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Democracy Dies in Darkness

The U.S. plans to give $500 billion to large companies. It won't require them to preserve jobs or limit executive pay.

The Fed's coronavirus aid program lacks restrictions Congress placed on companies seeking financial help under other programs.

By **Jeff Stein** and **Peter Whoriskey**

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A Federal Reserve program expected to begin within weeks will provide hundreds of billions in emergency aid to large American corporations without requiring them to save jobs or limit payments to executives and shareholders.

Under the program, the central bank will buy up to $500 billion in bonds issued by large companies. The companies will use the influx of cash as a financial lifeline but are required to pay it back with interest.

Unlike other portions of the relief for American businesses, however, this aid will be exempt from rules passed by Congress requiring recipients to limit dividends, executive compensation and stock buybacks and does not direct the companies to maintain certain employment levels.

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Critics say the program could allow large companies that take the federal help to reward shareholders and executives without saving any jobs. The program was set up jointly by the Federal Reserve and the Treasury Department.

"I am struck that the administration is relying on the good will of the companies receiving this assistance," said Eswar Prasad, a former official at the International Monetary Fund and economist at Cornell University. "A few months down the road, after the government purchases its debt, the company can turn around and issue a bunch of dividends to shareholders or fire its workers, and there's no clear path to get it back."

Treasury Secretary Steven Mnuchin defended the corporate aid program, saying that the lack of restrictions on recipients had been discussed and agreed to by Congress. “This was highly discussed on a bipartisan basis. This was thought through carefully,” he said in an interview with The Washington Post. “What we agreed upon was direct loans would carry the restrictions, and the capital markets transactions would not carry the restrictions.”

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Democrats asked for restrictions on how companies can use the money from the central bank’s bond purchases but were rebuffed by the administration during negotiations about the Cares Act, said a spokesman for Senate Minority Leader Charles E. Schumer (D-N.Y.). The spokesman said Democrats won meaningful concessions from the administration on reporting transparency in the final agreement. (Transparency requirements do not apply to the small-business loans, the biggest business aid program rolled out to date.)

Mnuchin also said the program had already bolstered investor confidence in U.S. capital markets, which in turn helped firms raise capital they used to avoid layoffs.

“The mere announcement of these facilities, quite frankly, led to a reopening of a lot of these capital markets,” Mnuchin said in an interview. “Even before these facilities are up and running, they’ve had their desired impact of having stability in the markets. Stability in the markets allows companies to function, and raise money and allows them to keep and retain workers and get back to work."

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The corporate debt purchases by the Fed stand in stark contrast with other portions of the federal aid for U.S. businesses that come with requirements to protect jobs or limit spending.

The Paycheck Protection Program, which offers $659 billion for small businesses, requires companies to certify that the money will be used to "retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments."

The "Main Street" program offering up to $600 billion to "midsize" businesses — with 500 to 10,000 employees — forbids companies from issuing dividends and places limits on executive compensation, according to a term sheet issued by the Fed. Those restrictions are in effect until 12 months after the loan is no longer outstanding. The companies must also "make reasonable efforts" to maintain payroll and retain employees.

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Likewise, the $46 billion program for airlines, air cargo companies and national security forbids dividends and limits executive pay. Its requirement on retaining employment is more rigorous, however. Companies are supposed retain at least 90 percent of their employees.

The first version of the Fed program to buy bonds from large companies, known as the Primary Market Corporate Credit Facility, probably would have compelled recipients of the aid to limit executive pay and dividends. That version of the program, described in a March 23 term sheet issued by the Fed, offered direct loans and bond purchases to companies. Under the Cares Act, the federal programs offering direct loans must set restrictions on company dividends and CEO pay; those that buy only corporate bonds do not. Both are forms of lending, although bonds are more easily resold.

But on April 9, the Fed altered the design of the program to exclude direct corporate lending. The Fed program will still essentially lend money to large companies — by buying their bonds — but the Fed will not be compelled by the Cares Act to ensure that companies abide by the divided and CEO pay rules.

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“The change to the term sheet between March and April is the smoking gun on the Fed’s own culpability here,” said Gregg Gelzinis, a senior policy analyst at the Center for American Progress, a left-leaning think tank. “The basic principle of the Cares Act was that if we’re going to provide taxpayer funding to private industry, we need conditions to make sure it is in the public interest. This violates that principle.”

Bharat Ramamurti, an aide to Sen. Elizabeth Warren (D-Mass.) who was appointed to the board overseeing the bailout, said in a statement: “Big corporations have shown time and again that they will put their shareholders and executives ahead of their workers if given the choice. That’s why I’m so concerned that the Treasury and the Fed have chosen to direct hundreds of billions of dollars to big companies with no strings attached.”

A spokesman for the Federal Reserve declined to comment. The Fed’s board of governors unanimously approved the new bond purchasing program on March 22. The Fed has said it will purchase only the bonds of firms above a certain grade. The issuer of the bond also must meet the conflicts-of-interest requirements in the Cares Act, which preclude federal lawmakers or their relatives from benefiting financially from the government bailout.

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In the interview, Mnuchin also said many companies are ceasing stock buybacks and are likely to use the additional capital to retain workers.

“A lot of companies have stopped their share buybacks and slashed their dividends, because they need that capital to invest in their business. Even though these restrictions don’t necessarily apply, that’s already happening,” he said.

Some experts disputed that assertion. “Some companies have ceased buybacks and dividends and some haven’t. We shouldn’t have to keep our fingers crossed,” Gelzinis said.

It is unknown what the terms will be for the Fed lending under the program, or how favorable they will be for recipients. The term sheet says only that they will depend on the company and be “informed” by market conditions.

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Companies selling their bonds to the central bank are expected to be primarily investment grade, publicly traded firms and therefore subject to more disclosure and oversight than those that are privately held. Patricia C. Mosser, a former senior official at the Federal Reserve Bank of New York, said these corporations are scrutinized by the U.S. Securities and Exchange Commission, private investors and the credit rating agencies.

“It’s true that there’s nothing stopping these companies from continuing to pay stock dividends. You may not like that, and I have sympathy for that position,” said Mosser, now a professor at Columbia University. “But it’s easier to unmask bad behavior in public companies. Large companies certainly don’t do everything right, but they have to admit publicly how they pay top executives, where their profits go and how they use them. That history of disclosure and oversight means the risk of not being repaid is lower.”

The weaker restrictions on recipients of the Fed’s lending program may be partly justified, said Nathan Tankus, research director at the Modern Money Network, which studies monetary policy. The corporate bonds that the Fed is purchasing from companies can be resold, whereas direct loans establish an agreement between the company and the government that makes the asset less valuable to the central bank, he said.

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“Purchases of debt are a slightly more arm’s-length transaction than the loan, which is forming a bilateral relationship,” Tankus said. “But this is really just the fig leaf the Fed can use to justify lifting the restrictions.”

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