

**The Thirteenth Report of the Congressional Oversight
Commission**

May 28, 2021

**Commission Members
U.S. Representative French Hill
U.S. Senator Pat Toomey**

TABLE OF CONTENTS

Introduction

Discussion of the Term Asset-Backed Securities Loan Facility

Treasury and Federal Reserve Recent Development

Appendix A: Letters from Commission to Department of Treasury and Defense Requesting

Additional Documents related to the Treasury's Yellow Loan

INTRODUCTION

This is the thirteenth 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 provided \$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 was set aside for the Treasury to provide loans or loan guarantees to certain types of companies. Up to \$25 billion was available for passenger air carriers, eligible businesses certified to inspect, repair, replace, or overhaul services, and ticket agents. Up to \$4 billion was available for cargo air carriers and \$17 billion was available for businesses “critical to maintaining national security.”³

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?
- Who is that money helping?⁵

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. Subtitle B is not within the jurisdiction of the Commission.

⁴ *Id.* § 4020.

⁵ Congressional Oversight Commission, *Questions About the CARES Act’s \$500 Billion Emergency Economic*

The emergency lending facilities established by the Federal Reserve that received 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 enabled the Federal Reserve to purchase newly issued corporate bonds and portions of syndicated loans, and the SMCCF enabled the Federal Reserve to purchase previously issued corporate bonds and exchange-traded funds (“ETFs”) that invest in corporate bonds.⁶ The PMCCF never made any purchases during the period it was operational.⁷ As of May 26, 2021, the SMCCF had an outstanding amount of bond ETF and individual corporate bond purchases of \$13.7 billion.⁸

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, acquired loans issued by lenders to small and medium-sized businesses and non-profit organizations with up to 15,000 employees or 2019 revenues of \$5 billion or less. As of May 26, 2021, the Federal Reserve held \$16.3 billion in loan participations purchased under the MSLP.⁹

Municipal Liquidity Facility (“MLF”): The MLF enabled the Federal Reserve, through a SPV, to purchase short-term notes issued by state and local governments. As of May 26, 2021, the MLF had \$5.5 billion in outstanding purchases of municipal notes.¹⁰

Term Asset-Backed Securities Loan Facility (“TALF”): The TALF enabled the Federal Reserve, through an SPV, to make loans to U.S. companies secured by asset-backed securities backed by student loans, auto loans, credit card loans, commercial mortgages, leveraged loans, loans guaranteed by the Small Business Administration, and certain other assets. TALF had a total outstanding amount of \$1.7 billion in loans

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, *Periodic Report: Update on Outstanding Lending Facilities Authorized by the Board under Section 13(3) of the Federal Reserve Act*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmlf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.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*, May 27, 2021, at n.4, <https://www.federalreserve.gov/releases/h41/>. The SPV for the SMCCF is the Corporate Credit Facilities LLC. The SPV for the MSLP is MS Facilities LLC. The SPV for the MLF is Municipal Liquidity Facility LLC.

⁹ *Id.*

¹⁰ *Id.*

as of May 26, 2021.¹¹

The direct lending programs managed by the Treasury that received CARES Act funds are:

Treasury Loans for National Security Businesses: The Treasury had \$17 billion available to make loans to businesses critical to maintaining national security under Subtitle A. The Treasury provided national security loans to eleven businesses, totaling \$735.9 million.¹² One business, Yellow Corporation (“Yellow”), which was formerly known as YRC Worldwide, Inc. (“YRC”), accounted for 95% of the total outstanding loans.¹³

Treasury Loans for the Airline Industry: In addition, the Treasury had \$29 billion available to make loans to the airline industry under Subtitle A, with \$25 billion available for passenger air carriers, including related businesses, and \$4 billion available for cargo air carriers.¹⁴ The Treasury lent \$21.2 billion across twenty-four such loans to companies the Treasury characterized as airlines, ticket agents, a repair station, and a cargo air carrier.¹⁵

Commissioner Donna Shalala

On May 1, 2021, Commissioner Donna Shalala resigned from her position with the Commission. The Commission thanks Commissioner Shalala for her public service and dedication to the Commission’s work.

In this report, we provide an in-depth look at TALF. 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.

¹¹ 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*, May 27, 2021, at table 4, <https://www.federalreserve.gov/releases/h41/>.

¹² U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited May 28, 2021, <https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses>.

¹³ Yellow Corporation, *YRC Worldwide Inc. is Renamed Yellow Corporation*, Feb. 4, 2021, <https://investors.myyellow.com/news-releases/news-release-details/ycr-worldwide-inc-renamed-yellow-corporation>.

¹⁴ 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).

¹⁵ U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited May 28, 2021, <https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses>.

DISCUSSION OF TERM ASSET-BACKED SECURITIES LOAN FACILITY

The Commission's twelve previous reports have tracked the actions that the Treasury and the Federal Reserve took to implement Subtitle A of the CARES Act, including the Term Asset-Backed Securities Loan Facility ("TALF").

Background

The Federal Reserve established TALF to support the flow of credit to consumers and businesses following disruptions in the financial markets related to COVID-19 in March 2020 and to improve the market conditions for asset-backed securities ("ABS") more generally.¹⁶ TALF's purpose was to enable the issuance of ABS backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration ("SBA"), leveraged loans, commercial mortgages, and certain other assets.¹⁷

TALF made loans funded by the Federal Reserve Bank of New York ("New York Fed") to eligible borrowers during the period of June 25, 2020 to December 31, 2020. TALF loans were made only against eligible ABS collateral, as set forth in the facility's terms and conditions and Master Loan and Security Agreement. Eligible ABS collateral was limited to the following:¹⁸

- Auto loans and leases
- Student loans
- Credit card receivables (both consumer and corporate)
- Equipment loans
- Floorplan loans
- Premium finance loans for property and casualty insurance
- Certain small business loans that are guaranteed by the SBA
- Leveraged loans
- Commercial mortgages

The SPV formed in connection with the implementation of TALF is a Delaware Limited Liability Company called TALF II LLC ("TALF SPV"). TALF SPV has two members: the New York Fed and the Treasury. The New York Fed is the managing member and has exclusive rights to manage TALF SPV. The Treasury is the preferred equity member and contributed \$10 billion in capital to TALF SPV using funds from the Exchange Stabilization Fund under section 4027 of the CARES Act.¹⁹ On December 29, 2020, the Treasury amended the TALF's Limited Liability Company Agreement to provide an interim distribution to Treasury. On January 5, 2021, TALF made a distribution to the Treasury in the amount of \$6.45 billion, which was equal to the amount of preferred equity and non-marketable U.S. Treasury securities held by TALF, minus

¹⁶ Federal Reserve, Term Asset-Backed Securities Loan Facility Term Sheet, Jul. 28, 2020, <https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a6.pdf>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

the aggregated principal amount of all non-recourse loans outstanding or committed to by funded by TALF as of December 31, 2020.²⁰

Key Terms

The TALF loans had a maximum maturity of three years and the TALF SPV assessed an administrative fee equal to 0.1% of the loan amount on the settlement date for collateral.²¹ TALF allowed market participants a funding mechanism where they can borrow funds backed by eligible collateral at an interest rate. The pricing for TALF varied by type of loan type:²²

