The Eighth Report of the Congressional Oversight Commission

December 31, 2020

Commission Members
U.S. Representative French Hill
U.S. Representative Donna E. Shalala
U.S. Senator Pat Toomey

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INTRODUCTION

This is the eighth report of the Congressional Oversight Commission ("Commission") created by the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").[1] The Commission's role is to conduct oversight of the implementation of Division A, Title IV, Subtitle A of the CARES Act ("Subtitle A") by the U.S. Department of the Treasury ("Treasury") and the Board of Governors of the Federal Reserve System ("Federal Reserve"). Subtitle A provides $500 billion to the Treasury for lending and other investments "to provide liquidity to eligible businesses, States, and municipalities related to losses incurred as a result of coronavirus."[2]

Of this amount, $46 billion is set aside for the Treasury itself to provide loans or loan guarantees to certain types of companies. Up to $25 billion is available for passenger air carriers, eligible businesses certified to inspect, repair, replace, or overhaul services, and ticket agents. Up to $4 billion is available for cargo air carriers, and up to $17 billion is available for businesses "critical to maintaining national security."[3] Any unused portions of this $46 billion, and the remaining $454 billion, may be used to support emergency lending facilities established by the Federal Reserve.

The CARES Act charges the Commission with submitting regular reports to Congress on:

- The Federal Reserve's use of its authority under Subtitle A, including the use of contracting authority and administration of the provisions of Subtitle A.
- The impact of loans, loan guarantees, and investments made under Subtitle A on the financial well-being of the U.S. economy.
- The extent to which the information made available on transactions under Subtitle A has contributed to market transparency.
- The effectiveness of loans, loan guarantees, and investments made under Subtitle A in minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.[4]

In its first report to Congress on May 18, 2020, the Commission stated that it is responsible for answering two basic questions:

- What are the Treasury and the Federal Reserve doing with $500 billion of taxpayer money?

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[1] CARES Act, Pub. L. No. 116-136, § 4020, 134 Stat. 281 (2020).
[2] *Id.* § 4003(a).
[3] *Id.* § 4003(b). In addition, Division A, Title IV, Subtitle B of the CARES Act ("Subtitle B") authorized the Treasury to provide up to $32 billion in financial assistance to passenger air carriers, cargo air carriers, and certain airline industry contractors that must be exclusively used for the continuation of payment of employee wages, salaries, and benefits. Of this amount, up to $25 billion is available for passenger air carriers; up to $4 billion is available for cargo air carriers; and up to $3 billion is available for certain airline industry contractors. Subtitle B is not within the jurisdiction of the Commission.
[4] *Id.* § 4020.

- Who is that money helping?[5]

At this time, the emergency lending facilities established by the Federal Reserve that are receiving CARES Act funds are:

> Primary Market Corporate Credit Facility ("PMCCF") and Secondary Market Corporate Credit Facility ("SMCCF"): Through a special purpose vehicle ("SPV"), the PMCCF enables the Federal Reserve to purchase newly issued corporate bonds and portions of syndicated loans, and the SMCCF enables the Federal Reserve to purchase previously issued corporate bonds and exchange-traded funds ("ETFs") that invest in corporate bonds.[6] The Treasury initially announced it intended to make a total equity investment of $75 billion in the SPV, which can collectively support up to $750 billion in purchases.[7] As of December 23, 2020, the Treasury had invested $37.5 billion.[8] As of the last disclosure, there had been no purchases by the PMCCF.[9] As of December 23, the SMCCF had an outstanding amount of bond ETFs and individual corporate bond purchases of $14.2 billion.[10] Upon the Treasury's request, the Federal Reserve agreed to return the Treasury's excess unused capital in the PMCCF and SMCCF in connection with the facilities' December 31, 2020 expiration.[11]

> Main Street Lending Program ("MSLP"): The MSLP is comprised of five facilities—three dedicated to for-profit businesses and two dedicated to non-profit organizations. The Federal Reserve, through an SPV, acquires loans issued by lenders to small and medium-sized businesses and non-profit organizations with up to 15,000 employees or

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[5] Congressional Oversight Commission, *Questions About the CARES Act's $500 Billion Emergency Economic Stabilization Funds*, May 18, 2020, at 5, https://coc.senate.gov/sites/default/files/2020-08/20200518_Congressional_Oversight_Committee_1st_Report.pdf.

[6] Board of Governors of the Federal Reserve System, *Primary Market Corporate Credit Facility Term Sheet,* July 28, 2020, https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a9.pdf; Board of Governors of the Federal Reserve System, *Secondary Market Corporate Credit Facility Term Sheet*, July 28, 2020, https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a1.pdf.

[7] Board of Governors of the Federal Reserve System, *Secondary Market Corporate Credit Facility Term Sheet*, July 28, 2020, https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a1.pdf.

[8] Board of Governors of the Federal Reserve System, Statistical Release H.4.1, *Factors Affecting Reserve Balances of the Depository Institutions and Condition Statement of Federal Reserve Banks*, Dec. 28, 2020, at n.14, https://www.federalreserve.gov/releases/h41/. The SPV for the PMCCF and the SMCCF is Corporate Credit Facilities LLC.

[9] Board of Governors of the Federal Reserve System, *Periodic Report: Update on Outstanding Lending Facilities Authorized by the Board under Section 13(3) of the Federal Reserve Act*, Dec. 11, 2020, https://www.federalreserve.gov/monetarypolicy/files/pdcf-mmlf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-12-11-20.pdf#page=7.

[10] Board of Governors of the Federal Reserve System, Statistical Release H.4.1, *Factors Affecting Reserve Balances of the Depository Institutions and Condition Statement of Federal Reserve Banks*, Dec. 28, 2020, at n.4, https://www.federalreserve.gov/releases/h41/. The SPV is the Corporate Credit Facilities LLC.

[11] U.S. Department of the Treasury, *Letter from Treasury Secretary Steven T. Mnuchin to Chair Jerome Powell*, Nov. 19, 2020, https://home.treasury.gov/system/files/136/letter11192020.pdf; Board of Governors of the Federal Reserve System, *Letter from Chair Jerome Powell to Treasury Secretary Steven T. Mnuchin*, Nov. 20, 2020, https://www.federalreserve.gov/foia/files/mnuchin-letter-20201120.pdf

2019 revenues of $5 billion or less. The Treasury initially announced it intended to make an equity investment of $75 billion in this program, which can support up to $600 billion in lending.[12] All MSLP facilities are operational and are able to purchase eligible loans submitted by lenders registered to participate in the program. As of December 14, 2020, 644 lenders had registered to participate in the program which has not received new submissions.[13] As of December 23, 2020, the Treasury had invested $37.5 billion.[14] As of December 23, 2020, the Federal Reserve held $14.5 billion in loan participations purchased under the MSLP.[15] Upon the Treasury's request, the Federal Reserve agreed to return the Treasury's excess unused capital in the MSLP in connection with the facility's initial December 31, 2020 expiration.[16] However, the Federal Reserve announced on December 29, 2020 that the program would be extended until January 8, 2021 to have enough time to process all loans received.

