

COVID-19 Legislative Proposals

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Memorandum

Date: April 24, 2020

Re: Report of "Townhall: Demand Insurers Pay Business Interruption Coverage" featuring John Houghtaling on behalf of the Business Interruption Group ("BIG")

This memorandum reports on the webinar yesterday, called the "Hospitality and Politics Podcast," in which the NYC Hospitality Alliance's Andrew Rigie interviewed the "Business Interruption Group" (BIG), lead attorney and insurance expert John Houghtaling. Mr. Rigie indicated that this was the first Zoom Townhall version of the podcast and that more than 600 people had registered to attend. The webinar was advertised as a discussion of:

- BIG's progress on its national legal challenge to insurers who are denying restaurants, bars and clubs insurance coverage for the COVID-19 pandemic;
- BIG's recent call with President Trump, and ramifications from President Trump's press conference referencing BIG agenda and his demand that insurers pay business interruption coverage;
- BIG's negotiations with the insurance industry; and
- BIG's proposed legislation that would provide subsidies to insurers who pay business interruption coverage for businesses in New York, and around the nation.

The webinar began with an introduction by Andrew Rigie of the NYC Hospitality Alliance, laid out the challenges faced by the restaurant and hospitality industry in light of the pandemic, referencing the need for a massive rescue for the restaurant and night-life businesses in New York City and elsewhere. Rigie noted that the NYC Hospitality Alliance had gotten involved on these issues at all levels of government from City and State to federal. He noted a variety of issues faced by the industry from permits and licenses to rent to business interruption insurance, which he said was the focus of today's program. He said that the Nation's economy, the State's economy and New York City's economy would not recover unless restaurants, bars, and nightclubs are at the core of that recovery.

Rigie introduced John Houghtaling as the general counsel of the Business Interruption Group, as someone incredibly knowledgeable about business interruption insurance. Rigie said that, while a variety of different policies and programs could support the hospitality industry, what restaurant and bar owners have repeatedly told him is that if insurance companies would pay out on their claims for business interruption coverage, "it would be the most efficient and most effective way to support small businesses during our time of crisis." He thanked HGR Group (which is an independent insurance agency serving the hospitality industry) for its support in putting together this program. He also mentioned that, like the New York City Hospitality

Alliance, the James Beard Foundation, Roar, and many other organizations are supporting these efforts to make sure the voice of the industry is heard at all levels throughout the government and to the public to let them know that the hospitality industry is vital to the economic recovery and social landscape of the City.

He then indicated that he and John Houghtaling would address business interruption insurance for about 35 minutes and then would answer questions. He welcomed John Houghtaling to the call.

Overview of Business Interruption Insurance

Rigie then asked a series of questions to Houghtaling, beginning with the basic question: what is “business interruption” insurance.

Houghtaling responded that businesses had paid for years for business interruption coverage, which is exactly what it says: coverage for business interruption. He said business interruption insurance as a part of property insurance, which also includes “civil authority” coverage. He stated that this insurance is very expensive insurance, although the cost depends on the size of your business and how many employees and people you have. He noted that many businesses that are labor intensive, such as hospitality and restaurant businesses, obtain coverage for civil authority shutdowns, applicable when a government authority requires your business to be shut down. Under this coverage, according to Houghtaling, there is coverage “absent exclusions” for when the government shuts you down and the measurable loss is from the time of the shutdown until the end.

Rigie commented that this is what has happened where many states and local governments have directed restaurants and businesses to shut down, although in New York City as he believes in the rest of the country restaurants and bars are able to offer take-out and delivery. He noted that this coverage would be a lifeline for the restaurant and hospitality businesses. Houghtaling stated that, unlike federal aid programs that get “thrown together” that we’ve seen in the news where some people are getting it that might not need it as much as others, might address the situation, the thing about business interruption insurance coverage, when negotiated, is that it is measured for the particular business at issue. The limits are structured specifically for these types of shutdowns and are tied to that particular business.

Houghtaling then stated that “the problem that we’ve had here is that number one, the insurance industry is misrepresenting these policies to people.” (Throughout the entire townhall discussion, Houghtaling repeatedly alleged that insurance companies misled the public to avoid paying on business interruption claims.) He asserted that insurers are “just flat out misrepresenting some of the policies and they’re not paying them as a result of that misrepresentation.”

Mission of BIG

Rigie then asked Houghtaling about the Business Interruption Group: what is its mission and what is it trying to achieve? In describing the origin of the BIG, Houghtaling recounted his experience with “insurance disasters,” mentioning a documentary of the work that he did after Superstorm Sandy which was called “the disaster after the disaster.” He asserted that “we buy insurance for troubled times.” In these mass disasters, he sees “over and over again” (referencing Hurricane Katrina, BP Oil Spill, various hurricanes), the insurance industry’s “play is always the same.” He said that instead of preparing to pay, insurers put together a three-pronged attack and response to the disaster, and unfortunately, Houghtaling claimed, insurers do not prepare to be “your good neighbor,” to “be on your side” or to be the “good hands” that they promised. He claimed he sees the same approach from insurers again and again.

First, Houghtaling asserted, insurance companies speak to their brokers and agents to tell them things that are inaccurate. He said that insurers conduct a PR campaign to convince policyholders they have no coverage before the loss even occurs and “make up” reasons why.

Second, according to Houghtaling, the insurance industry takes the same message to Washington. In this “political strategy,” he asserted, insurers tell Washington that this disaster is not covered by insurance. Rather, it requires “disaster aid” by the government, asking politicians to create a federal program, using different pots of money, hastily put together.

Third, Houghtaling stated, the insurers then put together a court action. Houghtaling stated that, “instead of paying claims with their reserves,” insurers, with their lawyers, defend against the claims.

Houghtaling said he had watched the insurance playbook and decided that this is what “we” [policyholders] need to do as well. When the virus happened, Houghtaling stated that on March 11th, Italy shut down its restaurants, and one day later, the industry came forward with a white paper, which told the public that “it doesn’t matter what your policy says,” there is no coverage. Houghtaling asserted that the white paper took the position that it doesn’t matter whether your policy has a virus inclusion, or a virus exclusion, the policies are not going to pay for the civil authority shutdown. This misrepresented what the shutdowns are and claimed the purpose of the shutdown was to enforce social distancing, not because of a “dangerous property condition.”

Houghtaling then reported that, immediately after March 12, BIG was formed, chiefly consisting of leading chefs and restaurateurs, recognizing the size and importance of this industry to the economy, to do the following:

(1) From a public relations standpoint, “to tell people the truth,” that the virus is causing a very “dangerous property condition” and what the insurers were doing;

(2) To go to Washington and explain that, contrary to what the insurance industry purportedly said, “we” paid for coverage and the insurers are not telling the truth that all policies have virus exclusions, or about the virus; and

(3) To file a declaratory judgment action, which he did on March 16, 2020, seeking a declaratory judgment ruling on whether under Civil Authority coverage, government shutdowns responding to the coronavirus are caused by “a dangerous property condition.”

BIG was launched on that weekend and with the filing of the first action on March 16, 2020.

Industry Response

Rigie then asked Houghtaling to explain what the insurance industry’s response has been after BIG has gotten some good publicity, has gotten elected officials to introduce various bills and there has been a lot of attention on this issue. According to Houghtaling, the insurance industry did exactly what he had expected, first by telling people “on industry blogs” and “targeted lawyer blogs,” a “flat out lie,” by asserting that “every policy – virtually every policy -- has a virus exclusion,” “every policy has a pandemic exclusion,” and none of it’s covered. And that’s simply not true, he said.

Houghtaling said the second thing the insurance industry did was run to Washington to tell the politicians they don’t cover anything, even though the industry claimed there is “\$822 billion sitting in cash” as reserves to pay claims. According to Houghtaling, the insurance industry effectively took the position that although they had “taken nearly a trillion dollars of your money” to pay these types of claims, they refused to pay under any policies. Houghtaling said the insurers are paying nobody, including those with virus “inclusions” in their policies. According to Houghtaling, the industry has refused to “drop the lifeboats they have” and help anyone. If some policies provide coverage and some do not, insurers should at least pay the ones they owe. Houghtaling thus accused the insurance industry of “holding that money hostage.” He claimed that if the industry does not have enough money, they should “do what the airlines do” and just tell the government “we’re an important part of the economy and we need more money.”

“Loss or Physical Damage to Property” Issue

Rigie next turned to a question about whether the virus actually causes property damage, referencing that some mayor and governors may have put specific language in their shut down orders when they were issued addressing this point. In response, Houghtaling asserted that there is a lot of confusion about the “property damage” issue because of the “intentional propaganda” by the insurance industry to “confuse people on purpose” about how these policies read. He then stated that there are two parts of your policy: (1) business interruption because you’re contaminated, and (2) business interruption for a civil authority closure. He said that the civil authority closure does require that the reason for the civil authority closure has to be because there’s “a present dangerous property condition in your area.” It doesn’t have to be in your business but in your area, e.g., on the island of Manhattan. Insurers know that the virus is causing a dangerous property condition in your area, and that this triggers coverage, he asserted.

Houghtaling described the insurance industry’s approach as focusing on “where is the property damage or loss?” even though they “know the virus is causing a dangerous property condition” and that “triggers” the coverage. Houghtaling then explained that he had notified the

civil authorities that this industry position was coming, and that he went to his state and to New York City, Atlanta, Texas and across the nation to tell them the insurers companies don't want officials to warn about the "dangers of the virus." He asserted that the insurance companies did not want these warnings to caution that the Coronavirus is "getting on stuff" because that could trigger the policies. As a result of BIG's advocacy, many of the government officials clarified that the closures were not just for social distancing, but the real danger is because it's "getting on stuff," creating a potentially lethal position. This clarification makes it difficult for the insurance companies to deny. Rigie clarified that Houghtaling is saying that the virus actually sticks on surfaces and if others touch it, they can get sick. Houghtaling responded that the World Health Organization is saying that, not him. He also claimed that insurers objected to these warnings being included in the civil orders, stating that the insurance industry's efforts to water down the warnings, and denying the dangers of the virus to the public, was "morally bankrupt," "dangerous" and wrong.

BIG Meeting with President Trump

Rigie next asked about BIG's call with the president. Houghtaling stated that after his meeting with President Trump, the President recognized that not all policies have exclusions and took the position that, if a policy does not have an exclusion, insurers, insurers cannot collect the premiums to cover the claims, and then not pay them. Houghtaling again stated that "for the industry to lie about what their policies say is just wrong" and the President said we are not going to let them get away with it, to not live by the wordings of the policies themselves."

BIG's Legal Strategy

Next, Houghtaling was asked about BIG's legal strategy and how restaurant, bars, nightclub owners should be thinking about their policies and if they're denied coverage is there legal action that they should take. Houghtaling said their strategy was to file a declaratory judgment action, a very efficient declaratory action against Lloyds, not to file a big class action (which would just "make a bunch of lawyers rich"). He described the purpose of the case to be a very efficient way of asking a judge to declare what the law is – *i.e.*, to declare that it is not a defense to civil authority coverage to say the Coronavirus did not create "a dangerous property condition." He then stated that a second case was filed in Napa Valley, purportedly involving a policy that has a "virus inclusion."

Houghtaling cautioned that it is important to understand that not all policies are the same. Policyholders need to have someone who knows about the policies to read them to find out whether they have "a specific pandemic exclusion" in the policy. According to Houghtaling, the policies are tricky to read, and out of 400 policies reviewed, his office has only found three policies with a "pandemic" exclusion. He then claimed that the review found that, in 2006, following SARS, insurers intentionally wanted to exclude pandemics, but they did not use the word "pandemic" or clearly say "civil authority shutdown for pandemic, no coverage." Instead, insurers went to insurance commissioners in New York and across the country to accomplish this, and purposely did not use the word "pandemic," to exclude such claims. Rather, Houghtaling contends, "[the insurers] buried the word virus inside portions of the policies, with pollutants and other things" such as bacteria and mold. According to Houghtaling, the industry "has tricked a lot of people" and the industry does this – slide in fine print to defeat coverage --

and that is the legal battleground – whether such “virus” exclusions actually exclude the coronavirus pandemic.

As general guidance to policyholders, Houghtaling advised that if your policy has the word “pandemic” or the word “virus,” you do have a legal battle. He said that there are policies – many of them -- without these exclusions, where there is no question that coverage applies. There may be policies with pandemic exclusions that do not apply, there are policies that do apply, and there are a lot of policies in the middle.

BIG’s Political Strategy

Houghtaling took the position that fighting in court is not a solution to the present crisis because businesses cannot wait that long. “We do not have time to fight over this because the restaurant industry is running out of oxygen really quick,” while the insurance industry is sitting on “mountains of cash.” Rather, Houghtaling proposes that the insurance industry join in supporting an insurance relief bill that funds the policies so that money can be directed to the policyholders now, “and not 3-5 years from now with class action lawyers.”

Houghtaling said that he is going to be introducing a BIG insurance relief bill. He said, instead of litigation, we should come together now and have the insurance companies pay the claims they owe, and for policies that are disputed where there may be coverage, let’s save the lawyers’ fees of litigation and save the businesses now. Houghtaling also told the audience that the industry is “refusing to talk,” and that he hasn’t had a single call from any of the lobbyists or crisis managers. He asserted that this is because “a lot of people will make a lot of money defending a trillion dollar pile of cash.” He also said that there are law firms who defend insurance companies have a conflict of interest because they benefit by advising their clients to deny claims and go into prolonged litigation, stating “that’s not American.” Describing the devastation of New York City and Times Square, he said “We’re at war here.”

Later in the webinar, Houghtaling addressed what his legislative efforts look like in more detail, stating that in his view, retroactive legislation would not work. He said that he is concerned that you cannot retroactively change contracts and BIG does not support that approach. Rather, he contended the way to address this in a way that is “fair, constitutional and speedy” is:

(1) First, to bring the insurers to the table, get insurers to stop saying “we only have a trillion dollars” so we can’t pay anyone, and to force them to “stop lying and start telling the truth about how much money they have to pay on which policies they owe.” He asserts that the industry collected premiums and made profits for years, and they have to contribute some of “our cash” that they are sitting on and that they owe. According to Houghtaling, there is some percentage of these – 20 percent, 40 percent, whatever, that the insurers owe and they must pay these now.

(2) Then, to identify the policies and disputes where there is a question or gray area on what insurers owe, and on those, if the government caused the shutdown, the insurance companies would still pay the policies, including “waiv[ing] their exclusions,” but would then get reimbursement from the federal government. Insurers should pay these claims because it is

the most efficient way to get money to the policyholders, and the amounts were “pre-measured” under policies for every policyholder.