- Collateralized loan obligations (“CLO”): 1.5% over the 30-day average secured overnight financing rate (“SOFR”)
- SBA Pool Certificates (7(a) loans): 0.75% above the federal funds target
- SBA Development Company Participation Certificates (504 loans): 0.75% over the 3-year federal funds oversight index swap (“OIS”) rate
- All other eligible ABS: 1.25% over the 2-year OIS rate for securities with a weighted average life of less than two years; 1.25% over the 3-year OIS rate for securities with a weighted average life of two years or greater

Eligible collateral includes U.S. dollar-denominated ABS that have a credit rating in the highest long-term or the highest short-term investment-grade rating category from at least two eligible nationally recognized statistical rating organizations (“NRSROs”) and do not have a credit rating below the highest investment-grade rating category from an eligible NRSRO.²³

Recourse against TALF borrowers is limited to the ABS collateral securing a TALF loan, absent breaches of representations, warranties, or covenants by a TALF borrower. The ABS collateral pledged to the TALF SPV by borrowers is subject to haircuts, based on the ABS type and weighted average life. A haircut is the difference between the market value of a collateral asset and the loan amount.²⁴ A TALF borrower is entitled to prepay its loan, in whole or in part, without penalty. A borrower can also surrender the ABS collateral to TALF at any time in full satisfaction of its loan.

²⁰ Federal Reserve, *Letter to the Treasury by Federal Reserve Bank of New York*, Jan. 7, 2021, https://www.newyorkfed.org/medialibrary/media/markets/talldocs/TALF_Limited_Liability_Company_Agreement.pdf.

²¹ Federal Reserve, *Term Asset-Backed Securities Loan Facility Term Sheet*, Jul. 28, 2020, <https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200728a6.pdf>.

²² *Id.*

²³ *Id.*

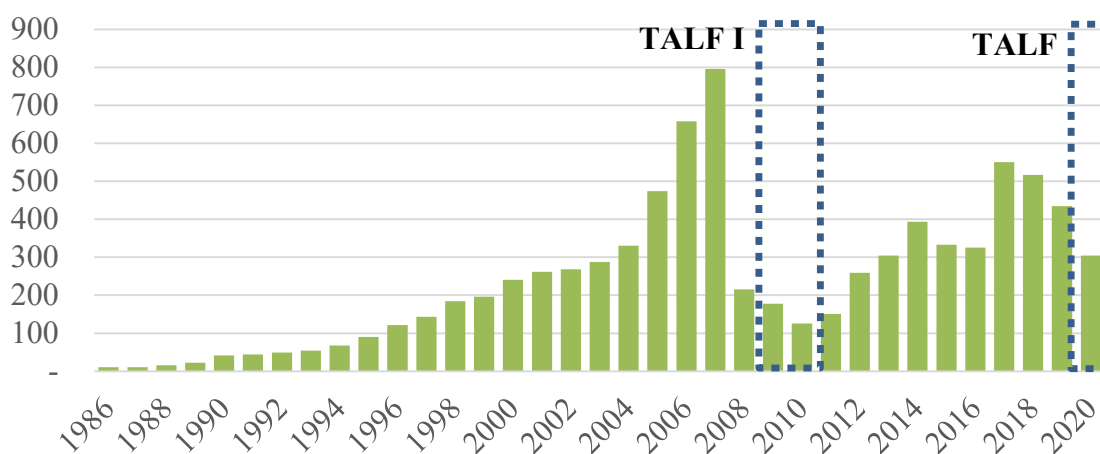
²⁴ CFA Institute, *CFA Magazine: Trading Places*, March 2016, <https://www.cfainstitute.org/en/research/cfa-magazine/2016/trading-phases>.

Usage of Program

As mentioned in the Commission's second report in June 2020,²⁵ the Federal Reserve's mere announcement that it was establishing the facilities helped to improve the condition and performance of financial markets. This improvement enabled certain businesses to access credit through the capital markets at lower rates to fund their operations. In addition, many direct and indirect owners of financial assets, such as investors, retirees, and pension recipients, saw those assets recover or gain value due to the improvement of the financial markets. This dynamic was also true for the ABS funding markets.

While TALF only issued \$4.4 billion in loans, improvements in the funding markets allowed \$304.3 billion in capital to flow to borrowers in the ABS markets.²⁶ A similar result was seen in 2009 and 2010, when \$303.8 billion in ABS loans were issued to borrowers following the first iteration of the TALF program ("TALF I") established during the financial recession of 2007 through 2009.²⁷

Issuances of U.S. ABS (\$ billion)



TALF ceased operations on December 31, 2020. During its period of operation, the TALF made 224 loans totaling \$4.4 billion to 20 investment funds.²⁸ More than half of the investors in these investment funds were foreign-based.²⁹ Many TALF borrowers have elected to prepay their TALF loans, causing the size of the TALF loan program to contract to a total outstanding amount of \$1.8 billion in loans as of April 30, 2021.³⁰ The following chart shows

²⁵ Congressional Oversight Commission, *The Second Report of the Congressional Oversight Commission*, Jun. 18, 2020, [https://coc.senate.gov/sites/default/files/2020-08/20200618 Congressional Oversight Commission 2nd Report.pdf](https://coc.senate.gov/sites/default/files/2020-08/20200618%20Congressional%20Oversight%20Commission%202nd%20Report.pdf).

²⁶ SIFMA, *U.S. Asset-Backed Securities Statistics*, May 7, 2021, <https://www.sifma.org/resources/research/us-asset-backed-securities-statistics/>.

²⁷ *Id.*

²⁸ 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)*, Jan. 11 2021, <https://www.federalreserve.gov/publications/files/talf-transaction-specific-disclosures-01-11-21.xlsx>.

²⁹ *Id.*

³⁰ Board of Governors of the Federal Reserve System, *Periodic Report: Update on Outstanding Lending Facilities*

that the three investment funds with the most TALF loans outstanding add up to 94% of the TALF program's remaining loans outstanding.

Investment Fund	Loan Amount Outstanding (in \$ million)	Percentage of Total Program
Alta Fundamental Advisers SP LLC - Belstar-Alta Series 1	\$1,531.4	82.5%
Alta Fundamental Advisers SP LLC - Belstar-Alta Series 2	159.7	8.9%
Barings Paragon LLC	59.9	3.0%

The investment funds use TALF loans to purchase securities backed by certain types of consumer and business loans. The chart below illustrates the collateral sector breakdown of the underlying loans that were purchased by investor funds using TALF loan proceeds.³¹

Collateral Sector	Loan Amount Outstanding (in \$ million)	Percentage of Total Program
Small Business Administration Loans	\$1,265.0	70.8%
Commercial Mortgage	396.1	22.1%
Leveraged Loan	117.3	6.6%
Private Student Loans	<u>8.9</u>	<u>0.5%</u>
Total	\$1,787.2	

Explanation of Early Redemptions

As mentioned above, many TALF borrowers have elected to prepay their TALF loans. Of the 224 loans executed during the duration of the TALF program, 146 have been voluntarily prepaid by borrowers, leaving a total outstanding amount of \$1.8 billion in loans as of April 30, 2021, which is only 40% of the \$4.4 billion total amount.³² As outlined below, of the two largest collateral sector types, commercial mortgages have largely been prepaid (89.9%), but less than one-half of the small business collateral loans have been repaid.³³

Authorized by the Board under Section 13(3) of the Federal Reserve Act (Transaction-specific Disclosures), May 9 2021, <https://www.federalreserve.gov/publications/files/talf-transaction-specific-disclosures-05-10-21.xlsx>.