Municipal Liquidity Facility ("MLF"): Announced on April 9, 2020, the MLF enables the Federal Reserve, through a SPV, to purchase short-term notes issued by state and local governments. The Treasury initially announced it intended to make an equity investment of $35 billion in the SPV, which can support up to $500 billion in lending.[17] As of December 23, 2020, the Treasury invested $17.5 billion.[18] As of December 23, 2020, the MLF has purchased $6.4 billion in municipal notes.[19] Upon the Treasury's request, the Federal Reserve agreed to return the Treasury's excess unused capital in the MLF in connection with the facility's December 31, 2020 expiration.[20]

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[12] Federal Reserve Bank of Boston, *Main Street Lending Program For-Profit Businesses Frequently Asked Questions*, July 31, 2020, https://www.bostonfed.org/mslp-faqs; Federal Reserve Bank of Boston, Aug. 6, 2020, https://www.bostonfed.org/-/media/Documents/special-lending-facilities/mslp/legal/frequently-asked-questions-faqs-nonprofit.pdf.

[13] The lender registration summary data was provided by the Federal Reserve on November 28, 2020. Registered lenders that are accepting new applicants are listed on a state-by-state basis at: https://www.bostonfed.org/supervision-and-regulation/supervision/special-facilities/main-street-lending-program/information-for-borrowers.aspx.

[14] Board of Governors of the Federal Reserve System, Statistical Release H.4.1, *Factors Affecting Reserve Balances of the Depository Institutions and Condition Statement of Federal Reserve Banks*, Dec. 28, 2020, at n.14, https://www.federalreserve.gov/releases/h41/. The SPV for the MSLP is MS Facilities LLC.

[15] *Id.* at table 4.

[16] U.S. Department of the Treasury, *Letter from Treasury Secretary Steven T. Mnuchin to Chair Jerome Powell*, Nov. 19, 2020, https://home.treasury.gov/system/files/136/letter11192020.pdf; Board of Governors of the Federal Reserve System, *Letter from Chair Jerome Powell to Treasury Secretary Steven T. Mnuchin*, Nov. 20, 2020, https://www.federalreserve.gov/foia/files/mnuchin-letter-20201120.pdf

[17] Board of Governors of the Federal Reserve System, *Municipal Liquidity Facility Term Sheet,* Aug. 11, 2020, https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200811a1.pdf; Federal Reserve Bank of New York, *FAQs: Municipal Liquidity Facility,* Aug. 11, 2020, https://www.newyorkfed.org/markets/municipal-liquidity-facility/municipal-liquidity-facility-faq.

[18] Board of Governors of the Federal Reserve System, Statistical Release H.4.1, *Factors Affecting Reserve Balances of the Depository Institutions and Condition Statement of Federal Reserve Banks*, Dec. 28, 2020, at n.14, https://www.federalreserve.gov/releases/h41/. The SPV for the MLF is Municipal Liquidity Facility LLC.

[19] *Id.* at table 4.

[20] U.S. Department of the Treasury, *Letter from Treasury Secretary Steven T. Mnuchin to Chair Jerome Powell*, Nov. 19, 2020, https://home.treasury.gov/system/files/136/letter11192020.pdf; Board of Governors of the Federal

Term Asset-Backed Securities Loan Facility ("TALF"): The TALF enables the Federal Reserve, through an SPV, to make loans to U.S. companies secured by asset-backed securities ("ABS") backed by student loans, auto loans, credit card loans, commercial mortgages, leveraged loans, loans guaranteed by the Small Business Administration, and certain other assets.[21] The Treasury's $10 billion equity investment in this facility can provide up to $100 billion in lending.[22] TALF had a total outstanding amount of $3.7 billion in loans as of December 23, 2020.[23] Upon the Treasury's request, the Federal Reserve agreed to return the Treasury's excess unused capital in the TALF in connection with the facility's December 31, 2020 expiration.[24]

The Treasury's Loans for National Security Businesses

The Treasury also has $17 billion available to make loans to businesses critical to maintaining national security under Subtitle A. As of December 8, 2020, the Treasury reported that it has provided national security loans to eleven businesses, totaling $735.9 million.[25] One business, YRC Worldwide, Inc., accounts for 95% of the total outstanding.[26] This loan program will expire on December 31, 2020.[27] Secretary Mnuchin confirmed that, "everything is finished. Treasury approved 11 loans, and there are no other loans."[28]

The Treasury's Loans for the Airline Industry

Reserve System, *Letter from Chair Jerome Powell to Treasury Secretary Steven T. Mnuchin*, Nov. 20, 2020, https://www.federalreserve.gov/foia/files/mnuchin-letter-20201120.pdf.

[21] Board of Governors of the Federal Reserve, *Term Asset-Backed Securities Loan Facility Term Sheet*, July 28, 2020, https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a6.pdf.

[22] Board of Governors of the Federal Reserve System, Statistical Release H.4.1, *Factors Affecting Reserve Balances of the Depository Institutions and Condition Statement of Federal Reserve Banks*, Dec. 28, 2020, at n.14, https://www.federalreserve.gov/releases/h41/; Board of Governors of the Federal Reserve, *Term Asset-Backed Securities Loan Facility Term Sheet*, July 28, 2020, https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a6.pdf.

[23] Board of Governors of the Federal Reserve System, Statistical Release H.4.1, *Factors Affecting Reserve Balances of the Depository Institutions and Condition Statement of Federal Reserve Banks*, Dec. 28, 2020, at table 4, https://www.federalreserve.gov/releases/h41/.

[24] U.S. Department of the Treasury, *Letter from Treasury Secretary Steven T. Mnuchin to Chair Jerome Powell*, Nov. 19, 2020, https://home.treasury.gov/system/files/136/letter11192020.pdf; Board of Governors of the Federal Reserve System, *Letter from Chair Jerome Powell to Treasury Secretary Steven T. Mnuchin*, Nov. 20, 2020, https://www.federalreserve.gov/foia/files/mnuchin-letter-20201120.pdf.

[25] U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited Dec. 24, 2020, https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses.

[26] U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited Dec. 24, 2020, https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses.

[27] U.S. Department of the Treasury, *Letter from Treasury Secretary Steven T. Mnuchin to Chair Jerome Powell*, Nov. 19, 2020, https://home.treasury.gov/system/files/136/letter11192020.pdf.

[28] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Testimony of Secretary Steven Mnuchin, Treasury), at 33.

