

COVID-19 BUSINESS AND EMPLOYEE CONTINUITY AND RECOVERY FUND

Frequently Asked Questions

Creation of The Fund

What are the purposes of this Fund? The overarching purposes of the Fund 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 when it is safe to do so. It is also designed to ensure employers can provide financial support to ill and at-risk employees. Specifically, the Fund provides streamlined liquidity to businesses in impaired sectors for the purpose of:

- 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-owned, and minority-owned businesses, and businesses in underserved and rural areas impacted by COVID-19; and
- Complementing the support provided by the CARES Act.

Why is this program in the national interest? Government mandates that have been put in place to stem the spread of COVID-19, such as wide-spread quarantines, travel restrictions and social-distancing measures, have created an unprecedented level of disruption in business and non-profit activity. The Fund prioritizes relief to employers, in order to maintain their viability and rapidly restore their business activities. Doing so is critical to ensure continued solvency and revitalization of the American economy.

Why is this structure necessary and is it complementary to the CARES Act? The Fund is designed to be complementary to the Paycheck Protection Program (PPP) and Main Street Lending Facility. While the PPP loans authorized by the CARES Act are forgivable in certain circumstances, they are a one-time only option and may not provide enough liquidity for other necessary expenses required for business continuity. Importantly, payments through the Fund would be grants, not loans, to stabilize the balance sheets of eligible impacted businesses and not add additional debt obligations to these businesses. The Fund would take into account any collateral assistance or compensation to businesses, such as loan forgiveness, regarding the same losses. Additionally, Fund payments could be used to pay debt service on Economic Injury Disaster Loans (EIDL). Claw back provisions on Fund grants may be triggered for non-payment on one of these previously incurred loans.

How would this program be different from the TRIA model for a federal backstop? This Recovery Fund is not a prospective program, but a response to the immediate need of businesses. Economically, both TRIA and this Fund are designed to provide liquidity in a time of crisis, but that is where the similarities end. Certain risks, such as a viral pandemic, are generally uninsurable, excluded from business interruption insurance policies, and need a government solution. The Recovery Fund is a temporary program to help absorb the costs related to the current COVID-19 pandemic. While there is a need to develop a prospective long-term solution to mitigate future pandemic risks to employers, that should be considered separately.

Is the program targeted to those businesses most in need? The Fund is designed to serve the immediate needs of businesses and employees in highly impacted sectors through carefully designed prioritization criteria and limits on recovery. The Fund could serve as a transition to longer-range programs.

Does the program have broad support? A large coalition of the U.S. business community, including over 60 national associations of small and medium-sized businesses and their business insurers, supports the Fund proposal.

Beneficiaries Under the Fund

Who has access to this Fund? Eligible applicants include businesses, nonprofit organizations, veterans' organizations and tribal businesses. The Fund is created expressly for the purpose of preserving the wages and health care coverage of employees of eligible employers. Payments would be provided to eligible applicants that meet simple application requirements and agree to the terms of the program. These eligibility requirements are like those used for Small Business Administration loans, as provided under the CARES Act.

What does the Fund cover? The Fund would provide federal payments based on a formula that takes into consideration payroll, employee benefits, ongoing core operating expenses, lost income of sick employees, and lost revenue (*but not lost profits*). This assistance is necessary to keep businesses operating, employing American workers, and rapidly rehiring those laid off during this unprecedented period of strain on the U.S. economy.

How is the program targeted? While small and highly impacted businesses are a top priority, the applicant may be a viable business of any size that can demonstrate impairment by COVID-19. Applications will be prioritized to help meet the needs of:

- Small businesses, including independently owned franchises;
- Businesses serving underserved or rural communities;
- Businesses directly impaired by the crisis, such as those shut down or partially closed;
- Minority and women-owned businesses; and
- Businesses which have committed to rehiring workers and restoring their benefits.

How does the Fund restore jobs and benefits? In order to participate in the Fund, businesses must agree to continue compensating at least 90% of the employees on the payroll at the time of the application, through September 1, with full pay and benefits, and must intend to restore at least 75% of its workforce on the payroll as of March 1, back to the payroll with full pay and benefits, within 4 months of the termination of the national emergency.

What employee protections are in the Fund? The Fund expressly seeks to support ill employees and employees exposed to COVID-19 at their work by requiring a business applicant to demonstrate it has paid wages or salary, or otherwise provided relief to its ill or exposed employees. The Fund will allow employers to provide support to employees who might not otherwise qualify for health care benefits and ensures that employees with COVID-19 illness or exposure continue to receive salary or wages, as well as benefits where applicable.

What are the business costs covered by the Fund? The Fund is designed to cover on-going business costs, necessary to keep the lights on and employees on the payroll. Costs covered by the Fund include:

- Payroll, including employee salaries, commissions and similar compensation, limited to no more than \$100,000 for any one individual annual salary;
- Continuation of health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- mortgage interest, rent and utility payments;
- loan repayments under section 1102 of the CARES Act; and
- interest on debts incurred before March 1, 2020.

What limitations are placed on using the Fund? Companies utilizing the program are restricted from stock buybacks and issuing dividends in the year following receipt of funds. Businesses that received assistance under the CARES Act section 4003, which provided relief for the cargo and passenger airline industry, and businesses related to national security, are not be eligible to participate.

Are disbursements under the Fund subject to Federal income tax? The proposed legislation is silent on the tax treatment of compensation provided by the program, but consideration should be given to treating compensation as tax-exempt, similar to how other disaster relief assistance is treated.

