AFR Americans for Financial Reform

April 24, 2020

Critical Post-CARES Act Financial Policy Steps to Respond to the Coronavirus

The COVID-19 pandemic requires an aggressive economic response that creates the best possible conditions to preserve public health; helps individuals, families, and communities weather the disruptions that efforts to contain the pandemic require; and that builds towards a more equitable economic recovery. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) included a number of vital first steps including increased funding for public health and unemployment assistance. But the legislation and the rest of the federal response thus far have also been extremely unbalanced in favor of big corporations, insiders, and Wall Street. The CARES Act provided $500 billion in giveaways to highly profitable companies without adequate accountability or requirements that those dollars be used to support workers and not be diverted to primarily benefit those at top. It also failed in many ways to provide sufficient financial protections for households or for small businesses that are facing economic catastrophe.

Congress should act swiftly to pass new legislation to repair the problems and fill in the holes in the CARES Act in a way that prioritizes protecting and supporting individuals, families, and communities in the face of this crisis — especially those most at risk — and that lays the groundwork for an equitable and sustainable recovery. The number of economically and medically vulnerable people and communities has surged and racial and economic fault lines have been particularly starkly exposed. The most dire economic and public health impacts are amplifying existing racial and economic inequalities. It is essential that responses to the crisis are designed to make sure that federal resources are not captured by Wall Street and giant corporations, and that they affirmatively promote a more just economy.

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Key areas for further action in the financial, credit, and lending policy space include:

- More direct credit assistance to states and localities as a backstop along with increased grant assistance in dealing with the public health and economic fallout of the crisis;
- Tighter and more enforceable rules against using bailout funds to benefit owners and major shareholders and senior executives rather than workers and the long-term viability of businesses;
- Standards that prevent Wall Street in general — and private equity in particular — from profiteering from the crisis;
- Direct grant assistance to small businesses and workers for pandemic-related costs rather than solely relying on banks to deliver loans, otherwise those hardest hit by the crisis will be left further behind;

- More robust and lasting protections against foreclosure, eviction, garnishment and other harms from debt collection;
- Prohibitions on predatory lending to individuals and small businesses;
- Student debt cancellation;
- Support for the postal service as a critical lifeline during the crisis as well as a key enabler of vote-by-mail; and
- Stopping surprise billing profiteering in health care and other areas by private equity and other similar funds.

Below we outline these items in more detail.

Provide Increased Federal Support for States and Localities

The CARES Act provided grant assistance to states and localities to address some of the health costs associated with the COVID-19 pandemic, however, it was not sufficient to meet state and local needs associated with this crisis. A new stimulus should provide substantial additional grant assistance to states and localities.

This grant assistance should be supplemented by direct lending to states and municipalities by the Federal Reserve. The new municipal lending facility announced on April 9, 2020, is a major step in this direction, but it needs changes and improvements to be workable. Congress should mandate a set of modifications to the program including: expanding the range of municipal entities that can qualify for loans, setting interest rates at or close to the federal funds rate, and extending the length of time available to repay the funds beyond the current two year limit, which is much too short. In addition, Congress should act to mandate that the Federal Reserve and Treasury use a portion of remaining CARES Act funds to support longer term and more conventional forms of municipal borrowing, including infrastructure borrowing to assist with the economic recovery.

Strengthen Safeguards to Protect Workers and Prevent Wall Street CEOs from Profiteering from Assistance

Companies can receive funding under the CARES Act for $500 billion in support (including loans and other financing and economic support) with few strings attached. They can even lay off workers at the same time as they receive government assistance. Many companies that benefit from Federal Reserve assistance will also be able to maintain exorbitant executive salaries, pay dividends to shareholders, and buy back their own stock to benefit wealthy shareholders and executives because of loopholes in the CARES Act. New legislation must require all companies receiving federal financial support — through any channel — to meet basic conditions to prioritize workers above shareholders and executives, and to direct funds to the firm's survival, not to financial engineering or the enrichment of executives. Needed changes include:

Prohibit all stock buybacks and dividend payments by companies receiving any federal financial assistance: The CARES Act only made modest limitations to capital distributions from non-airline companies that receive direct loans from the government (but not other financial support) and those limitations can be waived by Treasury Secretary Steven Mnuchin.

All companies receiving other forms of assistance — including direct purchases of their bonds — can continue to buy back their own stock (which could increase stock prices) or pay dividends. New legislation must ban any company that receives any federal financial assistance from rewarding executives and major shareholders with taxpayer money through stock buybacks and dividend payments.

