How Much Money Remains Under Title IV of the CARES Act?

September 30, 2020

Title IV of the CARES Act (P.L. 116-136, Division A) appropriates $500 billion to the Treasury through the Exchange Stabilization Fund (ESF): up to $46 billion to make loans and guarantees for three specified industries—passenger airlines, cargo airlines, and businesses critical to national security—and at least $454 billion to support Federal Reserve (Fed) emergency facilities. (For background, see CRS Report R46329, *Treasury and Federal Reserve Financial Assistance in Title IV of the CARES Act (P.L. 116-136)*, coordinated by Andrew P. Scott.)

Congress is interested in how much money is still available under Title IV, both for oversight and to potentially redirect unused funds to meet other needs via new legislation. Although Treasury has pledged around $200 billion in Title IV assistance, it recently reported that $482 billion remains available. This Insight examines Treasury's accounting of the remaining funds and reviews related legislation.

Under Section 4003(a) of the CARES Act,

> the Secretary is authorized to make loans, loan guarantees, and other investments in support of eligible businesses, States, and municipalities that do not, in the aggregate, exceed $500,000,000,000 and provide the subsidy amounts necessary for such loans, loan guarantees, and other investments in accordance with the provisions of the Federal Credit Reform Act of 1990 (FCRA; 2 U.S.C. 661 et seq.)

This language would suggest that $500 billion represents the total amount of principal that Treasury can lend, guarantee, and invest. As of September, Treasury had formally pledged $195 billion to support Fed emergency facilities and a $700 million loan to YRC, a trucking company. Some Members of Congress and the media have characterized the amount of spending authority remaining to be around $300 billion.

But this is not how Treasury has interpreted the CARES Act. Instead, as reported in the ESF's financial statements,

> Under FCRA, ESF will use the appropriated $500 billion to fund the credit subsidy portion of these economic recovery program loans, loan guarantees, and other investments, and the remaining portion of these disbursements will be funded via borrowings from Treasury.

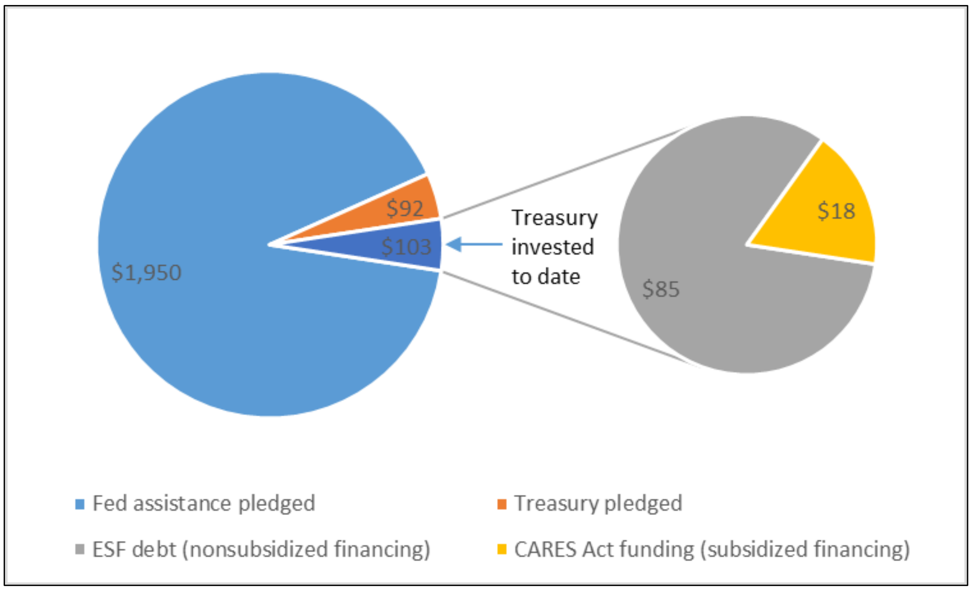
Treasury reports in the ESF's financial statements that there was $482 billion remaining under Title IV as of July 2020, and $18 billion has been spent (mostly to finance the Treasury's loan and investment subsidies), while the ESF has borrowed $85 billion of non-CARES funds to finance the nonsubsidized portion.

This interpretation seems inconsistent with a statement Treasury Secretary Mnuchin reportedly made in April: "I think it's pretty clear if Congress wanted me to lose all of the money, that money would have been designed as subsidies and grants as opposed to credit support." This treatment is also different from how the Treasury accounted for a similar 2008 program, the Troubled Asset Relief Program (TARP), although that act provided more detailed instructions on how to measure the limit. Under TARP, which was also measured under FCRA, Treasury could purchase up to $700 billion in "troubled assets," and it counted the principal invested toward the limit.

If only subsidies are counted toward the $500 billion limit, the funding can support a much larger amount of Treasury loan or investment principal. And because Treasury's investments are used only as a backstop to absorb potential future losses of the Fed's facilities, the Fed can extend a much greater amount of assistance through these facilities than Treasury's investment. As shown in **Figure 1**, Treasury has so far spent $18 billion of CARES Act funding to support its pledge of $195 billion to back Fed facilities; the Fed has pledged assistance through these facilities of up to $1,950 billion to recipients.

Figure 1. **Funding for the Fed's CARES Act Facilities**

billions of $, as of July 2020



Source: Congressional Research Service.

Legislative Proposals

Treasury's authority to enter into new transactions expires at the end of 2020, and whatever remains unused from the $482 billion will eventually return to the General Fund. Some would like to see more of these funds used, others would like to see them repurposed (for related or unrelated uses).

Some Members of Congress have criticized Treasury and the Fed for making the Fed facilities' terms too unattractive to induce many users, urging them to effectively increase the subsidy on Title IV transactions. Chairman Crapo submitted S.Amdt. 2542 to S.Amdt. 2499 to S. 178, which states "the Secretary shall prioritize the provision of credit and liquidity to assist eligible businesses, States and municipalities, even if the Secretary estimates that such loans, loan guarantees, or investments may incur losses."

Alternatively, Congress may consider extending eligibility for Treasury Title IV assistance to other affected industries or mandating the creation of new Fed facilities to assist specific groups. The House passed the Heroes Act (H.R. 6800), which includes provisions that would require the Fed to create certain new emergency facilities backed by CARES Act funding.

Congress could also shift the unused funds to unrelated uses. S.Amdt. 2652 would reduce spending under Title IV "by an amount equal to the difference between $454,000,000,000 and the aggregate amount of loans, loan guarantees, and other investments that the Secretary has made or committed to make ..." on January 19, 2021. On September 10, 2020, a Senate cloture vote on S.Amdt. 2652 failed.

Congress might reduce the amount authorized under Title IV as a budgetary offset (or "pay for") for new initiatives. Because of Congressional Budget Office (CBO) scoring conventions, the reduction in authorized funds may not be scored as significantly reducing the budget deficit, however. In its cost estimate of the CARES Act, CBO estimated that the $500 billion authorized in Title IV would increase the budget deficit by $1 billion, which was CBO's estimate of the subsidy amount. It follows that reducing this authority would likely have a comparable effect on the deficit, although how CBO may score a future bill is uncertain, as no such score has been released. Previously, when CBO scored a bill that reduced TARP's authorized spending level, the provision was scored as reducing the deficit by the amount of the subsidy, not the amount of reduced authority.

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