

Washington Alert: Bipartisan Agreement Reached on \$2 Trillion Stimulus Bill

In this *Washington Alert*, we discuss the latest on the federal government's economic response to the coronavirus outbreak.

- Today, Congressional leaders and the Trump Administration announced that they have reached an agreement on a \$2 trillion Phase III stimulus package.
- The deal includes \$1,200 checks for most adults and \$500 for every child, \$500 billion in loans and loan guarantees for airlines and other distressed sectors, and \$350 billion in loans to small businesses to help retain workers.
- We believe that the majority of Senators and House lawmakers in both parties will be supportive of the agreement and vote in favor of the ensuing legislation.
- The Senate is likely to expedite the debate process and hold a final vote today.
- The House could vote on final passage today depending on cooperation from lawmakers to allow for a swift voice vote. Doing so avoids having to bring lawmakers back to DC for an in-person vote on the floor.

After five days of intense negotiations between Republican and Democratic Congressional leaders, as well as Trump Administration officials, an agreement was finally reached in the early hours of this morning on an estimated \$2 trillion Phase III stimulus package. An ensuing bill could pass as soon as today.

The legislation is aimed at providing financial relief for individuals and distressed businesses impacted by the coronavirus outbreak. According to Treasury Secretary Mnuchin, the goal of the package is to support the US economy through the next 10 to 12 weeks.

The agreement includes many elements from the initial Senate Republican proposal released on March 19, which served as the framework for negotiations, as well as key provisions incorporated from Democratic counterproposals. Some notable measures include \$1,200 checks for most adults and \$500 for every child (up to a certain income threshold), \$500 billion in loans and loan guarantees for airlines and other distressed sectors, and \$350 billion in loans to small businesses to help retain workers.

What happens next?

Congressional leaders have indicated that they would like to expedite the debate process and hold a final vote in the Senate by the end of today. Under current Senate rules, accelerating floor procedures will require the unanimous support of all Senators — a scenario we believe is likely based on initial press reports.

After the bill successfully passes out of the Senate, consideration will then move over to the House of Representatives (House). Leadership in both parties are urging House lawmakers for “unanimous consent” or to allow passage by voice vote. Doing so will avoid having to bring lawmakers back to DC for an in-person vote on the floor, which would further delay passage of the legislation and potentially risk the health of lawmakers forced to travel from throughout the country.

We believe that, given the broad sense of urgency expressed by many lawmakers, as well as mounting pressure from constituents and the business community for swift action, the majority of Senators and House lawmakers in both parties will be supportive of the agreement and vote in favor of the ensuing legislation. The question now is how quickly the legislation will make its way through the Senate and House.

Following passage of the Phase III stimulus package, we also expect Congress to begin considering a potential Phase IV bill, which will likely require more time to draft and could face greater challenges than prior legislative efforts — both political and logistical. With three emergency packages already passed into law, the current sense of urgency may partially subside as focus turns to the implementation of the stimulus legislation.

Lawmakers will also need to take into consideration the health and safety of lawmakers when determining when to hold future votes during this pandemic, with some beginning to contemplate the possibility of voting remotely.

What are the key economic relief provisions in the agreement?

The following details are subject to change as additional revisions could be made to the final legislative text. It also does not include other portions of the bill, including increased emergency funding for hospitals, states and localities, and public transit.

Relief for Individuals and Families

- Direct Cash Payments (Rebate Checks): Provides for an immediately refundable credit for 2020 to eligible taxpayers in an amount up to \$1,200 (or \$2,400 for joint filers), with a phase-out beginning at \$75,000 (or \$150,000 for joint filers). The amount increases by \$500 for each child.
- Student Loan Relief: Suspends payments on federal student loans through September 30, 2020.
- Unemployment Insurance Expansion: Provides an additional \$600 per week payment to each recipient of unemployment insurance until July 31, 2020. Provides payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others) who are unable to work as a direct result of the coronavirus until December 31, 2020. Extends payments to 39 weeks (most states provide 26 weeks of unemployment insurance).
- Special Rules for Retirement Funds: Waives the 10% early withdrawal penalty for certain coronavirus-related distributions up to \$100,000 made during 2020 from an eligible retirement plan.
- Above Line Contributions for Charitable Deductions: Allows for a 2020 tax deduction of \$300 for eligible charitable contributions, such as contributions to churches and charities, for taxpayers who do not itemize their deductions.