Require the provision of paid leave: The CARES Act did not require that companies receiving financial assistance from the Department of Treasury or the Federal Reserve provide paid sick leave or family medical leave. New legislation must require companies that receive federal financial support to provide at least 2 weeks of paid sick leave and 2 weeks of family medical leave. During a health crisis, it is essential that sick workers be able to stay home to protect themselves, their coworkers, and the public at large, without loss of pay.

Require that companies receiving support pay $15 per hour: The CARES Act did not require that companies receiving federal assistance provide family sustaining wages; new legislation must require any company receiving any federal COVID-related support to pay its workers at least $15 per hour.

Mandatory employee retention: The CARES Act's worker retention provisions applied only to a subset of companies. Airlines were required to maintain payroll. Companies with 500-10,000 employees benefiting from the "mid-sized businesses" program were required to make a good faith certification that they will use funds received to maintain their workforce levels. Larger corporations were apparently not subject to any requirements to maintain employment or restrictions on layoffs, and the Federal Reserve's new Main Street Lending Program will serve this same set of companies without any of the strings that were to apply to the program for mid-size businesses envisioned by the CARES Act. New legislation must require all companies that receive any federal financial assistance to maintain their workforce.

Require companies to protect their workers from COVID exposure: New legislation must require any company that receives any COVID-related federal financial assistance to be in full compliance with Centers for Disease Control and Prevention (CDC) recommended COVID safety precautions for all of its workers to limit the risk of their exposure.

Require companies to pay promised severance to any discharged workers: New legislation must require companies receiving federal assistance to retroactively provide severance to workers that the companies discharged between March 15, 2020 and the date they receive any federal financial support and for any future discharges. Companies that have not previously offered severance benefits to their employees should provide at least one week of paid severance salary for every year of job tenure.

Impose stringent caps on executive compensation and golden parachutes for all companies that receive any financial assistance: While millions of people are losing their jobs during the crisis, the CARES Act allowed companies receiving federal funding to continue paying outsized executive salaries. The legislation limited companies that compensated their executives over $3 million in 2019 to only paying half the excess above $3 million — so if an executive was paid $13 million in 2019, they could be paid $8 million (the $3 million limit plus half of any compensation over $3 million, or $5 of the $10 million excess). Executives that are fired or discharged can still receive double what they received in 2019; if they were paid $20 million, they could receive $40 million. Finally, even these extremely light executive pay limits only applied to companies that receive loans or loan guarantees, but not other federal financing or support (such as purchasing corporate bonds or securing other financing) and can be waived by Sec. Mnuchin. New legislation must require all companies receiving any federal financial assistance to freeze executive compensation, cap (or reduce) total executive compensation at no more than 50 times the median worker compensation, and limit payouts to departing executives to the lower of 50 times median worker compensation or their 2019 compensation.

Prohibit federal lobbying and campaign contributions by recipients of COVID-related federal financial support: The CARES Act had no limitation on companies exerting political influence through lobbying or campaign contributions to secure or maintain COVID-related federal financial support. New legislation must prohibit any company that receives COVID-related federal support from all federal lobbying and campaign contributions for the duration of the national emergency.

Prevent Private Equity Firms from Profiteering from COVID crisis

The private equity (PE) industry has exerted an outsized and negative influence on the resilience of the economy through highly leveraged takeovers that drive income for PE executives but leave many private-equity owned firms extremely burdened with debt. Congress should not allow PE firms to use federal dollars to continue to extract resources from workers and firms or as a subsidy for a predatory business model. Congress should resist the industry's calls to allow it to access to pandemic-related bailout programs, including their demand to lift the PE affiliation prohibition so they can participate in the small business Paycheck Protection Program (PPP, more below). Private equity-owned firms are not comparable to ordinary small businesses; PE-owned firms could draw from deep-pocketed Wall Street owners who could support the portfolio firms if they chose to do so.

The track record of private equity funds makes it clear that these firms will be extremely aggressive in seeking to divert income streams, including government assistance, to their executives rather than to support employment and customer service at portfolio firms. Under the CARES Act, PE was granted unrestricted access to the Federal Reserve facilities, as well as other avenues to bailout funds. New legislation must put in place tough conditions to prevent PE profiteering.

Private equity firms and partners should not be allowed to exploit COVID-related assistance or siphon federal funding to PE profits and executives at the expense of real economy firms, workers, and communities.

Impose tough, special conditions on any federal financial support to any private equity firms and PE-owned businesses: Congress should impose stringent conditions on any COVID-related funding or support to private equity firms, including through any and all channels of aid to their portfolio companies, and the limitations should apply to their executives (known as general partners) and to all of the companies a PE firm owns. These conditions should include joint liability with the portfolio company for obligations of the portfolio company, including the obligation to pay back federal assistance, along with prohibitions on dividends, monitoring fees or other forms of extraction from the portfolio companies or limited partner investors. During the crisis period, the PE firms receiving direct or indirect support should also be required to continue needed services for customers and communities.

