Cheat sheet: What's at stake for banks, customers in stimulus battle

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By Neil Haggerty

WASHINGTON — The stakes are high for the financial services industry as lawmakers battle over the details of a new stimulus package to provide economic relief for businesses and consumers affected by the coronavirus outbreak.

Although Senate Democrats blocked a vote on a package sponsored by Majority Leader Mitch McConnell, R-Ky., a whole host of provisions benefiting banks, credit union and other financial firms appears still to be on the table in McConnell's plan and other proposals being floated on Capitol Hill.

McConnell's package included several industry-backed measures intended to make it easier for banks to lend and protect client funds. His bill would authorize an expansion of Federal Reserve liquidity programs, delay a controversial new accounting standard for loan losses, give the Federal Deposit Insurance Corp. the authority to guarantee business transaction accounts, provide regulatory relief for troubled debt restructurings, and ease a capital requirement for community banks.

Democrats, who decried Senate Republicans' package as putting corporations over workers and families, have offered up a number of their own proposals to help consumers in the midst of the pandemic. These proposals include a temporary cap on interest rates for consumer loans, a moratorium on negative credit reporting, and a temporary ban on overdraft fees.

A spokesperson for Senate Minority Leader Chuck Schumer, D-NY, said he was "working late into the night" with Treasury Secretary Steven Mnuchin and that they had a "productive meeting."

"Key disagreements remain regarding Treasury's broad discretion over industry-specific relief, the need for more aid to individuals, and the lack of funding for state and local governments," said Ed Mills, a policy analyst at Raymond James, in a note Sunday. "While these are substantive differences, we do not change our belief a deal will be struck."

Here is a cheat sheet of the proposals that have been floated by Republicans and Democrats as Congress is working out how to provide relief to banks and consumers during the national emergency.

Support for Fed's liquidity programs

The Senate Republicans' legislation would authorize hundreds of billions of dollars to come from the Treasury Department to be used to support the Fed's liquidity programs. The central bank has already **pledged dramatic support** for the liquidity markets on its own through various credit facilities.

The plan would provide liquidity to the financial system to support lending to eligible businesses, states or municipalities by purchasing obligations or other interests directly from issuers or in secondary markets.

The bill is estimated to provide over $400 billion in authorization for Fed liquidity programs. A Raymond James note Monday said the legislative package essentially calls for a program akin to a facility created after the 2008 crisis to support asset-backed securities collateralized by loans to consumers and businesses.

The Fed has already attempted to flood the markets with liquidity under its emergency lending authority. In a Fox News interview Sunday, Treasury Secretary Steven Mnuchin said the result of the government's efforts will be "up to $4 trillion of liquidity that we can use to support the economy."

CECL delay

For months, the banking industry has decried a new Financial Accounting Standards Board accounting standard for loan losses, known as the Current Expected Credit Losses standard, or CECL.

Members of both parties have warned that CECL will be overly burdensome to smaller banks, and several lawmakers have previously introduced legislation that would require regulators to study the impacts of CECL before the standard is implemented.

"This new standard makes it unnecessarily difficult for banks and credit unions to lend in a distressed economic environment," said Sen. David Perdue, R-Ga., in a **Washington Examiner op-ed** on Monday.

Large publicly traded banks had to start complying with CECL on Jan. 1 of this year, meaning the accounting standard was due to take effect in their first-quarter earnings report. But the Senate Republicans' proposal would relieve banks from complying with the new standard until Dec. 31 or when the public health emergency is terminated, whichever comes first. (Smaller privately held banks do not have to comply until 2023.)

Unlimited FDIC insurance on transaction accounts

Just like the 2008 financial crisis, the safety of deposits held in business transaction accounts that exceed the Federal Deposit Insurance Corp. limit has become a concern.

Twelve years ago, the FDIC was able to use its independent authority to provide a temporary guarantee on all noninterest transaction accounts. But the 2010 Dodd-Frank Act restricted the FDIC's ability to establish such a guarantee program in the future, requiring the agency first to seek a congressional resolution enacted by both chambers.