He then said that BIG has this legislation drafted and ready to go and that the benefit of this approach is that it recognizes that it “doesn’t have to be all taxpayer money, because... [the policyholders] paid a portion of it” (in premiums) and if the government funds the policies and the insurance companies contribute, then policyholders retain their first-party rights under the policies to prompt payment, the insurers have fiduciary obligations to policyholders and the insurance industry has to pay the claims in 30-60 days. Policyholders would not be beholden to “some federal fund” and claims managers who have immunity. Rather the insurers’ fiduciary obligations to pay and to do so on time, would remain intact. Retaining the potential liability of insurers for claims handling is an important part of BIG’s proposal and a reason turning this into a question of insurers managing federal money with immunity won’t work, according to Houghtaling. He referenced his work after Hurricane Sandy and 60 Minutes program in which he revealed alleged mismanagement of claims under federal programs.

Rigie summarized this, saying the legislation would essentially use the insurers as a vehicle to get the money to the policyholders because they have a structure or system in place that would work better and faster than a federal fund. Rigie then commented that this is important because “hastily-created” federal programs aren’t working for businesses such as restaurants for whom the PPP isn’t working. There are so many reasons this doesn’t work for the restaurant industry, including issues of hiring back staff to pre-pandemic levels by the end of June to allow the loan to be converted to a grant. Therefore, there is a need for different solutions.

Houghtaling specifically said “to insurance executives that are listening” that insurance companies to come together now, noting that: “The check book is open.” So instead of paying lawyers to fight claims, he urged, insurers should use the money to help solve the problem.

Nonprofit/Religious Groups to Join Initiative

Houghtaling also announced that on Tuesday BIG would start talking about “the nonprofits” and “religious leaders” who are coming together to join BIG’s initiative. He also stated that a member of the UN would be coming out to explain that “to deny these claim reserves” is really a moral issue. According to Houghtaling, “it is really a moral imperative” that when people have paid for those lifeboats, to not drop them and to leverage them (as the industry allegedly is doing) is “really a moral thing.”

Other Issues/Questions from the Attendees

In response to a question about what a policyholder should do if it has held off on submitting a claim because it did not know how to answer the question whether there has been damage to property, Houghtaling made clear that he could not give legal advice but would offer general observations. He said policyholders need to read their policies, look at the limits and not just submit a claim because insurers are looking to put the claims within an exclusion.

On showing the existence of property damage, he said that, in New York at least, the policyholder should send the insurer the Mayor's order. For civil authority coverage, he said you do not have to have a dangerous condition in your place; the Mayor said there is a dangerous condition in Manhattan. He also contended (in apparent reference to the DeVito case) that the Pennsylvania Supreme Court had a few days earlier held that shut downs due to Coronavirus are caused by a "property damage condition."

Houghtaling said policyholders should to put together a claims package for submission as soon as soon as possible, including retaining counsel. He mentioned that most state statutes set a time clock for payment of claims once a policyholder's packet of claim materials is submitted, and stressed that policyholders want to get the clock running. He also said that in New York, if you tell your insurer that if you don't pay by a certain date, I'm going to be out of business, then the insurer will have to pay consequential damages if the insurer fails to pay by that date.

In closing, Houghtaling advised policyholders to do four things:

- (1) Join BIG on its initiatives (along with NY Hospitality Alliance, Times Square Alliance, and thousands of other companies);
- (2) Send a letter to your attorney generals asking them to decide the property condition issue and make a statement that the coronavirus is a dangerous property damage condition;
- (3) Support the BIG insurance funding bill that will be introduced in Congress; and
- (4) Read their policies "because insurers are not telling the truth."

Laura A. Foggan
Stephanie V. Corrao
Crowell & Moring, LLP

"BIG" INSURANCE RELIEF ACT

PURPOSE

- Mandatory Civil authority shutdowns have adversely impacted businesses throughout the nation, the American economy relies in part upon an investment in and expectation of insurance benefits that back business assets and workforce.
- Many businesses paid policy premiums for business interruption policies and in particular coverage for civil authority shutdown of businesses.
- Many businesses who purchased business interruption coverage and Civil Authority Shutdown did so in expectation that insurance would protect the temporary shutdown of their workforce, prevent layoffs and furlough, and allow an orderly restart of operations.
- State laws mandate an orderly and prompt payment procedure of first party insurance claims and insurers have claim management resources with the expertise and skills to timely manage claim payment and distribution of funds according to expected and relied upon guidelines and benefits outlined in policy benefits that policyholders had the expectation to receive.
- *The act is designed to encourage and support insurers who timely pay business interruption coverage to policyholders adversely impacted by the coronavirus.*
- *The act provides a voluntary program for insurers who collected premiums for business interruption and civil authority coverage.*

BENEFITS & OPERATION

This act provides a voluntary program for insurers to participate into a federal insurance subsidy program. Those that opt in must pay B.I. claims on policies without virus exclusions. If they do so, Insurers can apply and receive reimbursement for B.I. claims and claim expense that are subject to a virus exclusion.



WORKPLACE RECOVERY ACT: POSITIONING BUSINESS TO JUMP START THE ECONOMY

Executive Summary:

The Workplace Recovery Act (the “WRA”) creates a streamlined federal fund to provide rapid liquidity to sectors most impaired by the COVID-19 national emergency for up to a year. Relief is designed to help businesses maintain economic viability during this prolonged emergency, which will put them in position to retain and rehire employees, maintain worker benefits, and in turn help jump start the economy. The WRA is designed to get workers back to work quickly and to get workplaces back on their feet and out of the program as soon as practical. It includes a verifiable application form designed for easy access and auditing, and strong transparency measures, including a Special Inspector General and a Congressional Oversight Board.

Purpose:

- Offset operating expenses (but not profits) for businesses imperiled as a result of COVID-19, provide resources to help them reopen, and support their ability to restart when the economy reopens.
- Empower and encourage businesses to retain and rehire their workers, with benefits, and to protect their ill or workplace-exposed employees.
- Ensure that all businesses have an equal opportunity to secure critical funding through an easily navigable form in English and Spanish. Enable the Special Administrator to prioritize support for small and mid-sized businesses, as well as women or minority-owned businesses and those that operate in rural and underserved areas impacted by the national emergency.
- Build on the small business provisions in the CARES Act with a design that is efficient, complementary, avoids gaps, and prevents fraud.

Program Administration:

- Establishes within the Treasury Department an **expedited and streamlined relief program** run by a Special Federal Administrator appointed by the Secretary of the Treasury. Funds come through advanced authorization of appropriations and the creation of an obligation of the federal government.
- Designed to provide **mid-term relief to impacted businesses**, with administrative flexibility, it terminates by early 2021 unless extended by the Secretary of the Treasury.
- Seeks to avoid delays by allowing the Special Administrator to leverage the private sector and contract with third parties that agree to assist with filings, compensation determination, payments, and auditing.
- Oversight by the Secretary of the Treasury, the Special Inspector General for Pandemic Recovery, and a Congressional Oversight Board.

Recovery Compensation:

- Simple-to-file and audit electronic forms to enable quick liquidity and business continuity.
 - Requires easy-access and auditable forms where applicants list information on impairment, on-going revenue, and known collateral sources.
 - Provides support for key costs impacting continued business viability, including compensation for payroll and benefits, and operating expenses (such as utilities, rent and interest expense on pre-crisis debt).
 - Replaces lost revenue (but not lost profits) and caps recoveries at 90% of prior year revenue.

- Provides interim expedited assistance for needs dating to the start of the national emergency, less PPP recoveries, and provides monthly prospective funding for on-going impairment.
- Provides the Special Administrator flexibility to prioritize those businesses most impacted, including women and minority-owned firms, and those critical to rural and underserved communities.

Eligibility:

- Viable businesses of any size which can demonstrate impairment by COVID-19, with limited exceptions. Businesses in chapter 7 bankruptcy are not eligible.
- Sole proprietorships, individual contractors and eligible self-employed individuals can participate. Veterans organizations, Tribal enterprises, and non-profits, with limits, are also allowed to participate.
- Designed to support businesses located in and with substantial operations in the US and to help cover losses related to US operations.
- Bars recipients of compensation from stock buybacks, dividends or other capital distributions for one year except for in specifically defined areas.

Timeline:

- Expedited regulatory formation.
- 15-day turnaround for expedited initial compensation.
- Monthly prospective compensation after the initial award for up to a year.
- Strict timetables for reports to Congress.
- Terminates on February 28, 2021, unless extended by the Secretary of the Treasury.

COVID-19 BUSINESS AND EMPLOYEE CONTINUITY AND RECOVERY FUND

Executive Summary:

The COVID-19 Business and Employee Continuity and Recovery Fund (the “Fund”) provides streamlined and tailored federal support for businesses most impaired by the COVID-19 national emergency. Relief is targeted to help businesses retain and rehire employees, maintain worker benefits, and continue or resume economic activity. The Fund is focused on supporting businesses in the most impaired sectors and includes strong anti-abuse protections.

Purposes:

- Offset operating expenses for businesses most impacted by COVID-19, supporting their ability to retain and rehire their employees, with benefits, and to provide resources to help them stay open or reopen operations.
- Protect individuals unable to work because of COVID-19 exposure or illness.
- Prioritize compensation for businesses most impacted by the COVID-19 pandemic: small businesses, including independently owned franchises, women-owned and minority-owned businesses, and businesses that operate in rural and underserved areas.
- Complement the assistance provided under the CARES Act.

Program Administration:

- Creates a streamlined relief fund run by a Special Administrator appointed by the Secretary of the Treasury.
- Expedites support to workers and businesses through accelerated processes, leveraging private sector support for application filing, compensation determination, payment, and auditing.
- Provides strong oversight and auditing by the Treasury Secretary and a Special Inspector General, with accountability to a Congressional Oversight Board.
- Authorizes advance appropriations.

Recovery Compensation:

- Simple-to-file and audit electronic forms in multiple languages to enable continued business liquidity and continuity, and retention and rehiring of employees.
 - Form requires information on impairment and known collateral sources.
 - Formula-based compensation to support payroll and benefits, as well as operating expenses (such as utilities, rent, and interest expenses).
- Provides interim expedited assistance for a percentage of a company’s needs.
- Prioritizes assistance to the most impaired businesses and supports up to four months of losses.

Eligibility:

- U.S. businesses impacted by COVID-19 that pledge to retain and rehire most of their employees, including those exposed or ill from COVID-19, at full compensation and benefits.
- Bars use of funds for stock repurchases or dividends, or to compensate highly paid employees.

Timeline:

- Expedited program formation timed to address the national emergency.
- Interim compensation decisions in 15 days and prioritized application actions in 30 days.
- Strict schedules for reports to Congress.
- Fund can be temporarily extended or renewed for recurrences of the COVID-19 pandemic.

Proposed Recovery Fund Legislation – Side by Side

Provision	The COVID-19 Recovery Fund [House]	Workplace Recovery Act (WRA) [Senate]	Comments
Purpose/ Findings/ Sense of Congress	<p>The overarching purposes are to enable employers and their employees to financially survive losses caused by the COVID-19 crisis, as well as provide liquidity to enable employers to re-enter the market as rapidly as possible. It is also designed to ensure employers can provide financial support to ill and at-risk employees.</p> <p>Provides liquidity to businesses in impaired sectors for the purpose of:</p> <ul style="list-style-type: none"> • Providing resources to stay open or re-open; • Retaining and rehiring employees and protecting their income and benefits during the crisis; • Protecting workers who are ill or who have been exposed to COVID-19 and are unable to work; • Supporting small, women- and minority-owned businesses, and those in underserved and rural areas impacted by COVID-19; and • Complementing the support provided by the CARES Act. <p>States in the Purpose that funds paid to an applicant shall be used exclusively for the purpose of domestic economic recovery.</p>	<p>“Sense of Congress” that to ensure domestic economic recovery from the COVID-19 pandemic, workplaces in impaired sectors must resume their function as strong engines of the economy and employers. It is the government’s responsibility to ensure recovery by:</p> <ul style="list-style-type: none"> • Offsetting operating expenses and supporting retention of employees • Providing resources for re-opening workplaces • Assisting employees who have contracted or been exposed to COVID-19 • Supporting small businesses, women and minority-owned businesses, and businesses serving rural and underserved areas • Complementing assistance programs under CARES Act <p>Sense of Congress suggests a prioritization of compensation if necessary (See <i>Prioritization, below</i>).</p>	<p>The House findings and purpose closely track the language of the Senate “Sense of Congress.”</p> <p>House bill limits recoveries for domestic recovery purposes, which is similar in intent to the Senate bill, which explicitly bars use of recovery funds for foreign losses. (See <i>Conditions of payment, below</i>.)</p>
Management	Administered by a Special Administrator appointed by the Secretary of the Treasury and	Administered by a Special Administrator appointed by the Secretary of the Treasury and	House and Senate bills outline a similar structure.