Private equity firms must meet the same worker retention and worker protection conditions outlined above for all companies receiving COVID support: The next legislation must require that any private equity firm or PE-owned company that receives any federal support continue to maintain its full employee payroll and wages throughout the COVID-19 crisis, implement full compliance with CDC recommended safety precautions for workers, and require all PE-owned companies to adhere to all of the conditions delineated above as prerequisites for access to federal financial support such as the provision of paid sick leave, $15 an hour minimum wage, severance, etc.

Require disclosures for private equity firms receiving COVID-related support: If public dollars are supporting these firms, the public has a right to receive the same, comprehensive financial disclosures that are provided to investors in public companies. The next legislation must require any PE firms or PE-owned companies that receive direct or indirect government financial support to file regular and ongoing financial disclosures with the Securities and Exchange Commission beginning immediately upon receipt of funding or other support.

Re-open portfolio companies after crisis shutdowns: The new legislation must require private equity firms to re-open portfolio companies that may have closed during the crisis and not use the crisis as an opportunity for financial restructuring or to transfer value away from the companies.

Ban or limit private equity ownership of healthcare companies: Special consideration must be given to private equity's control over health care firms. These companies are a critical resource in the current fight against Coronavirus. Given the long record of PE-owned healthcare firms engaging in profiteering behavior that undermines customer care, patient safety, and reduces the quality of needed medical services, strong consideration should be given to limiting PE ownership and control of health care firms providing publicly funded COVID-related treatment. Even during the current crisis, private equity-owned firms have threatened to shutter a hospital, lay off medical personnel, and underinvest in safety practices all to pad their bottom line. At the very least, strict restrictions should be placed on changes in care or employment practices at PE-owned healthcare practices or entities receiving public money to prevent changes in standards of care or employment policies that appear intended to increase PE firm profits at the expense of patient treatment or staff safety or compensation.

Prevent private equity-driven surprise medical billing: The next legislation must include strong measures to end the surprise medical billing epidemic largely driven by private equity-owned health care firms (see below). The most notorious examples are the use of surprise medical billing by the medical groups TeamHealth and Envision Healthcare, owned by Blackstone and KKR.

Adopt key provisions of Stop Wall Street Looting Act: Abusive practices by private equity firms that exploit regulatory gaps and loopholes have enriched industry executives but harmed workers and communities. Unless these problems are addressed in a lasting way, PE firms are likely to be able to take advantage of the crisis — and of public resources made available to respond to the crisis — to even further extend their grip on the economy and still further concentrate wealth in the hands of the already rich. To prevent this, the next COVID response legislation should include provisions of the Stop Wall Street Looting Act designed to curb abuses and prevent private equity from looting companies through financial engineering, including disincentives to use excessive leverage, bankruptcy and liability reforms to prevent looting, tax reforms to stop unfairly benefitting Wall Street titans, and more.

Expand and Strengthen Protections for Small Business Workers and Owners

The COVID crisis has already closed hundreds of thousands of small businesses and many more are at risk of closing their doors permanently over the coming weeks without direct financial support. Firms that are very small or owned by people of color or women that have historically had limited access to capital are particularly vulnerable. Large swaths of the small business economy face extinction with little or no revenue. These businesses employ tens of millions of workers who face losing not only their incomes but health care coverage, sick leave, retirement and other benefits. The CARES Act provided stopgap support but was designed in a way that excluded many of the hardest hit businesses and workers as well as being inadequate to the scale of the crisis. Without additional expansive federal action to preserve the small business economy, Main Street will wither, and Wall Street will seize an even greater share of our economy. The next legislation must overcome the structural limitations of the CARES Act small business provisions as well as provide more funding.

More effectively support workers, jobs, and small businesses through direct subsidies — not loans: The "Paycheck Protection Program" (PPP) created in the CARES Act required small businesses to approach banks for loans to cover the costs of maintaining workers on payroll and paying business fixed costs. This program is already proving gravely inadequate to deliver the aid necessary to enable small businesses to bridge this crisis and keep their employees off the unemployment rolls. The majority of truly small businesses do not have pre-existing relationships enabling easy take-up of a program based on bank loans, and banks are not equipped to provide assistance with the reach, scale and rapidity needed. Moreover, the current economic uncertainty makes it risky for especially small businesses to take on leverage when forgiveness is not a certainty. Businesses that are very small and/or owned by people of color, immigrants, and women are significantly less likely to have bank relationships and are more likely to be at a disadvantage in seeking support through the program. Adding community banks, community development financial institutions (CDFIs) and minority depository institutions (MDIs) to the list of avenues for funding is not sufficient to solve the problem. The next legislation must include more comprehensive help for small businesses and workers at small businesses in an equitable way.