McConnell's package would give the FDIC the authority to guarantee business transaction accounts until Dec. 31.

Capital relief for community banks

Senate Republicans included in their coronavirus stimulus package a slight decrease in a key capital ratio for community banks.

The 2018 regulatory relief bill that President Trump signed into law authorized regulators to set the community bank leverage ratio — that small banks have the option to use in lieu of more complex capital measures — between 8% and 10%. The regulators set the ratio in the middle, at 9%. The McConnell package would lower that by one point to 8%.

Bankers have raised concerns that the ratio is currently too high.

The Republican lawmakers supporting the decrease in the community bank leverage ratio say it will shore up extra resources for community banks to meet their financial needs.
The 8% ratio would go into effect until the crisis is terminated or until Dec. 31, whichever comes first.

Troubled debt restructuring relief

The Senate Republicans' proposal would relieve banks from having to categorize loan modifications related to the coronavirus pandemic as troubled debt restructurings.

Critics of troubled debt restructuring have argued that they reduce the incentive for banks to work out new loan agreements with struggling borrowers, since they require banks to set aside more in capital reserves and they create other administrative hassles.

The relief from troubled debt restructuring would last until 60 days following the end of the public health emergency.

The Fed, FDIC, Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, National Credit Union Administration and Conference of State Bank Supervisors **encouraged banks on Sunday to make loan modifications** for borrowers affected by the coronavirus, including payment deferrals, fee waivers, extensions of repayment terms and other insignificant payment delays. They said such loan workouts would not need to be categorized as troubled debt restructurings.

Temporary consumer loan interest rate cap

Sens. Sherrod Brown, D-Ohio, and Chris Van Hollen, D-Md., have called for a 36% interest rate cap on all consumer loans throughout the duration of the COVID-19 national emergency.

The cap already exists for loans to service members under the Military Lending Act. The senators have already supported legislation to extend that cap to all consumer loans permanently, although several House Democrats have wavered on the legislation and **installment lenders have successfully lobbied against it**.

The senators, in a letter to McConnell and Schumer on Saturday, said that the rate cap is appropriate during the pandemic as consumers and small businesses are faced with economic uncertainty.

"Consumers and small businesses who are starved for cash should not be … [gouged] by unscrupulous lenders; therefore, including a usury cap rate during this National Emergency is essential to protecting American consumers," Brown and Van Hollen wrote.

Ban on overdraft fees

Sen. Cory Booker, D-N.J., and Brown have called for a temporary ban on overdraft fees for the duration of the public health emergency.

Banks typically charge a $35 fee to consumers who make purchases or pay bills but don't have sufficient funds in their accounts to cover the payments. Some banks, including Ally and Bank of America, reportedly have already **waived for pledged to refund overdraft fees** on a temporary basis in response to the pandemic crisis.

The senators are calling for a ban on those charges for any transaction during the duration of the national emergency. They also want to prohibit banks from reporting consumers' use of overdraft coverage to credit reporting agencies and allow banks to extend a reasonable overdraft line of credit to consumers with insufficient funds.

"At the height of this pandemic, hardworking Americans should be protecting their health not worrying about big banks slapping them with fees for small overdraft amounts," said Brown, the top Democrat on the Senate Banking Committee. "This bill would allow them to keep money in their pockets when they need it most."

Moratorium on negative credit reporting

House Financial Services Committee Chairwoman Maxine Waters, D-Calif., is calling for a halt in negative credit reporting during the duration of the pandemic and 120 days thereafter.

And Sen. Brian Schatz, D-Hawaii, and Brown, similarly **introduced a bill** to provide an immediate four-month pause in consumers getting penalized on their credit reports for missed payments.

The legislation from Brown and Schatz would also provide free, unlimited credit reports and credit scores for a year from the end of the coronavirus crisis. And it would also extend protections to consumers' credit to future crises or disasters.

Waters' measure would prevent credit reporting agencies from lowering a consumers' credit score during the pause on negative credit reporting.