	<p>located at the Department of the Treasury.</p> <p>Regulations to be promulgated by the Secretary setting up administration within 30 days.</p> <p>Contemplates use of 3rd parties for determining compensation, arranging payments, and performing audits. Any third-party contracting to provide services shall be compensated on a cost basis pursuant to guidelines established by the Special Administrator in consultation with the Oversight Board.</p> <p>Limits liability of 3rd party contractors and those providing assistance to applicants, except in cases of gross negligence, willful misconduct, or fraud; preempts conflicting state law.</p> <p>Retains privilege and continues application of prior confidentiality agreements. Special Administrator and 3rd parties prohibited from disclosing non-public information except as required by law or for carrying out provisions of this Act.</p> <p>Special Administrator must make weekly reports to Congress, providing listing of eligible workplaces receiving compensation, listing of 3rd party</p>	<p>located at the Department of the Treasury.</p> <p>Regulations to be promulgated by the Secretary setting up administration within 30 days.</p> <p>Contemplates use of 3rd parties for determining compensation, arranging payments, and performing audits, regardless of whether 3rd party has previously qualified as a federal contractor. Any third-party contracting to provide services shall be compensated on a cost basis pursuant to guidelines established by the Special Administrator.</p> <p>Limits liability of 3rd party contractors and those providing assistance to applicants, except in cases of gross negligence, willful misconduct, or fraud; preempts conflicting state law.</p> <p>If a financial institution is seeking to be a 3rd party contractor, it must provide notice to its primary regulator of its intent to apply to be a 3rd party contractor. The regulator may prohibit or limit its participation for good cause.</p> <p>Retains privilege and continues application of prior confidentiality agreements. Special Administrator and 3rd parties prohibited from disclosing non-public information except as required by law or for carrying out provisions of this Act.</p> <p>Special Administrator must make weekly reports to Congress, providing listing of eligible workplaces receiving compensation, listing of 3rd party</p>	<p>House bill requires the Special Administrator to consult with the Oversight Board on compensation of 3rd party contractors.</p> <p>Senate bill allows use of 3rd party contractors regardless of whether they have previously qualified as federal contractors.</p> <p>Senate bill requires financial institutions to give notice to its primary regulator of intent to be a contractor.</p>
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	contractors, listing of outstanding appeals, and an estimate of total compensation payments.	contractors, listing of outstanding appeals, and an estimate of total compensation payments.	
Application Processing	<p>Application to be simple to file and to audit, provided in English and Spanish, as well as other languages.</p> <p>Electronic filing should be provided if practicable. Provides interim relief without use of the approved form within 15 days and requires decisions on the full compensation application within 30 days.</p>	<p>Application to be simple to file and to audit, provided in English and Spanish, as well as other languages.</p> <p>Special Administrator should consider using commonly utilized internet-based software:</p> <ul style="list-style-type: none"> • Capable of handling high volume • Interfaces with government databases • Interfaces with fraud detection systems • Provides for human review and audit • Will not under-prioritize applications based on socio-economic status, sophistication, market position or borrowing relationship of applicant • Uses government systems and 3rd parties that can ensure speed of implementation <p>Proposal specifies information to be disclosed for initial compensation and subsequent recovery compensation. All known collateral compensation must also be disclosed.</p> <p>Special Administrator must implement an automated system for review of initial applications and subsequent operating cost submissions.</p>	<p>House bill anticipates a review and determination by the Special Administrator.</p> <p>Senate bill envisions a highly automated application process with virtually automatic payments.</p> <p>Both bills limit applicants to a single application but permit joint applications for related parties.</p>
Geographic Scope	Businesses in US states <i>and</i> territories eligible to participate.	Businesses in US states <i>and</i> territories eligible to participate.	Same scope to include Puerto Rico and territories.

<p>Eligible entities (See also below)</p>	<p>Allows non-profits, veterans organizations and tribal business concerns to participate. Limits businesses eligible to receive payments to those in “impaired sectors” impacted by COVID-19 as defined by the Special Administrator.</p> <p>An applicant shall <i>not</i> be determined to be eligible by the Special Administrator <i>unless</i> the applicant—</p> <ul style="list-style-type: none"> • is a business or organization in an impaired sector as defined by the Special Administrator; • is a business or organization that is created or organized in the US or under the laws of the US and has significant operations in, and a majority of its employees based in, the US; • is not eligible for loans or loan guarantees under subsections (b)(1), (b)(2), or (b)(3) of section 4003 of the CARES Act; • in the case of an applicant that has received a loan under section 1102 of the CARES Act, has complied with all applicable borrower repayment obligations under such loan; • is not registered with the Securities and Exchange Commission as a Family Office pursuant to section 275.202(a)(11)(G)-1 of title 17 of the CFR; • to the extent not otherwise eligible, any business utilizing business format franchising as a franchisor or franchisee under part 436 of 	<p>Allows non-profits (<i>see caps on payments</i>), veterans organizations and tribal business concerns to participate.</p> <p>An applicant is eligible to participate if it:</p> <ul style="list-style-type: none"> • is a workplace or organization whose net cash expenses exceed net cash revenues subsequent to 3/1/20. • is not eligible for loans or loan guarantees under subsections (b)(1), (b)(2), or (b)(3) of s. 4003 of the CARES Act. • in the case of an applicant that has received a loan under s. 1102 of the CARES Act, has complied with all applicable borrower repayment obligations under such loan. • is not registered with the Securities and Exchange Commission as a Family Office pursuant to s. 275.202(a)(11)(G)-1 of title 17 of the CFR. <p>Applicant must also satisfy the following requirements:</p> <ul style="list-style-type: none"> • In operation on 3/1/20 and have a taxpayer ID; • Was not a Chapter 7 debtor on 3/1/20; and • If seeking payroll support, had employees on March 1 for whom applicant paid salaries/wages/payroll taxes. 	<p>House bill affirmatively requires an applicant to have a majority of its employees in the U.S.</p> <p>House bill bars participation by firms in bankruptcy. Senate bill limits participation by firms slated for liquidation.</p> <p><i>The Senate provision prohibiting SEC-registered “family office” firms from participating may be considered in the House bill.</i></p>
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	<p>title 16, CFR or a business concern operating as a franchisor or franchisee that is assigned a franchise identifier code by the SBA; and</p> <ul style="list-style-type: none"> • was in operation on 3/1/20; • was not a debtor in an active case under US Code title 11, commenced prior to 3/1/20; and • to the extent the applicant is seeking support for payroll and benefits, had employees on 3/1/20 for whom the applicant paid salaries/wages/payroll taxes. 		
Sole proprietor and self-employed applicants	“Business” defined to include those who operate under a sole proprietorship or as an independent contractor, and eligible self-employed individuals.	“Workplace” defined to include individuals who operate under a sole proprietorship or as an independent contractor, and eligible self-employed individuals	Both bills broadly define eligible entities and individuals.
Seasonal entities	Seasonal entities have special rules for compensation.	Silent, but formula contemplates payment based on seasonality.	Both bills allow participation by seasonal businesses.
Payment Structure	<p>Two tranches of payments, interim and full compensation.</p> <p>Applicants may apply for an interim payment, to be processed within 15 days, with percentage limits on interim compensation between 25% and 75% based on business size. The amount of the interim payment would be subtracted from the full compensation payment (to be processed within 30 days).</p>	<p>Initial payment and then subsequent monthly payments or as an application is received.</p> <p>Initial payment: compensation for <i>eligible revenue</i> starting on first day of month not before 3/1/2020 through the last day of the month that immediately succeeds the month in which the application is filed, subtracted from <i>eligible operating expenses</i> for the same period. Compensation to be disbursed no later than 15 days after application date.</p> <p>Subsequent monthly payments: projected eligible operating expenses for subsequent period,</p>	<p>House bill pays compensation in two tranches for average monthly revenue over four months that does not include net profits during the 18-month period before the date on which the application for recovery compensation is submitted. Specifies permissible uses of the compensation.</p> <p>Senate bill pays compensation for up to a year based on an</p>

		<p>minus projected eligible revenue for the same period, less excess payments from the prior month.</p> <p>During the Covered Period for which a workplace receives grants, the advanced grant funds are cumulative, and any workplace may terminate coverage at any point, including retroactively, provided any grants received for periods subsequent to the Covered Period are repaid upon termination.</p> <p>“Final netting” by the workplace shall occur within 6 months of the final payment.</p>	<p>initial payment and subsequent prospective monthly payments based on estimated operating expenses less revenue and excess from the prior month. Allows a participant to retroactively cancel participation.</p> <p><i>A provision like the Senate bill’s “final netting” may be considered for the House bill.</i></p>
Prioritization of Payments	<p>Payments may be prioritized by the Administrator based upon:</p> <ul style="list-style-type: none"> • business’s level of impairment as a result of COVID-19 • whether it operates in a rural or low-to-moderate income community • whether it is woman or minority-owned • whether it is a small business 	<p>Expresses a Sense of Congress suggesting prioritized compensation based on:</p> <ul style="list-style-type: none"> • Level of impairment experienced by the workplace • Workplace operates in rural or low-to-moderate income community • Workplace is women-owned business or minority-owned business • Workplace is a small business, including restaurants and independently owned franchises 	<p>Senate bill relies on a highly automated structure that is designed to eliminate the need for prioritization. Sense of Congress is designed to backstop this system.</p>
Compensation / Payments	<p>Compensation payment to a business is based upon the amount needed to continue operations with respect to lost revenue and paying expenses and payroll, limited to lesser of:</p> <ul style="list-style-type: none"> • average total monthly expense payments for 4 months • \$100 million 	<p>Initial funding determination: Expenses eligible for compensation (<i>defined below</i>) since beginning of Covered Period - Revenue (<i>defined below</i>) since beginning of Covered Period + Projected Operating Expenses for following month – Projected Revenue for following month –</p>	<p>House bill compensates for expenses needed to continue operations over four months. Specifies the business expenses which compensation may be used for (<i>below</i>).</p>

	<p>Amount of recovery compensation is adjusted monthly to take into account increases or decreases in applicant's revenue over prior month.</p> <p>To the extent that the Special Administrator is making recovery available based on lost revenue: average monthly revenue that does not include net profits for the applicant during the 18-month period before the date on which the application for recovery compensation is submitted.</p> <p>Specifies the permissible uses of the recovery compensation (<i>Expenses Eligible for Compensation, below</i>).</p> <p>Special Administrator may also take collateral source income into account in determining the amount of compensation. (<i>Collateral Source Offsets, below</i>)</p>	<p>unreturned funding from EIDL and PPP.</p> <p>Subsequent funding determinations: Projected Expenses – Projected Revenue for following month – Excess compensation from prior submissions.</p>	<p>Senate bill compensates for net operating expenses, carving out those expenses which are ineligible as operating costs (<i>below</i>).</p>
Expenses Eligible for Compensation	<p>Expenses eligible for compensation: ...Applicant's average total monthly expense payments shall be the average monthly payments by the applicant during the 1 year prior to the date on which an application is made for: (i) payroll costs; (ii) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave; (iii) any insurance premiums; (iv) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess</p>	<p>Operating costs eligible for compensation: In General--The term "eligible operating costs" means, with respect to an applicant, all cash expenses of the workplace necessary to maintain its operational viability during the covered period, but <i>shall not</i> include-- (i) Capital expenditures that are not deductible under s. 263 of the Internal Revenue Code of 1986 (26 U.S.C. 263); (ii) Payment of principal on debt obligations, except payments made under an amortization schedule written prior to 3/15/20; (iii) Payment of dividends or other capital distributions with</p>	<p>The House states the permissible uses for compensation and the Senate bill expansively defines permissible uses with certain exclusions.</p>

	<p>of an annual salary of \$100,000, as prorated for the relevant compensation period;</p> <p>(v) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);</p> <p>(vi) rent (including rent under a lease agreement);</p> <p>(vii) utilities;</p> <p>(viii) loan repayment obligations incurred pursuant to s. 1102 of the CARES Act, (PL 116-136);</p> <p>(ix) loan repayment obligations incurred pursuant to a disaster loan authorized under s. 7(b) of the Small Business Act (15 U.S.C. 636(b));</p> <p>(x) interest on any other debt obligations that were incurred before 3/1/20; and</p> <p>(xi) state and local tax obligations.</p> <p>In developing the application form, the Administrator may include:</p> <ul style="list-style-type: none"> • The average total monthly payments by the applicant for payroll, payroll support (including paid sick, medical, or family leave, and costs related to the continuation of group health care benefits during those periods of leave) during the 18-month period before 3/13/20, except that, in the case of a seasonal employer, as determined by the Special Administrator, the average total monthly payments for payroll and payroll support shall be for the period beginning 3/1/19 and ending 6/30/19. • The average total monthly payments by the applicant for mortgage payments, rent 	<p>respect to the common stock of the applicant, except to the extent the applicant is a real estate investment trust with income subject to s. 857(a) of the Internal Revenue Code of 1986;</p> <p>(iv) Payments to purchase an equity security of the applicant or any parent company of the applicant that is listed on a national securities exchange, except to the extent required under a contractual obligation that is in effect as of the date of enactment of this title;</p> <p>(v) Non-cash compensation including stock options, employee perquisites;</p> <p>(vi) Non-cash expenses related to long-term assets, including depreciation and amortization;</p> <p>(vii) Wages to the extent they exceed the average wage rates for the comparable period of 2019, other than rates adjusted according to contracts in effect prior to 3/1/20;</p> <p>(viii) Payments of periodic employment bonuses during the covered period, except those made to non-executives, non-owner employees, unaffiliated contractors, and positions compensated primarily through tips or commissions prior to 3/1/20;</p> <p>(ix) Payments to acquire land, real property, or property, plant, and equipment; and</p> <p>(x) Payments to related parties or affiliates; except those historically made in the normal course of business.</p>	
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	<p>payments, utilities, insurance payments, and payments on any debt obligations, including lost initial franchise fees or royalties paid by a franchisee to a franchisor, and lost expenses on initial franchise fees or royalties paid by a franchisee to a franchisor, incurred prior to 3/1/20, during the 18-month period before March 13, 2020.</p>		
Allowed uses of compensation	<p>Allowable uses of compensation: In General--An eligible applicant <i>may use</i> recovery compensation proceeds <i>only for</i>—</p> <ul style="list-style-type: none"> (A) payroll costs; (B) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave; (C) insurance premiums; (D) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the relevant compensation period; (E) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation); (F) rent (including rent under a lease agreement); (G) utilities; (H) loan repayment obligations incurred by the applicant pursuant to s. 1102 of the CARES Act; (I) loan repayment obligations incurred pursuant to a disaster loan authorized under s. 7(b) of the Small Business Act (15 U.S.C. 636(b)); 	<p>Allowable uses of compensation: In General--An eligible applicant <i>may use</i> recovery compensation proceeds <i>only to pay cash operating expenses included in an application</i> or subsequent submission, which <i>may include</i> —</p> <ul style="list-style-type: none"> (A) payroll costs; (B) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave; (C) insurance premiums; (D) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess of an annual salary of \$150,000, as prorated for the relevant compensation period; (E) payments of interest and scheduled principal payment on any term mortgage obligation (which shall not include any prepayment of principal on such mortgage obligation); (F) rent (including rent under a lease agreement); (G) utilities; (H) loan repayment obligations incurred pursuant to s. 1102 of the CARES Act; 	<p>The Senate allows compensation for cash operating expenses and indicates the submission <i>may include</i> the list in this section. The House bill prescribes the uses of the compensation.</p> <p>Senate uses a higher cap on compensated employee salaries.</p>