The next legislation must provide direct support for small businesses, targeted to make sure that very small businesses, businesses owned by people of color and women, and businesses in smaller communities get the help they need. It must also address the inequity in small business access to credit instead of exacerbating this divide. Main Street businesses need more assistance, easier access to that assistance, and fewer requirements to assume credit risk. It must provide direct subsidies — not loans — to allow smaller firms to maintain or bring back their workers at full wages and benefits, and cover fixed costs like rent, mortgages, utilities and insurance during the crisis so the businesses survive. This grant funding must be far easier for small businesses without existing bank relationships to access, it must arrive swiftly, and it must be structured so that small businesses can innovate to meet the needs of the recovery.

Collect data on small business subsidies and lending: The next legislation should require rapid data collection and disclosure of what businesses are receiving COVID-related federal support to small businesses, including data on business size, and on the demographics of business ownership.

Prohibit predatory lending and debt collections for small businesses: The next legislation should prohibit high cost loans for small business owners during the crisis. Banks have access to financing at extraordinarily low rates but there are no limits on high-cost and predatory loans to small businesses. Interest rates on any new credit extended to small businesses during the emergency should be capped to prevent profiteering by predatory lenders. All debt collection activity should be suspended — currently pending hearings should be postponed and no new lawsuits should be allowed. All new and existing garnishments and repossession should be stopped, and banks should suspend any garnishments already in place. No debt should be sold, and no additional interest or fees should be applied on such debts.

Impose a moratorium on commercial evictions and foreclosures, and provide small business rent suspension and mortgage forbearance for duration of crisis: There should be a moratorium on commercial evictions and foreclosures for small businesses, including tax and water lien foreclosures, that applies to the initiation of new foreclosures or evictions, proceeding of cases already in process, and the enforcement of foreclosure or eviction judgments by sheriffs for the duration of the crisis. This will make it possible for firms to return to business as soon as possible after the national emergency eases. The next legislation should prevent foreclosures or evictions on all small businesses and require all commercial real estate lenders and landlords that receive any COVID-related federal support (such as commercial mortgage forbearance) to suspend rent and mortgage payments until the crisis has abated and businesses have had a chance to rebuild.

Prohibit all utility shutoffs: Along with rent and payroll, utility costs are among the largest costs to small businesses. The next legislation should prohibit utility shutoffs on small businesses, require reconnections for any shutoffs since the beginning of March, and require utilities to provide reasonable payment plans after the emergency is over.

Prevent large companies, hedge funds, and private equity firms from capturing federal support intended for small businesses: The PPP explicitly allowed private equity-owned restaurant chains to apply for small business loans for each location with fewer than 500 workers and the PE industry is actively lobbying to change the rules so they will be eligible for additional PPP funding for their portfolio companies. Wall Street investment hedge funds have also applied for PPP funding based on their small payrolls. At a time when small businesses are facing overwhelming challenges, they must not be displaced in the queue for assistance by large firms with multiple options or Wall Street hedge funds that generate enormous profits, in part, from exemptions to federal securities regulations, and which have deep pockets to weather this storm.

New legislation should tighten the rules on chains, maintain the prohibition against PE portfolio companies counting as small businesses, and add language prohibiting all investment companies exempt from the standard securities laws from participating in the PPP. The PPP loans should go to small businesses.

Strengthen Oversight, Accountability and Transparency

The oversight provisions in the CARES Act were too weak to effectively monitor trillions of dollars in federal spending. The next legislation must strengthen existing provisions and put in place additional accountability, oversight and transparency mechanisms to prevent waste, fraud, and abuse and direct federal funds to expenditures that support workers and payrolls, and contribute to public health in a just and equitable way.

Impose stronger conflict of interest provisions: The CARES Act conflict of interest provisions only applied to the $500 billion in business support, but not the hundreds of billions of dollars in other appropriations or purchases during the pandemic. And limited CARES Act provisions only prohibited spending from going to firms where the president, vice president, head of an executive branch agency or member of congress (or their spouse, child, or spouse of a child) has a more than 20 percent stake. This would allow even close family members to receive pandemic funding (for medical equipment purchases, for example) and for other family members to receive funding for their businesses through the emergency business relief provisions. The new legislation should prohibit all federal spending related to the COVID recovery efforts from going to family and friends of federal leadership, including members of Congress and senior executive branch leadership. The CARES Act conflict of interest provisions must be strengthened to prevent any federal official or contractor with any financial interests (with their own or their families' portfolios or relationships with former employers) from exercising decisionmaking authority or influence over federal COVID spending. All federal officials with decisionmaking or influence over COVID expenditures should have a 2-year lobbying cooling off period that prevents them from working for companies that received any COVID-related federal financial assistance.