³¹ *Id.*

³² *Id.*

³³ *Id.*

Collateral Sector	Loan Amount Outstanding (in \$ million)	Loan Amount Prepaid (in \$ million)	Percentage of Total Program Prepaid
Small Business Administration Loans	\$1,265.0	\$1,149.9	47.6%
Commercial Mortgage	396.1	83.5	17.4%
Leveraged Loan	117.3	1,040.9	89.9%
Private Student Loans	8.9	280.3	96.9%
Premium Finance (Insurance)	<u>0.0</u>	<u>106.9</u>	<u>100%</u>
Total	\$1,87.2	\$2,661.5	59.8%

As mentioned above, the announcement of emergency lending facilities, such as TALF, helped to improve the condition and performance of financial markets. The Federal Reserve’s June 2020 Senior Credit Officer Opinion Survey collected information about changes in credit terms and conditions in securities financing markets between February 2020 and May 2020. A substantial portion of respondents indicated deteriorated liquidity and functioning across all types of markets except for the equity market.³⁴

More than four-fifths of respondents indicated so for the commercial mortgage-backed securities (“CMBS”) markets, and more than half did for the high-yield bond and consumer ABS markets.³⁵ Also, despite more than one-half of securities dealers reporting increased demand for funding of securities, including CMBS and consumer ABS, a substantial portion of securities dealers reported tightened terms for such securities.³⁶ The Federal Reserve’s next Senior Credit Officer Opinion Survey in September 2020 featured questions specific to TALF-eligible CMBS, and securities dealers reported easing of funding terms since mid-March 2020 for both TALF-eligible and TALF-ineligible non-agency CMBS.³⁷ Further, about one-third of securities dealers reported an improvement in liquidity and market functioning since mid-March 2020.³⁸ Subsequent Federal Reserve surveys in December 2020 and March 2021 reported further improvements in liquidity and market functioning for the consumer ABS market.³⁹⁴⁰

These survey results directly translated to ABS transactions observed in the capital

³⁴ Federal Reserve, *Senior Credit Officer Opinion Survey, June 2020*, Jun. 18, 2020, <https://www.federalreserve.gov/data/scoos/scoos-202006.htm>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Federal Reserve, *Senior Credit Officer Opinion Survey, September 2020*, Sep. 24, 2020, <https://www.federalreserve.gov/data/scoos/scoos-202009.htm>.

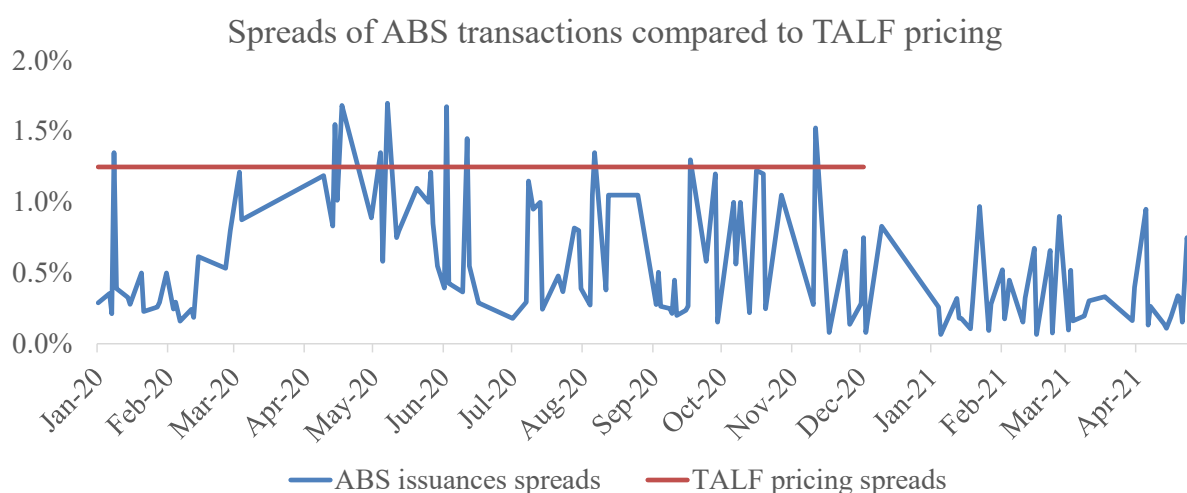
³⁸ *Id.*

³⁹ Federal Reserve, *Senior Credit Officer Opinion Survey, December 2020*, Dec. 22, 2020, <https://www.federalreserve.gov/data/scoos/scoos-202012.htm>.

⁴⁰ Federal Reserve, *Senior Credit Officer Opinion Survey, March 2021*, Mar. 25, 2021, <https://www.federalreserve.gov/data/scoos/scoos-202103.htm>.

markets. In a briefing provided to the Commission’s staff, the Federal Reserve explained how TALF offered three-year funding for borrowers who typically borrow short-term for their collateral funding needs. The Federal Reserve explained how locking in a rate is a valuable feature in times of reduced market functioning and liquidity. The Federal Reserve indicated that investors could prepay those loans if they thought loan conditions have improved enough to provide a viable alternative for capital.

The Commission analyzed a dataset of over 2,000 ABS transactions from January 2020 through April 2021, and found that transactions meeting the criteria of TALF experienced increased pricing spreads in March 2020 through June 2020, but that transactions were generally priced at levels below the interest spread pricing required for TALF.⁴¹ As mentioned above, pricing for loans was 0.75% for SBA-related collateral was 0.75%, 1.5% for CLO-related collateral, and 1.25% for all other ABS collateral. Further, following the termination of TALF, the market did not experience any reversions in spreads to levels seen in the months following March 2020.



The fact that borrowers were able to get funding through the capital markets demonstrates how TALF provided the ABS markets a valuable option for funding while not crowding out the private markets. This dynamic also explains why TALF only purchased \$4.4 billion in loans despite having the capacity to purchase \$100 billion.

⁴¹ Bloomberg, *Structured Pipeline: 2020 and 2021 U.S. Structured Finance Pricing Spreadsheet*, retrieved May 21, 2021, from Bloomberg terminal. Bloomberg transactions featured spreads over benchmarks, including the Euro EuroDollar Synthetic Forward (benchmark used for ABS tranches that have a weighted average life under two years) One-month London Inter-bank Offered Rate (LIBOR), interpolated LIBOR, Secured Overnight Financing Rate (SOFR), Swap spreads, and Treasuries.

Comparison with TALF I

Following the financial crisis of 2007-2008, the Federal Reserve established TALF I in March 2009. The program was designed to catalyze the securitization markets by providing financing to investors to support their purchases of certain AAA-rated ABS.⁴² TALF I could lend up to \$200 billion, ran from May 2009 through March 2010, and was intended to encourage greater flows of credit to small businesses and students. While TALF I accepted similar collateral as TALF, and generally had a three-year maturity, TALF I loans secured by SBA Pool Certificates, SBA Development Company Participation Certificates, or ABS backed by student loans or commercial mortgage loans, could be up to five-years.⁴³

During its period of operation, TALF I made 2,152 loans totaling \$71.1 billion.⁴⁴ As outlined below, this amount is significantly lower than the amount of loans made by TALF in 2020. Of note, five of the collateral types that had loans for TALF I had zero loans in TALF. With the exception of SBA loans, every collateral sector had significantly fewer loans made under TALF than were made under TALF I.

