under paragraph (1).

(ii) The Special Administrator shall ensure that the form described in clause (i) can be filed electronically, if determined to be practicable.

(B) MULTIPLE LANGUAGES. — The form developed under subparagraph (A) shall be made available in English and Spanish, and the Special Administrator may prioritize translation of the form into additional languages in order to serve the broadest pool of applicants.

(C) CONTENTS.—The form developed under subparagraph (A) shall require that an applicant disclose all known collateral compensation, and shall request information on the applicant's impairment that the Special Administrator deems necessary, including information relating to the applicant's expenses, payroll, and loss of revenue due to the COVID-19 pandemic.

(D) EXPENSES, PAYROLL AND LOST REVENUE. —In developing the contents of the form under subparagraph (C), the Special Administrator may consider requiring information on payroll, operating expenses, lost revenue, and payments to employees with potential COVID-19-related illness. Such information required may include—

(i) the average total monthly payments by the applicant for payroll, payroll support (including paid sick, medical, or family leave, and costs related to the continuation of group health care benefits during those periods of leave) during the 18-month period before March 13, 2020, except that, in the case of an applicant that is seasonal employer, as determined by the Special Administrator, the average total monthly payments for

payroll and payroll support shall be for the period beginning March 1, 2019 and ending June 30, 2019;

(ii) the average total monthly payments by the applicant for mortgage payments, rent payments, utilities, insurance payments, and payments on any debt obligations incurred prior to July 1, 2020, during the 18-month period before July 1, 2020;

(iii) to the extent that the Special Administrator is making available recovery compensation for lost revenue, the average monthly revenue, including unpaid accounts receivable, that does not include net profits for the applicant during the 18-month period before the date on which the application for recovery compensation is submitted; and

(iv) the wages, salary or other payments made to employees who are unable to work because they tested positive for or were exposed to COVID-19.

(E) Confidential Business Information. —To the extent the information in the application is non-public information, the contents shall be deemed Confidential Business Information not subject to disclosure.

(3) INTERIM APPLICATION FILING.— During the period beginning on the date of enactment of this Act and ending on the date on which regulations are promulgated under this Act, an applicant may file with the Special Administrator an interim application for immediate relief without the use of an approved form, provided the application includes information described in subparagraph (C) of paragraph (2) of this subsection.

(4) LIMITATION. —No application may be filed under paragraph (1), or paid by the Special Administrator, with respect to losses accrued after the termination of the national emergency proclaimed by the President on March 13, 2020. Within a reasonable time after such termination, and subject to the provisions of this Act, the Special Administrator shall notify Congress of the expected closure of the program established under this Act, while ensuring that all applications filed prior to the termination of the national emergency receive due consideration.

(5) NEW BUSINESSES.—The Special Administrator shall provide guidelines on how applicants that are operating new entities before March 13, 2020 shall substantiate their Expenses, Payroll and Lost Revenue.

(b) REVIEW AND DETERMINATION.—

(1) REVIEW. — The Special Administrator shall review an application submitted under subsection (a)(1) and determine—

(A) whether the applicant is an eligible applicant under subsection (c); and

(B) the amount of recovery compensation the eligible applicant shall receive, on a monthly basis, based on what is necessary to maintain continuity of operations for the applicant with respect to paying expenses and payroll and compensating for lost revenue as described in subparagraph (D) of subsection (a)(2); provided that—

(i) the amount of recovery compensation the eligible applicant receives shall be adjusted each month to take into account increases or decreases in such applicant's revenue over the previous month;

(ii) the total amount of recovery compensation to which the applicant is entitled based on this subparagraph shall take into account the amount of any interim compensation awarded to the applicant pursuant to paragraph (2); and

(iii) the maximum amount of recovery compensation to which an eligible applicant may be entitled shall be the lesser of—

(I) the applicant's average total monthly expense payments, as determined under subparagraph (C), for a period not to exceed 4 months in aggregate; and