Strengthen the Congressional Oversight Commission (COC): The CARES Act hamstrung the COC by failing to give it subpoena authority or independent investigatory powers. It can hold hearings, request official data, and take testimony. But it cannot compel recalcitrant Trump administration witnesses or independently pursue necessary information in court. Additionally, the COC is dependent upon congressional appropriations to fund its operations, which could leave the important oversight role underfunded. The COC should be strengthened by increasing independent investigative authorities, including the ability to issue subpoenas, independently pursue legal remedies, and to request and receive any document necessary. The Commission should be fully and independently funded at levels sufficient to provide needed oversight. It should also be directed to oversee and report on companies' adherence to the conditions required for the receipt of federal assistance and be granted independent enforcement authority if companies fail to comply.

Expand and strengthen reporting requirements to cover all COVID financial assistance: The public has a right to know how trillions of dollars of taxpayer dollars are being spent to address the COVID crisis. The CARES Act required some public reporting of some of the $500 billion corporate and airline support, but does not require reporting of financing aside from loans or any reporting for the other $1.5 trillion in federal spending. The next legislation must strengthen public reporting requirements to provide, clear, publicly accessible, promptly disclosed, machine-readable information on all COVID-related federal support through any channel (loans and loan guarantees, grants, subsidies, and credit assistance) to any business on a single web portal that reports all COVID-related federal spending and financial support. This should include posting a summary of every expenditure or financial support going to each company including contracts, purchases, loans, loan guarantees, and any other financial support within 7 calendar days. The disclosure must include the name of the company receiving federal spending or support, the purpose of the federal support, the amount of federal support, and all relevant documentation, including deal documents for Federal Reserve loans and credit assistance. Further, the legislation should require all companies receiving federal COVID-related support to provide any documents to the COC upon request.

Establish an independent agency responsible for allocation of resources: The Secretary of the Treasury and the Federal Reserve will be almost entirely responsible for selecting the recipients of the $500 billion allocated to him by the CARES Act. They will set the terms and conditions for the funding and determine what information about each loan, guarantee or investment is made available to the public. Most of the modest legislative conditions are waivable or non-binding for the recipient. The next legislation should establish a new, independent body modeled on the Reconstruction Finance Corporation. It should transfer all authority granted to the Secretary of Treasury and the Federal Reserve under the CARES Act to a new, independent agency, with a board comprised of representatives of government, business and labor. This agency should also be responsible for any resource allocation established under future stimulus packages. The best way to minimize fraud or misallocation of resources is to ensure that the body disbursing the money is independent, bipartisan, transparent, and held to the highest standards of accountability.

Strengthen Protections to Allow People to Stay in their Homes, Address Household and Consumer Debt and Stop Predatory Lending

In the coming months, workers may be encouraged or required to take time off from work, or some or all of their sources of income — like from gig employment — may be dramatically cut. Over 26 million workers have already lost their jobs or been furloughed and a substantial number of wage-earners may become sick or hospitalized. Borrowers need relief from debts during this crisis and a recovery period before resuming debt payments. This will limit the economic harm to families and communities, and support public health responses like social distancing, quarantine, and treatment.

Expand foreclosure and eviction moratorium to all kinds of housing for the duration of the crisis: The CARES Act foreclosure and eviction moratorium only covered certain kinds of loans and properties for a limited time period. Only certain federally backed mortgages are covered for foreclosure relief. Evictions are only prohibited from federally backed single-family and multifamily properties (apartments and manufactured home communities). All people need protection so that they are able to stay in their homes. The next legislation should extend the moratorium to all types of mortgages and rental housing, and include manufactured homes as well. Given that we do not know how long this emergency will last, there should be a mechanism to extend this moratorium as necessary until a suitable time after the crisis has abated.

Expand mortgage forbearance to all residential mortgages: Upon request, the CARES Act let homeowners with federally backed mortgages request two mortgage payment forbearances, each up to 180 days, without accruing interest or fees. The next package must expand mortgage forbearance to all mortgages, including privately securitized loans and bank loans. The process for requesting and extending a forbearance should be streamlined. No documentation to request or extend a forbearance should be required, and a borrower should be able to request the forbearance online or orally on a phone call with the servicer. All homeowners, regardless of their payment, delinquency, or foreclosure status, should be able to get a forbearance on their mortgage for up to 12 months.