Fund Administration

What does the administration of this Fund look like? The Secretary of the Treasury will appoint a Special Administrator to ensure the effective management of the Fund. In order to ensure its effective performance, the legislation builds in two additional protections in addition to oversight by the Secretary; a Special Inspector General and a congressionally appointed Oversight Board.

The Special Administrator will be responsible for processing applications and making payments of all valid applications under the Fund. Because the Fund is limited to the time period established for the declared pandemic, the Special Administrator will have set timelines to make payments quickly.

The Fund will operate quickly and efficiently:

- Applicants would complete a simple, on-line form submitted to the Special Administrator for expedited consideration, auditable for fraud.
- Forms and instructions would be available in multiple languages, including Spanish.
- Once the information is verified, interim disbursements for a percentage of the total relief could be made within 15 days.
- Final disbursements would be made within 30 days of approval of an application.
- Confidentiality of the business information of the applicant would be assured.

What oversight is in place for the Special Administrator? The Special Administrator will be part of the Treasury Department, and as such, is subject to oversight of the Secretary of the Treasury. A Special Inspector General for COVID-19 Recovery Funds and a congressionally appointed Oversight Board will ensure the accountability of the program. The Special Inspector General will have access, for purposes of audit, to the records and other pertinent documents of the Special Administrator, as well as to the records of third-party service providers and applicants. The Oversight Board will review the operations

of the Fund and will have the right to hold oversight hearings, as necessary, and will issue reports on the Fund's performance to Congress.

If a business receives funds from the program, will it impact the business's ability to file for bankruptcy?

The objective of this program is to provide sufficient resources to sustain the business and keep employees on the payroll through the COVID-19 crisis. Realistically, there will be some subsequent business failures, even with support from this program, and so it does not prohibit a business making a good faith application from subsequently filing for protection. Businesses now in bankruptcy are not eligible to participate in the Fund.

Can businesses submit an SBA loan application and an application to this Fund at the same time? What happens if both are approved? Eligible businesses are encouraged to utilize the various tools being created to help navigate the COVID-19 crisis. It is likely that collateral source compensation, which could include forgiven loans from the SBA 7(a) program, would be factored into the formula for payments under the fund.

Would the Special Administrator adjudicate applications to the Fund? Yes. The Special Administrator will determine the validity of the applications submitted to the Fund and making appropriate payments.

How would the Fund handle the administrative burden, given the high volume of expected applications?

The Special Administrator could enhance and speed service through third-party service providers. Those duties would include automated calculations, quick review, verification and payments, and an audit at the end, based on rules established by the Special Administrator. Decision-making regarding payment amounts would largely be automated, based on back end validation of IRS data and payment tables established by the Special Administrator.

How would the Special Administrator make decisions quickly? The Special Administrator will be authorized to contract with third-party servicing agents to process applications on the front end, automate the decision-making process, and make payments under this Fund, thus expediting the overall payments process. Completion of an application that includes the information needed to begin a fund payment would allow for automated calculations of the initial payment.

What type of organizations could contract with the Special Administrator to process and make payments? A variety of third-party servicing agents that are approved by the Special Administrator could process and make payments. For example, technology companies, banks, credit card companies, insurance companies, insurance agents and brokers, on-line payment processors, payroll processors and others could apply to expedite and facilitate payments.

What specific role is played by the insurance industry? Insurance companies, as well as agents and brokers, could contract with the Special Administrator to help consumers submit their applications for assistance and to process payments. They could also inform their policyholders about the availability of the Recovery Fund and the procedure they need to follow in order to apply for assistance.

Why don't insurers just handle all the claims? The volume of potential claims would overwhelm insurers' systems and staff. For example, the largest number of catastrophe-related claims handled by the insurance industry was just over 3 million in 2005 following Hurricanes Katrina, Rita and Wilma. However, there are more than 30 million small businesses that may be impacted by the emergency.

Currently, there is no program available to help businesses deal with viral pandemic events; that is why this Fund is necessary. Insurers want to help their policyholders and would have the ability to contract with the Special Administrator if they have such capability, but the universe of applicants for the program is much larger than the number of insurance policyholders. Limiting Fund administration only to insurers would limit the Special Administrator's ability to leverage the full capabilities of the private sector and could potentially create a bottleneck in the administration of the Fund.

What are the benefits of this approach? The Fund will provide an efficient and expeditious mechanism for providing recovery assistance on a large scale, while remaining accountable and auditable within the existing governmental structure. It is a flexible tool, by which the Administration can aid companies for payroll, operating expenses, and lost revenue.

Timing and Funding of the Program

How large is the Fund and how would it be paid for? Given the unprecedented size, scope and duration of the crisis, the Fund is supported by advance authorizations and the creation of an obligation of the federal government.

Is this Fund a bailout? No. A bailout suggests that a business or associated industry was somehow at fault. Those suffering from the effects of the national emergency are not asking for a bailout, but they do require economic assistance to restore lost liquidity for payroll, payroll support, and ongoing core operating expenses. The Fund does not compensate for lost profits and it does not support payments to highly paid employees. This assistance is necessary to keep businesses operating and to support American workers during this unprecedented period of strain on the U.S. economy.

How long would this program last? The program does not cover losses that occur after the termination of the national emergency declared by the President on March 13. The program would continue in existence until applications for reimbursement for losses incurred up to the termination date are paid.

How does the Fund respond in case of a resurgence of the pandemic? The Secretary of the Treasury is authorized to extend or renew the Fund after the expiration of a national emergency should economic conditions driven by the pandemic require new or continued business support.