

TO: NAW Direct Members

FROM: NAW Government Relations Team

RE: NAW Critical Update Number 77 – July 13 at 1:45 PM

1. Latest on the Main Street Lending Program

Yesterday, the *Wall Street Journal* reported that disagreements between leaders at the Federal Reserve and Treasury Department in recent months slowed the start of the Main Street Lending Program.

The disagreements over relatively narrow design issues reflect broader philosophical differences over what the program is trying to accomplish and how much risk the government should take as a result. The Fed has taken the lead analyzing, designing and proposing terms for the programs. The Treasury then approves, vetoes or suggests different terms. The program went through multiple revisions and finally opened for business last week. Some government officials believe the disagreements between the Fed and Treasury could have been avoided if Congress had been clearer that it didn't expect the \$454 billion to be returned to the Treasury.

The full article is included at the end of this message.

2. Latest on Congressional Pandemic Response

Last Friday, Treasury Secretary Steven Mnuchin said the Trump Administration would support another round of tax rebate checks and help for restaurants, hotels and airlines as part of the next coronavirus aid package. In *CQ Roll Call's* latest podcast, they discuss what the Trump administration is considering for another coronavirus relief package to help kick-start the U.S. economy and how states are trying to make voting safe during the age of COVID-19. Senate Leader Mitch McConnell is still adamant that the next relief bill should include targeted liability protections and that the \$600 pandemic unemployment insurance bonus payment should not be extended.

You can listen to *CQ Roll Call's* latest podcast [HERE](#).

The House and Senate remain in recess until July 20th and will have only a few weeks of session in late July/early August before they adjourn again for the Republican and Democratic national conventions.

3. Latest on Economic Recovery and Re-Opening the Workplace

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW is providing information about reports, webinars and seminars that you may find useful:

From ***Little Law Firm***: [**This Won't Hurt a Bit: Employee Temperature and Health Screenings – A List of Statewide Orders, as of July 13, 2020**](#)

Employee health screening steps, including temperature checks, are becoming more common as states begin to reopen their economies. This post covers measures that require employers to take employees' temperatures and/or conduct other screening procedures.

To read the article, click [HERE](#).

From ***Little Law Firm***: [**Facing Your Face Mask Duties – A List of Statewide Orders, as of July 13, 2020**](#)

As businesses re-open, face coverings are likely to remain popular as a preventative measure. This post identifies the jurisdictions where face coverings are recommended or required.

To read the article, click [HERE](#).

From ***Reed Smith Law Firm***: [**It's official: Illinois law presumes COVID-19 is a workplace injury for essential workers**](#)

Illinois officially has made it easier for certain workers who contract COVID-19 to claim it is an occupational disease for purposes of collecting workers' compensation. Last week, Illinois Governor J.B. Pritzker signed into law House Bill 2455, which amends the Illinois Workers' Occupational Diseases Act (820 ILCS 310/et seq.) with respect to such..... [Continue Reading](#)

Stateside Associates publishes a daily report about State and Local Government responses to the evolving situation.

To read their latest report, click [HERE](#).

We are also providing a link to a spreadsheet that includes state and local COVID-19 response information provided by **MultiState Associates**.

To view their spreadsheet, click [HERE](#).

[Click here](#) for links to Critical Updates sent previously.

Many thanks—

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THE WALL STREET JOURNAL.

Fed, Treasury Disagreements Slowed Start of Main Street Lending Program

Central bank officials have encouraged riskier loan terms than Treasury

*By Nick Timiraos and Kate Davidson
July 12, 2020 9:00 am ET*

Disagreements between leaders at the Federal Reserve and Treasury Department in recent months slowed the start of their flagship lending initiative for small and midsize businesses, according to current and former government officials.

The differences centered on how to craft the loan terms of their \$600 billion Main Street Lending Program to help support businesses through the early stages of the coronavirus pandemic.

Fed officials generally favored easier terms that would increase the risk of the government losing money, while Treasury officials preferred a more conservative approach, people familiar with the process said.

Treasury, which has put up \$75 billion to cover losses, resisted recent changes to relax loan terms.

The disagreements over relatively narrow design issues reflect broader philosophical differences over what the program is trying to accomplish and how much risk the government should take as a result. The upshot is that the program, announced in March, went through multiple revisions and opened for business this past week. As of Wednesday, it hadn't purchased any loans.

Some Fed officials privately have voiced frustration that painstaking negotiations wasted precious weeks in launching the program, according to people familiar with the matter. One of three loan products under the program almost didn't materialize due to Treasury reservations.

The nature of the compromises between the Fed and Treasury have only recently come into focus, pulling back the curtain on one of the most important partnerships in global economic policy-making.

The terms of the program were first announced on April 9 and have been relaxed twice to include more potential borrowers and flexible repayments. The program began operating this month through the Federal Reserve Bank of Boston.

"Would the program be exactly the way I would have designed it, or exactly the way someone else would have designed it? No, but we all need to work together, and we have worked together quite effectively," said Boston Fed President Eric Rosengren in an interview.

“Anytime you have a negotiation, there are going to be compromises that are made,” he said. “I expect that we’ll continue to have to make compromises.”