	<p>(J) interest on any other debt obligations that were incurred before 3/1/20; and</p> <p>(K) state and local tax obligations.</p>	<p>(I) loan repayment obligations incurred pursuant to a disaster loan authorized under s. 7(b) of the Small Business Act (15 U.S.C. 636(b));</p> <p>(J) interest on any other debt obligations that were incurred before 3/1/20;</p> <p>(K) state and local tax obligations; and</p> <p>(L) Such other cash operating expenses as may be necessary to maintain its operational viability during the covered period, as described under s. X02(6).</p>	
Revenue deducted from operating costs	<p>Special Administer shall calculate the average monthly revenue, including unpaid accounts receivable, that does not include net profits for the applicant during the 18-month period before the date on which the application for recovery compensation is submitted.</p>	<p>“Eligible revenue” means all cash revenue derived from normal workplace activities, including any debt forgiven pursuant to s. 1106 of the CARES Act (PL 116-136), but <i>shall not</i> include--</p> <p>(A) Proceeds from the sale of long-term assets;</p> <p>(B) Debt proceeds, including any unforgiven portion of proceeds from a loan issued pursuant to s. 1102 of the CARES Act; and</p> <p>(C) Proceeds from the issuance of equity or equity-like instruments.</p>	<p>House bill is not highly explicit about the revenue to be deducted from the compensation calculation, delegating the calculation to the Administrator.</p> <p>Senate bill allows all cash revenue from normal activities, with certain proceeds excluded.</p>
Collateral source offsets	<p>Collateral source offsets are defined as all compensation received as a result of the losses for which the applicant is seeking compensation under this title, including payments by Federal, State, or local governments, related to losses arising from the pandemic.</p> <p>Special Administrator allowed to consider collateral sources in the compensation award.</p>	<p>Collateral source offsets are defined as all compensation received as a result of the losses for which the applicant is seeking compensation under this title, including payments by Federal, State, or local governments, related to losses arising from the pandemic.</p> <p>Special Administrator allowed to consider collateral sources in the compensation award.</p>	<p>House and Senate provisions are similar.</p>

Caps on payment	Average monthly expenses for four months or \$100,000,000.	<p>Individual workplaces are capped at 90% of lost revenue on a month over month basis. (“Historical Average Revenue”).</p> <p>“Historical average revenue” means-</p> <p>(A) in the case of an applicant that was in operation prior to 3/1/19, the applicant’s total eligible revenue for the period that occurred one year prior to the covered period;</p> <p>(B) in the case of an applicant that began operation after 3/1/19, amount is prorated to correspond to the duration of the covered period, based on the sum of--</p> <p>(i) the eligible revenue period occurring prior to the covered period where the applicant was operational; and</p> <p>(ii) unless already included in clause (i), the eligible revenue during the three weeks preceding 3/1/20;</p> <p>In the case of non-profit applicant, “historical average revenue” does not include donations received during the relevant historical period.</p>	<p>Senate bill does not have an overall cap on compensation.</p> <p>House bill does not have an historical average revenue cap for each business.</p>
Conditions of Payment	<p>Businesses may only receive compensation if they compensate or provide relief to workers directly impacted (ill or exposed) by COVID-19.</p> <p>Businesses must agree to retain 90% of their workforce at the time of application and to rehire 75% of its workforce within 4 months of the termination of the national emergency.</p>	<p>Applicant should endeavor to rehire as much of the workforce that existed on 3/1/20 as practicable.</p> <p>Applicant must agree not to repurchase its own stock, to pay dividends for a 12-month period, or pay any expense to a foreign affiliate, except for REITs and pass-through entities, where a distribution is required by the IRC.</p>	<p>House bill requires retaining and rehiring of set percentages of workers and compensation for injured workers as a condition of participation.</p> <p>The Senate bill allows participation by pass-through entities engaging in mandated distributions.</p>

	Applicant must agree not to repurchase its own stock or pay dividends for a 12-month period, except REITs as required by the IRC.	No funds received by the applicant may be used for payment of an expense to a foreign person which is a related party of the applicant to which a deduction is allowable under chapter 1 of the Internal Revenue Code of 1986.	Senate bill explicitly bars monies from being used for foreign activities. <i>The House may consider this language for inclusion.</i>
Duration	No application for compensation may be filed with respect to losses accrued after the end of the national emergency proclaimed on March 13, 2020.	“Covered Period” runs through March 1, 2021. “Covered Period” refers to any consecutive set of months that runs between 3/1/20 (or later date, as selected by applicant), but not past 2/28/21, unless the Secretary determines that conditions warrant. (See <i>Duration, Termination, below</i>).	House bill ties compensation to the national emergency. The Senate bill runs through 2/28/21.
Special rule for rehired employees	Silent	Notwithstanding any other provision of law, any employee who is rehired by an eligible applicant that receives recovery compensation under this title shall remain eligible to receive federal unemployment benefits under title II of the CARES Act (PL 116-136) through July 31, 2020.	Senate bill encourages workers receiving unemployment compensation to be rehired.
Confidentiality	The Special Administrator, and any 3 rd party which obtains an applicant’s nonpublic data or information, is prohibited from sharing it except as required by law. The Special Administrator or third-party may share information as necessary to meet obligations under this title, so long as the third party agrees to maintain the confidentiality of the information.	Confidential Business Information—To the extent the information in the application is non-public information, the contents shall be deemed Confidential Business Information not subject to disclosure.	Both bills have strong confidentiality provisions to protect business information.
Determination of Appeals	Broadly outlines an appeal process managed by the Special Administrator, including review by U.S. Court of Federal Claims, which would have exclusive jurisdiction over appeals.	Broadly outlines an appeal process managed by the Special Administrator, including review by U.S. Court of Federal Claims, which would have exclusive jurisdiction over appeals.	Similar

	Attorney representation provided; compensation is limited to 10% of the difference between initial determination and the final amount after any appeal.	Attorney representation provided; compensation is limited to 10% of the difference between initial determination and the final amount after any appeal.	
Fraud/Audits	<p>Authorizes access by the Secretary and Special Inspector General to the records and other pertinent documents of the Special Administrator, as well as designated third parties and applicants, including with respect to collateral source records and documents. Requires audits and quarterly reports by the Special Inspector General.</p> <p>Program subject to review by five-member Congressional Oversight Board.</p>	<p>Secretary and Special Inspector General may audit records/documents of the Special Administrator and 3rd party contractors and any applicant, including collateral source records/documents. An applicant receiving payments under this program must maintain records for at least three years after the covered period.</p> <p>Program subject to review by five-member Congressional Oversight Board.</p>	<p>Similar</p> <p>Senate requires three years of record retention by an applicant.</p>
Funding	<p>Act would constitute budget authority in advance of appropriations Acts and represent an obligation of the federal government.</p> <p>Authorizes appropriation of such sums as may be necessary to pay the administrative and support costs for the Special Administrator in carrying out the program.</p> <p>Separate appropriations authorized for the Special Inspector General and the Congressional Oversight Board.</p>	<p>Act would constitute budget authority in advance of appropriations Acts and represent an obligation of the federal government.</p> <p>Authorizes appropriation of such sums as may be necessary to pay the administrative and support costs for the Special Administrator in carrying out the program.</p> <p>Separate appropriations authorized for the Special Inspector General and the Congressional Oversight Board.</p>	Similar
Termination	Program tied to the presidential emergency declaration, with opportunity for extension or revival if the Secretary determines there has been a resurgence of the COVID-19 threat.	Provides for closure of the program by September 1, 2021, with notice to Congress soon after 2/28/21. Secretary can extend, but no longer than 3/1/22.	House program tied to the national emergency. Senate program runs at least through February 2021.

Title XX – WORKPLACE RECOVERY ACT

SEC. X01. SHORT TITLE

This title may be cited as the “Workplace Recovery Act”.

SEC. X02. DEFINITIONS

In this title, the following definitions apply:

- (1) **APPLICANT.**--The term “applicant” means a workplace filing an application for recovery compensation under section X05(a).
- (2) **COLLATERAL SOURCE.**--The term “collateral source” means all compensation received by the applicant as a result of the losses for which the applicant is seeking compensation under this title, including payments by Federal, State, or local governments, related to losses arising from the COVID-19 pandemic.
- (3) **COVERED PERIOD.**--The term “covered period” means, with respect to an applicant, the period beginning on March 1, 2020, or such date after March 1, 2020 selected by an applicant, and ending on the last day of a month selected by such applicant, provided that such period--
 - (A) shall not exceed 12 months,
 - (B) shall be consecutive; and
 - (C) shall not extend beyond February 28, 2021, unless the Secretary determines that economic conditions warrant an extension of this period pursuant to section X08 of this title.
- (4) **COVID-19 PANDEMIC.**--The term “COVID-19 pandemic” means the national emergency proclaimed by the President on March 13, 2020.
- (5) **ELIGIBLE APPLICANT.**--The term “eligible applicant” means a workplace determined to be eligible for recovery compensation under section X05(c).
- (6) **ELIGIBLE OPERATING COSTS.**--
 - (A) **In General.**--The term “eligible operating costs” means, with respect to an applicant, all cash expenses of the workplace necessary to maintain its operational viability during the covered period, but shall not include--
 - (i) Capital expenditures that would not be deductible pursuant to section 263 of the Internal Revenue Code of 1986 (26 U.S.C. 263);

(ii) Payment of principal on debt obligations, except payments made according to an amortization schedule written prior to March 15, 2020;

(iii) Payment of dividends or other capital distributions with respect to the common stock of the applicant, except to the extent the applicant is a real estate investment trust with income subject to section 857(a) of the Internal Revenue Code of 1986;

(iv) Payments to purchase an equity security of the applicant or any parent company of the applicant that is listed on a national securities exchange, except to the extent required under a contractual obligation that is in effect as of the date of enactment of this title;

(v) Non-cash compensation including stock options, employee perquisites;

(vi) Non-cash expenses related to long-term assets, including depreciation and amortization;

(vii) Wages to the extent they exceed the average wage rates for the comparable period of 2019, other than rates adjusted according to contracts in effect prior to March 1, 2020;

(viii) Payments of periodic employment bonuses during the covered period, except those made to non-executives, non-owner employees, unaffiliated contractors, and positions compensated primarily through tips or commissions prior to March 1, 2020;

(ix) Payments to acquire land, real property, or property, plant, and equipment; and

(x) Payments to related parties or affiliates; except those historically made in the normal course of business.

(B) Limitation.--Notwithstanding subparagraph (A), the eligible operating costs of an applicant for the covered period shall not exceed 90% of the applicant's historical average revenue that corresponds to the covered period.

(C) New Workplaces.--The Special Administrator shall provide guidelines on how applicants that are new entities shall determine eligible operating costs.

(7) ELIGIBLE REVENUE.--The term "eligible revenue" means, with respect to an applicant, all cash revenue derived from normal workplace activities, including any debt forgiven pursuant to section 1106 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), but shall not include--

(A) Proceeds from the sale of long-term assets;

(B) Debt proceeds, including any unforgiven portion of the proceeds from a loan issued pursuant to section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136); and

(C) Proceeds from the issuance of equity or equity-like instruments.

(8) **ELIGIBLE SELF-EMPLOYED INDIVIDUAL.**-- The term “eligible self-employed individual” has the meaning given the term in section 7002(b) of the Families First Coronavirus Response Act (Public Law 116–127).

(9) **FINANCIAL INSTITUTION.**--The term “financial institution” means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)).

(10) **HISTORICAL AVERAGE REVENUE.**--The term “historical average revenue” means--

(A) in the case of an applicant that was in operation prior to March 1, 2019, the applicant’s total eligible revenue for the period that occurred one year prior to the covered period;

(B) in the case of an applicant that began operation after March 1, 2019, an amount prorated to correspond to the duration of the applicant’s covered period, based on the sum of--

(i) the applicant’s eligible revenue period occurring prior to the covered period where the applicant was operational; and

(ii) unless already included in clause (i), the applicant’s eligible revenue during the three weeks preceding March 1, 2020;

provided that, in the case of an applicant that is a non-profit organization, “historical average revenue” shall include such applicant’s earned revenue, and shall not include donations received, during the relevant historical period described in subparagraphs (A) and (B).

(11) **LOW-TO-MODERATE INCOME COMMUNITY.**--The term “low-to-moderate income community” means a census tract where the annualized family income of the households or residents in the census tract are below 80% of the HUD area median income for the county where the census tract is located.

(12) **MINORITY-OWNED BUSINESS.**--The term “minority-owned business” shall have the same meaning given the term under section 342(g)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(g)(4)).

(13) **SECRETARY.**--The term “Secretary” means the Secretary of the Treasury.

(14) **SPECIAL ADMINISTRATOR.**--The term “Special Administrator” means the Special Administrator appointed under section X04(a).

(15) **STATE.**--The term “State” means any State of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

(16) **UNITED STATES.**--The term “United States” means the several States, and includes the territorial sea and the continental shelf of the United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280, 2281).

(17) **WOMEN-OWNED BUSINESS.**--The term “women-owned business” shall have the same meaning given the term under section 342(g)(6) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(g)(6)).

(18) **WORKPLACE.**--The term “workplace” is intended broadly to refer to any type of for-profit business concern, nonprofit organization, veterans organization, or Tribal business concern, and shall include individuals who operate under a sole proprietorship or as an independent contractor, and eligible self-employed individuals.

SEC. X03. FINDINGS; SENSE OF CONGRESS.

(a) Findings.--Congress finds the following:

(1) The COVID-19 pandemic represents an unprecedented disruption to the U.S. economy with virtually every sector impaired in some fashion.

(2) Governmental “stay at home” orders have forced workplaces of all sizes and in nearly every sector to shut down partially or completely, dramatically threatening their viability going forward, and costing millions of jobs nationwide.

(3) Compliance with these governmental orders, while consistent with the social distancing measures required to limit the spread of COVID-19, has produced economic losses in the hundreds of billions for workplaces nationwide, through no fault of their own.

(4) As a result of this appropriate national response to the COVID-19 crisis, due process requires that workplaces be reimbursed for their economic losses resulting from government-ordered shutdowns, to the extent feasible.

(b) Sense of Congress.--

(1) It is the sense of Congress that to ensure domestic economic recovery from the COVID-19 pandemic, workplaces in impaired sectors must resume their function as strong engines of the economy and employers. It is the government's responsibility to ensure this recovery by--

(A) Offsetting operating expenses for workplaces that are partially or completely shut down as a result of COVID-19-related closures, and supporting employers' ability to retain employees and rehire employees laid off as a result of the COVID-19 pandemic;

(B) Providing resources to encourage workplaces to reopen by providing them the necessary assistance to have the resources and confidence to reopen or recover economic activity from the effects of the COVID-19 pandemic shutdown;

(C) Assisting employees of eligible employers who have contracted or have been exposed during their employment to COVID-19, who are unable to work and who would otherwise not be eligible for assistance;

(D) Providing support for small businesses, women and minority-owned businesses, and businesses serving rural and underserved areas; and

(E) Providing assistance in a manner that complements the assistance programs established under the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136).