The Commission notes the important support that TALF provided small businesses by providing liquidity to SBA loan investors and borrowers. As explained above, the low uptake of TALF was a feature of the positive impact the Federal Reserve's March 2020 announcements⁴⁵ had in restoring liquidity and functioning to the various lending and capital markets.

⁴² Federal Reserve, *Joint Press Release with Treasury: Treasury and Federal Reserve announce launch of Term Asset-Backed Securities Loan Facility (TALF)*, Mar. 3, 2009, <https://www.federalreserve.gov/newsevents/pressreleases/monetary20090303a.htm>.

⁴³ Federal Reserve, *Term Asset-Backed Securities Loan Facility: Terms and Conditions*, Jul. 21, 2010, https://www.newyorkfed.org/medialibrary/media/markets/talf/Terms_Blackline_101113.pdf.

⁴⁴ Federal Reserve, *Term Asset-Backed Securities Loan Facility, TALF Loan Data*, Sep. 30, 2010, <https://www.federalreserve.gov/regreform/files/talf.xls>.

⁴⁵ Federal Reserve, *Press Release: Federal Reserve announces extensive new measures to support the economy*, Mar. 23, 2020, <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200323b.htm>.

Collateral Sector	TALF I Loan Amount Total (in \$ million)	TALF Loan Amount Total (in \$ million)	TALF Loan Amount as % of TALF I
Credit Card	\$26,315	\$0	N/A
Automobile	12,786	0	N/A
Commercial Mortgage	12,069	1,158	10%
Student Loan	8,970	289	3%
Floorplan ⁴⁶	3,892	0	N/A
Small Business Administration Loans	2,153	2,415	112%
Premium Finance (Insurance)	1,982	107	5%
Leveraged Loan	0	480	0%
Equipment Finance	1,611	0	N/A
Loan Servicing Advances	<u>1,309</u>	<u>0</u>	<u>N/A</u>
Total	\$71,086	\$4,449	6%

TALF I experienced similar patterns of prepayments of loans as TALF. Six months after TALF I closed, only 42% of its loans remained outstanding.⁴⁷ As of April 30, 2021, which was five months following the close of TALF, 40% of its loans remain outstanding. Further, during a briefing with the Federal Reserve, the Commission's staff learned that 100% of the TALF I loans were repaid in full and that TALF I experienced zero losses. As of April 30, 2021, the Federal Reserve expects that TALF will not result in losses.⁴⁸

Ongoing Monitoring

In regards to when TALF loans are scheduled to be repaid, as seen in the graph below, every TALF loan matures in 2023.⁴⁹ This introduces risk to the taxpayer as the TALF will be dependent on market conditions in 2023. That said, as noted above, many TALF borrowers

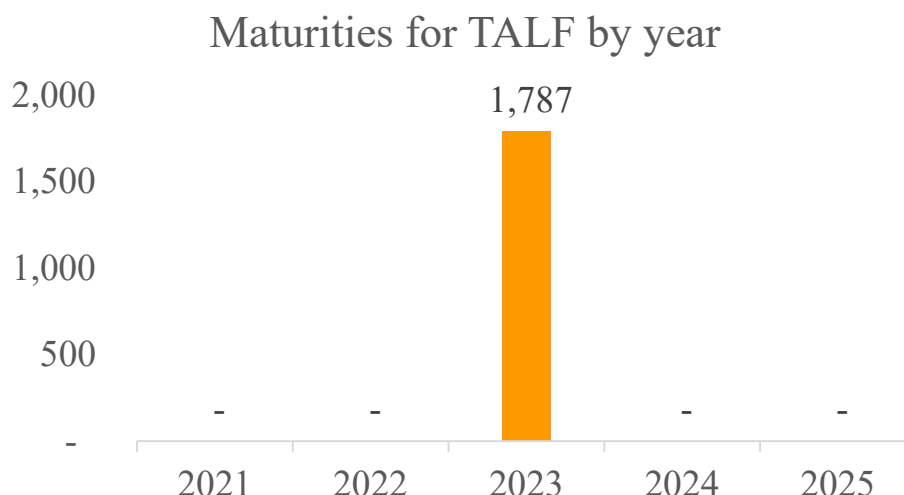
⁴⁶ Floorplan loans are made against a specific piece of collateral (e.g., autos, recreational vehicles, manufactured homes) that are repaid once sold by the dealer. See, e.g., NIADA, Dealer Floor Plan Financing: Frequently Asked Questions, Jul. 1, 2009, <https://www.niada.com/PDFs/Information/SBAFloorPlan/FrequentlyAskedQuestions7-1-09.pdf>.

⁴⁷ Federal Reserve, *Term Asset-Backed Securities Loan Facility, TALF Loan Data*, Sep. 30, 2010, <https://www.federalreserve.gov/regreform/files/talf.xls>.

⁴⁸ 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*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmllf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.pdf>.

⁴⁹ *Id.*

elected to prepay TALF loans totaling \$2.7 billion, which were due in 2023, and further prepayments would reduce risk to the taxpayer.⁵⁰



To further mitigate taxpayer risk, TALF has recourse to the ABS collateral securing the loan. TALF annual financial statements note that the fair value of the ABS collateral for each TALF loan is subject to both market and credit risk, arising from movements in variables such as interest rates, credit spreads, and the credit quality of the collateral. Lending haircuts applied to each ABS at the time of the loan was originated provide a further layer of protection against loss, as the loan amount advanced against each ABS was less than the ABS' value.⁵¹

The Federal Reserve has indicated that TALF loans are evaluated on a quarterly basis for impairment to determine if the fair value of the collateral is sufficient to repay each loan. Based on evaluations performed as of December 31, 2020, there were no credit impairments in TALF's holdings.⁵² The fair value of the collateral is publically disclosed by the Federal Reserve in its periodic reports to Congress on TALF. Relative to the \$1.8 billion in loans outstanding, the total value of the collateral pledged to secure the TALF loans to eligible borrowers was \$2.1 billion as of April 30, 2021.⁵³ While TALF loans are not cross-collateralized, each loan was secured by loan-specific collateral with a fair value in excess of the loan amount. The Federal Reserve indicated that collateral fair value exceeded individual loan amounts by margins ranging from 3% to 41%.

⁵⁰ *Id.*

⁵¹ Federal Reserve, *Financial Statements: TALF II LLC, for the period from April 13, 2020 to December 31, 2020*, Mar. 17, 2021, <https://www.federalreserve.gov/aboutthefed/files/talfilcfinstmt2020.pdf>.

⁵² Federal Reserve, *Financial Statements: TALF II LLC, for the period from April 13, 2020 to December 31, 2020*, Mar. 17, 2021, <https://www.federalreserve.gov/aboutthefed/files/talfilcfinstmt2020.pdf>.

⁵³ 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*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmlf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.pdf>.

TREASURY AND FEDERAL RESERVE RECENT DEVELOPMENTS

As of January 8, 2021, all emergency lending programs created by the Treasury and the Federal Reserve under Section 4003 of the CARES Act have ceased operations. On December 21, 2020, Congress passed new COVID-relief legislation in the Consolidated Appropriations Act, 2021, Pub. L. No. 115-260. In that legislation, Congress prohibited these Federal Reserve's CARES Act lending facilities from being restarted or replicated without congressional approval and rescinded the remaining unobligated balance of the \$500 billion previously made available under Section 4003 of the CARES Act for emergency lending programs.⁵⁴

We summarize below the outstanding amounts of credit extended by each facility and other key developments.