(II) \$50,000,000

(C) Average total monthly expense payments.—For purposes of clause (iii) of subparagraph (B), an applicant's average total monthly

expense payments shall be the average monthly payments by the applicant during the 1 year prior to the date on which an application is made (or in the case of a seasonal business or new business, a period determined by the Special Administrator), for—

- (i) payroll costs;
- (ii) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave;
- (iii) any insurance premiums;
- (iv) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the relevant compensation period;
- (v) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);
- (vi) rent (including rent under a lease agreement);
- (vii) utilities;
- (viii) loan repayment obligations incurred by the applicant pursuant to section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);
- (ix) loan repayment obligations incurred by the applicant pursuant to a disaster loan authorized under section 7(b) of the Small Business Act (15 U.S.C. 636(b));
- (x) interest on any other debt obligations that were incurred before March 1, 2020; and
- (xi) state and local tax obligations.

(2) INTERIM APPLICATIONS REVIEW. — The Special Administrator shall review an interim application submitted under subsection (a)(3) and determine—

(A) whether the applicant is an eligible applicant under subsection (c); and

(B) with respect to an applicant determined to be an eligible applicant, the amount of interim compensation to which an eligible applicant is entitled under subparagraph (C).

(C) Interim compensation amount. —An eligible applicant under this paragraph shall be entitled to interim compensation in such amounts as determined by the Special Administrator not to exceed, as calculated under subparagraph (C) of paragraph (1)—

(i) in the case of an applicant with average monthly payments in excess of \$1,000,000, 25% of such payments;

(ii) in the case of an applicant with average monthly payments in excess of \$100,000 but less than \$1,000,000, 50% of such payments; and

(iii) in the case of an applicant with average monthly payments of \$100,000 or less, 75% of such payments.

(3) DETERMINATIONS. —A determination under this subsection shall be final and not subject to judicial review.

(A) As soon as practicable, and for applications given priority by the Special Administrator under this Act, not later than 30 calendar days after that date on which an application is filed under subsection (a)(1), the Special Administrator shall either request more information from the applicant or complete a review and make a determination pursuant to paragraph (1) of this subsection, and provide written notice to the applicant, with respect to the matters that were the subject of the application for recovery compensation under review. If the Special Administrator requests additional information pursuant to this subparagraph, the Special Administrator shall absent exigent circumstances make its determination pursuant

to paragraph (1) of this subsection within 30 calendar days of receiving a response to its request for more information.

(B) Not later than 15 calendar days after the date on which an interim application is filed under subsection (a)(3), the Special Administrator shall complete a review and make a determination on interim compensation pursuant to paragraph (2) of this subsection, and provide written notice to the applicant with respect to that determination.

(4) COLLATERAL SOURCES.—In determining the amount of recovery compensation to be paid to an applicant under paragraph (1)(B) the Special Administrator shall consider the amount of the collateral source compensation the applicant received or the value of collateral source compensation the applicant is reasonably certain to receive as a result of the COVID-19 pandemic.

(5) APPEALS. —The Special Administrator shall promulgate regulations establishing a procedure by which an applicant may appeal directly to the Special Administrator an eligibility or compensation determination with respect to such applicant made under this Act. The United States Court of Federal Claims shall have exclusive jurisdiction of an appeal from a final determination by the Special Administrator under this Act.

(6) RIGHTS OF AN APPLICANT. —In all matters related to its application, an applicant shall have the right to be represented by an attorney. Notwithstanding any contract, a representative of an applicant may not charge, for services rendered in connection with an application under this Act, more than 10 percent of the difference between—

(A) the initial amount of recovery compensation awarded to such applicant as determined by the Special Administrator under paragraph (3); and

(B) the final amount of recovery compensation awarded to such applicant after any appeal of such determination.