In addition, the Treasury has available $29 billion to make loans to the airline industry under Subtitle A, with $25 billion available to passenger air carriers, including related businesses, and $4 billion available to cargo air carriers.[29] As of November 30, 2020, the Treasury reported that it has provided twenty-four such loans to companies the Treasury characterizes as airlines, ticket agents, a repair station, and a cargo air carrier.[30] Those loans total $21.2 billion.[31] This loan program will expire on December 31, 2020.[32]

Recent Hearing

On December 10, 2020, the Commission held a public hearing regarding the national security loan program, at which Treasury Secretary Steven Mnuchin testified. The Commission has also invited the Director of National Intelligence John Ratcliffe and Undersecretary Ellen Lord of the Department of Defense ("DOD") to testify. The Office of the Director of National Intelligence ("ODNI") has told the Commission that it has not designated any company as "critical to maintaining national security" nor has it provided any input with respect to any DOD company designations. While Undersecretary Lord declined to participate in the hearing on December 10, 2020, she participated in a teleconference with the Commission on December 18, 2020 and the Commission subsequently submitted questions to Undersecretary Lord. Her responses are attached as Appendix A.

The Commission's December 10 hearing was livestreamed on the Commission's website, http://coc.senate.gov, and a preliminary transcript of the hearing is available in Appendix B.

Commissioner Bharat Ramamurti

Commissioner Ramamurti recently announced he would be joining President-Elect Biden's Administration as the Deputy Director of the National Economic Council and stepped down from his role on the Commission. The Commission thanks Commissioner Ramamurti for his public service and dedication to the Commission's work and wishes him well in his new role.

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In this report, we provide an in-depth analysis of the Treasury's national security loan program. We also provide updates regarding recent key actions taken by the Treasury and the Federal Reserve regarding each of the above lending programs and facilities under Subtitle A, as well as updates regarding the Commission's oversight activities.

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[29] CARES Act § 4003. Related businesses are eligible businesses that are certified under part 145 of title 14, Code of Federal Regulations, and approved to perform inspection, repair, replace, or overhaul services, and ticket agents (as defined in Section 40102 of Title 49 of the United States Code).
[30] U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited Nov. 30, 2020, https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses (*see* "Transaction Summary" of each transaction for more details).
[31] *Id.*
[32] U.S. Department of the Treasury, *Letter from Treasury Secretary Steven T. Mnuchin to Chair Jerome Powell*, Nov. 19, 2020, https://home.treasury.gov/system/files/136/letter11192020.pdf.

The Commission received the Treasury's credit memoranda for the additional ten national security loans and the DOD's follow-up questions with relevant documents requested on December 23, 2020. The Commission had previously only received the YRC credit memorandum. The Commission continues to analyze these documents and may have additional questions or provide additional reporting as warranted in future reports.

EXECUTIVE SUMMARY

This eighth report of the Commission is a continuation of the seventh report which focused on the Treasury and the DOD's $700 million loan to YRC Worldwide, Inc. ("YRC"), which was made under the loan program "for businesses critical to maintaining national security." This report also analyzes part of the additional ten smaller loans also executed as part of this program.

Under the program, the Treasury determines the rates and conditions of the loans, while the DOD or ODNI determine whether the business is critical to maintaining national security.

The seventh report highlighted how the DOD did not provide the Commission a satisfactory explanation for how the companies who received these loans were critical to national security. In response, the Commission invited the Treasury, the DOD and the ODNI to testify at a hearing.

On December 10, 2020, the Commission held a public hearing regarding the national security loan program with Treasury Secretary Steven Mnuchin testifying. DOD's Undersecretary Lord participated in a teleconference with the Commission on December 18, 2020 and submitted answers to the Commission's questions for the record following the teleconference. The ODNI told the Commission that it has not designated any company as "critical to maintaining national security" nor has provided any input with respect to any DOD company designations.

Through the Commission's interactions with the Treasury and DOD, the Commission was able to get better answers to the outstanding questions surrounding the terms and conditions of the loans, how a company is determined to be critical to national security and the underlying financial health and growth of the companies receiving the loans.

As outlined in the last report, the Commission is concerned the Treasury may have put the taxpayers in a precarious position. Based on additional analysis, the Commission recommends the Treasury and DOD evaluate their criteria related to their underwriting analysis and national security designation. Specifically, the Commission believes that the DOD should have used a more robust criteria and process for recommending and certifying that a business is critical to maintaining national security and should apply those parameters consistently. The Treasury should better understand the underlying collateral when underwriting a loan and better measure the incurred losses caused by COVID.

NATIONAL SECURITY LOAN PROGRAM

Background on Designating a National Security Business

The CARES Act authorized the Department of the Treasury ("Treasury") to make up to $17 billion in loans and loan guarantees in support of "businesses critical to maintaining national security" related to "losses incurred as a result of coronavirus."[33] The statute does not define a business critical to maintaining national security, so on April 10, 2020, the Treasury issued guidance defining this term. At the Commission's December 10, 2020 hearing, Treasury Secretary Steven Mnuchin testified that the Treasury consulted with the Department of Defense ("DOD") and the Office of the Director of National Intelligence ("ODNI") to develop this guidance.[34]

Under the guidance, a business is critical to maintaining national security if:

1. it performs under a "DX"-priority rated contract or order under the Defense Priorities and Allocations System regulations (15 CFR part 700);
2. it operates under a valid top secret facility security clearance under the National Industrial Security Program regulations (32 CFR part 2004); or
3. the Secretary of the Treasury determines that the applicant is critical to maintaining national security based on a recommendation and certification from the Secretary of Defense or the Director of National Intelligence that the business is critical to maintaining national security.[35]

Secretary Mnuchin testified at the Commission's December 10, 2020 hearing that these criteria were developed because "there would be small companies that had top secret clearances, and we did not want them to go out of business and have all these people disappear."[36]

The Treasury has made five national security loans to companies that were designated as businesses critical to maintaining national security based on the first two criteria described above and six based on the third criteria. All of these companies were designated as a result of a recommendation and certification from DOD. ODNI has informed the Commission that it has not provided the Treasury with any recommendation and certification to designate a business as critical to maintaining national security and has not provided any input with respect to any DOD recommendations and certifications. Overall, DOD recommended and certificated 20 companies as critical to maintaining national security for the national security loan program. The Treasury

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[33] CARES Act, Pub. L. No. 116-136, § 4003, 134 Stat. 281 (2020).
[34] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Prepared Testimony of Secretary Steven Mnuchin, Treasury), at 1.
[35] Treasury, *Q&A: Loans to Air Carriers and Eligible Businesses and National Security Businesses*, Updated as of April 10, 2020, https://home.treasury.gov/system/files/136/CARES-Airline-Loan-Support-Q-and-A-national-security.pdf, see page 1, question 4.
[36] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Testimony of Secretary Steven Mnuchin, Treasury), at 42.

ultimately made national security loans to six out of these 20 companies. See Appendix C for an overview of the 11 loans the Treasury has made through the national security loan program.