Fed and Treasury officials say they have continued to work constructively on the programs. Treasury Secretary Steven Mnuchin, Fed Chairman Jerome Powell and their top lieutenants speak frequently, including during a 5 p.m. conference call every other weekday.

Mr. Mnuchin said in an interview the back-and-forth was part of an iterative, professional process and didn’t reflect disagreements.

As the Fed has moved from purchasing supersafe assets like Treasuries to “corporate bonds and loans, you get into even more levels of complexity that required considerable thought between the Treasury and the Fed,” Mr. Mnuchin said.

Mr. Powell said at a congressional hearing with Mr. Mnuchin on June 30, “The secretary and I have worked very closely on this and we have been very willing to learn from experience.”

The Fed has taken the lead analyzing, designing and proposing terms for the programs. The Treasury then approves, vetoes or suggests different terms.

The Main Street program aims to fill a gap in government relief, fitting between the Paycheck Protection Program of forgivable loans for businesses with 500 or fewer employees and a separate Fed program to buy debt issued by large corporations.

The Treasury last month agreed to extend the term of Main Street loans to five years, from four. Loans will now delay principal payments for two years, instead of just one. The loans don’t require interest payments for the first year.

Changes that appeared fairly minor for the Fed looked more costly to Treasury officials because of different approaches modeling losses. Fed officials evaluated changes by looking at how much larger the losses might be in a severe downturn. Treasury officials focused on how changes would influence near-term profits or losses under a less pessimistic baseline forecast.

Treasury officials believe their forgivable small business loans, together with the Fed’s corporate-debt backstops, have kept the banking system running well. As a result, Mr. Mnuchin said, they aren’t concerned that fewer firms may use the Main Street program than anticipated in March and instead see it as a fallback if the economy takes a turn for the worse.

Fed officials have pushed to reach more borrowers with changes that would generally provide for smaller loans, more refinancing, longer maturities and easier repayment schedules.

The Fed is using special powers granted by Congress and the Hoover administration during the Great Depression to make loans in times declared to be “unusual and exigent.” Between 1932 and 1936, the Fed lent \$1.5 million to 123 businesses, or around \$28 million adjusted for inflation. The largest loans included \$300,000 for a typewriter manufacturer and \$250,000 for a vegetable grower.

Ten years ago, Congress curbed these emergency-lending authorities in response to criticism of how the Fed exercised those powers to address the looming collapse of Bear Stearns Cos. and [American International Group](#) Inc. in 2008. Lawmakers required future lending initiatives be jointly undertaken with the Treasury secretary.

Those changes were a “wise decision,” Mr. Powell said in April remarks, because they ensured that elected officials, not just Fed officials, are accountable for “decisions of this magnitude.”

The Fed is also joining with the Treasury because the central bank doesn’t believe it can incur capital losses, limiting its ability to lend against all but the safest assets. To turbocharge the latest efforts, Congress in March provided \$454 billion to the Treasury to backstop losses in Fed lending programs. Within days, Mr. Mnuchin authorized \$195 billion for five different lending programs, including Main Street.

While the Fed’s separate \$750 billion program for large corporations has also seen few debt purchases so far, low take up isn’t a concern. The announcement alone enabled companies, including those too risky to qualify for Fed support, to issue record amounts of debt in private markets.

The Main Street program is a different story. It is targeting a diverse, idiosyncratic commercial loan market, which doesn’t benefit from the same announcement effect. A low volume of Main Street lending “is a concern, both politically and also in terms of getting liquidity to the firms that need it,” said former Fed Chairman Ben Bernanke during an online seminar last month.

The Main Street program offers five-year loans to companies with up to 15,000 employees or less than \$5 billion in revenue last year. Officials are preparing to expand the program to nonprofit organizations. Economists at Goldman Sachs estimate 45 million Americans, or almost 40% of all private-sector workers, are employed by a company eligible for the program.

On paper, the Main Street program should expand banks’ capacity to lend because the Fed will purchase 95% of each loan, leaving the originating lender with just 5% of the asset.

Some banks have said they aren’t sure whether they will participate due to tepid borrower interest and concerns about legal liability or public scrutiny.

While the program offers below-market rates to smaller, riskier borrowers, those savings may not offset transaction costs or requirements that Congress placed on borrowers, including limiting payouts to executives and shareholders. As a result, economists at Goldman Sachs said they didn’t anticipate significant use of the program.

Some former government officials familiar with Mr. Mnuchin’s approach said that in designing the latest generation of lending programs, the Treasury was especially influenced by the outcomes of the 2008 interventions. Back then, the Treasury made profits on most of its crisis lending to banks, insurance companies and auto makers, even though officials didn’t expect that to occur at the time.

These people worry that trying to turn a profit on lending programs during the current crisis would be a mistake because this episode—a cash-flow shock across the entire economy—is so different from a financial crisis.

In April, Mr. Mnuchin told reporters the Treasury expected to recoup its money on the lending programs, though he later signaled a shift. “There’s a high likelihood that we will incur losses, which we’re fine with,” he said in the interview this past week.

Some government officials believe the disagreements between the Fed and Treasury could have been avoided if Congress had been more clear that it didn’t expect the \$454 billion to be returned to the Treasury.