(2) It is further the sense of Congress that, in administering the compensation program established under this title, the Special Administrator should seek to prioritize compensation payments based on--

(A) the level of impairment a workplace is experiencing as a result of the COVID-19 pandemic;

(B) whether the workplace operates in a rural or low-to-moderate income community, as determined by the Special Administrator;

(C) whether the workplace is a women-owned business or a minority-owned business;

(D) whether the workplace is a small business, including restaurants and independently-owned franchises, as determined by the Special Administrator.

SEC. X04. ADMINISTRATION

(a) In General.-- The Secretary shall appoint a Special Administrator on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, or public administration, and acting through such Special Administrator, shall--

(1) administer the recovery compensation program established under this title;

(2) promulgate all procedural and substantive rules for the administration of this title; and

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Administrator under this title.

(b) Recovery Compensation Services.--To the extent the Special Administrator determines is necessary to implement the provisions of this title in a timely manner, the Special Administrator is authorized to contract with third parties to review workplace applications, recommend compensation determinations, arrange payments, and perform audits on behalf of the Special Administrator. The Special Administrator may contract with any third party regardless of whether the party has previously qualified as a federal contractor. Any third-party contracting to provide recovery compensation services pursuant to this subsection shall be compensated on a cost basis pursuant to guidelines established by the Special Administrator.

(c) Limitation of Liability.—

(1) The provisions of this title and the services provided under subsection (b) shall be enforced by the Secretary. Any party contracting with the Special Administrator to assist in recovery compensation services pursuant to subsection (b) shall not bear any liability for the performance of such duties except for gross negligence, willful misconduct, or fraud.

(2) There shall be no liability imposed on any party for not contracting with the Special Administrator as described in paragraph (1). Any financial institution not contracting with the Special Administrator that provides assistance or information to an applicant with respect to the compensation program established under this title without receiving compensation for providing such assistance or information shall not bear any liability for the provision of such assistance or information except for gross negligence, willful misconduct, or fraud, provided that nothing in this subsection shall be construed to alter any duty or obligation owed by such party to an applicant under otherwise applicable state or federal law or by agreement with the applicant.

(3) State laws or regulations conflicting with the directions of the Special Administrator pursuant to subsection (b) are preempted to the extent of such actual or implied conflict. Notwithstanding the foregoing, if a financial institution is seeking to be a third party contractor, that institution must provide notice to its primary regulator of its intent to apply to be a third party contractor, and such regulator may prohibit or limit its participation for good cause.

(4) Governing Law and Jurisdiction.—The district courts of the United States shall have original and exclusive jurisdiction over any action arising out of a contract described in subsection (b).

(d) Confidentiality.--

(1) Retention of privilege.—The submission of any non-publicly available data and information by an applicant to the Special Administrator under this title shall not constitute a

waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.

(2) Continued application of prior confidentiality agreements.—Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between an applicant and any third party which provides an applicant's non-publicly available data or information to the Special Administrator, regarding the privacy or confidentiality of any data or information in the possession of the third party, shall continue to apply to such data or information after the data or information has been provided to the Special Administrator under this title.

(3) The Special Administrator, and any third party which obtains an applicant's non-publicly available data or information, is prohibited from sharing or selling such information except as required by law. The Special Administrator or third-party may share information as necessary to meet the obligations under this title, so long as the third party agrees in writing to maintain the confidentiality of the information.

(e) Audit authority.--

(1) In General.--The Secretary, and the Special Inspector General established under section X09 of this title, shall have access, for purposes of audit, to the records and other pertinent documents of the Special Administrator, any third party described in subsection (b), and any applicant, including with respect to collateral source records and documents, used in carrying out this title.

(2) Record Retention.--An eligible applicant that receives recovery compensation under this title shall keep such records relating to eligible operating costs and eligible revenue as will enable the Special Administrator or other authorized entity to audit compliance with the provisions of this title. Such records shall be preserved for such period as the Special Administrator may prescribe, but such period shall not be less than three years after the end of the applicable covered period.

(f) Reports.--

(1) In General.--The Special Administrator shall submit weekly reports to Congress that shall include--

(A) a listing of the eligible workplaces receiving recovery compensation under this title;

(B) a listing of each contract the Special Administrator made with third-party service providers under subsection (b), including information with respect to the services being provided under such contracts;

(C) a listing of all outstanding appeals of compensation determinations; and

(D) an estimate of the total amount of recovery compensation payments made under this title that is current as of the date on which the report is submitted.

(2) Timing.--The reports required under this subsection shall be submitted not later than 7 calendar days after the date that recovery compensation is first paid under this title, and every 7 calendar days thereafter.

(g) Special Administrator.--The Special Administrator shall be subject to the prohibition on acts affecting personal financial interest under section 208 of title 18, United States Code, and shall be subject to limitations on outside employment and outside income pursuant to title V of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(h) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Administrator (including the contracts described in subsection (b)) in carrying out this title.

SEC. X05. DETERMINATION OF ELIGIBILITY FOR RECOVERY COMPENSATION.

(a) Filing of Application for Recovery Compensation.--

(1) In general.--An applicant may file an application for recovery compensation under this title with the Special Administrator. The application for recovery compensation shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for recovery compensation and the amount of recovery compensation sought.

(2) Application form.--

(A) In general.—The Special Administrator shall develop an application form that shall be simple to file and audit for fraud that applicants shall use when submitting applications under paragraph (1). To the extent practicable, the Special Administrator shall consider utilizing a system whereby applications are submitted through a commonly utilized internet-based software interface that--

- (i) is robust and capable of handling high concurrent traffic;
- (ii) interfaces with government databases to validate legitimacy of workplace;
- (iii) interfaces with automated fraud detection systems;
- (iv) provides for human review and audit;
- (v) provides rapid application review that will not under-prioritize applicants based on socio-economic status, sophistication, market position, or borrowing relationships;

(vi) utilizes existing government systems and third party contractors that can ensure speed in implementation;

(vii) provides for automated validation of applicants utilizing Internal Revenue Service systems; and

(viii) ensures access and ease of use for applicants of all levels of sophistication, including those who do not regularly use computers.

(B) Multiple Languages.--The form developed under subparagraph (A) shall be made available in English and Spanish, and the Special Administrator may prioritize translation of the form into additional languages in order to serve the broadest pool of applicants.

(C) Contents.--The form developed under subparagraph (A) shall require that an applicant disclose--

(i) for purposes of initial compensation--

(I) the applicant's actual or projected eligible operating costs for the period beginning March 1, 2020, or on the first day of the month selected by the applicant, and ending on the last day of the month immediately succeeding the month in which the application is filed; and

(II) the applicant's actual or projected eligible revenue for the period described in subclause (I);

(ii) for purposes of subsequent recovery compensation--

(I) the applicant's projected eligible operating costs for the period beginning on the first of the month in which the application is filed and ending on the last day of the succeeding month in which such application is filed; and

(II) the applicant's projected eligible revenue for the period described in subclause (I);

(iii) all known collateral compensation; and

(iv) any other information that the Special Administrator deems necessary.

(D) Subsequent Operating Cost Submissions.--The Special Administrator shall develop a system for eligible applicants to submit, no more frequently than on a monthly basis, updates to the information submitted under subparagraph (C) for purposes of receiving operating cost payments under subparagraph (B) of subsection (b)(4).

(E) Confidential Business Information.--To the extent the information in the application is non-public information, the contents shall be deemed Confidential Business Information not subject to disclosure.

(3) Limitation.--

(A) As soon as practicable after February 28, 2021, the Special Administrator shall notify Congress of the expected closure of the program established under this title, provided such closure occurs no later than September 1, 2021.

(B) The limitation in subparagraph (A) shall not apply if the Secretary makes a determination that economic conditions warrant an extension of recovery compensation pursuant to section X08, but in no event shall the program established under this title be closed after September 1, 2022.

(4) Liability for Certain Acts.--An applicant who knowingly files, or causes to be filed, a false or fraudulent application under this title shall be liable to the United States Government for a civil penalty determined in accordance with section 3729 of title 31, United States Code.

(b) Review and Determination.--

(1) Review.--The Special Administrator shall implement an automated system to efficiently review an application submitted under subsection (a)(1), and subsequent operating cost submissions under subsection (a)(1)(D), that will determine--

(A) whether the applicant is an eligible applicant under subsection (c);

(B) the amount of initial compensation the eligible applicant shall receive pursuant to paragraph (2); and

(C) the amount of subsequent operating cost payments the eligible applicant shall receive under paragraph (3).

(2) Initial Payment Amount.--An eligible applicant's initial payment amount shall be the difference obtained by subtracting--

(A) such applicant's eligible revenue for the period beginning on the first day of the month not before March 1, 2020 for which compensation is sought, and ending on the last day of the month immediately succeeding the month in which the application is filed, from

(B) such applicant's eligible operating costs for the period described in subparagraph (A).

(3) Subsequent Operating Cost Payment Amount.-- The amount of subsequent operating cost payments to be awarded an applicant under subparagraph (C) shall be determined by subtracting from an applicant's projected eligible operating costs for such subsequent period-

-

(A) the applicant's projected eligible revenue for such subsequent period; and

(B) any excess compensation from prior submissions, as reported by an applicant.

(4) Determinations and Payments.--

(A) As soon as practicable, but no later than 15 calendar days after receipt of an application filed under subsection (a)(1), the Special Administrator shall award an initial payment determined under paragraph (2) to an applicant determined to be eligible under this subsection. If the Special Administrator requires additional information in order to make a determination under this subsection, the Special Administrator shall request such information from an applicant within 5 calendar days.

(B) Not later than 5 calendar days after the date on which an applicant makes a submission under subparagraph (D) of subsection (a)(2), the Special Master shall award a subsequent operating cost payment determined under paragraph (3)..

(5) Collateral sources.—In determining the amount of recovery compensation to be paid to an applicant under paragraph (1) the Special Administrator shall consider the amount of any collateral source compensation the applicant received or the value of collateral source compensation the applicant is reasonably certain to receive as a result of the COVID-19 pandemic.

(6) Appeals.--The Special Administrator shall promulgate regulations establishing a procedure by which an applicant may appeal directly to the Special Administrator an eligibility or compensation determination with respect to such applicant made under this title. The United States Court of Federal Claims shall have exclusive jurisdiction of an appeal from a final determination by the Special Administrator under this title.

(7) Rights of an applicant.-- In all matters related to its application, an applicant shall have the right to be represented by an attorney. Notwithstanding any contract, a representative of an applicant may not charge, for services rendered in connection with an application under this title, more than 10 percent of the difference between--

(A) the initial amount of recovery compensation awarded to such applicant as determined by the Special Administrator under paragraph (4); and

(B) the final amount of recovery compensation awarded to such applicant after any appeal of such determination.

(c) Eligibility.--

(1) In general.--An applicant shall be determined to be an eligible applicant for purposes of this subsection if the Special Administrator determines that such applicant--

(A) is a workplace or organization whose net cash expenses exceed net cash revenues subsequent to March 1, 2020.

(B) is not eligible for loans or loan guarantees under subsections (b)(1), (b)(2), or (b)(3) of section 4003 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);

(C) in the case of an applicant that has received a loan under section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136), has complied with all applicable borrower repayment obligations under such loan;

(D) is not registered with the Securities and Exchange Commission as a Family Office pursuant to section 275.202(a)(11)(G)-1 of title 17, Code of Federal Regulations; and

(E) meets the requirements of paragraph (2).

(2) Requirements.--

(A) An applicant shall not be determined to be an eligible applicant by the Special Administrator unless the applicant--

(i) was in operation on March 1, 2020, including having a valid taxpayer identification number through which the applicant reports business revenue;

(ii) was not a debtor concerning which an active case under chapter 7 of title 11, United States Code had been commenced prior to March 1, 2020; and

(iii) to the extent the applicant is seeking recovery compensation for payroll and payroll support as part of its eligible operating costs, had employees for whom the applicant paid salaries or wages, and payroll taxes.

(B) Single application.--Not more than one application may be submitted under this title by an applicant, except that, for purposes of this subparagraph--

(i) an eligible applicant that updates a prior application with revised projections of eligible costs or eligible revenue shall not be considered as submitting a new application;

(ii) in the event the Secretary notifies Congress of a renewed COVID-19 threat under section X08, an eligible applicant shall remain eligible to file a renewal or updated version of a previously filed application; and

(iii) pursuant to guidelines to be established by the Special Administrator, related entities may submit a joint application.

SEC. X06. PAYMENTS TO ELIGIBLE APPLICANTS.

(a) In General.--As soon as practicable after the Special Administrator makes an award under subsection (b)(4) of section X05, the Special Administrator shall authorize payment to such applicant of the amount awarded.

(b) Allowable Uses of Recovery Compensation.—

(1) In General.--An eligible applicant may use recovery compensation proceeds only to pay cash operating expenses included by an applicant in an application or subsequent submission, which may include —

(A) payroll costs;

(B) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave;

(C) any insurance premiums;

(D) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess of an annual salary of \$150,000, as prorated for the relevant compensation period;

(E) payments of interest and scheduled principal payment on any term mortgage obligation (which shall not include any prepayment of principal on such mortgage obligation);

(F) rent (including rent under a lease agreement);

(G) utilities;

(H) loan repayment obligations incurred by the applicant pursuant to section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);

(I) loan repayment obligations incurred by the applicant pursuant to a disaster loan authorized under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(J) interest on any other debt obligations that were incurred before March 1, 2020;

(K) state and local tax obligations; and

(L) Such other cash operating expenses as may be necessary to maintain its operational viability during the covered period, as described under section X02(6).

(2) Certification on Use of Funds.--As a condition for receipt of recovery compensation under this title, an eligible applicant shall make a certification that—

(A) to the knowledge of the applicant, the information provided in the application is accurate and any estimates are made in good faith;

(B) the applicant will endeavor to rehire as much of the workforce of the applicant that existed as of March 1, 2020, as practicable, and shall specify to the Special Administrator the amount of recovery compensation that was used for such purpose as part of the final netting process described in subsection (d); and

(C) the funds the applicant receives will not be used for a restricted purpose under subsection (c).

(c) Restrictions.—The Special Administrator shall make a payment of recovery compensation to an applicant only if such applicant agrees—

(1) until the date 12 months after the date on which the final compensation payment is made, not to repurchase an equity security that is listed on a national securities exchange of the applicant or any parent company of the applicant, except to the extent required under a contractual obligation that is in effect as of the date of enactment of this title;

(2) until the date 12 months after the date on which the final compensation payment is made, not to pay dividends or make other capital distributions with respect to the common stock of the applicant, except in the case of pass-through entities, distributions to pay required tax liabilities, and to the extent the applicant is a real estate investment trust with income subject to section 857(a) of the Internal Revenue Code of 1986; and

(3) no funds received by the applicant may be used for payment of an expense to a foreign person which is a related party of the applicant to which a deduction is allowable under chapter 1 of the Internal Revenue Code of 1986.