During the Commission's December 10, 2020 hearing, Rep. Donna Shalala asked Secretary Mnuchin about the Treasury's process for designating a business as critical to maintaining national security based on a recommendation and certification by DOD. She asked whether the Treasury qualifies the recommendations and certifications from DOD or accepts them wholesale.[37] In response, Secretary Mnuchin stated that "from a practical stand point, we did not second-guess the ODNI or DOD, so we did not do additional diligence." [38] Rep. Shalala also asked whether the Treasury ever disagreed with DOD's recommendations and certifications.[39] Secretary Mnuchin responded that Treasury did not. He stated: "We relied upon it, and I have written certifications from DOD…We do not have the expertise at Treasury to analyze that."[40]

Further, when the Commission questioned the DOD about this, they stated in the follow-up answers that DOD was "not involved in creating the guidance or definitions used by Treasury for its application process."[41] Additionally, Undersecretary Lord referred the Commission to the Treasury for additional analysis regarding the national security designation.[42]

The Commission finds something amiss as to which agency was ultimately responsible for the national security designation. The Commission believes the Treasury should have worked with DOD and ODNI to establish more specific criteria for determining what businesses were critical to maintaining national security and/or Treasury should have required DOD and ODNI to provide Treasury with more analysis than simply a statement that a business was critical to maintaining national security.

DOD explained to the Commission in an October 22, 2020 letter that it used the following criteria to evaluate whether a business is critical to maintaining national security:[43]

1. Does the company currently supply to DOD via a direct contract or through a sub-contract?
2. Is the company owned in whole or in part by China or Russia?
3. Is the company participating in any other COVID-19 related loan or grant program?

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[37] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Statement of Representative Donna Shalala), at 39.
[38] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Testimony of Secretary Steven Mnuchin, Treasury), at 39.
[39] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Statement of Representative Donna Shalala), at 39.
[40] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Testimony of Secretary Steven Mnuchin, Treasury), at 39 and 40.
[41] Congressional Oversight Commission Follow-Up Questions Submitted to the Honorable Ellen Lord. (December 23, 2020) at Question 7.
[42] Congressional Oversight Commission Follow-Up Questions Submitted to the Honorable Ellen Lord. (December 23, 2020) at Question 1.
[43] Treasury, *Letter from U.S. Department of the Treasury to Congressional Oversight Commission*, July 30, 2020.

4. Are there alternate sources for the item a company supplies?
5. Is what the company supplies a commodity or commercially available item?

DOD stated that criterion 1 is a requirement, criterion 2 would preclude a company from certification, and criteria 3, 4, and 5 inform DOD's decision of whether to recommend and certify that a company is critical to maintaining national security.

In the Commission's view, DOD's criteria and process for determining whether a business is critical to maintaining national security is inadequate. Based on DOD's criteria, countless contractors and subcontractors connected to DOD's $597 billion in annual spending could qualify as a business critical to maintaining national security.[44] If Congress had wanted the national security loan program to apply to such a wide scope of businesses it would have used statutory language referring to DOD contractors and subcontractors generally as it did in other provisions in the CARES Act.[45] But Congress did not do that in Section 4003(b)(3) of the CARES Act. Rather it used more targeted language—"businesses critical to maintaining national security"—that clearly has a more narrow meaning than DOD contractors and subcontractors generally.

The Commission raised this point with Undersecretary Lord during their briefing on December 18, 2020 and in the subsequent questions for the record. In her written response, Undersecretary Lord simply stated that "DOD has visibility into some, but not all, sub-contractors"[46] which the Commission finds as an inadequate understanding of DOD's contracting services. Specifically, as it relates to YRC, Undersecretary Lord continually emphasized the extensive amount of work DOD does to ensure effective and efficient oversight of their prime contractors. However, all oversight of subcontractors is left to the prime contractors, yet YRC, which is a subcontractor of Crowley Logistics, the prime contractor to the DOD, was deemed as critical to national security even though the DOD did not even question Crowley Logistics about the nature of YRC's financial health, business or operations for DOD.

Furthermore, the Commission believes the DOD provides a very weak case for YRC as it relates to questions four and five of the above criteria. For example, there are many other companies that provide less-than-truckload ("LTL") services aside from YRC and services, like LTL trucking, could be considered a commodity. When questioned about this, the DOD stated,

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[44] Bloomberg Government, *BGOV200 Federal Industry Leaders 2019*, https://data.bloomberglp.com/bna/sites/3/2020/06/2020-BGOV200-Report.pdf?utm_campaign=BGOV_Confirmations_Report&utm_medium=email&utm_source=Eloqua, at 1.
[45] CARES Act, Pub. L. No. 116-136, § 3610, 134 Stat. 281 (2020). This section, Federal Contractor Authority, is an example of CARES Act language targeted to affected government contractors in general, and the section applies to government contractors whose employees or subcontractors cannot perform work on a site that has been approved by the federal government
[46] Congressional Oversight Commission Follow-Up Questions Submitted to the Honorable Ellen Lord. (December 23, 2020) at Question 9

"DOD did not inquire with other LTL service providers to determine whether they could have stepped in to satisfy DOD requirements should YRC cease operating."[47]

Based on the analysis above, the Commission believes DOD should have used a more robust criteria and process for recommending and certifying that a business is critical to maintaining national security. Additionally, the Commission believes DOD applies their national security designation inconsistently and encourages them to reevaluate their process in the future.

Loan Purpose: COVID-19-related Losses

The CARES Act authorized the Treasury to make loans "to provide liquidity to eligible businesses . . . related to losses incurred as a result of the coronavirus."[48] The CARES Act also provides that loans made to provide such liquidity "shall be made . . . in such form and on such terms and conditions . . . as the Secretary determines appropriate."[49] The Treasury's application for national security loans contains a section entitled "Covered Losses" that requests information about a company's COVID-19-related losses. This section asks applicants to report 2019 revenues and expenses, and to list "each category of revenue loss or new unbudgeted expense that the [company] has incurred or expects to incur directly or indirectly as a result of the coronavirus through March 30, 2021, and the actual or expected revenue loss or new expense for each category."[50] The categories of covered losses identified in the applications are:

1. Losses of revenue related to reductions in demand or delayed contracts; and
2. Increased expenses relating to higher fixed costs, unexpected expenses, or purchase of work from home equipment.

At the Commission's December 10, 2020 hearing, Secretary Mnuchin discussed how the Treasury approached whether a company's losses were incurred as a result of the coronavirus. He stated "the intent was supposed to be COVID. When COVID impacted the entire business, it was very difficult to figure out COVID versus non-COVID." [51] While the Commission agrees that reconciling covered losses is a difficult exercise, a review of the national security applications showed that seven of the 11 national security loans were made to companies that reported covered losses at, or exceeding, 2019 revenues. One company, SpinLaunch Inc., reported covered losses to be at levels 14,000% greater than 2019 revenues. Additionally, five companies were granted loans in excess of 2019 revenues. In one instance, a company reported COVID-19 losses higher than their 2019 revenues, yet Earnings Before Interest, Taxes, Depreciation, and Amortization ("EBITDA"), and profitability was projected to increase steadily

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[47] Congressional Oversight Commission Follow-Up Questions Submitted to the Honorable Ellen Lord. (December 23, 2020) at Question 2a.
[48] CARES Act, Pub. L. No. 116-136, § 4003(a), 134 Stat. 281 (2020).
[49] CARES Act, Pub. L. No. 116-136, § 4003(c)(1)(a), 134 Stat. 281 (2020).
[50] Treasury, *Treasury Loan Application Form for Businesses Critical to Maintaining National Security*, April 23, 2020, https://home.treasury.gov/system/files/136/Loan-Application-Form-for-Businesses-Critical-to-Maintaining-National-Security.pdf.
[51] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Testimony of Secretary Steven Mnuchin, Treasury), at 29.

from 2020 through 2022. In several loans, companies reported loan proceeds that were expected to be used to finance unexpected increased demand for their products due to COVID-19.