(c) ELIGIBILITY. —

(1) IN GENERAL. — An applicant shall be determined to be an eligible applicant for purposes of this subsection if the Special Administrator determines that such applicant—

(A) is a business or organization in an impaired sector as defined by the Special Administrator, including 501c(6) organizations;

(B) is a business or organization that is created or organized in the United States or under the laws of the United States and has significant operations in, and a majority of its employees based in, the United States;

(C) is not eligible for loans or loan guarantees under subsections (b)(1), (b)(2), or (b)(3) of section 4003 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);

(D) in the case of an applicant that has received a loan under section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136), has complied with all applicable borrower repayment obligations under such loan;

(E) is not registered with the Securities and Exchange Commission as a Family Office pursuant to section 275.202(a)(11)(G)-1 of title 17, Code of Federal Regulations;

(F) to the extent not otherwise eligible under this paragraph, any business utilizing business format franchising as a franchisor or franchisee under part 436 of title 16, Code of Federal Regulations or a business concern operating as a franchisor or franchisee that is assigned a franchise identifier code by the Small Business Administration; and

(G) meets the requirements of paragraph (2).

(2) REQUIREMENTS. —

(A) An applicant shall not be determined to be an eligible applicant by the Special Administrator unless the applicant—

(i) was in operation on March 1, 2020;

(ii) was not a debtor concerning which an active case under title 11, United States Code had been commenced prior to March 1, 2020; and

(iii) to the extent the applicant is seeking recovery compensation for payroll and payroll support as described in this Act, had employees for whom the applicant paid salaries or wages, and payroll taxes.

(B) An applicant requesting recovery compensation for losses described under this Act shall not be eligible for such compensation unless the applicant continued to pay salaries or wages to such employees, or will otherwise provide relief received under subsection (a)(2)(D) to such employees, who—

(i) tested positive for COVID-19, or

(ii) were exposed to COVID-19 in the workplace.

(C) Single application.—Not more than one application may be submitted under this Act by an applicant, except that, for purposes of this subparagraph—

(i) an eligible applicant that submitted an interim application under subsection (a)(3) shall remain eligible to file an application for recovery compensation under subsection (a)(1);

(ii) in the event the Secretary notifies Congress of a renewed COVID-19 threat under this Act, an eligible applicant shall remain eligible to file a renewal or updated version of a previously filed application; and

(iii) pursuant to guidelines to be established by the Special Administrator, related entities may submit a joint application.

SEC. 6. PAYMENTS TO ELIGIBLE APPLICANTS.

(a) IN GENERAL.—As soon as practicable, but not later than 5 calendar days after the date on which a determination is made by the Special Administrator regarding the amount of recovery compensation or interim compensation due to an

applicant under this Act, the Special Administrator shall authorize payment to such applicant of the amount determined with respect to the applicant.

(b) ALLOWABLE USES OF RECOVERY COMPENSATION. —

(1) IN GENERAL. — An eligible applicant may use recovery compensation proceeds only for—

- (A) payroll costs;
- (B) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave;
- (C) any insurance premiums;
- (D) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the relevant compensation period;
- (E) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);
- (F) rent (including rent under a lease agreement);
- (G) utilities;
- (H) loan repayment obligations incurred by the applicant pursuant to section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);
- (I) loan repayment obligations incurred by the applicant pursuant to a disaster loan authorized under section 7(b) of the Small Business Act (15 U.S.C. 636(b));
- (J) interest on any other debt obligations that were incurred before March 1, 2020; and
- (K) federal, state, and local tax obligations.

(2) CERTIFICATION ON USE OF FUNDS. — As a condition for receipt of recovery compensation under this Act, an eligible applicant shall make a good-faith certification that—

(A) the uncertainty of economic conditions as of the date of the application makes necessary the recovery compensation request to support the ongoing operations of the applicant;

(B) the funds the applicant receives will be used to retain at least 90 percent of the applicant's workforce as of the date of application, at full compensation and benefits, for the period that they receive compensation;

(C) the applicant intends to restore compensation and benefits to not less than 75 percent of the workforce of the applicant that existed as of March 1, 2020, no later than 4 months after the termination date of the public health emergency declared by the Secretary of Health and Human Services on January 31, 2020, under section 319 of the Public Health Services Act (42 U.S.C. 247d) in response to COVID-19;

(D) the applicant is an entity or business that is created or organized in the United States or under the laws of the United States and has significant operations in, and a majority of its employees based in, the United States; and

(E) the funds the applicant receives will not be used for a restricted purpose under subsection (c).