(d) Final Netting.--

(1) In General.--Not later than 6 months after the end of an eligible applicant's covered period, an eligible applicant shall report, pursuant to rules prescribed by the Special Administrator, a final accounting of all eligible operating costs incurred during the covered period, and all eligible revenue received during the covered period.

(2) Review.--The Special Administrator shall determine, based on a report submitted under paragraph (1), whether an applicant received any excess recovery compensation under this title during the covered period.

(3) Overpayments.--To the extent an eligible applicant received excess recovery compensation as determined by the Special Administrator, an eligible applicant shall return such excess recovery compensation to the Treasury in a manner prescribed by the Special Administrator.

(e) Special Rule for Rehired Employees.--Notwithstanding any other provision of law, any employee who is rehired by an eligible applicant that receives recovery compensation under this title shall remain eligible to receive federal unemployment benefits under title II of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136) through July 31, 2020.

(f) Payment Authority.--This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title.

SEC. X07. REGULATIONS.

Not later than 30 calendar days after the date of enactment of this Title, the Secretary, in consultation with the Special Administrator, shall promulgate regulations to carry out this title, including regulations with respect to--

- (1) forms to be used in submitting applications under this title;
- (2) the information to be included in such forms;
- (3) procedures to assist an applicant in filing and pursuing applications under this title;
- (4) the fee or fees paid by the Special Administrator for services provided under subsection (b) of section X04; and
- (5) other matters determined appropriate by the Secretary.

SEC. X08. PROGRAM RENEWAL FOR RESURGENCE OF CORONAVIRUS THREAT

In the event that the Secretary determines that a resurgence of the COVID-19 threat has resulted in economic conditions that warrant an extension or renewal of recovery compensation assistance to workplaces under this title, the Secretary shall--

- (1) Notify Congress of such determination no later than 2 calendar days after making such determination;

(2) Direct the Special Administrator to accept new and updated applications for recovery compensation under this title; and

(3) Direct the Special Administrator to establish a new closure date for the program created under this title.

SEC. X09. SPECIAL INSPECTOR GENERAL FOR COVID-19 RECOVERY FUNDS.

(a) OFFICE OF INSPECTOR GENERAL.—There is hereby established within the Department of the Treasury the Office of the Special Inspector General for COVID-19 Recovery Funds.

(b) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—

(1) IN GENERAL.—The head of the Office of the Special Inspector General for COVID-19 Recovery Funds shall be the Special Inspector General for COVID-19 Recovery Funds (referred to in this section as the “Special Inspector General”), who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) NOMINATION.—The nomination of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The nomination of an individual as Special Inspector General shall be made within 30 calendar days of enactment of this title.

(3) REMOVAL.—The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(4) POLITICAL ACTIVITY.—For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(5) BASIC PAY.—The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 3(e) of the Inspector General Act of 1978 (5 U.S.C. App.).

(c) DUTIES.—

(1) IN GENERAL.—It shall be the duty of the Special Inspector General to, in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.), conduct, supervise, and coordinate audits and investigations of the payment of recovery compensation by the Special Administrator under this title, and the administration of the provisions of this title by the Special Administrator, including by collecting and summarizing the following information:

(A) A listing of the eligible workplaces receiving recovery compensation under this title.

(C) An explanation of the reasons the Special Administrator determined it to be appropriate to make each recovery compensation determination.

(D) A listing of each contract the Special Administrator made with third-party service providers under subsection (b) of section X04, including information with respect to the fees and the services being provided under such contracts.

(E) A current, as of the date on which the information is collected, estimate of the total amount of recovery compensation payments made under this title.

(2) MAINTENANCE OF SYSTEMS.—The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duties of the Special Inspector General under paragraph (1).

(3) TESTIMONY.--The Special Inspector General shall make reasonable efforts to comply with any request to appear before a Committee of Congress for purposes of providing testimony relating to the compensation program established under this title.

(4) ADDITIONAL DUTIES AND RESPONSIBILITIES.—In addition to the duties described in paragraphs (1) and (2), the Special Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978 (5 U.S.C. App.).

(d) POWERS AND AUTHORITIES.—

(1) IN GENERAL.—In carrying out the duties of the Special Inspector General under subsection (c), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) TREATMENT OF OFFICE.—The Office of the Special Inspector General for COVID Recovery Funds shall be considered to be an office described in section 6(f)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) and shall be exempt from an initial determination by the Attorney General under section 6(f)(2) of that Act.

(e) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

(1) APPOINTMENT OF OFFICERS AND EMPLOYEES.—The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions

of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates.

(2) EXPERTS AND CONSULTANTS.—The Special Inspector General may obtain services as authorized under section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of that title.

(3) CONTRACTS.—The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4) REQUESTS FOR INFORMATION.—

(A) IN GENERAL.—Upon request of the Special Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of that department, agency, or entity shall, to the extent practicable and not in contravention of any existing law, furnish that information or assistance to the Special Inspector General, or an authorized designee.

(B) REFUSAL TO PROVIDE REQUESTED INFORMATION.—Whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the appropriate committees of Congress without delay.

(f) REPORTS.—

(1) QUARTERLY REPORTS.—

(A) IN GENERAL.—Not later than 60 calendar days after the date on which the Special Inspector General is confirmed, and once every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during the 3-month period ending on the date on which the Special Inspector General submits the report.

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include, for the period covered by the report, a detailed statement of all recovery compensation payments made under this title, as well as the information collected under subsection (c)(1).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to authorize the public disclosure of information that is—

- (A) specifically prohibited from disclosure by any other provision of law;
- (B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or
- (C) a part of an ongoing criminal investigation.

(g) **AUTHORIZATION OF APPROPRIATIONS.**— There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Inspector General to carry out this section.

(h) **TERMINATION.**—The Office of the Special Inspector General shall terminate on the date that is 1 year after the closure of the Fund by the Special Administrator under subsection (a)(4) of section X05.

(i) **COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.**—The Special Inspector General shall be a member of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General.

(j) **CORRECTIVE RESPONSES TO AUDIT PROBLEMS.**—The Secretary shall—

- (1) take action to address deficiencies identified by a report or investigation of the Special Inspector General; or
- (2) with respect to a deficiency identified under paragraph (1), certify to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Financial Services of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that no action is necessary or appropriate.

SEC. X10. CONGRESSIONAL OVERSIGHT BOARD

(a) **ESTABLISHMENT.**—There is hereby established the Congressional Oversight Board (hereafter in this section referred to as the “Oversight Board”) as an establishment in the legislative branch.

(b) **DUTIES.**—

(1) **IN GENERAL.**—The Oversight Board shall—

- (A) conduct oversight of the implementation of this title by the Department of the Treasury, including efforts of the Special Administrator to provide economic support for workplaces as a result of the coronavirus disease 2019 (COVID–19) pandemic of 2020;

(B) submit to Congress reports under paragraph (2); and

(C) review the implementation of this title by the Federal Government.

(2) REGULAR REPORTS.—

(A) IN GENERAL.—Reports of the Oversight Board shall include the following:

(i) The use by the Special Administrator of authority under this title, including with respect to the use of contracting authority and administration of the provisions of this title.

(ii) The impact of recovery compensation made under this title on the financial well-being of the people of the United States and the United States economy.

(iii) The effectiveness of recovery compensation made under this title of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

(B) TIMING.—The reports required under this paragraph shall be submitted not later than 30 calendar days after the appointment of the Special Administrator and every 30 calendar days thereafter.

(3) AUDITING.—The Oversight Board shall contract with a public accounting firm registered by the Public Company Accounting Oversight Board under section 101(c) of the Sarbanes-Oxley Act (15 U.S.C. 7211(c)) to conduct independent audits of the recovery compensation program established under this title.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Oversight Board shall consist of 5 members as follows:

(A) 1 member appointed by the Speaker of the House of Representatives.

(B) 1 member appointed by the minority leader of the House of Representatives.

(C) 1 member appointed by the majority leader of the Senate.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed as Chairperson by the Speaker of the House of Representatives and the majority leader of the Senate, after consultation with the minority leader of the Senate and the minority leader of the House of Representatives

(2) PAY.—Each member of the Oversight Board shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay for level I of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Oversight Board. Each member shall be subject to the prohibition on acts affecting personal financial interest under section 208 of title 18, United States Code, and shall be subject to limitations on outside employment and outside income pursuant to title V of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(3) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Oversight Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Oversight Board.

(4) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(5) QUORUM.—Four members of the Oversight Board shall constitute a quorum but a lesser number may hold hearings.

(6) VACANCIES.—A vacancy on the Oversight Board shall be filled in the manner in which the original appointment was made.

(7) MEETINGS.—The Oversight Board shall meet at the call of the Chairperson or a majority of its members.

(d) STAFF.—

(1) IN GENERAL.—The Oversight Board may appoint and fix the pay of any personnel as the Oversight Board considers appropriate.

(2) EXPERTS AND CONSULTANTS.—The Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) STAFF OF AGENCIES.—Upon request of the Oversight Board, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Oversight Board to assist it in carrying out its duties under the this title.

(e) POWERS.—

(1) HEARINGS AND EVIDENCE.—The Oversight Board, or any subcommittee or member thereof, may, for the purpose of carrying out this section hold hearings, sit and act

at times and places, take testimony, and receive evidence as the Oversight Board considers appropriate and may administer oaths or affirmations to witnesses appearing before it.

(2) **CONTRACTING.**—The Oversight Board may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Oversight Board to discharge its duties under this section.

(3) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Oversight Board may, if authorized by the Oversight Board, take any action which the Oversight Board is authorized to take by this section.

(4) **OBTAINING OFFICIAL DATA.**—The Oversight Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Oversight Board, the head of that department or agency shall furnish that information to the Oversight Board.

(5) **REPORTS.**—The Oversight Board shall receive and consider all reports required to be submitted to the Oversight Board under this title.

(f) **TERMINATION.**—The Oversight Board shall terminate on March 1, 2022.

(g) **FUNDING FOR EXPENSES.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Oversight Board such sums as may be necessary for any fiscal year, half of which shall be derived from the applicable account of the House of Representatives, and half of which shall be derived from the contingent fund of the Senate.

(2) **REIMBURSEMENT OF AMOUNTS.**—An amount equal to the expenses of the Oversight Board shall be promptly transferred by the Secretary and the Board of Governors of the Federal Reserve System, from time to time upon the presentment of a statement of such expenses by the Chairperson of the Oversight Board, from funds made available to the Secretary under this title to the applicable fund of the House of Representatives and the contingent fund of the Senate, as appropriate, as reimbursement for amounts expended from such account and fund under paragraph (1).

**Title XX – COVID-19 BUSINESS AND EMPLOYEE CONTINUITY AND RECOVERY
FUND - DRAFT**

SEC. X01. SHORT TITLE

This title may be cited as the “COVID-19 Business and Employee Continuity and Recovery Fund”.

SEC. X02. DEFINITIONS

In this title, the following definitions apply:

- (1) **APPLICANT.**--The term “applicant” means a business filing an application for recovery compensation under section X05(a).
- (2) **BUSINESS.**--The term “business” is intended broadly to refer to any type of for-profit business concern, nonprofit organization, veterans organization, or Tribal business concern, and shall include individuals who operate under a sole proprietorship or as an independent contractor, and eligible self-employed individuals.
- (3) **COLLATERAL SOURCE.**--The term “collateral source” means all compensation received by the applicant as a result of the losses for which the applicant is seeking compensation under this title, including payments by Federal, State, or local governments, related to losses arising from the COVID-19 pandemic.
- (4) **COVID-19 PANDEMIC.**--The term “COVID-19 pandemic” means the national emergency proclaimed by the President on March 13, 2020.
- (5) **ELIGIBLE APPLICANT.**--The term “eligible applicant” means a business determined to be eligible for recovery compensation under section X05(c).
- (6) **ELIGIBLE SELF-EMPLOYED INDIVIDUAL.**-- The term “eligible self-employed individual” has the meaning given the term in section 7002(b) of the Families First Coronavirus Response Act (Public Law 116–127).
- (7) **FINANCIAL INSTITUTION.**--The term “financial institution” means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act (12 U.S.C. 1843(k)).
- (8) **LOW-TO-MODERATE INCOME COMMUNITY.**--The term “low-to-moderate income community” means a census tract where the annualized family income of the households or residents in the census tract are below 80% of the HUD are median income for the county where the census tract is located.

(9) MINORITY-OWNED BUSINESS.--The term “minority-owned business” shall have the same meaning given the term under section 342(g)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(g)(4)).

(10) SECRETARY.--The term “Secretary” means the Secretary of the Treasury.

(11) SPECIAL ADMINISTRATOR.--The term “Special Administrator” means the Special Administrator appointed under section X04(a).

(12) State.--The term “State” means any State of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

(13) United States.--The term “United States” means the several States, and includes the territorial sea and the continental shelf of the United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280, 2281).

(14) WOMEN-OWNED BUSINESS.--The term “women-owned business” shall have the same meaning given the term under section 342(g)(6) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5452(g)(6)).

SEC. X03. PURPOSE

- (a) It is the purpose of this title to ensure domestic economic recovery from the COVID-19 pandemic by ensuring that businesses in impaired sectors can resume their function as strong engines of the economy and employers by—
- (1) Offsetting operating expenses for businesses that are partially or completely shut down as a result of COVID-19-related closures, and supporting employers’ ability to retain employees and rehire employees laid off as a result of the COVID-19 pandemic;
 - (2) Providing resources to encourage businesses to reopen by providing them the necessary assistance to survive the COVID-19 pandemic;
 - (3) Assisting employees of eligible employers who have contracted or have been exposed during their employment to COVID-19, who are unable to work and who would otherwise not be eligible for assistance;
 - (4) Providing support for small businesses and women and minority-owned businesses; and
 - (5) Providing assistance in a manner that complements the assistance programs established under the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136).

(b) Any funds paid to an applicant under this title shall be used exclusively for the purpose of domestic economic recovery as set forth in subsection (a).

(c) Prioritization.—The Special Administrator may prioritize compensation payments under this title, including the determination time requirements described in subsection (b)(3) of section X05, and consistent with the purposes set forth in subsection (a), based on –

(1) the level of impairment a business is experiencing as a result of the COVID-19 pandemic;

(2) whether the business operates in a rural or low-to-moderate income community, as determined by the Special Administrator;

(3) whether the business is a women-owned business or a minority-owned business;

(4) whether the business is a small business, including an independently-owned franchise, as determined by the Special Administrator;

SEC. X04. ADMINISTRATION

(a) In General.-- The Secretary shall appoint a Special Administrator on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, or public administration, and acting through such Special Administrator, shall--

(1) administer the recovery compensation program established under this title;

(2) promulgate all procedural and substantive rules for the administration of this title; and

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Administrator under this title.