As it relates to YRC, the Commission believes Tranche A made a good faith effort to provide funding in response to offset losses incurred by COVID-19. However, Tranche B funds are for the purchase of new tractors and trailers in accordance with the company's capital expenditures plan. The Commission believes this type of lending is beyond the scope of the CARES Act funding as it is not being used to COVID-19 losses.

Overall, the Commission did not find a strong link between reported COVID-19 losses, loan size, and other projections Treasury used in its underwriting process.

Credit Underwriting Process and Results

In addition to being designated as critical to maintaining national security and demonstrating covered losses, companies also had to pass the Treasury's credit underwriting criteria to obtain a national security loan. At the Commission's December 10, 2020 hearing, Secretary Mnuchin explained the Treasury's approach to credit underwriting for the national security loan program. He stated: "What we tried to do was establish a process so that we were not picking winners or losers. The criteria [that] was there had to be a designation or one of the specific criteria for national security. When it did that, we put it through a credit underwriting, and there was credit determinations both for some of the smaller ones on an unsecured loan and some of the bigger ones…But we made sure that the loans fit our credit criteria and rejected many that did not."[52]

In a letter to the Commission dated July 30, 2020, the Treasury outlined the credit test it used in reviewing applications for national security loans. According to the Treasury, a company passed this credit test if it met any two of the following criteria:

Credit Criteria:	Required Level:
Leverage (existing debt / 2019 adjusted EBITDA[53])	Must be < 6.0x
Debt service coverage (2019 adjusted EBITDA / 2020 existing debt service)	Must be > 1.5x
Collateral (secured debt / tangible assets)	Must be < 75%

[52] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Testimony of Secretary Steven Mnuchin, Treasury), at 29 and 30.

[53] CFA Institute, *Financial Statements*, https://www.cfainstitute.org/-/media/documents/support/programs/investment-foundations/7-financial-statements.ashx?la=en&hash=19AC47831720AC9675778BBB6C15BE6CFF4BAF75, see page 203, Earnings before interest, taxes, depreciation, and amortization (EBITDA) is an important measure of income. EBITDA is operating income before depreciation and amortization expenses are deducted. The amounts of depreciation and amortization are not cash flows, and they are determined by the choice of accounting method rather than by operating decisions. EBITDA is useful because it offers a closer approximation of operating cash flow than EBIT. It is an indicator of the company's operating performance and its management's ability to generate revenues and control expenses that are related to its operations.

The first criterion in the Treasury's credit test—"leverage"—indicates how much debt a business can prudently take on without endangering its operations. The second criterion in the credit test —"debt service coverage"—measures the ability of a business to make principal and interest payments based on its level of operating cash. The last criterion in the credit test—"collateral,"—measures the value of a company's assets available to the Treasury in the event of its default on a loan.

Specifically for YRC, the documentation provided by Treasury related to the firm's loan application outlines how it meets these collateral tests. The Commission, however, upon careful review of the collateral detail, debt service and cash obligations contained in the attachments doubts the reliability and adequacy of the underlying assumptions of cash flow and tangible asset values. In addition, as noted in the Commission's Fourth Report, the terms of the YRC loan are comparable to the terms required under the Main Street Lending Program and it is not clear why these programs offer different credit underwriting criteria.[54]

Following a review of Treasury's credit evaluation memoranda, the Commission concludes that every loan, except for the YRC loan, was underwritten to growth stage companies. The Commission believes the credit evaluation process Treasury created is not suitable for these types of companies. Certain companies did not have positive EBITDA and were not expected to be cash flow positive and thus the underwriting tests could not be utilized. In those instances, loan size was based on expected collateral security. Six of the 11 loan recipients had also received Paycheck Protection Program (PPP) loans and it is not clear to the Commission that this program was intended for businesses of this size. Of note, securing a PPP loan would satisfy DOD's question 3, outlined above, asking about a company's participation in other COVID-19 related loan or grant programs – again further underscoring the DOD's inconsistent designation process.

In addition, downside revenue scenario analysis was not conducted on any of the 11 loan recipients and the Commission does not find that the liquidity analysis conducted instead was sufficient to determine if the loan would be repaid.

Background on National Security Loan Application Process

On April 23, 2020, the Treasury released an application for businesses seeking national security loans.[55] The application asks a business applying for a loan for contact information, ownership structure, balance sheet composition, current restrictions on debt, available loan security, available loan guarantees, credit ratings, a business plan, a financial plan, tax information, and information relating to number of employees. The business then uploads the

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[54] Congressional Oversight Commission, the Fourth Report of the Congressional Oversight Commission, Aug. 21, 2020, https://coc.senate.gov/sites/default/files/2020-08/COC%204th%20Report_08.21.2020%20with%20Appendix%208-27%20update.pdf, see 66.
[55] Treasury, *Treasury Loan Application Form for Businesses Critical to Maintaining National Security*, April 23, 2020, https://home.treasury.gov/system/files/136/Loan-Application-Form-for-Businesses-Critical-to-Maintaining-National-Security.pdf.

requested materials to a loan application portal created by the Treasury. See Appendix D for a sample application.

During the application process, a business must provide the Treasury with appropriate financial instruments that, in the sole determination of the Treasury Secretary, provide for a reasonable participation in equity appreciation or a reasonable interest rate premium appropriate for the benefit of taxpayers.[56] In practice, a business that is publicly traded must provide warrants or an equity interest. For a business that is not publicly traded, the Treasury Secretary may accept senior debt instruments or other interests, including payment-in-kind interest.

Of note, Secretary Mnuchin recommended during the Commission's December 10, 2020 hearing that "next year whoever is Treasury Secretary [should] seriously look at selling this loan, recovering what I think will be a profit to taxpayers, because this [YRC loan] was a success. But we do not want to be in the long-term business of lending to this type of company or any of the national security companies. But, fortunately, we have made a significant profit,[57] and taxpayers should get paid back."[58] The Commission echoes Secretary Mnuchin's comments and recommends the Treasury try to sell the loan to avoid any losses to taxpayers.

Per the "Financial Agency Agreement for Independent Financial Advice on Programs for Businesses Critical to National Security under the CARES Act," the Treasury retained Perella Weinberg Partners LP as the Financial Advisor for the National Security Loans for a $500,000 fee for the initial term.[59] Rep. Hill has followed up the hearing with a question for the record inquiring if there were any additional fees provided based on analysis each application, whether or not a loan was funded, etc. which is attached as Appendix E.