(c) RESTRICTIONS. — The Special Administrator shall make a payment of recovery compensation to an applicant only if such applicant agrees—

(1) until the date 12 months after the date on which the payment is made, not to repurchase an equity security that is listed on a national securities exchange of the applicant or any parent company of the applicant, except to the extent required under a contractual obligation that is in effect as of the date of enactment of this Act; and

(2) until the date 12 months after the date on which the payment is made, not to pay dividends or make other capital distributions with respect to the common stock of the applicant, during the eligible period

a recipient that is an S-corporation or passthrough entity may provide a distribution to pay tax obligations.

(3) no funds received by the applicant may be used for payment of an expense to a foreign person which is a related party of the applicant to which a deduction is allowable under chapter 1 of the Internal Revenue Code of 1986.

(d) FINAL NETTING. —

(1) In General.—Not later than 6 months after the end of an eligible applicant's covered period, an eligible applicant shall report, pursuant to rules prescribed by the Special Administrator, a final accounting of all eligible operating costs incurred during the covered period, and all eligible revenue received during the covered period.

(2) Review. —The Special Administrator shall determine, based on a report submitted under paragraph (1), whether an applicant received any excess recovery compensation under this title during the covered period.

(3) Overpayments. —To the extent an eligible applicant received excess recovery compensation as determined by the Special Administrator, an eligible applicant shall return such excess recovery compensation to the Treasury in a manner prescribed by the Special Administrator.

(e) PAYMENT AUTHORITY. —This Act constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this Act.

SEC. 7. REGULATIONS.

Not later than 30 calendar days after the date of enactment of this Act, the Secretary, in consultation with the Special Administrator, shall promulgate regulations to carry out this Act, including regulations with respect to—

- (1) forms to be used in submitting applications under this Act;
- (2) the information to be included in such forms;

- (3) procedures to assist an applicant in filing and pursuing applications under this Act;
- (4) the amount of the fee paid by the Special Administrator for services provided under this Act; and
- (5) other matters determined appropriate by the Secretary.

SEC. 8. PROGRAM RENEWAL FOR RESURGENCE OF CORONAVIRUS THREAT.

In the event that the Secretary determines that a resurgence of the COVID-19 threat has resulted in economic conditions that warrant an extension or renewal of recovery compensation assistance to businesses under this Act, the Secretary shall

—

- (1) Notify Congress of such determination no later than 2 calendar days after making such determination; and,
- (2) Direct the Special Administrator to accept new and updated applications for recovery compensation under this Act.

SEC. 9. SPECIAL INSPECTOR GENERAL FOR COVID-19 RECOVERY FUNDS.

(a) **OFFICE OF INSPECTOR GENERAL.** — There is hereby established within the Department of the Treasury the Office of the Special Inspector General for COVID-19 Recovery Funds.

(b) **APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.** —

(1) **IN GENERAL.** — The head of the Office of the Special Inspector General for COVID-19 Recovery Funds shall be the Special Inspector General for COVID-19 Recovery Funds (referred to in this section as the “Special Inspector General”), who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **NOMINATION.** — The nomination of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis,

public administration, or investigations. The nomination of an individual as Special Inspector General shall be made within 30 calendar days of enactment of this Act.

(3) REMOVAL. —The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.), provided that such removal is made in concurrence with the Congressional Oversight Board established under this Act.

(4) POLITICAL ACTIVITY. —For purposes of section 7324 of Act 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(5) BASIC PAY. —The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 3(e) of the Inspector General Act of 1978 (5 U.S.C. App.).

(c) DUTIES. —

(1) IN GENERAL.—It shall be the duty of the Special Inspector General to, in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.), conduct, supervise, and coordinate audits and investigations of the payment of recovery compensation by the Special Administrator under this Act, and the administration of the provisions of this Act by the Special Administrator, including by collecting and summarizing the following information:

(A) A listing of the eligible businesses receiving recovery compensation under this Act.

