

What You Need to Know About the CARES Act Bailouts

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The CARES Act supercharges big corporations' and Wall Street's ability to direct more and more wealth and power to themselves, at the expense of consumers, working people, independent businesses, and communities.

On March 29th, Congress passed and President Trump signed into law the CARES Act, which expanded unemployment insurance, created an emergency small business lending program, and authorized the Federal Reserve to lend to corporations and financial institutions.

The Treasury and Federal Reserve programs — more commonly referred to as bailouts — were a controversial part of the legislation that the American Economic Liberties Project opposed as part of the immediate legislative response. While much of the discussion of the legislation focused on the \$1,200 payout to workers, the \$4 trillion of credit in this bill that will go to big business and Wall Street is equivalent to a \$13,000 loan to every single man, woman, and child in America.

Now that the bailouts are law, these provisions represent a massive, enduring transfer of power to billionaires and big businesses. It's critical to seek opportunities to blunt this power transfer and be clear-eyed about the economic and social implications for workers, small businesses, communities, and society over the longer term.

This memo attempts to answer questions pertaining to the bailout provisions of the CARES Act as carried out by the Federal Reserve, and to provide guidance to inform future policy advocacy and strategy intended to limit further concentrations of corporate and financial power.

Although often conceptually simple, the language used to describe financial policy is intentionally complex and intimidating. But understanding the Fed's activities is critical to achieving progressive change—be it racial, environmental, or economic—because our

government is further enriching and empowering the same interests most opposed to that change.

FIRST: WHAT EXACTLY IS THE FEDERAL RESERVE AGAIN?

The Federal Reserve is a government-controlled bank that is charged with making sure the economy has plenty of jobs and stable prices. It does this by printing dollars and pushing those dollars into the economy by lending to Wall Street banks, who in turn finance lending into the economy through credit cards, mortgages, commercial lending, and the issuance of stocks and bonds. (Although not relevant to the CARES Act, the Fed also stabilizes the global economy by providing dollars to foreign central banks. These foreign central banks make sure that their economic agents have the dollars to participate in trade and financial markets, which are largely denominated in dollars.)

WHERE DOES THE FEDERAL RESERVE'S AUTHORITY COME FROM?

The Fed has a Congressional charter called the Federal Reserve Act, and it is authorized to act under this law. While the extent of its legal authority is ambiguous, the Fed typically prefers to appear politically neutral and avoid picking economic winners and losers. For this reason, the Fed does not want to “lose” money when it makes loans to financial institutions. A bad loan is equivalent to government spending in the economy, and government spending—or providing resources directly to agents in the economy like specific businesses, people, or the military—is the purview of Congress.

In exceptional circumstances, the Fed does make loans that are risky, directly spending to support specific actors in the economy. It prefers to have Congressional authorization to do so, but does not always have this authorization. The Fed made risky loans during the 2008-2010 financial crisis, lending trillions of dollars to corporations, foreign central banks, and banks through a variety of programs. It did this in cooperation with the Treasury Department, which received bailout authority under the Troubled Asset Relief Program passed by Congress in 2008.

WHAT HAS THE FEDERAL RESERVE DONE IN RESPONSE TO THE ECONOMIC CRISIS CAUSED BY THE CORONAVIRUS?

On March 29, 2020, Congress passed the CARES Act, which authorized Treasury to work with the Fed to make risky loans into the economy. This authorization is the \$454 billion “slush fund” that will be managed by Treasury Secretary Steve Mnuchin. (Mnuchin is also *known as the “foreclosure king”* for his role in organizing a takeover of one of the nation’s largest failed mortgage lenders during the financial crisis.)

Most of this money will not be spent directly by Treasury, but will serve as a buffer for extending much larger loan amounts the Fed is putting forward. That's why the Act is often referred to as a \$4 trillion lending program — because the \$454 billion authorized by Congress is the amount intended to protect against losses when some loans go south. To put these numbers into perspective, \$4 trillion of credit is equivalent to a \$13,000 loan to every man, woman, and child in America.

The Fed has, accordingly, opened a variety of new lending programs. Last week, it opened *seven new ones*, on top of what it had already put out. The Fed can make up to \$2.3 trillion in additional loans through these seven programs. Some of the programs are meant to help cities, states, small businesses, and so on. But they will also bail out private equity funds, which invest in riskier companies in search of bigger profits for rich and powerful investors.

WHY SHOULD PROGRESSIVES CARE ABOUT THE NEW LOAN PROGRAMS?

The Fed's massive loan programs represent the largest financial response to the coronavirus crisis. But rather than prioritizing workers or small businesses, they bail out large corporations and high-risk investors with few, if any, meaningful strings attached. Perhaps most outrageously, these bailouts will be used to prop up private equity funds, *which should probably not exist*.

In short, large corporations and financiers have free rein not only to fire workers, enrich their CEOs, or buy back their own stock, but also to merge or buy up smaller competitors to further consolidate economic and political power. This consolidation will exacerbate the systemic exploitation and abuse of consumers, working people, and smaller businesses.

WHO EXACTLY WILL GET MONEY THROUGH THE FED'S NEW LOAN PROGRAMS?

1. Private equity investors. One of the Fed's new programs provides \$750 billion, or \$2,500 for every man, woman, and child in the U.S., to a junk bond-buying program, which the Fed calls *the Secondary Market Corporate Credit Facility*. Junk bonds, or "high-yield corporate bonds," are risky loans that powerful financiers known as private equity funds use to take over corporations. The Fed can also use this program to lend to safer, well-managed corporations.
2. Big corporations and businesses. The Fed will also provide up to \$750 billion, or \$2,500 for every man, woman, and child in the U.S., to corporations through a program called the *Primary Market Corporate Credit Facility*. Specifically, the Fed will lend money to large businesses by buying bonds from corporations.

