

COVID-19 Funding Accountability Act of 2020 (S. 3578)

Sponsored by Sen. Finance Committee Chairman Chuck Grassley

Section-by-Section Summary

Sec. 1. Short Title and Table of Contents. This title may be cited as the “COVID-19 Funding Accountability Act.”

Sec. 2. Purpose.

Provides that the purpose of this Act is to ensure that the Federal authority and assistance that is extended to private entities in response to the outbreak of the Coronavirus Disease 2019 (COVID-19) is used in a manner that—

- promotes economic sustainability of severely distressed sectors of the United States economy;
- promotes jobs for working Americans and maximizes overall returns to the taxpayers of the United States; and
- provides public accountability for the exercise of such Federal authority and assistance.

Sec. 3. Definitions.

Provides definitions of selected terms: “Appropriate Committees of Congress,” “Congressional Support Agencies,” “COVID-19 Relief Program,” “Exchange Stabilization Fund.”

Sec. 4. COVID-19 Relief Oversight Board.

Creates a COVID-19 Relief Oversight Board (“Oversight Board”), comprised of executive branch officials, which is responsible for reviewing the exercise of authority under the COVID-19 Relief Program that relates to policies implemented to—

- increase loan forgiveness, loan eligibility, and loan deferment of eligible small businesses under section 7(a) of the Small Business Act (15 U.S.C. 6636(a);
- extend grants or other forms of financial assistance to business concerns in response to the outbreak of COVID-19;
- make resources available, through the Medicare and Medicaid programs, to hospitals and long-term care facilities for the elderly in response to the COVID-19 outbreak;
- extend emergency relief to distressed sectors of the United States economy through the Treasury Department’s Exchange Stabilization Fund.

Tasks the Oversight Board with reviewing the effect of such policies and initiatives on the supply chain and the economy and with making recommendations, as appropriate, to designated executive branch officials. Specifies that this Board also shall have the authority to ensure that the policies implemented through the Treasury Department’s Exchange Stabilization Fund are—

- in accordance with the purposes of this Act;
- in the economic interests of the United States; and
- consistent with protecting taxpayers’ interests.

Clarifies that Oversight Board may appoint a credit review committee for the purpose of evaluating the exercise of the authority provided under the COVID-19 Relief Program. Also calls for the Oversight Board to report any suspected fraud, misrepresentation, or malfeasance to the Special Inspector General for the COVID-19 Relief Program (created under this Act) or the Attorney General of the United States.

Calls for the Oversight Board to meet every two weeks, report to Congress at least quarterly, and include in its membership the following: (1) the Administrator of the Small Business Administration; (2) the Secretary of the Treasury; (3) the Secretary of Transportation; (3) the Secretary of Commerce; (4) the Secretary of Health and Human Services; and (5) the Administrator of the Federal Emergency Management Administration. Calls for the chair to be elected by members of the board from among the board members (other than the Administrator of the Small Business Administration and the Secretary of the Treasury).

Specifies that the Oversight Board's role comes to an end after the expiration of the national emergency declared by the President with respect to the COVID-19 or after the Exchange Stabilization Fund ceases to make loans, loan guarantees, and investment or other assistance to air carriers and other key businesses affected by COVID-19.

Sec. 5. Conflicts of Interest.

Calls for Director of the Office of Management and Budget ("OMB") to issue any regulations or guidelines necessary to address and manage, or to prohibit, conflicts of interest that may arise in connection with the administration and execution of the authorities provided under the COVID-19 Relief Program. Deadline for their issuance is "as soon as practicable after the date of enactment" of this Act.

Sec. 6. Executive Compensation and Corporate Governance.

Specifies that any private entity receiving loans, loan guarantees, grants, or other assistance through the Exchange Stabilization Fund shall be subject to executive compensation requirements in the Act and the provisions under the Internal Revenue Code of 1986, as applicable. Bars entities receiving this COVID-19 relief from the Federal government providing incentives for senior executive officers of a private entity to take unnecessary and excessive risks that threaten the value of such entity. Also bars the entity receiving such relief from making any bonus, incentive compensation or golden parachute payment to a senior executive officer during the period in which such private entity receives Federal assistance through the Exchange Stabilization Fund. Defines the term "senior executive officer" as an individual who is one of the top 5 highly paid executives of a public or private corporation or limited liability company.

Includes a sunset provision, specifying that these limitations on executive compensation will apply only to arrangements entered into during the period in which the entity received Federal assistance in response to the COVID-19 outbreak.

Sec. 7. Oversight and Audits.