(B) An explanation of the reasons the Special Administrator determined it to be appropriate to make each recovery compensation determination.

(C) A listing of each contract the Special Administrator made with third-party service providers under this Act, including information with respect to the fees and the services being provided under such contracts.

(D) A current, as of the date on which the information is collected, estimate of the total amount of recovery compensation payments made under this Act.

(2) MAINTENANCE OF SYSTEMS. —The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duties of the Special Inspector General under paragraph (1).

(3) TESTIMONY. —The Special Inspector General shall make reasonable efforts to comply with any request to appear before a Committee of Congress for purposes of providing testimony relating to the compensation program established under this Act.

(4) ADDITIONAL DUTIES AND RESPONSIBILITIES. —In addition to the duties described, the Special Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978 (5 U.S.C. App.).

(d) POWERS AND AUTHORITIES. —

(1) IN GENERAL. —In carrying out the duties of the Special Inspector General under subsection (c), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) TREATMENT OF OFFICE.—The Office of the Special Inspector General for COVID Recovery Funds shall be considered to be an office described in section 6(f)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) and shall be exempt from an initial determination by the Attorney General under section 6(f)(2) of that Act.

(e) PERSONNEL, FACILITIES, AND OTHER RESOURCES. —

(1) APPOINTMENT OF OFFICERS AND EMPLOYEES.—The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the

provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates.

(2) EXPERTS AND CONSULTANTS. —The Special Inspector General may obtain services as authorized under section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule by section 5332 of that title.

(3) CONTRACTS. —The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons and make such payments as may be necessary to carry out the duties of the Inspector General.

(4) REQUESTS FOR INFORMATION. —

(A) IN GENERAL.—Upon request of the Special Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of that department, agency, or entity shall, to the extent practicable and not in contravention of any existing law, furnish that information or assistance to the Special Inspector General, or an authorized designee.

(B) REFUSAL TO PROVIDE REQUESTED INFORMATION. —Whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the appropriate committees of Congress without delay.

(f) REPORTS. —

(1) QUARTERLY REPORTS. —

(A) IN GENERAL.—Not later than 60 calendar days after the date on which the Special Inspector General is confirmed, and once every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during

the 3-month period ending on the date on which the Special Inspector General submits the report.

(B) CONTENTS. —Each report submitted under subparagraph (A) shall include, for the period covered by the report, a detailed statement of all recovery compensation payments made under this Act, as well as the information collected under subsection (c)(1).

(2) RULE OF CONSTRUCTION. —Nothing in this subsection may be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(g) AUTHORIZATION OF APPROPRIATIONS. — There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Inspector General to carry out this section.

(h) TERMINATION. —The Office of the Special Inspector General shall terminate on the date that is 1 year after the closure of the Fund by the Special Administrator under this Act.

(i) COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY. —The Special Inspector General shall be a member of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General.

(j) CORRECTIVE RESPONSES TO AUDIT PROBLEMS. —The Secretary shall—

(1) take action to address deficiencies identified by a report or investigation of the Special Inspector General; or

(2) with respect to a deficiency identified under paragraph (1), certify to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Financial Services of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that no action is necessary or appropriate.

SEC. 10. CONGRESSIONAL OVERSIGHT BOARD.

(a) ESTABLISHMENT. — There is hereby established the Congressional Oversight Board (hereafter in this section referred to as the “Oversight Board”) as an establishment in the legislative branch.

(b) DUTIES. —

(1) IN GENERAL. —The Oversight Board shall —

(A) conduct oversight of the implementation of this Act by the Department of the Treasury, including efforts of the Special Administrator to provide economic support for businesses as a result of the coronavirus disease 2019 (COVID–19) pandemic of 2020;

(B) submit to Congress reports under paragraph (2); and

(C) review the implementation of this Act by the Federal Government.

(2) REGULAR REPORTS. —

(A) In General. — Reports of the Oversight Board shall include the following:

(i) The use by the Special Administrator of authority under this Act, including with respect to the use of contracting authority and administration of the provisions of this Act.