Provide initial automatic forbearance for homeowners who become 60 days late at any point after the emergency declaration: During this time, some homeowners may become ill, or be attending to urgent family matters, rendering them unable to contact their servicer to request or extend a forbearance. Many homeowners do not have reliable internet access or the technological skills to use online tools to communicate with their servicer, and web servers and call centers may be overwhelmed and difficult to get through to. Borrowers with disabilities or limited English proficiency may face particular challenges communicating with servicers. The next COVID package should require lenders to automatically enroll borrowers who become 60 days late in a 90-day forbearance, and extend that forbearance to last up to a total of 12 months upon the borrower's request. Borrowers in an initial forbearance who may not have been able to request a timely extension should be given an immediate extension of their forbearance if they miss an additional payment after their initial forbearance period.

Provide protections for residents in manufactured homes and manufactured home communities: The next legislation must address the unique loan and rent arrangements of residents and owners in manufactured homes and communities that were ignored by the CARES Act. All foreclosures and evictions on manufactured homes must be halted immediately and for the duration of the crisis. Manufactured home community owners must automatically suspend lot rent payments and lenders suspend homeowner chattel loan payments until 60 days after the crisis ends, without imposing late fees or interest on suspended payments. Community owners must establish repayment plans for residents extending at least over the subsequent year and must not require lump sum repayments as families recover their health and economic stability. Community owners must continue to provide any associated utilities without shutoffs during the crisis and freeze lot rent for two years without any increases.

Landlords receiving loan forbearance or federal COVID-related support must automatically suspend rent payments for tenants: The next legislation should require that any owner of any rental property receiving any federal support or loan forbearance automatically suspend rent payments from tenants unable to pay without requiring any additional steps and immediately notify tenants of their rent suspension for the duration of the crisis. Landlords providing rent suspension must not charge late or other fees or interest on suspended rent payments or report missed rent payments to credit reporting agencies.

Provide forbearance for all household and consumer debts: The CARES Act did not contain any relief for car payments or personal debts, and fails to provide any protections against repossessions of cars or other personal property. The next legislation should require that banks, auto lenders, and other creditors provide forbearances on loan payments for the duration of the crisis. Interest and fees should not be charged during the forbearance period, and loan forbearances should remain in place for a period after the pandemic abates to allow people to get back on their feet financially before having to begin repayment.

Prohibit all utility shutoffs: The next legislation should prohibit all utility shutoffs**,** including water/sewer, gas, electricity, telecommunication services and broadband, and immediately reconnect anyone who has been disconnected for the duration of the crisis. Utilities should be required to provide reasonable payment plans after the emergency is over. The CARES Act did not address utility shutoffs or bills, even though these services are critical to families remaining safe during the crisis.

Require all lenders — and landlords — to provide flexible options for repayment: The CARES Act included suspension of certain mortgage payments through forbearance and prohibits foreclosures and evictions for certain kinds of housing, but fails to provide any provisions for affordable payments after the forbearance and moratorium period. People will not suddenly have the means to cover back payments in the immediate aftermath of the COVID-19 response. The next legislation must prohibit creditors, landlords, utility providers and others from demanding lump sum full payment after the forbearance period. For credit with fixed terms, missed payments should be added to the end of the term. For other types of obligations, a reasonable payment plan should be required. Borrowers who still face financial hardship after the crisis should be offered loan modifications, flexible payment plans, and other loss mitigation options. All borrowers, regardless of their delinquency status at the beginning of the health emergency on their credit obligations, should have access to flexible repayment options, including modifications. Landlords must be prohibited from requiring or demanding lump sum payments or assessing fees or interest on payments missed during the crisis, and provide reasonable repayment plans for suspended rent lasting at least one year after the crisis ends.

Require all mortgage servicers, lenders, banks, and other creditors to provide clear notice to consumers about their forbearance and repayment options: The next legislation must require a clear notice to borrowers about forbearance options that should be prominently featured on the company's website and provided to consumers in writing as soon as possible. Notices should be in both English and Spanish. If a company communicates with a consumer in a language other than English in the ordinary course of business, this notice should also be provided to that consumer in that language. Companies should automatically provide this notice electronically for consumers who have previously opted in to receiving electronic communications. Consumers should also be provided notification of their options orally when they call the company.

Prohibit all negative credit reporting: The CARES Act prohibited creditors who have reached payment agreements (deferrals, delays, etc.) with borrowers from making negative credit reports. This only gives credit reporting relief for consumers who have worked out an agreement with their creditor, which is particularly problematic at a time when it is even more difficult to even get in touch with them. The next legislation should impose a moratorium on all negative credit reporting, and longer protections for people who face lasting financial hardship from the outbreak. Consumers should be able to request an extension on the moratorium on negative credit reporting if they are suffering continuing economic hardship after the initial moratorium. Protecting consumers' credit reports and giving people the ability to manage their finances during a crisis will speed a return to normalcy and economic growth. Consumers should also have access to free credit reports and credit scores during the COVID-19 outbreak and for up to a year after the end of the outbreak to effectively monitor their credit.