Primary Market Corporate Credit Facility ("PMCCF")

The PMCCF ceased operations on December 31, 2020. The PMCCF did not engage in any transactions during the period in which it was operational.⁵⁵

Secondary Market Corporate Credit Facility ("SMCCF")

The SMCCF ceased operations on December 31, 2020. As of its closure, the SMCCF also invested in 16 bond ETFs with a market value of \$8.8 billion, including seven high-yield bond ETFs with a market value of \$1.2 billion.⁵⁶ As of April 30, 2021, these securities were worth \$8.6 billion.⁵⁷

As of its closure, the SMCCF also had purchased individual corporate bonds from 557 different issuers, with the amortized cost of outstanding individual bond holdings totaling \$5.5 billion.⁵⁸ As of April 30, 2021, the SMCCF held \$5.3 billion in individual bond purchases.⁵⁹ The chart below summarizes the SMCCF's ten largest individual bond holdings which make up 15.7% of SMCCF's holdings.⁶⁰

⁵⁴ Consolidated Appropriations Act, 2021, Pub. L. No. 115-260, Division N, Title X, § 1003, 134 Stat. 1182.

⁵⁵ 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*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmmlf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.pdf>.

⁵⁶ *Id.*

⁵⁷ 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)*, May 9 2021, <https://www.federalreserve.gov/publications/files/smccf-transaction-specific-disclosures-05-10-21.xlsx>.

⁵⁸ 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)*, Jan. 11 2021, <https://www.federalreserve.gov/publications/files/smccf-transaction-specific-disclosures-01-11-21.xlsx>.

⁵⁹ 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)*, May 9 2021, <https://www.federalreserve.gov/publications/files/smccf-transaction-specific-disclosures-05-10-21.xlsx>.

⁶⁰ *Id.*

Issuer	Sector	Amortized Cost (\$ Millions)	Percentage SMCCF Individual Bond Holdings
AT&T Inc.	Communications	97.6	1.88%
Verizon Communications Inc.	Communications	91.5	1.76%
Toyota Motor Credit Corp.	Consumer Cyclical	89.5	1.72%
Volkswagen Group of America Finance LLC	Consumer Cyclical	89.1	1.71%
Apple Inc.	Technology	85.2	1.64%
Daimler Finance North America LLC	Consumer Cyclical	84.5	1.62%
Comcast Corp.	Communications	84.0	1.61%
Microsoft Corp.	Technology	67.0	1.29%
General Electric Co.	Capital Goods	65.6	1.26%
BMW US Capital LLC	Consumer Cyclical	60.2	1.21%

The Federal Reserve has indicated to the Commission that the Federal Reserve will unwind positions in the SMCCF based on the prevailing facts and circumstances, as economic and financial conditions evolve. Federal Reserve Chair Jerome Powell has testified that “[w]e are generally a hold to maturity [investor]. It may be that we sell some back into the secondary market down the road, but ultimately we’re [a] buy-and-hold type buyer.”⁶¹ As of April 30, 2021, 45 bonds matured, 112 had been redeemed early, and 1,204 bonds remain outstanding in the SMCCF.⁶²

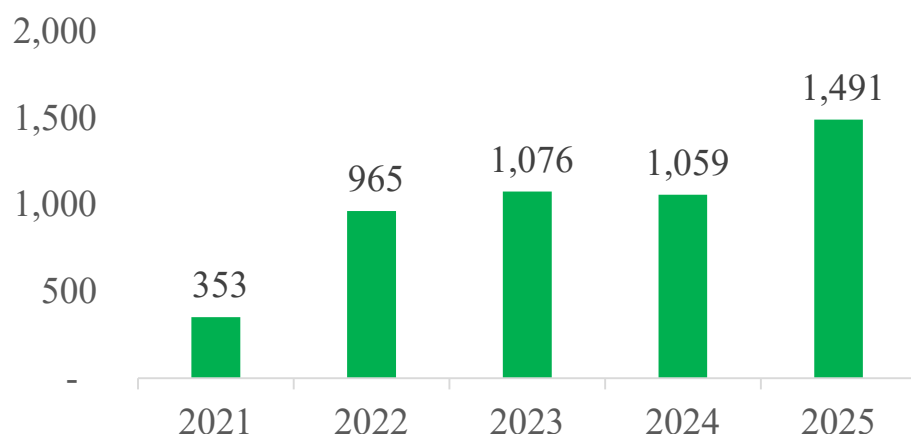
Approximately half of the bonds in the SMCCF will mature by the end of 2023.⁶³ As seen in the graph below, while most bonds will mature in 2025, bond maturities are spread out fairly evenly among the five years that bonds are due. This reduces risk to the taxpayer as the SMCCF will not be dependent on market conditions in any given year.

⁶¹ House Financial Services Committee Hearing on Economic with Federal Reserve Chair Jerome Powell, 116th Cong. (June 17, 2020) (Testimony of Chair Jerome Powell), <https://www.rev.com/blog/transcripts/house-financial-committee-hearing-transcript-on-economy-with-jerome-powell>.

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)*, May 9 2021, <https://www.federalreserve.gov/publications/files/smccf-transaction-specific-disclosures-05-10-21.xlsx>.

⁶³ *Id.*

Maturities for SMCCF by year



The Federal Reserve has indicated to the Commission that the SMCCF’s corporate bond investments are subject to review each quarterly reporting period to identify and evaluate investments that have indications of possible credit impairment. In addition, the Federal Reserve’s analysis related to portfolio performance includes an evaluation of dividend and interest income, prepayments, and losses under a range of possible future conditions. As of March 31, 2021, the Federal Reserve determined there were no corporate bonds with permanent impairments.⁶⁴

Main Street Lending Program (“MSLP”)

The MSLP ceased operations on January 8, 2021. The total loan participations purchased by the MSLP while it was operational totaled \$16.6 billion,⁶⁵ representing 2.8% of its original \$600 billion lending capacity.⁶⁶ As of April 30, 2021, the MSLP had a balance of \$16.4 billion in loan participations, with an estimated loan loss allowance that increased to \$2.7 billion, up from previous estimate of \$2.4 billion.⁶⁷ For context, the Small Business Administration’s 7(a) Loan program that targets small businesses has experienced cumulative defaults of 10% to 28% throughout the life of the loans, with loans originated in the lead-up to the 2007 financial crisis

⁶⁴ 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*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmllf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.pdf>.

⁶⁵ 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)*, Feb. 8 2021, <https://www.federalreserve.gov/publications/files/mslp-transaction-specific-disclosures-02-09-21.xlsx>.