Calls for the Comptroller General, who heads the nonpartisan watchdog agency of Congress, to commence ongoing oversight of Federal coronavirus relief initiatives and activities. Authorizes this government watchdog agency, the Government Accountability Office (“GAO”), to have access, upon request, to any information or papers, things, or property needed to carry out this oversight function.

Calls for the U.S. Treasury to reimburse GAO for costs of such oversight, and requires GAO to report, at least every 60 days, to Congress and the Special Inspector General for the COVID-19 Relief Program established under this Act. Confirms that GAO may also submit special reports under this subsection as warranted by the findings of its oversight activities.

Further clarifies that GAO may audit the programs, activities, receipts, expenditures, and financial transactions of Federal entities involved in extending authority or assistance to private entities in response to the COVID-19 outbreak. Federal agencies or departments subject to such audits must take action to address deficiencies identified in the audits, as appropriate or certify to appropriate committees of Congress that no action is necessary or appropriate. Specifies circumstances for termination of GAO’s oversight authority after the national emergency ends or the coronavirus relief activities cease.

Sec. 8. Special Inspector General for Covid-19 Relief Program.

Establishes the Office of the Special Inspector General for the COVID-19 Relief Program and authorizes \$50 million for this purpose in fiscal year 2021. Specifies that such individual shall be appointed by the President, by and with the advice and consent of the Senate; and the appointment shall be made “on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.”

Sets the rate of pay for such individual and specifies that his or her duties are “to conduct, supervise, and coordinate audits and investigations of Federal assistance and relief programs established in response to the COVID-19 outbreak.” Clarifies that, in addition to the duties specified in this Act, the Special OIG shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

Requires that the Special OIG report to Congress within 60 days after his or her Senate confirmation, and every calendar quarter thereafter, on activities. Each report must include, for the period covered by such report, a detailed statement of all purchases, obligations, expenditures, and revenues associated with the Exchange Stabilization Fund and any COVID-19 Relief Program involving the expenditure of more than \$5 million.

Specifies that this section does not authorize the public disclosure of information that is—

- specifically prohibited from disclosure by any other provision of law;
- 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
- a part of an ongoing criminal investigation.

Also specifies a termination date for the OIG's authority.

Sec. 9. Congressional Oversight Panel.

Creates a Congressional Oversight Panel ("Oversight Panel") within the legislative branch, comprised of five members appointed by the House Speaker and Senate Leader. Specifies that its duties are to review the current state of the financial markets and submit the regular reports to Congress on the following:

- The use by Federal officials of authority to implement COVID-19 Relief Program;
- The impact of the COVID-19 Relief Program on the financial markets, air carriers, and medical providers.
- The extent to which the information made available on transactions under the Exchange Stabilization Fund has contributed to market transparency.
- The effectiveness of the program from the standpoint of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

Specifies that reports must be submitted every 30 days after the date on which the Exchange Stabilization Fund begins to make loans, loan guarantees, and investment assistance in response to the COVID-19 outbreak. Also calls for panel to submit a special report on regulatory reform by March 31, 2021, analyzing the current state of the regulatory system and its effectiveness at overseeing the recipients of COVID-19 relief and protecting consumers, and providing recommendations for improvement.

Sets the rate of pay and travel expenses of each member of the Oversight Panel, authorizes the hiring of staff, executive branch detailees, and temporary consultants. Bars Oversight Panel members who are full- time Federal employees from receiving additional pay, allowances, or benefits by reason of their service on the panel. Provides that four members of the Oversight Panel shall constitute a quorum but a lesser number may hold hearings. Clarifies that a vacancy on the Oversight Panel shall be filled in the manner in which the original appointment was made.

Provides that the panel shall meet at the call of the chair or a majority of its members. Permits the panel, for the purpose of carrying out this section, to hold hearings, swear in hearing witnesses, take testimony, and receive evidence as it considers appropriate. Also clarifies when the panel can get official data, and receive reports required to be submitted to the panel under this Act. Specifies a termination date for the Oversight Panel. Authorizes such sums as may be necessary for the Oversight Panel to operate, with this funding derived from the applicable account of the House of Representatives, and half of which shall be derived from the Senate's contingent fund.

Sec. 10. Cooperation with the Department of Justice and the FBI. Provides that any Federal financial regulatory agency shall cooperate with the Department of Justice and the Federal Bureau of Investigation and other law enforcement agencies investigating fraud, misrepresentation, and malfeasance with respect to development, advertising, and sale of financial or other products.

Sec. 11. Information for Congressional Support Agencies. Provides that all information used by Federal officials in connection with activities authorized under this Act (including the records to which GAO is entitled under this Act) will be made available to the Congressional Budget Office and the Joint Committee on Taxation, upon request, so that these agencies can assist with congressional oversight monitoring, and analysis of the COVID-19 relief assistance activities.