Stop medical debt: The next legislation must prohibit accrual of medical debt for any testing, treatment, or medical care related to COVID-19. Testing, treatment and related health care services should be provided at no cost to patients. Economic barriers should not interfere with a patient's ability to access necessary health care services during this emergency, and receiving care should not create an impediment to financial recovery.

Halt all debt collection activity immediately: There were no provisions in the CARES Act addressing debt collection during the pandemic, leaving consumers vulnerable to lawsuits, garnishments, and harassment from debt collectors. The next legislation must suspend all debt collection activity — currently pending hearings should be postponed and no new lawsuits should be allowed. All new and existing garnishments and repossession should be stopped, and employers and banks should be contacted and asked to suspend any garnishments already in place. No debt should be sold, and no additional interest or fees should be added during this time. All requests to stop automatic payments should be promptly honored.

Suspend all fees and interest on all debts: The CARES Act did not suspend fees or debts except for mortgage forbearance or when the lender has made an accommodation with the borrower. Lenders will be overwhelmed and incapable of negotiating individual workout or accommodation plans and consumers will be unable to negotiate workouts with each of their creditors. The next legislation should prohibit banks from charging overdraft or nonsufficient funds fees on all accounts, and it should prohibit late fees, default interest rates, and interest on unpaid interest for the duration of the pandemic, both for traditional debts and for fines or fees owed to government entities.

Stop predatory lending: The next legislation should prohibit all high cost loans during the crisis. Banks are receiving 0% interest loans to weather the crisis. It is crucial that lending during the crisis to consumers is fair and affordable. Interest rates on any new credit extended during the emergency should be capped to prevent predatory lenders from taking advantage of this vulnerable situation and preserve access to affordable credit. The CARES Act provided no relief from predatory lenders and immediately after the legislation passed the Federal Reserve authorized banks to make payday loans, making consumers especially vulnerable to predatory loans during the crisis.

Provide funding for rent and mortgage assistance: Many renters and homeowners will need financial assistance after their forbearance ends as they return to work and regain their financial footing. The next legislation should include funding to provide assistance to tenants and homeowners with their rent, mortgage, repayment plan, reinstatement, utility or broadband payments so that families are able to keep their homes as they rebuild after the end of the crisis.

Cancel Student Debt, Provide Additional Protections for Student Loan Borrowers

The student debt provisions in the CARES Act left out 9 million student loan borrowers, are overly complex and unworkable and, in some cases, provide regressive tax giveaways that will only benefit the highest income borrowers. The next legislation must do much more.

Cancel at least $30,000 in student debt per borrower: The next legislation must cancel student debt to provide lasting student debt relief and create short- and long-term economic stimuli. Over three-quarters (78%) of delinquent direct loan borrowers owe $40,000 or less, according to delinquency data from the Department of Education. Cancelling a minimum of $30,000 in federal loans would drastically improve the financial situation of the most distressed student borrowers.

Extend the suspension on student loan payments and waiving of interest to all borrowers, and the period of the suspension to at least March 2021: The CARES Act included a six-month suspension on payments for federally-held loans. But 9 million borrowers with Perkins and commercially held FFEL loans are left out. This differing treatment based on loan type will create confusion among those with older loans that don't qualify for the suspension. Leaving out borrowers with Perkins and commercially-held FFEL loans is fundamentally unfair, and it will be difficult for these borrowers to get answers, as many are already having trouble contacting servicers due to reduced hours and the closing of call centers. The next legislation must extend the suspension on payments and waiving of interest outlined to all borrowers, not just those with federally-held loans to ensure that all federal student loan borrowers get help in this urgent time.

The next COVID legislation must also extend the federal student loan suspension to at least March 2021, so those who will continue to have payments will have more breathing room to get back on their feet. Morgan Stanley predicts that GDP in developed markets won't return to pre-virus levels until the third quarter of 2021. Without an extension to March 2021, the CARES Act set up millions of federal student loan borrowers to face the daunting prospect of trying to find the means to pay their student loans in the middle of economic devastation.

Halt involuntary collections on all federal student loan types: The CARES Act only halted involuntary collections for Direct and federally-held FFEL loans. This means borrowers in default on commercially held FFEL loans may still face wage and social security garnishments, seizure of their tax refunds, and other involuntary collections, just because they have a kind of loan not covered by the bill. The next legislation must make it clear that all involuntary collections of student loan debt is halted for all borrower types, including those with commercially held federal student loans.