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[56] Treasury, *Treasury Loan Application Form for Businesses Critical to Maintaining National Security*, April 23, 2020, https://home.treasury.gov/system/files/136/Loan-Application-Form-for-Businesses-Critical-to-Maintaining-National-Security.pdf, see page 9, *Taxpayer Protection*.

[57] Due to the appreciation in the price of YRC's common stock from the time of the Treasury's equity participation on July 8, 2020, when the loan was executed, at $2.55 per share versus the price of $5.55 per share on December 10, 2020.

[58] Congressional Oversight Commission hearing on the National Security Loan Program, 116th Cong. (Dec. 10, 2020) (Testimony of Secretary Steven Mnuchin, Treasury), at 37.

[59] https://home.treasury.gov/system/files/136/FAA-Financial-Advisor-Business-National-Security-FINAL-Signed_0.pdf

TREASURY AND FEDERAL RESERVE RECENT DEVELOPMENTS

In December, the Treasury and the Federal Reserve took a number of actions under Division A, Title IV, Subtitle A of the CARES Act. We describe the key recent developments below. All of the Treasury and Federal Reserve's Subtitle A programs are currently set to expire on December 31, 2020.[60]

Primary Market Corporate Credit Facility ("PMCCF")

There have been no new Federal Reserve announcements regarding the PMCCF. As of the Federal Reserve's last disclosure, the PMCCF has not made any purchases.[61]

Secondary Market Corporate Credit Facility ("SMCCF")

As of November 27, 2020, the SMCCF had purchased corporate bonds from more than 530 different issuers.[62] The amortized cost for these bonds was $5.15 billion.[63] The chart below lists the SMCCF's 10 largest individual bond holdings by issuer as of November 27, 2020.[64] The bonds of these 10 issuers make up 15.6% of the SMCCF's total individual bond holdings.

Issuer	Sector	Amortized Cost (U.S. $ Million)	Percentage of SMCCF's Individual Bond Holdings
AT&T Inc.	Communications	$91. 6	1.78%
Volkswagen Group of America Finance LLC	Consumer Cyclical	89.8	1.74%
Daimler Finance North America LLC	Consumer Cyclical	88.8	1.72%
Toyota Motor Credit Corp.	Consumer Cyclical	87.9	1.71%

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[60] U.S. Department of the Treasury, *Letter from Treasury Secretary Steven T. Mnuchin to Chair Jerome Powell*, Nov. 19, 2020, https://home.treasury.gov/system/files/136/letter11192020.pdf; Board of Governors of the Federal Reserve System, *Letter from Chair Jerome Powell to Treasury Secretary Steven T. Mnuchin*, Nov. 20, 2020, https://www.federalreserve.gov/foia/files/mnuchin-letter-20201120.pdf. The Commission's jurisdiction extends only to Subtitle A programs and thus does not include the Commercial Paper Funding Facility, which is currently set to expire on March 17, 2021. Board of Governors of the Federal Reserve, *Commercial Paper Funding Facility: Program Terms and Conditions*, July 23, 2020, https://www.federalreserve.gov/monetarypolicy/files/monetary20200723a1.pdf.
[61] Board of Governors of the Federal Reserve System, *Periodic Report: Update on Outstanding Lending Facilities Authorized by the Board under Section 13(3) of the Federal Reserve Act*, Dec. 11, 2020, https://www.federalreserve.gov/monetarypolicy/files/mslp-transaction-specific-disclosures-12-11-20.xlsx.
[62] Board of Governors of the Federal Reserve System, *Periodic Report: Update on Outstanding Lending Facilities Authorized by the Board under Section 13(3) of the Federal Reserve Act (Transaction-specific Disclosures)*, Dec., 11 2020, https://www.federalreserve.gov/monetarypolicy/files/smccf-transaction-specific-disclosures-12-11-20.xlsx.
[63] *Id*.
[64] *Id*.

Issuer	Sector	Amortized Cost (U.S. $ Million)	Percentage of SMCCF's Individual Bond Holdings
Verizon Communications Inc.	Communications	86.3	1.67%
Apple Inc.	Technology	82.5	1.60%
Comcast Corp.	Communications	80.3	1.56%
BMW US Capital LLC	Consumer Cyclical	66.7	1.29%
General Electric Co.	Capital Goods	66.4	1.29%
Ford Motor Credit Co. LLC	Consumer Cyclical	64.2	1.24%

As of November 27, 2020, the SMCCF had purchased 112.8 million shares of bond Exchange Traded Funds ("ETFs").[65] The facility made no bond ETF purchases since its July 30, 2020 disclosure.[66] The SMCCF has purchased shares from 16 bond ETFs with a market value of $8.8 billion as of November 27, 2020.[67]

Noting that primary market investment-grade corporate bond rates were below pre-pandemic levels, the Commission recommended in its Fifth Report that the SMCCF cease making purchases at that time.[68] Notwithstanding that recommendation, the Federal Reserve has continued to purchase approximately $20 million worth of corporate bonds per day, prompting the Commission to reiterate its recommendation that the SMCCF cease making purchases in a statement dated November 10, 2020.[69]

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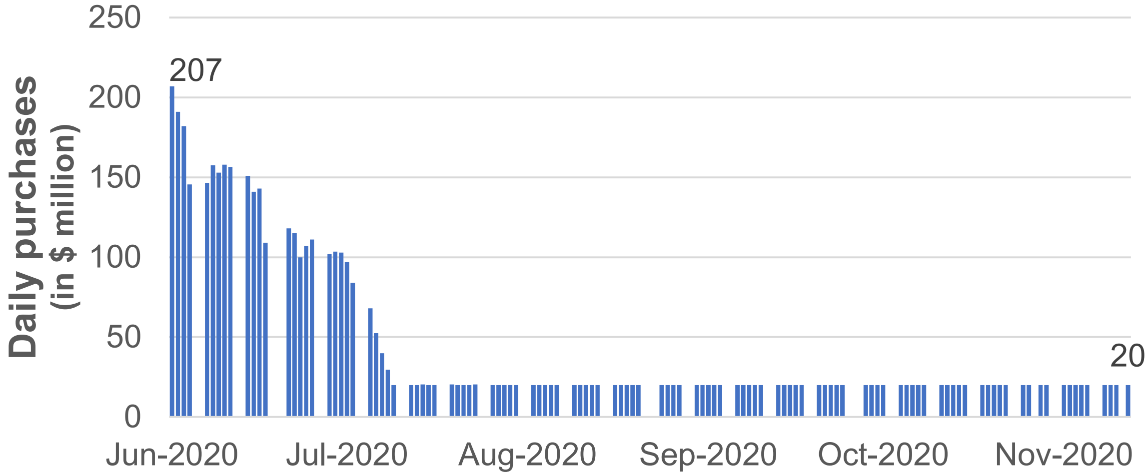
[65] *Id*.
[66] *Id*.
[67] *Id*.
[68] The Fifth Report of the Congressional Oversight Commission, Oct. 15, 2020, at 43, https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf.
[69] Congressional Oversight Commission, *Oversight Commission Issues Statement on SMCCF*, Nov. 10, 2020, https://coc.senate.gov/oversight-commission-issues-statement-smccf.