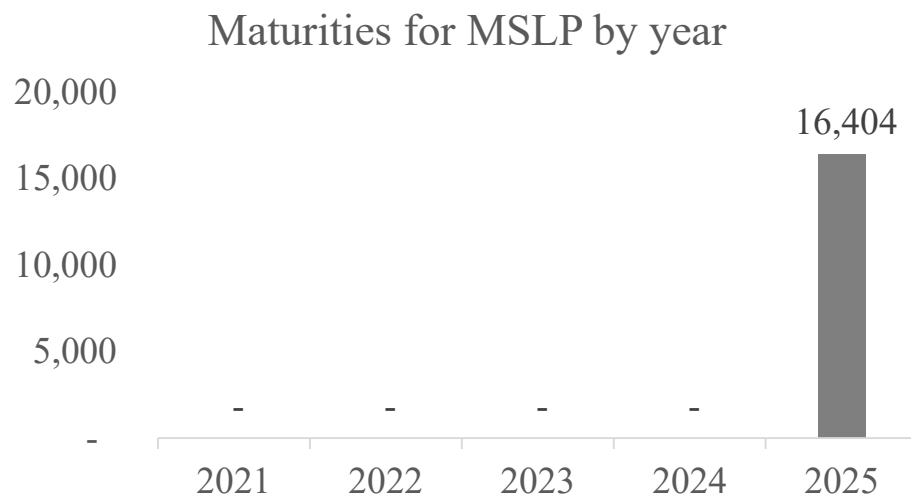
⁶⁶ Board of Governors of the Federal Reserve, *Federal Reserve takes additional actions to provide up to \$2.3 trillion in loans to support the economy*, Apr. 9, 2020, <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>.

⁶⁷ 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*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmllf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.pdf>.

experiencing 30% to 40% of defaults.⁶⁸

The majority of MSLP loans were provided through the two private sector new term loan facilities: the Main Street Priority Loan Facility (“MSPLF”) and the Main Street New Loan Facility (“MSNLF”). At \$4.37 million, the average loan size for the MSNLF is smaller than the overall average, due in part because these loans were available on an unsecured basis, and these companies are generally smaller than the borrowers who participated in the MSPLF. Only a marginal amount of loans, 0.82% of total, were provided through the two nonprofit facilities.

Every MSLP loan matures in 2025, as shown in the graph below.⁶⁹ This introduces risk to the taxpayer as the MSLP will be dependent on market conditions in 2025.



To mitigate the above risk, the Federal Reserve monitors credit quality based on borrower information provided to the Federal Reserve. The terms of the MSLP participation agreement require the borrower to provide certain financial information quarterly and annually as well as any material developments to the MSLP. The Federal Reserve, with the assistance of a third-party vendor, reviews and analyzes this information and uses it to develop an internal credit score for MSLP loans. As of April 30, 2021, the evaluation of loan participations purchased by the MSLP resulted in a loan loss allowance in the amount of \$2.7 billion, equivalent to 16.5% of the \$16.4 billion loan participation’s balance.⁷⁰

⁶⁸ S&P Global, *Small Business ABS Credit Quality Hinges on Pandemic Duration and Stimulus Efficacy*, Apr. 28, 2020, <https://www.spglobal.com/ratings/en/research/articles/200428-small-business-abs-credit-quality-hinges-on-pandemic-duration-and-stimulus-efficacy-11467182>.

⁶⁹ 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*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmlf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.pdf>.

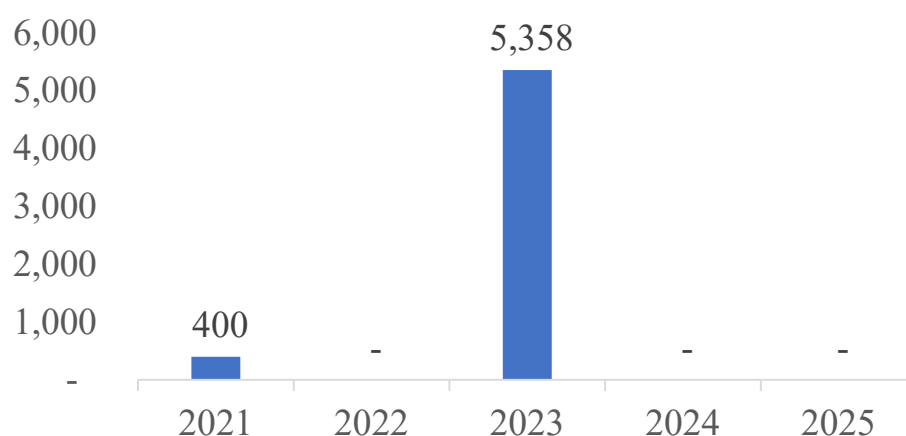
⁷⁰ *Id.*

Municipal Liquidity Facility (“MLF”)

The MLF ceased operations on December 31, 2020. During its period of operation, the MLF purchased a total of four notes from just two borrowers—the State of Illinois and New York City’s Metropolitan Transportation Authority (“MTA”). These notes totaled \$6.6 billion, representing 1% of the MLF’s original \$500 billion lending capacity.⁷¹ As of April 30, 2021, the Federal Reserve held \$5.8 billion of outstanding asset purchases.⁷²

The majority of MLF municipal notes mature in 2023. As seen in the graph below, while most notes mature in 2023, 7% of the notes mature in June 2021 and this amount is net the \$800 million the State of Illinois has voluntarily prepaid.⁷³ The concentration of notes due in 2023 exposes the taxpayer to the risk of market conditions in 2023.

Maturities for MLF by year



To mitigate this risk, the Federal Reserve reviews the MLF municipal note investments on a quarterly basis to identify investments that have indications of possible credit impairment. In addition, the Federal Reserve’s modeling of portfolio performance includes an evaluation of the municipal note portfolio performance under stress conditions. As of April 30, 2020, the Federal Reserve determined there were no municipal notes with permanent impairments.⁷⁴

Term Asset-Backed Securities Loan Facility (“TALF”)

This report provides an in-depth look at TALF.

⁷¹ 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)*, Jan. 11 2021, <https://www.federalreserve.gov/publications/files/mlf-transaction-specific-disclosures-01-11-21.xlsx>.

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)*, May 9 2021, <https://www.federalreserve.gov/publications/files/mlf-transaction-specific-disclosures-05-10-21.xlsx>.

⁷³ *Id.*

⁷⁴ 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*, May 9, 2021, <https://www.federalreserve.gov/publications/files/pdcf-mmmlf-cpff-pmccf-smccf-talf-mlf-ppplf-msnlf-mself-msplf-nonlf-noelf-05-10-21.pdf>.

Treasury Loans for National Security Businesses

The national security loan program made 11 loans totaling \$735.9 million.⁷⁵ The \$700 million loan to Yellow made up a substantial portion of the program. The Treasury's loan to Yellow contains two parts (i.e., tranches) that mature on September 30, 2024. The first tranche of \$300 million ("tranche A") has an interest rate of London Inter-bank Offered Rate ("LIBOR") +3.50%. Yellow will use these funds to cover, among other things, healthcare and pension liabilities, real estate and equipment leases, and interest payments on debt. The second tranche of \$400 million ("tranche B") also has an interest rate of LIBOR +3.50%. Yellow will use these funds to finance the purchase of tractors and trailers in accordance with the company's capital expenditures plan that must be submitted to, and approved by, the Treasury.

The full \$300 million of tranche A of the loan was disbursed during 2020 and \$251 million of the \$400 million tranche B has been disbursed as of January 2021.⁷⁶ Yellow used \$274 million of the tranche A loan proceeds in 2020 and expected to use the remaining \$26 million in the first quarter of 2021. Yellow used \$72 million of the tranche B proceeds to purchase 300 tractors and 1,200 trailers, and the rest of tranche B loan proceeds are expected to go towards Yellow's \$450 million to \$550 million capital expenditures budget for 2021. Yellow anticipates the rest of tranche B of the loan being disbursed during the first half of 2021.⁷⁷

As additional security for the Treasury's loan to Yellow, the Treasury received 15.9 million shares of Yellow's common stock as consideration.⁷⁸ Based on Yellow's stock price on May 27, 2021, the value of Treasury's common stock position is approximately \$101 million.