(ii) The impact of recovery compensation made under this Act on the financial well-being of the people of the United States and the United States economy.

(iii) The extent to which the Special Administrator has prioritized compensation under this Act.

(iv) The effectiveness of recovery compensation made under this Act of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

(B) TIMING. — The reports required under this paragraph shall be submitted not later than 30 calendar days after the appointment of the Special Administrator and every 30 calendar days thereafter.

(3) AUDITING. — The Oversight Board shall contract with a public accounting firm registered by the Public Company Accounting Oversight Board under section 101(c) of the Sarbanes-Oxley Act (15 U.S.C. 7211(c)) to conduct independent audits of the recovery compensation program established under this Act.

(c) MEMBERSHIP. —

(1) IN GENERAL. —The Oversight Board shall consist of 5 members as follows —

(A) 1 member appointed by the Speaker of the House of Representatives.

(B) 1 member appointed by the minority leader of the House of Representatives.

(C) 1 member appointed by the majority leader of the Senate.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed as Chairperson by the Speaker of the House of Representatives and the majority leader of the Senate, after consultation with the minority leader of the Senate and the minority leader of the House of Representatives

(2) PAY.— Each member of the Oversight Board shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay for level I of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties vested

in the Oversight Board. Each member shall be subject to the prohibition on acts affecting personal financial interest under section 208 of title 18, United States Code, and shall be subject to limitations on outside employment and outside income pursuant to title V of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(3) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES. —Members of the Oversight Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Oversight Board.

(4) TRAVEL EXPENSES. —Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(5) QUORUM. —Four members of the Oversight Board shall constitute a quorum, but a lesser number may hold hearings.

(6) VACANCIES. —A vacancy on the Oversight Board shall be filled in the manner in which the original appointment was made.

(7) MEETINGS. —The Oversight Board shall meet at the call of the Chairperson or a majority of its members.

(d) STAFF. —

(1) IN GENERAL. —The Oversight Board may appoint and fix the pay of any personnel as the Oversight Board considers appropriate.

(2) EXPERTS AND CONSULTANTS. —The Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) STAFF OF AGENCIES. —Upon request of the Oversight Board, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Oversight Board to assist it in carrying out its duties under this Act.

(e) POWERS. —

(1) HEARINGS AND EVIDENCE.—The Oversight Board, or any subcommittee or member thereof, may, for the purpose of carrying out this section hold hearings, sit and act at times and places, take testimony, and receive evidence as the Oversight Board considers appropriate and may administer oaths or affirmations to witnesses appearing before it.

(2) CONTRACTING. —The Oversight Board may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Oversight Board to discharge its duties under this section.

(3) POWERS OF MEMBERS AND AGENTS. —Any member or agent of the Oversight Board may, if authorized by the Oversight Board, take any action which the Oversight Board is authorized to take by this section.

(4) OBTAINING OFFICIAL DATA. —The Oversight Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Oversight Board, the head of that department or agency shall furnish that information to the Oversight Board.

(5) REPORTS. —The Oversight Board shall receive and consider all reports required to be submitted to the Oversight Board under this Act.

(f) TERMINATION. — The Oversight Board shall terminate on the date that is 1 year after the closure of the Fund by the Special Administrator under subsection (a)(4) of this Act.

(g) FUNDING FOR EXPENSES. —

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Oversight Board such sums as may be necessary for any fiscal year, half of which shall be derived from the applicable account of the House of Representatives, and half of which shall be derived from the contingent fund of the Senate.

(2) REIMBURSEMENT OF AMOUNTS.—An amount equal to the expenses of the Oversight Board shall be promptly transferred by the Secretary and the Board of Governors of the Federal Reserve System,

from time to time upon the presentment of a statement of such expenses by the Chairperson of the Oversight Board, from funds made available to the Secretary under this Act to the applicable fund of the House of Representatives and the contingent fund of the Senate, as appropriate, as reimbursement for amounts expended from such account and fund under paragraph (1).