<u>Main Street Lending Program ("MSLP")</u>

On October 30, 2020, the Federal Reserve announced that it lowered the minimum loan size from $250,000 to $100,000 for three of the five Main Street facilities available to for-profit and non-profit borrowers—i.e., the Main Street New Loan Facility, Main Street Priority Loan Facility, and Nonprofit Organization New Loan Facility.[70] It also adjusted fees for loans less than $250,000 made pursuant to these facilities "to encourage the provision of these smaller loans."[71]

As of November 30, 2020, eligible lenders made 646 loans through the MSLP.[72] These loans totaled $6.3 billion, with $6.0 billion in Federal Reserve participation.[73] Businesses in 48 states participated in the program, led by Texas with 18.4%, followed by California with 14.8%, Florida with 14.6%, and Georgia with 5.4% of the loan proceeds.[74] Loan sizes ranged from $232,690 to $300 million.[75]

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[70] Board of Governors of the Federal Reserve System, *Federal Reserve Board adjusts terms of Main Street Lending Program to better target support to smaller businesses that employ millions of workers and are facing continued revenue shortfalls due to the pandemic*, Oct. 30, 2020, https://www.federalreserve.gov/newsevents/pressreleases/monetary20201030a.htm.
[71] *Id*.
[72] Board of Governors of the Federal Reserve System, *Periodic Report: Update on Outstanding Lending Facilities Authorized by the Board under Section 13(3) of the Federal Reserve Act (Transaction-specific Disclosures)*, Dec. 11, 2020, https://www.federalreserve.gov/monetarypolicy/mainstreetlending.htm.
[73] *Id*.
[74] *Id*.
[75] *Id*.

As of November 30, 2020, three nonprofit organizations have participated in the program.[76] These nonprofit loans totaled $8.0 million, with approximately $7.6 million in Federal Reserve participation.[77]

As of December 23, 2020, the MSLP has loaned approximately $14.2 billion, which is less than 2% of its lending capacity. [78]

The Federal Reserve announced on December 29, 2020 that the termination date for the program would be extended until to January 8, 2021 to be able to process all loans received by December 14, 2020.

Municipal Liquidity Facility ("MLF")

To date, the Federal Reserve has purchased notes from two borrowers through the MLF—one from the state of Illinois, and the other from New York's Metropolitan Transportation Authority ("MTA").[79] On June 5, 2020, Illinois borrowed $1.2 billion from the MLF through the sale of a one-year note, making it the facility's first participant.[80] On December 22, 2020, Illinois borrowed an additional $2 billion through the MLF.[81] On August 18, 2020, the MTA, which runs the largest transit system in the United States, borrowed $450.7 million from the MLF through the sale of a three-year note.[82] On November 18, 2020, the MTA authorized borrowing of up to an additional $2.9 billion from the MLF.[83]

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[76] Board of Governors of the Federal Reserve System, *Periodic Report: Update on Outstanding Lending Facilities Authorized by the Board under Section 13(3) of the Federal Reserve Act (Transaction-specific Disclosures)*, Nov. 24, 2020, https://www.federalreserve.gov/monetarypolicy/mainstreetlending.htm.
[77] *Id*.
[78] Board of Governors of the Federal Reserve System, Statistical Release H.4.1, *Factors Affecting Reserve Balances of the Depository Institutions and Condition Statement of Federal Reserve Banks*, Dec. 28, 2020, at n.14, https://www.federalreserve.gov/releases/h41/. The SPV for the PMCCF and the SMCCF is Corporate Credit Facilities LLC.
[79] Board of Governors of the Federal Reserve System, *Periodic Report: Update on Outstanding Lending Facilities Authorized by the Board under Section 13(3) of the Federal Reserve Act (Transaction-specific Disclosures)*, Dec. 11, 2020, https://www.federalreserve.gov/monetarypolicy/files/mlf-transaction-specific-disclosures-12-11-20.xlsx.
[80] Shruti Singh & Amanda Albright, *Illinois Becomes First to Tap Fed Loans After Yields Surge*, Bloomberg, June 2, 2020, https://www.bloomberg.com/news/articles/2020-06-02/illinois-becomes-first-to-tap-fed-loans-after-bond-yields-surge.
[81] Fitch Ratings, Illinois' MLF Borrowing Reflects Deep Challenges, but Options Remain, Dec. 22, 2020, https://www.fitchratings.com/research/us-public-finance/illinois-mlf-borrowing-reflects-deep-challenges-options-remain-22-12-2020.
[82] Karen Pierog & Jonnelle Marte, *New York transit agency turns to Fed for $450 million borrowing*, Reuters, Aug. 18, 2020, https://www.reuters.com/article/us-usa-newyork-fed-debt/new-york-transit-agency-turns-to-fed-for-450-million-borrowing-idUSKCN25E2R3; Amanda Albright & Danielle Moran, *New York's MTA Becomes Second to Tap Fed as Banks Demand Higher Yields,* Bloomberg, Aug. 18, 2020, https://www.bloomberg.com/news/articles/2020-08-18/ny-mta-becomes-second-to-tap-fed-as-banks-demand-higher-yields?srnd=economics-vp&sref=hKSAni5g.
[83] Reuters, New York transit agency to borrow a second time from Fed program, Nov. 18, 2020, https://www.reuters.com/article/us-health-coronavirus-new-york-transit/new-york-transit-agency-to-borrow-a-second-time-from-fed-program-idUSKBN27Y2TB.

Term Asset-Backed Securities Loan Facility ("TALF")

On December 11, 2020, the Federal Reserve disclosed transaction-specific data about the TALF's activities through November 27, 2020.[84] As of November 27, 2020, the TALF had made 208 loans totaling $3.9 billion to 20 different borrower funds.[85] Several of these loans have been repaid and 190 loans totaling $2.6 billion are currently outstanding.[86] The funds use TALF loans to purchase securities backed by certain types of consumer and business loans. The chart below illustrates the current collateral sector breakdown of those underlying loans as of November 27, 2020.[87]

Collateral Sector	**TALF Loan Amount (in $ million)**	**% of Total TALF Loans**
Small Business Administration Loans	$2,024.4	51.8
Commercial Mortgage	1,158.1	29.6
Leveraged Loan	327.6	8.4
Private Student Loans	289.2	7.4
Premium Finance	106.9	2.7
Total	3,906.0	100.0

The following chart shows the five funds to whom the TALF has lent the most money as of November 27, 2020.[88]

TALF Borrower Fund	**TALF Loan Amount (in $ million)**
Alta Fundamental Advisers SP LLC - Belstar-Alta Series 1	$1,908.6
MacKay Shields TALF 2.0 Opportunities Master Fund LP	837.3
Palmer Square TALF Opportunity Sub LLC	221.6
Alta Fundamental Advisers SP LLC - Belstar-Alta Series 2	216.4
BlackRock Securitized Investors, LP	113.5