On May 10, 2021, the Commission sent letters to the Secretary of Defense and the Secretary of the Treasury, requesting additional documents regarding the loan made to Yellow, which are attached in Appendix A. The Commission has not yet received a response.

Treasury Loans for the Airline Industry

The Treasury's airline industry loan program made 24 loans totaling \$21.2 billion.⁷⁹ The Commission's eleventh report featured an in-depth analysis on the program and offered recommendations related to the program.

⁷⁵ U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited May 28, 2021, <https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses>.

⁷⁶ Yellow Corporation, *Fourth Quarter 2020 Earnings Call*, Feb. 4, 2021, <https://investors.myyellow.com/events/event-details/ycr-worldwide-4th-quarter-2020-earnings-call>.

⁷⁷ *Id.*

⁷⁸ Yellow Corporation, *2020 Annual Report*, Feb. 11, 2021, <https://investors.myyellow.com/static-files/c7b4a86d-ddd4-444b-80e6-0603b6b5876b> (see "U.S. Treasury Loan").

⁷⁹ U.S. Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses*, last visited May 28, 2021, <https://home.treasury.gov/policy-issues/cares/preserving-jobs-for-american-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses>.

Appendix A:
Letters from Commission to Department of Treasury and Defense Requesting
Additional Documents related to the Treasury's Yellow Loan

Congressional Oversight Commission

May 10, 2021

The Honorable Lloyd J. Austin III
Secretary of Defense
1400 Defense Pentagon
Washington, DC 20301

Dear Secretary Austin:

The Congressional Oversight Commission (“the Commission”) respectfully requests copies of the following documents pertaining to the designation of Yellow Corporation, formerly known as YRC Worldwide, Inc. (“YRC”), as critical to national security. As you likely know, the Commission has been tasked with overseeing the \$454 billion provided to the Treasury’s Exchange Stabilization Fund per the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”). Of those funds, \$17 billion was designated to businesses critical to maintaining national security of which YRC received \$700 million. These documents are imperative to the Commission’s oversight work.

1. Letter from Mr. Darren D. Hawkins (Chief Executive Officer, Yellow Corporation) to the Department of Defense outlining the less-than-truckload (“LTL”) trucking services Yellow provides to the Department of Defense.
2. Letter from Senator Roger Wicker to Department of Defense outlining the LTL trucking services Yellow provides to the Department of Defense.
3. Letter from Sullivan & Cromwell LLP to the U.S. Department of the Defense stating that YRC provides more than two-thirds of the Department of Defense’s LTL trucking services.
4. Any letter received by the U.S. Department of Defense from any Member of Congress or U.S. Senator regarding YRC.
5. All written correspondence between TRANSCOM and the Industrial Policy Council regarding YRC’s LTL services to the Department of Defense (including email or otherwise).
6. Tender of Service Agreement Program stating that YRC provides 50% of the Department of Defense’s LTL trucking services.

These documents were all mentioned on a call the Commission staff had with Dr. Michienzi on May 5, 2021. Please provide us with the requested information by Friday June 4, 2021. Thank you for your willingness to help the Congressional Oversight Commission. We appreciate the work and cooperation of the Department of Defense with the Commission thus far and look forward to a continued positive relationship.

Sincerely,

/s/
French Hill
Member of Congress

/s/
Donna Shalala
Commissioner

/s/
Pat Toomey
U.S. Senator

Cc: Dr. Chris Michienzi, Chief Technology Officer for the Deputy Assistant Secretary of Defense for Industrial Policy

Congressional Oversight Commission

May 10, 2021

The Honorable Janet Yellen
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Yellen:

The Congressional Oversight Commission (“the Commission”) respectfully requests copies of any letters received by the U.S. Department of Treasury (“Treasury”) from any Member of Congress, U.S. Senator or employee of Yellow Corporation (“Yellow”), formerly known as YRC Worldwide, Inc., (“YRC”), pertaining to the designation of Yellow as critical to national security. At a minimum we request those cited in the attached document which was a letter provided by Treasury to the Commission on July 30, 2020. Additionally, if there are others beyond those listed, please include those as well.

As you likely know, the Commission has been tasked with overseeing the \$454 billion provided to the Treasury’s Exchange Stabilization Fund per the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”). Of those funds, \$17 billion was designated to businesses critical to maintaining national security of which YRC received \$700 million. These documents are an imperative part of the Commission’s oversight work.

Thank you for your willingness to help the Congressional Oversight Commission. Please provide us with the requested information by Friday June 4, 2021. We appreciate the work and cooperation of the Treasury with the Commission thus far and look forward to a continued positive relationship.

Sincerely,

/s/
French Hill
Member of Congress

/s/
Donna Shalala
Commissioner

/s/
Pat Toomey
U.S. Senator



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 30, 2020

The Honorable French Hill
U.S. House of Representatives
Washington, DC 20515

The Honorable Donna E. Shalala
U.S. House of Representatives
Washington, DC 20515

Mr. Bharat Ramamurti
Commissioner
Washington, DC 20515

The Honorable Pat Toomey
United States Senate
Washington, DC 20510

Dear Members of the Congressional Oversight Commission:

The Third Report of the Congressional Oversight Commission, dated July 20, 2020, discusses the loans that the Department of the Treasury recently agreed to make to YRC Worldwide Inc. (YRC) under section 4003(b)(3) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). It also expresses the Commission's interest in learning more about these loans.

In the spirit of transparency and cooperation, although the Commission has not requested further information from Treasury, Secretary Mnuchin wanted to share the enclosed material regarding the YRC loans to assist the Commission in its work.

If you have further questions, please direct your staff to contact the Office of Legislative Affairs.

Sincerely,

Frederick W. Vaughan
Principal Deputy Assistant Secretary
Office of Legislative Affairs

Enclosure

Information on Treasury Loans to YRC Worldwide Inc.

I. BACKGROUND

CARES Act Loans to National Security Businesses

Under section 4003(b)(3) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Department of the Treasury is authorized to make loans in support of “businesses critical to maintaining national security” related to “losses incurred as a result of coronavirus.” The CARES Act does not define the scope of such businesses, so on April 10, 2020—two weeks after the statute was enacted—Treasury issued guidance defining this term.¹ Under the guidance, a company falls within this definition 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.

In accordance with the CARES Act and Treasury’s guidance, on June 26, 2020, the Secretary of Defense made a recommendation and certification regarding YRC Worldwide Inc. (YRC) to the Secretary of the Treasury. Based on that recommendation and certification, the Secretary of the Treasury determined, on July 8, 2020, that YRC is a business critical to maintaining national security.

Background on YRC

YRC is the second largest “less-than-truckload” (LTL) carrier and the fifth largest trucking firm in the United States. It carries 68% of the Department of Defense’s LTL shipments and is the leading transportation provider to the Department of Homeland Security and U.S. Customs and Border Protection. YRC employs 30,000 people and plays an essential role in the supply chain of the U.S. economy, with more than 200,000 corporate customers nationwide. As the COVID-19 pandemic hit the U.S. economy, YRC’s shipments fell almost 30% from March 13, 2020 to April 10, 2020. YRC’s revenue is projected to fall 16% in 2020 compared to 2019.

