

[Banking and Finance Law Daily Wrap Up, TOP STORY—GAO issues latest report on the COVID-19 pandemic, \(Sept. 24, 2020\)](#)

Banking and Finance Law Daily Wrap Up

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The GAO report, required under the CARES Act, offers federal agencies suggestions on improving their COVID-19 response programs—including the Paycheck Protection Program, eviction moratoriums, and Federal Reserve emergency lending programs.

Pursuant to the CARES Act, in September 2020, the U.S. Government Accountability Office (GAO) published its bimonthly report to Congressional Committees on the GAO's ongoing monitoring and oversight efforts related to the COVID-19 pandemic. Specifically, the September 2020 report looks at actions taken by the federal government to address the COVID-19 pandemic, as well lessons learned in connection with that response. The report [noted](#) that the U.S. will face economic difficulties for the foreseeable future, and the GAO identified opportunities to improve the ongoing federal response.

Of particular note with respect to the Treasury, the Small Business Administration, and the Federal Reserve, the report gave an overview of the Paycheck Protection Program, eviction moratoriums, and Federal Reserve emergency lending programs. The GAO continues to recommend clear and consistent communication—among all levels of government, with health care providers, and to the public—during this emergency. The report notes that "uncoordinated communication between the federal government and state and local jurisdictions, and with providers and the general public, can contribute to confusion and frustration."

Paycheck Protection Program. The Paycheck Protection Program (PPP) closed as of August 8, 2020, and as of that date, lenders had made over 5.2 million loans totaling more than \$525 billion. The SBA has also begun accepting loan forgiveness applications. The GAO recommended that the SBA develop and implement plans to identify and respond to risks in the program. The report indicated that the SBA has begun such plans but has yet to finalize or implement any plans, including finalizing plans for loan reviews and loan forgiveness reviews.

The GAO notes that risks need to address the potential for fraud, including those in loans under \$2 million. Cases of fraud already in PPP loans identified include: making false statements and engaging in identity theft, wire and bank fraud, and money laundering.

When addressing considerations, the GAO noted that uncertainty about the lender's role in the process and the complexity of the process could result in additional difficulties and delays for borrowers in obtaining loan forgiveness. Additional challenges identified with respect to the loan forgiveness process include a lack of clear rules and guidance on the process. Additionally, the report suggests that the complexity of the loan forgiveness application could also present a challenge to borrowers.

Eviction moratoriums. The CARES Act also provided a temporary eviction moratorium. The GAO report indicates that the agencies involved need to address longer-term issues with respect to unpaid rent for both renters and property owners. GAO notes that the continued nonpayment of rent could have spillover effects on the larger economy. The short-term reductions in rent may be managed by landlords, however, if the eviction moratoriums continue indefinitely, that may force some landlords or property owners into forbearance or foreclosure, adding stress to the housing finance system.

The first key issue noted by the GAO in this arena is that only a subset of renters has been provided short-term relief. This is due to various limited state provisions, as well as some state and local courts still processing evictions. The GAO also highlighted that data suggests that, due to the recession, some renters will not be able to pay rent in the coming months. The GAO data showed declining rent payments since May 2020. Additionally,

GAO data showed that renters are using sources other than income, such as credit cards, unemployment insurance benefits, and economic impact payments to meet spending needs. The GAO report expressed concern that the continued declining payments of rent could have spillover effects on the economy, including forcing more landlords into forbearance or foreclosure.

Federal Reserve emergency lending programs. The CARES Act also resulted in the creation of emergency lending programs established by the Federal Reserve, called the Main Street facilities—aimed at small and mid-sized businesses. The CARES Act authorized at least \$454 billion for the Treasury to support the Federal Reserve in establishing such lending facilities. As of Aug. 15, 2020, the Treasury had committed \$195 billion, or about 43 percent, of the \$454 billion from the CARES Act available to support the facilities and disbursed \$102.5 billion of that commitment.

The GAO gave two recommendations to the Federal Reserve with respect to these lending facilities: to strengthen procedures related to high-risk borrowers, and to better estimate and track losses within and across all facilities.

The GAO report discussed that the Federal Reserve indicated that businesses might not use the Main Street facilities because they were able to meet their credit needs by borrowing in the private-sector market or through the PPP in the early stages of the pandemic. The officials said that the Main Street facilities are intended to provide financing where it is not otherwise available, and they expect growing demand for Main Street loans if the economy further declines. The Federal Reserve also established four facilities that do not receive support through CARES Act appropriated funds. These facilities aim to provide liquidity to the financial sector and to businesses. The report indicated that representatives from small businesses and community banks told the GAO that the minimum loan amount of \$250,000 was a deterrent to participating in such loans.

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