Loans for Distressed Corporations

- Authorizes the Treasury Department to provide \$500 billion in loans, loan guarantees, or other investments, through the Exchange Stabilization Fund.
 - \$50 billion for passenger air carriers
 - \$8 billion for cargo air carriers
 - \$17 billion for businesses critical to maintaining national security
 - \$425 billion for programs and facilities established by the Federal Reserve for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, States, or municipalities
- In issuing loans or loan guarantees, the Treasury Secretary must ensure the government is compensated for the risk it assumes, and the Treasury is accordingly authorized to participate in gains of the borrowers through warrants, stock options, common or preferred stock.
- For businesses receiving direct assistance from the Treasury Department, loans must be secured, for a term of not more than 5 years. While the loan is outstanding, borrowers are required to maintain existing employment levels, as of March 13, 2020. In addition, executive compensation for borrowers is subject to certain limits until March 1, 2022.

- For businesses receiving assistance directly from the Treasury Department or through a Treasury Department supported program or facility at the Federal Reserve, repurchasing stock while the loan is outstanding, plus an additional year, is restricted.

Small Business "Paycheck Protection Program" Loans

- Allocates \$350 billion to create the Paycheck Protection Program within the existing Small Business Administration 7(a) guaranteed lending program to cover any business or non-profit with less than 500 employees.
- Under the new loan program, provides 100% guaranteed loans of up to 2 ½ months of payroll costs, not to exceed \$10 million. Payroll costs exclude compensation paid to individuals, including the self-employed, above \$100,000 a year.
- Allows use of loan proceeds to cover payroll support, employee salaries, mortgage or rent payments, utility payments, and existing debt obligations.
- Portions of loans used to cover payroll costs and existing debt obligations from February 15, 2020 to June 30, 2020 eligible for forgiveness (with the forgiven amount non-taxable), with reductions in the amount that can be forgiven for employers who lay off employees over the next four months.
- Businesses will be eligible for loans through December 31, 2020.

Business Tax Relief

- Employee Retention Tax Credit: Creates a refundable payroll tax credit of 50% of the wages paid to an employee for any calendar quarter in which an eligible business is forced to fully or partially close due to a governmental directive related to the coronavirus. Businesses that have seen a 50% drop in revenues compared to the same calendar quarter of the prior year would also qualify. Up to \$10,000 of the credit would be refundable per employee. Businesses receiving an SBA loan through the Paycheck Protection Program would not be eligible to receive the tax credit. The tax credit will apply to wages paid after March 12, 2020 and before January 1, 2021.
- Delay of Employer Payroll Tax Payments: Allows employers and self-employed individuals to postpone payment of the employer share of Social Security taxes that they would otherwise be required to pay between the date of enactment and January 1, 2021.
- Increased Ability for Corporations to Deduct NOLs: Permits corporate net operating losses (NOLs) from 2018, 2019, and 2020 to be carried back five years (under current law, no carryback for NOLs in these years is permitted).
- Increased Ability of Noncorporate Taxpayers to Deduct NOLs: Defers until 2021 the application of certain rules that would limit the ability of noncorporate taxpayers, such as owners of pass-through businesses and sole proprietors, to deduct NOLs from 2018, 2019 and 2020, so that such NOLs are subject to the same rules as described above for corporate NOLs.
- Relaxation of Limits on Business Interest Deductions: Increases the amount of interest expense businesses are allowed to deduct, by increasing the 30% limitation to 50% of the taxable income for 2019 and 2020.

- Acceleration of Recovery of AMT Tax Credits: Accelerates the ability of corporations to recover alternative minimum tax (AMT) credits entirely into 2018. The 2017 tax reform act repealed the AMT, and allowed corporate taxpayers to recover certain AMT taxes paid prior to repeal as refundable credits against their regular tax liability, but only over four years starting in 2018.
- Excise Tax Holiday for Airlines: Provides a tax holiday from (1) the 7.5% aviation excise tax for the transportation of passengers, (2) the 6.25% aviation excise tax for the transportation of cargo and (3) taxes on certain uses and transportation of kerosene as aviation fuel, in each case until January 1, 2021.

What other actions has Congress taken in response to the outbreak?

Below is a summary of previously passed coronavirus-related legislation, in what lawmakers are referring to as phases in their emergency response:

- Phase I: Passed on March 6, this bill provided \$8.3 billion to reimburse state and local governments for the cost of preparing for and fighting the virus, stockpile medical supplies, and accelerate vaccine research. This was viewed in Congress as an initial “down payment” for the federal government’s response.
- Phase II: Passed on March 18, this over \$100 billion bill provides limited emergency paid sick and family leave for qualifying employees, tax credits to help small and medium sized businesses pay for emergency leave, free coverage for coronavirus testing, and increased funding for food assistance targeted at seniors and children.

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