YRC’s fall in revenue created a liquidity crisis that forced the company to delay payments for employee health insurance and pension contributions. The company’s major health insurance

¹ 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>.

provider notified 12,000 of the company’s employees of the termination of their coverage effective July 5, 2020. Our understanding is that the withdrawal of health insurance coverage would have led to a strike of the company’s 25,000 unionized employees and a bankruptcy filing, which would have disrupted the operations of critical federal agencies and the U.S. supply chain, undermining the economic recovery.

Members of Congress on both sides of the aisle wrote to Treasury to relay such facts and circumstances and to encourage Treasury to give “full and fair consideration” to YRC’s request for liquidity under section 4003 of the CARES Act.²

II. TREASURY LOANS TO YRC

Credit Underwriting Criteria

Treasury adopted a credit test for loans under section 4003(b)(3) of the CARES Act. An applicant passes this test if it meets any two of the following three criteria. As indicated in this table, YRC met all three of the criteria.

Credit Criteria:	Required Level:	YRC Level:
Leverage (existing debt / 2019 adjusted EBITDA)	Must be < 6.0x	4.2x
Debt service coverage (2019 adjusted EBITDA / 2020 existing debt service)	Must be > 1.5x	1.9x
Collateral (secured debt / tangible assets)	Must be < 75%	45%

Key Terms of the Loans to YRC

The CARES Act provides that loans made by Treasury under section 4003(b)(3) “shall be made ... in such form and on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.”³

The loans from Treasury to YRC will be made in two tranches. Tranche A provides \$300 million to meet certain of YRC’s near-term contractual obligations, working capital needs, and certain non-vehicle capital expenditures, with an interest rate equal to LIBOR plus 3.5%, consisting of 1.5% cash and 2.0% payment in kind. Tranche B provides \$400 million for specific capital investments in tractors and trailers made pursuant to capital plans subject to approval by Treasury, with an interest rate equal to LIBOR plus 3.5% in cash. Both tranches mature on September 30, 2024.

² See Letter from Representative Sharice Davids, U.S. House of Representatives, to Secretary Mnuchin, Apr. 2, 2020; Letter from the Chairman Peter A. DeFazio and Ranking Member Sam Graves, Committee on Transportation and Infrastructure, U.S. House of Representatives, to Secretary Mnuchin, Apr. 17, 2020; Letter from Senators Ron Wyden and Pat Roberts, United States Senate, to Secretary Mnuchin, Apr. 17, 2020; Letter from Representative Albio Sires, U.S. House of Representatives, to Secretary Mnuchin, Apr. 22, 2020; Letter from Rep. Bill Pascrell, Jr., U.S. House of Representatives, to Secretary Mnuchin, May 5, 2020; *see also* Letter from Rep. Donald M. Payne, Jr., U.S. House of Representatives, to Secretary Mnuchin, Apr. 20, 2020.

³ CARES Act, sec. 4003(c)(1)(A).

The interest rate of LIBOR plus 3.5% on the YRC loans was set to be above the interest rate of LIBOR plus 3% applicable to loans made by banks participating in the Federal Reserve's Main Street Lending Program (MSLP). The MSLP was established to provide bridge financing to companies of speculative-grade credit risk whose revenues were negatively affected by the economic impact of the COVID-19 crisis. The duration of Treasury's loans to YRC and of loans under the MSLP are comparable. The interest rate under the MSLP was set by the Federal Reserve at a penalty rate, and the interest rate on the YRC loan is 0.5 percentage points higher.

Disbursements to YRC under the Tranche B loan can only be used for the acquisition of tractors and trailers and are subject to a capital expenditure (CapEx) plan that must be approved by the Treasury on an ongoing basis. Each quarter, YRC will prepare a revised CapEx plan to be approved by the Treasury based on the company's most recent financial and operating results and updated projections of performance. Disbursements under the Tranche B loan for the subsequent quarter will be based upon the updated CapEx plan approved by the Treasury.

The loan agreements also include covenants by YRC to comply with certain restrictions on employee compensation, stock repurchases, dividends, and reductions in employment levels, as required by the CARES Act.

Collateralization of Treasury Loans to YRC

As the Commission's report notes, loans made by Treasury under section 4003(b)(3) are required to be either (1) sufficiently secured (as determined by the Secretary, in his discretion), or (2) made at a rate that (a) reflects the risk of the loan and (b) is, to the extent practicable, not less than an interest rate based on market conditions for comparable obligations prevalent prior to the COVID-19 outbreak. Treasury's loans have a significant level of collateralization, which, in addition to the interest payable on the loans, helps protect Treasury against potential losses. The Secretary therefore determined that these loans are sufficiently secured.

Following is a summary of the amount of existing collateral available to secure Treasury's loans to YRC, based on an analysis of Treasury's external financial advisors and an assumed drawing of the maximum of \$450 million under YRC's existing asset-backed loan (ABL) facility.

YRC Existing Collateral Pledged to Secure Existing Debt (Excluding Treasury Loan)

Existing Fleet:	\$312.2 million (appraised value)
Real Estate:	\$735.1 million (appraised value)
Accounts Receivable:	\$529.4 million
<i>Total Existing Collateral:</i>	<i>\$1,576.7 million</i>

Existing Debt (Excluding Treasury Loan) Secured by YRC Existing Collateral

Term Loan:	\$581.0 million
ABL (Maximum Draw):	\$450.0 million
<i>Total Debt Secured by Existing Collateral:</i>	<i>\$1,031.0 million</i>

Excess Existing Collateral Securing Treasury Loan:

Total Existing Collateral:	\$1,576.7 million (see above)
Total Existing Debt:	\$1,031.0 million (see above)
<i>Total Excess Existing Collateral Securing Treasury Loan:</i>	<i>\$545.7 million</i>

This excess existing collateral of \$545.7 million secures both Treasury's \$300 million Tranche A loan and \$400 million Tranche B loan.

In addition, if any funds are disbursed under the Tranche B loan, the Tranche B loan has a first-priority lien on all equipment (tractors and trailers) purchased with proceeds of that loan, in addition to Treasury's lien on the excess collateral described above. For example, if \$400 million of the Tranche B loan is disbursed, there will be additional newly purchased tractors and trailers with a purchase cost of \$400 million securing the Tranche B loan on a first-lien basis. Assuming a 20% discount for the liquidation value of this collateral, the first-priority lien would provide Treasury with an additional \$320.0 million in security. In this case, Treasury would have collateral of \$865.7 million (\$545.7 million of excess existing collateral plus \$320.0 million of newly purchased tractors and trailers) securing its \$700 million loan—a collateralization level of 124%.

Taxpayer Compensation

Treasury can make a loan under section 4003(b)(3) of the CARES Act to a company with publicly traded securities only if Treasury receives warrants or equity interests in the business (or senior debt instruments, if the company cannot feasibly issue warrants or equity interests).⁴ To satisfy this requirement, Treasury received shares equal to 29.56% of YRC's common stock on a fully diluted basis, held in a voting trust. These common shares provide additional compensation to taxpayers, in addition to the interest on the loans described above. The current market value of the shares held by Treasury is approximately \$40 million. In the event of appreciation in the company's equity value, this shareholding will create a significant profit for the federal government; in an adverse scenario, the collateralization described above will help protect Treasury against losses.

⁴ CARES Act, sec. 4003(d).