The Fed has also opened two new lending programs, the *Main Street New Loan Facility* and the *Main Street Expanded Loan Facility*, through which it will lend up to \$600 billion, or \$2,000 for every man, woman, and child in the U.S., to businesses. The Fed will distribute this money by supporting banks, who will in turn lend money to businesses with up to 10,000 employees or \$2.5 billion in annual revenue and who have been harmed by the coronavirus.

3. Smaller businesses. The Fed will lend money to banks participating in the small business lending program organized by the Small Business Administration, which is called the *“Paycheck Protection Program.”* Congress created this lending program in the CARES Act to encourage banks to get money out to small businesses faster. Unsurprisingly, routing small business money through big banks has *actually limited* many small businesses’ ability to secure relief.
4. States and big cities. The Fed is setting up what is called the *Municipal Liquidity Facility* to lend up to \$500 billion, or \$1,666 for every man, woman, and child in the U.S., to cities and states. States and the District of Columbia are eligible. So are cities larger than one million residents and counties larger than two million residents. Smaller cities and towns are not.
5. Financial institutions that make consumer loans, including student loans, auto loans, credit card loans, equipment loans, and commercial mortgages. The Fed is setting up a program called the *Term Asset-Backed Securities Loan Facility* to make up to \$100 billion, or \$333 for every man, woman, and child in the U.S., in loans to these institutions. This program is intended to encourage new lending, so the Fed will only help if the financial institution makes loans issued after March 23. The exception here is commercial mortgages, which means that this program looks like a bailout for commercial mortgage lenders whose real estate borrowers (in other words, landlords) are doing poorly.

WHAT RESTRICTIONS ARE PLACED ON FED LOANS MADE THROUGH THE NEW FUNDS?

Very few. There are no restrictions in the private equity program for any borrower, so the Fed can buy bonds regardless of layoffs, executive compensation, labor policy, mergers, or share buybacks. The corporate bond program similarly imposes no restrictions on layoffs.

The general business (“Main Street”) programs require a borrower to “make reasonable efforts to maintain its payroll and retain its employees,” which in Fed-speak means they can fire anyone they want. These businesses are prohibited from buying back stock if they are a public company and may not pay dividends—though they can still go forward

with previously-authorized buybacks. There are also executive compensation restrictions, though they are weak. There is no prohibition on mergers.

WHAT IS PRIVATE EQUITY AND WHY IS THE GOVERNMENT BAILING IT OUT?

Private equity funds buy up and restructure companies, nearly always transforming them from businesses that employ people and make things into extractive institutions designed solely to shift cash to owners. By loading up companies with brutal amounts of debt—all while slashing production, workers, assets, long-term investments, and whatever cushion the company has built up—private equity owners set up these businesses for failure, destroying thousands of jobs and the communities that depend on them, all while investors reap massive profits. Toys ‘R’ Us, Sears, Kmart, RadioShack, Gymboree, and Payless are all casualties of private equity—as are [media outlets](#), [hospitals](#), [grocery stores](#), and many more.

Some lawmakers claim bailing out private equity investors—and corporations, and big businesses—is necessary to get money out to the entire economy. This is false.

First of all, private equity does not need a bailout. Private equity firms were already sitting on a record [\\$1.5 trillion](#) pile of cash before the coronavirus crisis hit, and their investors and fund managers are among the [richest people in America](#). As one unnamed investor told the [Financial Times](#): “If you think people were upset about bailing out banks where the CEOs were making \$50 million a year, how are they going to feel about bailing out private equity firms where the CEOs make \$500 million a year?”

Second, because private equity-owned corporations are heavily indebted, their corporate managers have been putting massive pressure on their employees to return to work in unsafe conditions. High debt loads mean high interest payments, which eat into companies’ profits—and cannot be repaid if what’s left of the business isn’t running at full tilt.

Consider Petsmart, which was purchased by a private equity fund called BC Partners in 2015. BC Partners now owns and operates Petsmart. Despite the enormous risks posed by coronavirus, the company’s managers have reopened Petsmart’s [dog grooming salons](#). They have told employees how to accept a dog from a coronavirus-infected customer and how to evade law enforcement. In other words, Petsmart and its private equity overlords are sacrificing their employees’ safety and welfare in order to make payments on their debt—payments that in turn go to the private equity-fund bondholders the Federal Reserve just bailed out.

WHAT COULD WE DO IN THE NEXT BAILOUT PACKAGE TO FIX THE PROBLEMS WITH THE LAST ONE?

Assuming there is not leverage to retroactively apply conditions on access to bailout funds, the most important thing Congress can do now is to place a series of restrictions on all solvent large businesses. No mergers and acquisitions, no stock buybacks, no dividends, and no executive bonuses until the emergency is over. And since Treasury Secretary Steven Mnuchin has discretion over essentially unlimited financing for banks and big businesses, this measure should be coupled with a zero-tolerance policy for cronyism and corruption; focused, dedicated efforts to uncover it; and a strategy for reacting to it when it occurs.

Congress also needs to provide direct cash to small businesses through the Internal Revenue Service or other functional public agencies. The government should limit funding through big banks, which are making it difficult for many small businesses to get assistance. And Congress needs to do everything in their power, including aggressive oversight, to ensure the limited assistance they did offer to working people is quickly delivered.

Over the much longer term, challenging concentrated corporate and financial power over our economy and democracy requires re-asserting a broad set of essential policy tools like aggressive corporate oversight, antitrust enforcement, anti-corruption tools, financial regulation, international trade arrangements, and a reinvigorated administrative state.

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The American Economic Liberties Project is a new, independent organization fighting against concentrated corporate power to realize economic liberty for all, in support of a secure, inclusive democratic society.

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