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INSIGHT

HEROES Act (H.R. 6800): Selected Federal Reserve Provisions

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On May 15, 2020, the House passed the HEROES Act (H.R. 6800), a wide-ranging Coronavirus Disease 2019 (COVID-19) relief bill. This Insight discusses selected provisions related to the Federal Reserve (Fed).

Background

In response to COVID-19, the Fed has taken a number of actions to promote economic and financial stability. Traditionally, the Fed acts as "lender of last resort," providing solvent banks with short-term liquidity to manage cash flow. In response to the unprecedented economic disruptions posed by the pandemic, the Fed extended that role to nonbank firms and markets to ensure they have continued access to needed funding. In some cases, the Fed provided long-term assistance to borrowers who may not remain solvent if the pandemic persists for an extended time period.

To date, the Fed has created nine emergency facilities in response to COVID-19 under its emergency authority found in Section 13(3) of the Federal Reserve Act. (See CRS Insight IN11327, *Federal Reserve: Emergency Lending in Response to COVID-19*, by Marc Labonte.) Section 13(3) requires the Fed to minimize the risk of losses, so riskier Fed facilities have been backstopped by funding provided to the Fed by the CARES Act (P.L. 116-136). (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.)

The pandemic has imposed large losses on many borrowers, creditors, businesses, nonprofits, states, and local governments, and Congress is debating whether the policy steps taken to date are sufficient. The HEROES Act would expand the government's assistance, in part, by providing the Fed with new authority and mandates in an effort to further expand its lender-of-last-resort role to additional entities.

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New Emergency Loan Facilities for Rental Property Owners and Creditors

Economic fallout from COVID-19 has made it difficult for some households to pay their rent or mortgages, imposing losses on landlords and creditors. Loan forbearance, an agreement temporarily to reduce or suspend loan payments owed, is one option creditors can offer if a consumer or business cannot meet their obligations due to the pandemic. (For more information on consumer loan forbearance, see CRS Report R46356, *COVID 19: Consumer Loan Forbearance and Other Relief Options*, coordinated by Cheryl R. Cooper.)

Three provisions of the HEROES Act would provide assistance for creditors providing forbearance, depending on the type of loan:

- Section 110404 would require the Fed to create a facility backed by CARES Act funds that provides long-term, low-cost loans to creditors and debt collectors who have losses caused by offering loan forbearance to consumers and who participate in the forbearance program established in Section 110403. Payments on these loans would be deferred until borrowers resume repayment, as required by the bill. Eligibility includes private creditors and debt collectors of most types of consumer debt (except federally-backed mortgages.)
- Section 110603 would require the Fed to create a similar facility for creditors and debt collectors participating in the forbearance program established by Section 110602 for loans to small businesses and nonprofits (as defined by the bill).
- Section 110204 would require the Treasury Secretary to ensure that servicers of federally-backed mortgages can participate in Fed programs backed by CARES Act funds as long as Fed assistance is used for borrower assistance (e.g., loss mitigation and forbearance), among other requirements.

Section 110204 also would require the Fed to create an emergency facility backed by CARES Act funds to provide long-term, low-cost loans to residential rental property owners to temporarily compensate them for losses caused by reductions in rent payments. Loan payments would be deferred for six months. Property owners could not evict tenants or charge late fees and penalties for unpaid rent as long as the loan was outstanding.

Federal Reserve Purchases of Municipal Debt

The Fed can purchase securities in two ways—directly through open market operations and through emergency Section 13(3) facilities using special purpose vehicles (SPVs).

The securities the Fed is authorized to purchase directly are limited. For municipal debt, it can only purchase debt that has a maturity of less than six months and is backed by anticipated taxes or assured revenues. The Fed has not purchased municipal debt directly since the 1930s. Section 110801 of the HEROES Act would remove these restrictions and make debt issued by the District of Columbia, U.S. territories, and "federally recognized Indian tribe(s)" eligible for purchase in "unusual and exigent circumstances."

On April 9, the Fed announced the Municipal Liquidity Facility (MLF), authorized under Section 13(3), to purchase state and municipal debt in response to higher yields and reduced liquidity in that market. The facility is to only purchase debt with a maturity up to three years issued by states, the District of Columbia, counties with over 500,000 residents, and cities with over 250,000 residents (eligible participants are listed here).

Section 110801 also would make changes to MLF terms, including extending its expiration date to the end of 2021; extending the maturity of eligible debt to 10 years; setting the implicit yield on debt purchased equal to the Fed's discount rate; making debt of U.S. territories eligible; and reducing the minimum eligible population size for an issuer to 50,000.

Main Street Lending Program

On April 9, the Fed announced the Main Street Lending Program (MSLP) to help businesses facing COVID-19 disruptions make payroll. The MSLP purchases loans from depository institutions to businesses with up to 15,000 employees or up to $5 billion in revenues. Principal and interest repayment are deferred for one year, and the businesses would have to make a "reasonable effort" to retain employees. The minimum loan size, depending on the type of loan, is $500,000 or $10 million.

Section 110604 of the HEROES Act would require the Fed to make nonprofits eligible for the MSLP and allow certain nonprofits serving low-income communities to have these loans forgiven by Treasury. Section 110605 would require the Fed to offer an MSLP program for small businesses, smaller institutions of higher education, and nonprofits without a minimum loan size.

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