(b) Recovery Compensation Services.--To the extent the Special Administrator determines is necessary to implement the provisions of this title in a timely manner, the Special Administrator is authorized to contract with third parties to review business applications, recommend compensation determinations, arrange payments, and perform audits on behalf of the Special Administrator. Any third-party contracting to provide recovery compensation services pursuant to this subsection shall be compensated on a cost basis pursuant to guidelines established by the Special Administrator in consultation with the Oversight Board.

(c) Limitation of Liability.—

- (1) The provisions of this title and the services provided under subsection (b) shall be enforced by the Secretary. Any party contracting with the Special Administrator to assist in recovery compensation services pursuant to subsection (b) shall not bear any liability for the performance of such duties except for gross negligence, willful misconduct, or fraud.
- (2) There shall be no liability imposed on any party for not contracting with the Special Administrator as described in paragraph (1). Any financial institution not contracting with the Special Administrator that provides assistance or information to an applicant with respect to the compensation program established under this title without receiving compensation for providing such assistance or information shall not bear any liability for the provision of such assistance or information except for gross negligence, willful misconduct, or fraud, provided that nothing in this subsection shall be construed to alter any duty or obligation owed by such party to an applicant under otherwise applicable state or federal law or by agreement with the applicant.
- (3) State laws or regulations conflicting with the directions of the Special Administrator pursuant to subsection (b) are preempted to the extent of such actual or implied conflict.
- (4) Governing Law and Jurisdiction.—The district courts of the United States shall have original and exclusive jurisdiction over any action arising out of a contract described in subsection (b).

(d) Confidentiality.--

- (1) Retention of privilege.—The submission of any nonpublicly available data and information by an applicant to the Special Administrator under this title shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.
- (2) Continued application of prior confidentiality agreements.—Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between an applicant and any third party which provides an applicant's nonpublicly available data or information to the Special Administrator, regarding the privacy or confidentiality of any data or information in the possession of the third party, shall continue to apply to such data or information after the data or information has been provided to the Special Administrator under this title.
- (3) The Special Administrator, and any third party which obtains an applicant's nonpublicly available data or information, is prohibited from sharing or selling such information except as required by law. The Special Administrator or third-party may share information as necessary to meet the obligations under this title, so long as the third party agrees in writing to maintain the confidentiality of the information.

(e) Audit authority.--

(1) In General.--The Secretary, and the Special Inspector General established under section X09 of this title, shall have access, for purposes of audit, to the records and other pertinent documents of the Special Administrator, any third party described in subsection (b), and any applicant, including with respect to collateral source records and documents, used in carrying out this title.

(f) Reports.--

(1) In General.--The Special Administrator shall submit weekly reports to Congress that shall include--

(A) a listing of the eligible businesses receiving recovery compensation under this title;

(B) a listing of each contract the Special Administrator made with third-party service providers under subsection (b), including information with respect to the services being provided under such contracts;

(C) a listing of all outstanding appeals of compensation determinations; and

(D) an estimate of the total amount of recovery compensation payments made under this title that is current as of the date on which the report is submitted.

(2) Timing.--The reports required under this subsection shall be submitted not later than 7 calendar days after the date that recovery compensation is first paid under this title, and every 7 calendar days thereafter.

(g) Special Administrator.--The Special Administrator shall be subject to the prohibition on acts affecting personal financial interest under section 208 of title 18, United States Code, and shall be subject to limitations on outside employment and outside income pursuant to title V of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(h) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Administrator (including the contracts described in subsection (b)) in carrying out this title.

SEC. X05. DETERMINATION OF ELIGIBILITY FOR RECOVERY COMPENSATION.

(a) Filing of Application for Recovery Compensation.--

(1) In general.--An applicant may file an application for recovery compensation under this title with the Special Administrator. Except as provided under paragraph (3), the

application for recovery compensation shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for recovery compensation and the amount of recovery compensation sought.

(2) Application form.--

(A) In general.—

(i) The Special Administrator shall develop an application form that shall be simple to file and audit for fraud that applicants shall use when submitting applications under paragraph (1).

(ii) The Special Administrator shall ensure that the form described in clause (i) can be filed electronically, if determined to be practicable.

(B) Multiple Languages.--The form developed under subparagraph (A) shall be made available in English and Spanish, and the Special Administrator may prioritize translation of the form into additional languages in order to serve the broadest pool of applicants.

(C) Contents.--The form developed under subparagraph (A) shall require that an applicant disclose all known collateral compensation, and shall request information on the applicant's impairment that the Special Administrator deems necessary, including information relating to the applicant's expenses, payroll, and loss of revenue due to the COVID-19 pandemic.

(D) Expenses, Payroll and Lost Revenue. In developing the contents of the form under subparagraph (C), the Special Administrator may consider requiring information on payroll, operating expenses, lost revenue, and payments to employees with potential COVID-19-related illness. Such information required may include--

(i) the average total monthly payments by the applicant for payroll, payroll support (including paid sick, medical, or family leave, and costs related to the continuation of group health care benefits during those periods of leave) during the 18-month period before March 13, 2020, except that, in the case of an applicant that is seasonal employer, as determined by the Special Administrator, the average total monthly payments for payroll and payroll support shall be for the period beginning March 1, 2019 and ending June 30, 2019;

(ii) the average total monthly payments by the applicant for mortgage payments, rent payments, utilities, insurance payments, and payments on any debt obligations, including lost initial franchise fees or royalties paid by a franchisee to a franchisor, and lost expenses on initial franchise fees or

royalties paid by a franchisee to a franchisor, incurred prior to March 1, 2020, during the 18-month period before March 13, 2020;

(iii) to the extent that the Special Administrator is making available recovery compensation for lost revenue, the average monthly revenue, including unpaid accounts receivable, that does not include net profits for the applicant during the 18-month period before the date on which the application for recovery compensation is submitted; and

(iv) the wages, salary or other payments made to employees who are unable to work because they tested positive for or were exposed to COVID-19.

(E) Confidential Business Information.--To the extent the information in the application is non-public information, the contents shall be deemed Confidential Business Information not subject to disclosure.

(3) Interim application filing.--During the period beginning on the date of enactment of this title and ending on the date on which regulations are promulgated under section X07, an applicant may file with the Special Administrator an interim application for immediate relief without the use of an approved form, provided the application includes information described in subparagraph (C) of paragraph (2) of this subsection.

(4) Limitation.--No application may be filed under paragraph (1), or paid by the Special Administrator, with respect to losses accrued after the termination of the national emergency proclaimed by the President on March 13, 2020. Within a reasonable time after such termination, and subject to the provisions of section X08, the Special Administrator shall notify Congress of the expected closure of the program established under this title, while ensuring that all applications filed prior to the termination of the national emergency receive due consideration.

(5) New Businesses.—The Special Administrator shall provide guidelines on how applicants that are new entities operating before March 13, 2020 shall substantiate their Expenses, Payroll and Lost Revenue.

(b) Review and Determination.--

(1) Review.--The Special Administrator shall review an application submitted under subsection (a)(1) and determine--

(A) whether the applicant is an eligible applicant under subsection (c); and

(B) the amount of recovery compensation the eligible applicant shall receive, on a monthly basis, based on what is necessary to maintain continuity of operations for the applicant with respect to paying expenses and payroll and compensating for lost revenue as described in subparagraph (D) of subsection (a)(2); provided that--

(i) the amount of recovery compensation the eligible applicant receives shall be adjusted each month to take into account increases or decreases in such applicant's revenue over the previous month;

(ii) the total amount of recovery compensation to which the applicant is entitled based on this subparagraph shall take into account the amount of any interim compensation awarded to the applicant pursuant to paragraph (2); and

(iii) the maximum amount of recovery compensation to which an eligible applicant may be entitled shall be the lesser of--

(I) the applicant's average total monthly expense payments, as determined under subparagraph (C), for a period not to exceed 4 months in aggregate; and

(II) \$100,000,000.

(C) Average total monthly expense payments.--For purposes of clause (iii) of subparagraph (B), an applicant's average total monthly expense payments shall be the average monthly payments by the applicant during the 1 year prior to the date on which an application is made (or in the case of a seasonal business or new business, a period determined by the Special Administrator), for--

(i) payroll costs;

(ii) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave;

(iii) any insurance premiums;

(iv) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the relevant compensation period;

(v) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);

(vi) rent (including rent under a lease agreement);

(vii) utilities;

(viii) loan repayment obligations incurred by the applicant pursuant to section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);

(ix) loan repayment obligations incurred by the applicant pursuant to a disaster loan authorized under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(x) interest on any other debt obligations that were incurred before March 1, 2020; and

(xi) state and local tax obligations.

(2) Interim applications review.--The Special Administrator shall review an interim application submitted under subsection (a)(3) and determine--

(A) whether the applicant is an eligible applicant under subsection (c); and

(B) with respect to an applicant determined to be an eligible applicant, the amount of interim compensation to which an eligible applicant is entitled under subparagraph (C).

(C) Interim compensation amount.--An eligible applicant under this paragraph shall be entitled to interim compensation in such amounts as determined by the Special Administrator not to exceed, as calculated under subparagraph (C) of paragraph (1)--

(i) in the case of an applicant with average monthly payments in excess of \$1,000,000, 25% of such payments;

(ii) in the case of an applicant with average monthly payments in excess of \$100,000 but less than \$1,000,000, 50% of such payments; and

(iii) in the case of an applicant with average monthly payments of \$100,000 or less, 75% of such payments.

(3) Determinations.--

(A) As soon as practicable, and for applications given priority by the Special Administrator under subsection (c) of section X03 not later than 30 calendar days after that date on which an application is filed under subsection (a)(1), the Special Administrator shall either request more information from the applicant or complete a review and make a determination pursuant to paragraph (1) of this subsection, and provide written notice to the applicant, with respect to the matters that were the subject of the application for recovery compensation under review. If the Special

Administrator requests additional information pursuant to this subparagraph, the Special Administrator shall absent exigent circumstances make its determination pursuant to paragraph (1) of this subsection within 30 calendar days of receiving a response to its request for more information.

(B) Not later than 15 calendar days after the date on which an interim application is filed under subsection (a)(3), the Special Administrator shall complete a review and make a determination on interim compensation pursuant to paragraph (2) of this subsection, and provide written notice to the applicant with respect to that determination.

(4) Collateral sources.—In determining the amount of recovery compensation to be paid to an applicant under paragraph (1)(B) the Special Administrator shall consider the amount of the collateral source compensation the applicant received or the value of collateral source compensation the applicant is reasonably certain to receive as a result of the COVID-19 pandemic.

(5) Appeals.--The Special Administrator shall promulgate regulations establishing a procedure by which an applicant may appeal directly to the Special Administrator an eligibility or compensation determination with respect to such applicant made under this title. The United States Court of Federal Claims shall have exclusive jurisdiction of an appeal from a final determination by the Special Administrator under this title.

(6) Rights of an applicant.-- In all matters related to its application, an applicant shall have the right to be represented by an attorney. Notwithstanding any contract, a representative of an applicant may not charge, for services rendered in connection with an application under this title, more than 10 percent of the difference between--

(A) the initial amount of recovery compensation awarded to such applicant as determined by the Special Administrator under paragraph (3); and

(B) the final amount of recovery compensation awarded to such applicant after any appeal of such determination.

(c) Eligibility.--

(1) In general.--An applicant shall be determined to be an eligible applicant for purposes of this subsection if the Special Administrator determines that such applicant--

(A) is a business or organization in an impaired sector as defined by the Special Administrator;

(B) is a business or organization that is created or organized in the United States or under the laws of the United States and has significant operations in, and a majority of its employees based in, the United States;

(C) is not eligible for loans or loan guarantees under subsections (b)(1), (b)(2), or (b)(3) of section 4003 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);

(D) in the case of an applicant that has received a loan under section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136), has complied with all applicable borrower repayment obligations under such loan;

(E) is not registered with the Securities and Exchange Commission as a Family Office pursuant to section 275.202(a)(11)(G)-1 of title 17, Code of Federal Regulations;

(F) to the extent not otherwise eligible under this paragraph, any business utilizing business format franchising as a franchisor or franchisee under part 436 of title 16, Code of Federal Regulations or a business concern operating as a franchisor or franchisee that is assigned a franchise identifier code by the Small Business Administration; and

(G) meets the requirements of paragraph (2).

(2) Requirements.--

(A) An applicant shall not be determined to be an eligible applicant by the Special Administrator unless the applicant--

(i) was in operation on March 1, 2020;

(ii) was not a debtor concerning which an active case under title 11, United States Code had been commenced prior to March 1, 2020; and

(ii) to the extent the applicant is seeking recovery compensation for payroll and payroll support as described in subsection (a)(2)(D)(i) of section X05, had employees for whom the applicant paid salaries or wages, and payroll taxes.

(B) An applicant requesting recovery compensation for losses described under subsection (a)(2)(D)(iv) of section X05 shall not be eligible for such compensation unless the applicant continued to pay salaries or wages to such employees, or will otherwise provide relief received under subsection (a)(2)(D) to such employees, who--

- (i) tested positive for COVID-19, or
- (ii) were exposed to COVID-19 in the workplace.

(C) Single application.--Not more than one application may be submitted under this title by an applicant, except that, for purposes of this subparagraph--

- (i) an eligible applicant that submitted an interim application under subsection (a)(3) shall remain eligible to file an application for recovery compensation under subsection (a)(1);
- (ii) in the event the Secretary notifies Congress of a renewed COVID-19 threat under section X08, an eligible applicant shall remain eligible to file a renewal or updated version of a previously filed application; and
- (iii) pursuant to guidelines to be established by the Special Administrator, related entities may submit a joint application.

SEC. X06. PAYMENTS TO ELIGIBLE APPLICANTS.

(a) In General.--As soon as practicable, but not later than 5 calendar days after the date on which a determination is made by the Special Administrator regarding the amount of recovery compensation or interim compensation due an applicant under this title, the Special Administrator shall authorize payment to such applicant of the amount determined with respect to the applicant.