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84 Board of Governors of the Federal Reserve System, *TALF Transaction-specific Disclosures*, Dec. 11, 2020, https://www.federalreserve.gov/monetarypolicy/files/talf-transaction-specific-disclosures-12-11-20.xlsx.
85 *Id.*
86 *Id.*
87 *Id.*
88 *Id.*

The following chart shows the five asset-backed securities issuers that have received the most TALF support as of November 27, 2020.[89]

Asset-backed Securities Issuer	**TALF Loan Amount (in $ million)**
Small Business Administration	$2,024.4
Golub Capital Partners TALF 2020-1 LLC	327.6
Navient Private Education Refi Loan Trust 2020-F	213.4
PFS Financing Corp	106.9
CSAIL 2019-C16 Commercial Mortgage Trust	72.9

Treasury Loans for National Security Businesses

On July 8, 2020, the Treasury finalized a $700 million loan to YRC. Beginning on October 30, 2020, the Treasury announced an additional ten national security loans, totaling $35.9 million.[90] This report describes these eleven loans in-depth. A summary of the transactions is provided in Appendix C.

Treasury Loans for the Airline Industry

As of December 8, 2020, the Treasury had made a total of twenty-four airline-industry loans, totaling $21.2 billion. Of those loans, the Treasury has categorized one, a $1.8 million loan to Legacy Airways, LLC, as a loan to a cargo air carrier pursuant to CARES Act § 4003(b)(2). The Treasury has classified the remaining twenty-three loans as § 4003(b)(1) loans to passenger air carriers and related businesses.[91] The table below summarizes the loan transactions to date.[92] On November 30, 2020, the Commission submitted questions to the Treasury regarding these loans

Earlier this month the United States Government Accountability Office ("GAO") released a report on "Lessons Learned from CARES Act Loan Program for Aviation and other Eligible Businesses" that included an analysis of the airline and national security loans. The

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[89] *Id.*
[90] U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited Nov. 30, 2020, https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses.
[91] *Id.*
[92] *Id.*

report had three findings for the Treasury related to improving loan program and clearer communication of the program goals and timelines.[93]

[93] United States Government Accountability Office, *FINANCIAL ASSISTANCE Lessons Learned from CARES Act Loan Program for Aviation and Other Eligible Businesses,* https://www.gao.gov/assets/720/711174.pdf at 2.

Borrower	City, State	U.S. empl., March 2020	Loan amount	Interest rate (LIBOR+%)	Maturity date	Compensation for Treasury	Loan collateral
American Airlines	Fort Worth, TX	157,000	$7,500,000,000	3.50%	6/30/2025	Warrants for common stock equal to 10% of loan amount.	Loyalty program.
United Airlines	Chicago, IL	93,000	$7,500,000,000	3.00%	9/26/2025	Warrants for common stock equal to 10% of loan amount.	European and South American routes as well as certain aircraft and simulators.
JetBlue Airways	Long Island City, NY	23,000	$1,948,000,000	2.75%	9/29/2025	Warrants for common stock equal to 10% of loan amount.	Loyalty program as well as certain aircraft and engines.
Alaska Airlines	Seattle, WA	22,000	$1,928,000,000	2.50%	9/26/2025	Warrants for common stock equal to 10% of loan amount.	Loyalty program as well as certain aircraft and engines.
Hawaiian Airlines	Honolulu, HI	7,400	$622,000,000	2.50%	6/30/2024	Warrants for common stock equal to 10% of loan amount.	Loyalty program as well as certain aircraft.
Frontier Airlines	Denver, CO	5,000	$574,000,000	2.50%	9/26/2025	Warrants for common stock equal to 10% of loan amount.	Loyalty program.
SkyWest Airlines	St. George, UT	15,000	$725,000,000	3.00%	9/29/2025	Warrants for common stock equal to 10% of loan amount.	Certain engines, airframes, and rotable parts.
Mesa Airlines, Inc.	Phoenix, AZ	3,540	$200,000,000	3.50%	10/30/2025	Warrants for common stock equal to 10% of loan amount.	Aircraft, engines, accounts receivables, and other equipment.
Sun Country, Inc.	Minneapolis, MN	1,630	$45,000,000	3.50%	10/26/2025	3% payment-in-kind interest.	Loyalty program.
Ovation Travel Group	New York, NY	250	$20,000,000	5.50%	10/15/2025	3% payment-in-kind interest.	Unsecured senior debt.
Eastern Airlines, LLC	Wayne, PA	137	$15,000,000	3.50%	10/28/2025	3% payment-in-kind interest.	Aircraft, engines, and accounts receivables.
Caribbean Sun Airlines, Inc.	Virginia Garden, FL	173	$15,000,000	3.50%	11/5/2025	3% payment-in-kind interest.	Aircraft, engines, and rotable parts.
Timco Engine Center, Inc.	Oscoda, MI	25	$8,390,240	3.50%	11/5/2025	3% payment-in-kind interest.	Engines, parts, accounts receivables, and other equipment and inventory.
Allflight Corporation	Kent, WA	35	$4,721,260	3.50%	11/5/2025	3% payment-in-kind interest.	Inventory, engines, equipment, and spare parts.
Aviation Management & Repairs, Inc.	Fort Pierce, FL	6	$4,026,705	3.50%	11/5/2025	3% payment-in-kind interest.	Aircraft, accounts receivable, engines, parts, and other equipment.

Southern Airways Express, LLC	Pompano Beach, FL	458	$1,838,501	3.50%	10/28/2025	3% payment-in-kind interest.	Aircraft, engines, parts, and other equipment.
Legacy Airways, LLC	Conroe, TX	19	$1,817,306	5.50%	10/20/2025	3% payment-in-kind interest.	Unsecured senior debt.
American Jet International Corp.	Houston, TX	44	$1,162,124	3.50%	11/5/2025	3% payment-in-kind interest.	Secured by accounts receivable.
Bristin Travel, LLC	Fayetteville, AR	12	$549,651	3.50%	10/26/2025	3% payment-in-kind interest.	Accounts receivable.
Island Wings, Inc.	Ft. Lauderdale, FL	not disclosed	$294,350	3.50%	11/5/2025	3% payment-in-kind interest.	Aircraft.
Aero Hydraulics, Inc.	Fayetteville, GA	2	$450,000	5.50%	10/23/2025	3% payment-in-kind interest.	Unsecured senior debt.
Republic Airlines, Inc.	Indianapolis, IN	6,700	$77,000,000	3.50%	11/6/2025	Warrants for common stock equal to 10% of loan amount.	Spare parts and tooling inventory.
Thomas Global Systems, LLC	Irvine, CA	20	$1,400,000	3.50%	11/7/2025	3% payment-in-kind interest.	Accounts receivable.
Elite Airways, LLC	Portland, ME	110	$2,630,274	3.50%	11/7/2025	3% payment-in-kind interest.	Equipment and spare parts.
Total		**335,561**	**$21,196,280,411**				