(b) Allowable Uses of Recovery Compensation.—

(1) In General.--An eligible applicant may use recovery compensation proceeds only for—

- (A) payroll costs;
- (B) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave;
- (C) any insurance premiums;
- (D) employee salaries, commissions, or similar compensations, except that recovery compensation may not be used for the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the relevant compensation period;
- (E) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);
- (F) rent (including rent under a lease agreement);

(G) utilities;

(H) loan repayment obligations incurred by the applicant pursuant to section 1102 of the Coronavirus Aid, Relief, and Economic Security Act, (Public Law 116-136);

(I) loan repayment obligations incurred by the applicant pursuant to a disaster loan authorized under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(J) interest on any other debt obligations that were incurred before March 1, 2020; and

(K) state and local tax obligations.

(2) Certification on Use of Funds.--As a condition for receipt of recovery compensation under this title, an eligible applicant shall make a good-faith certification that—

(A) the uncertainty of economic conditions as of the date of the application makes necessary the recovery compensation request to support the ongoing operations of the applicant;

(B) the funds the applicant receives will be used to retain at least 90 percent of the applicant's workforce [as of the date of application], at full compensation and benefits, for the period that they receive compensation;

(C) the applicant intends to restore compensation and benefits to not less than 75 percent of the workforce of the applicant that existed as of March 1, 2020, no later than 4 months after the termination date of the public health emergency declared by the Secretary of Health and Human Services on January 31, 2020, under section 319 of the Public Health Services Act (42 U.S.C. 247d) in response to COVID-19;

(D) the applicant is an entity or business that is created or organized in the United States or under the laws of the United States and has significant operations in, and a majority of its employees based in, the United States; and

(E) the funds the applicant receives will not be used for a restricted purpose under subsection (c).

(c) Restrictions.—The Special Administrator shall make a payment of recovery compensation to an applicant only if such applicant agrees—

(1) until the date [12 months after the date on which the payment is made], not to repurchase an equity security that is listed on a national securities exchange of the applicant or any parent company of the applicant, except to the extent required under a contractual obligation that is in effect as of the date of enactment of this title; and

(2) until the date [12 months after the date on which the payment is made], not to pay dividends or make other capital distributions with respect to the common stock of the applicant, except to the extent the applicant is a real estate investment trust with income subject to section 857(a) of the Internal Revenue Code of 1986.

(d) Payment Authority.--This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title.

SEC. X07. REGULATIONS.

Not later than 30 calendar days after the date of enactment of this Title, the Secretary, in consultation with the Special Administrator, shall promulgate regulations to carry out this title, including regulations with respect to--

- (1) forms to be used in submitting applications under this title;
- (2) the information to be included in such forms;
- (3) procedures to assist an applicant in filing and pursuing applications under this title;
- (4) the amount of the fee paid by the Special Administrator for services provided under subsection (b) of section X04; and
- (5) other matters determined appropriate by the Secretary.

SEC. X08. PROGRAM RENEWAL FOR RESURGENCE OF CORONAVIRUS THREAT

In the event that the Secretary determines that a resurgence of the COVID-19 threat has resulted in economic conditions that warrant an extension or renewal of recovery compensation assistance to businesses under this title, the Secretary shall--

- (1) Notify Congress of such determination no later than 2 calendar days after making such determination;
- (2) Direct the Special Administrator to accept new and updated applications for recovery compensation under this title.

SEC. X09. SPECIAL INSPECTOR GENERAL FOR COVID-19 RECOVERY FUNDS.

(a) OFFICE OF INSPECTOR GENERAL.—There is hereby established within the Department of the Treasury the Office of the Special Inspector General for COVID-19 Recovery Funds.

(b) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—

(1) IN GENERAL.—The head of the Office of the Special Inspector General for COVID-19 Recovery Funds shall be the Special Inspector General for COVID-19 Recovery Funds (referred to in this section as the “Special Inspector General”), who [shall be appointed by the President, by and with the advice and consent of the Senate.]

(2) NOMINATION.—The nomination of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The nomination of an individual as Special Inspector General shall be made [within 30 calendar days of] enactment of this title.

(3) REMOVAL.—The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.), [provided that such removal is made in concurrence with the Congressional Oversight Board established under section X10.]

(4) POLITICAL ACTIVITY.—For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(5) BASIC PAY.—The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 3(e) of the Inspector General Act of 1978 (5 U.S.C. App.).

(c) DUTIES.—

(1) IN GENERAL.—It shall be the duty of the Special Inspector General to, in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.), conduct, supervise, and coordinate audits and investigations of the payment of recovery compensation by the Special Administrator under this title, and the administration of the provisions of this title by the Special Administrator, including by collecting and summarizing the following information:

(A) A listing of the eligible businesses receiving recovery compensation under this title.

(C) An explanation of the reasons the Special Administrator determined it to be appropriate to make each recovery compensation determination.

(D) A listing of each contract the Special Administrator made with third-party service providers under subsection (b) of section X04, including information with respect to the fees and the services being provided under such contracts.

(E) A current, as of the date on which the information is collected, estimate of the total amount of recovery compensation payments made under this title.

(2) MAINTENANCE OF SYSTEMS.—The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duties of the Special Inspector General under paragraph (1).

(3) TESTIMONY.—The Special Inspector General shall make reasonable efforts to comply with any request to appear before a Committee of Congress for purposes of providing testimony relating to the compensation program established under this title.

(4) ADDITIONAL DUTIES AND RESPONSIBILITIES.—In addition to the duties described in paragraphs (1) and (2), the Special Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978 (5 U.S.C. App.).

(d) POWERS AND AUTHORITIES.—

(1) IN GENERAL.—In carrying out the duties of the Special Inspector General under subsection (c), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) TREATMENT OF OFFICE.—The Office of the Special Inspector General for COVID Recovery Funds shall be considered to be an office described in section 6(f)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) and shall be exempt from an initial determination by the Attorney General under section 6(f)(2) of that Act.

(e) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

(1) APPOINTMENT OF OFFICERS AND EMPLOYEES.—The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates.

(2) EXPERTS AND CONSULTANTS.—The Special Inspector General may obtain services as authorized under section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of that title.

(3) CONTRACTS.—The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with

private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4) REQUESTS FOR INFORMATION.—

(A) IN GENERAL.—Upon request of the Special Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of that department, agency, or entity shall, to the extent practicable and not in contravention of any existing law, furnish that information or assistance to the Special Inspector General, or an authorized designee.

(B) REFUSAL TO PROVIDE REQUESTED INFORMATION.—Whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the appropriate committees of Congress without delay.

(f) REPORTS.—

(1) QUARTERLY REPORTS.—

(A) IN GENERAL.—Not later than 60 calendar days after the date on which the Special Inspector General is confirmed, and once every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during the 3-month period ending on the date on which the Special Inspector General submits the report.

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include, for the period covered by the report, a detailed statement of all recovery compensation payments made under this title, as well as the information collected under subsection (c)(1).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(g) **AUTHORIZATION OF APPROPRIATIONS.**— There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Inspector General to carry out this section.

(h) **TERMINATION.**—The Office of the Special Inspector General shall terminate on the date that is 1 year after the closure of the Fund by the Special Administrator under subsection (a)(4) of section X05.

(i) **COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY.**—The Special Inspector General shall be a member of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General.

(j) **CORRECTIVE RESPONSES TO AUDIT PROBLEMS.**—The Secretary shall—

(1) take action to address deficiencies identified by a report or investigation of the Special Inspector General; or

(2) with respect to a deficiency identified under paragraph (1), certify to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Financial Services of the House of Representatives, and the Committee on Ways and Means of the House of Representatives that no action is necessary or appropriate.

SEC. X10. CONGRESSIONAL OVERSIGHT BOARD

(a) **ESTABLISHMENT.**—There is hereby established the Congressional Oversight Board (hereafter in this section referred to as the “Oversight Board”) as an establishment in the legislative branch.

(b) **DUTIES.**—

(1) **IN GENERAL.**—The Oversight Board shall—

(A) conduct oversight of the implementation of this title by the Department of the Treasury, including efforts of the Special Administrator to provide economic support for businesses as a result of the coronavirus disease 2019 (COVID–19) pandemic of 2020;

(B) submit to Congress reports under paragraph (2); and

(C) review the implementation of this title by the Federal Government.

(2) **REGULAR REPORTS.**—

(A) IN GENERAL.—Reports of the Oversight Board shall include the following:

(i) The use by the Special Administrator of authority under this title, including with respect to the use of contracting authority and administration of the provisions of this title.

(ii) The impact of recovery compensation made under this title on the financial well-being of the people of the United States and the United States economy.

(iii) The extent to which the Special Administrator has prioritized compensation in accordance with section X03(c) of this title.

(iv) The effectiveness of recovery compensation made under this title of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

(B) TIMING.—The reports required under this paragraph shall be submitted not later than 30 calendar days after the appointment of the Special Administrator and every 30 calendar days thereafter.

(3) AUDITING.--The Oversight Board shall contract with a public accounting firm registered by the Public Company Accounting Oversight Board under section 101(c) of the Sarbanes-Oxley Act (15 U.S.C. 7211(c)) to conduct independent audits of the recovery compensation program established under this title.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Oversight Board shall consist of 5 members as follows:

(A) 1 member appointed by the Speaker of the House of Representatives.

(B) 1 member appointed by the minority leader of the House of Representatives.

(C) 1 member appointed by the majority leader of the Senate.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed as Chairperson by the Speaker of the House of Representatives and the majority leader of the Senate, after consultation with the minority leader of the Senate and the minority leader of the House of Representatives

(2) PAY.—Each member of the Oversight Board shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay for level I of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Oversight Board. Each member shall be subject to the prohibition on

acts affecting personal financial interest under section 208 of title 18, United States Code, and shall be subject to limitations on outside employment and outside income pursuant to title V of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(3) **PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.**—Members of the Oversight Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Oversight Board.

(4) **TRAVEL EXPENSES.**—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(5) **QUORUM.**—Four members of the Oversight Board shall constitute a quorum but a lesser number may hold hearings.

(6) **VACANCIES.**—A vacancy on the Oversight Board shall be filled in the manner in which the original appointment was made.

(7) **MEETINGS.**—The Oversight Board shall meet at the call of the Chairperson or a majority of its members.

(d) **STAFF.**—

(1) **IN GENERAL.**—The Oversight Board may appoint and fix the pay of any personnel as the Oversight Board considers appropriate.

(2) **EXPERTS AND CONSULTANTS.**—The Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) **STAFF OF AGENCIES.**—Upon request of the Oversight Board, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Oversight Board to assist it in carrying out its duties under the this title.

(e) **POWERS.**—

(1) **HEARINGS AND EVIDENCE.**—The Oversight Board, or any subcommittee or member thereof, may, for the purpose of carrying out this section hold hearings, sit and act at times and places, take testimony, and receive evidence as the Oversight Board considers appropriate and may administer oaths or affirmations to witnesses appearing before it.

(2) **CONTRACTING.**—The Oversight Board may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Oversight Board to discharge its duties under this section.

(3) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Oversight Board may, if authorized by the Oversight Board, take any action which the Oversight Board is authorized to take by this section.

(4) **OBTAINING OFFICIAL DATA.**—The Oversight Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Oversight Board, the head of that department or agency shall furnish that information to the Oversight Board.

(5) **REPORTS.**—The Oversight Board shall receive and consider all reports required to be submitted to the Oversight Board under this title.

(f) **TERMINATION.**—The Oversight Board shall terminate on the date that is 1 year after the closure of the Fund by the Special Administrator under subsection (a)(4) of section X05.

(g) **FUNDING FOR EXPENSES.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Oversight Board such sums as may be necessary for any fiscal year, half of which shall be derived from the applicable account of the House of Representatives, and half of which shall be derived from the contingent fund of the Senate.

(2) **REIMBURSEMENT OF AMOUNTS.**—An amount equal to the expenses of the Oversight Board shall be promptly transferred by the Secretary and the Board of Governors of the Federal Reserve System, from time to time upon the presentment of a statement of such expenses by the Chairperson of the Oversight Board, from funds made available to the Secretary under this title to the applicable fund of the House of Representatives and the contingent fund of the Senate, as appropriate, as reimbursement for amounts expended from such account and fund under paragraph (1).

COVID-19 Recovery Fund Coalition

American Booksellers Association	International Health, Racquet & Sportsclub Association (IHRSA)
American Gaming Association	International Warehouse Logistics Association (IWLA)
American Gear Manufacturers Association (AGMA)	Mortgage Bankers Association (MBA)
Associated General Contractors of America (AGC)	NAIOP, the Commercial Real Estate Development Association
American Land and Title Association (ALTA)	National Apartment Association (NAA)
American Property Casualty Insurance Association (APCIA)	National Association of Convenience Stores (NACS)
Asian American Hotel Owners Association (AAHOA)	National Association of Mutual Insurance Companies (NAMIC)
Association for Advanced Life Underwriting (AALU)	National Association of Professional Insurance Agents (PIA)
Association of Equipment Manufacturers (AEM)	National Association of Real Estate Investment Trusts (NAREIT)
Auto Care Association	National Association of REALTORS®
Automotive Oil Change Association (AOCA)	National Association of Theatre Owners (NATO)
Automotive Service Association	National Community Pharmacists Association
Building Owners and Managers Association International (BOMA)	National Franchisee Association (NFA)
California Automotive Business Coalition	National Multifamily Housing Council (NMHC)
Certified Commercial Investment Member Institute (CCIM Institute)	National Restaurant Association
Coalition of Franchisee Associations (CFA)	National Retail Federation (NRF)
Council of Development Finance Agencies (CDFA)	National Waste and Recycling Association (NWRA)
CRE Finance Council	NATSO
The Council of Insurance Agents & Brokers (CIAB)	The Payroll Group (TPG)
Franchise Business Services (FBS)	The Petroleum Marketers Association of America (PMAA)
Independent Automotive Professionals Assn. of CA (IAPA)	Real Estate Board of New York (REBNY)
Independent Insurance Agents & Brokers of America (IIABA)	The Real Estate Roundtable (RER)
Independent Lubricant Manufacturers Association (ILMA)	Retail Industry Leaders Association (RILA)
Institute of Retail Estate Management (IREM)	Reinsurance Association of America (RAA)
International Association of Amusement Parks and Attractions (IAAPA)	Save Small Business Coalition
International Association of Venue Managers (IAVM)	Society of Collision Repair Specialists (SCRS)
International Carwash Association	Society of Independent Gasoline Marketers of America (SIGMA)
International Council of Shopping Centers (ICSC)	Specialty Equipment Market Association (SEMA)
International Foodservice Distributors Association (IFDA)	Tire Industry Association (TIA)
	U.S. Travel Association
	Wholesale & Specialty Insurance Association (WSIA)