Remove the temporary income tax exclusion for employer-paid student loans: The CARES Act contained a temporary tax break for companies providing employer-paid student loans. This tax cut is regressive, helping the best-off borrowers who work at companies with sophisticated benefits the most. It does nothing to help the most distressed borrowers who are out of work, and is generally not available to low-wage or contract workers. It has been pushed by large companies that offer student loan payment as a recruitment technique. The next legislation should close this tax break.

Ensure any emergency relief funds received by for-profit colleges are subject to bans on using them for executive compensation or advertising: The CARES Act provided a $14.25 billion emergency relief fund for colleges and universities, and importantly, requires at least 50% of these grants go to students — for things like housing, cost of attendance, or food. Senators Warren, Durbin, Blumenthal and Brown wrote to Education Secretary Betsy DeVos to point out that the CARES Act, as drafted, seems to exclude new funding for for-profit colleges. But the relief funds announced by Secretary DeVos includes all types of institutions, including for-profit colleges that are not exclusively online and even private equity-owned for profit schools. Despite a few strings that impose a few restrictions on the use of these funds, such as not using the funds to pay contractors for pre-enrollment recruitment activities, there is no requirement that the grants not be used for executive compensation or advertising. This is especially worrying, given that the for-profit college sector has a track record of paying its executives millions despite widespread fraud and terrible outcomes for students. The next legislation must prohibit for-profit colleges that receive COVID-related support from using these funds for executive compensation or advertising.

Ensure no one who consolidated to become eligible for relief ends up with an increased loan balance: The Education Department itself has noted that the only way borrowers with commercially-held federal loans can get relief is through consolidation, but it has not guaranteed that consolidation will occur without capitalization of interest. Thus, some borrowers would have to increase their own student loan principal balance just to qualify for a temporary suspension. Congress should protect borrowers who consolidate during this time period in order to qualify for the temporary relief from being penalized for doing so with larger principal balances.

Clarify that no interest will capitalize: The next legislation must clarify that outstanding interest will not capitalize. Because the CARES Act did not include language clarifying that outstanding interest will not capitalize, when borrowers return to repayment, many may see significantly larger principal balances than before the payments were suspended because of the pandemic.

Other Critical Issues that Must Be Addressed During COVID Crisis

Provide substantial grant financing to the Postal Service to support mail service, mail-in voting, and distributing federal financial support to families: The U.S. Postal Service (USPS) has become an even more critical lifeline for people to communicate, transact business, and receive critical supplies during the COVID crisis. It also will become increasingly vital for people to exercise their right to vote through absentee or vote-by-mail ballot. Congress must provide a $25 billion cash grant to the U.S. Postal Service to ensure the ongoing provision of universal service, as was proposed in the House legislative package prepared in the lead up to the CARES Act. Congress must also provide an ongoing commitment to maintaining essential postal service to weather the pandemic and recession in the form of quarterly supplemental top-ups to meet the deficit between revenue and expenses, ongoing into fiscal year 2021.

In addition, there needs to be a significant investment in vote-by-mail nationwide.

Stimulus cash payments to households should be distributed through a combination of new accounts with the Federal Reserve ("Fed Accounts") and USPS branches, along the lines of language included in the House proposal COVID response proposal advanced in late March. Many people are waiting over six to eight weeks for stimulus checks because they lack access to a functioning bank account. Fed Accounts would be a public option for basic banking services, and they could be accessed at any of the 33,000 U.S. Post Office branches.

Prevent all surprise medical billing during the COVID crisis: Patients are already receiving high, unexpected medical bills for COVID testing and treatment that was provided by out-of-network physician groups (including emergency room contractors) that are often owned by private equity firms. Balance billing should be completely prohibited in any care situation where consumers cannot ensure they will see an in-network provider or visit an in-network facility, including in emergencies, at in-network facilities, and for air and ground emergency transit. For out-of-network care that individuals incur due to no fault of their own, they should pay no more than in-network cost-sharing (including copayments, co-insurance, and deductibles). Out-of-pocket spending should count towards a consumer's in-network out-of-pocket maximum and deductible. The Trump administration announced that it would prohibit hospitals that received COVID-related financing from balance or surprise billing their patients for COVID testing or treatment, but this narrow surprise billing limit still allows surprise COVID bills for outpatient treatment or ambulance transportation and allows surprise billing for non-COVID treatments in hospital settings, There needs to be a more comprehensive prohibition on all surprise billing, generally, but especially during the COVID crisis. The federal government should establish a reasonable payment level between insurers and out-of-network providers for surprise bill situations to ensure that insurance premiums or overall health care costs aren't unfairly increased. A reasonable payment level should be based on actual prices being paid in the market, and not be inflationary (e.g., should not be based on billed charges, which almost always do not accurately reflect price). Some states have already begun to address surprise billing and during the COVID crisis some health departments and insurance regulators are prohibiting surprise billing and balance billing. The federal payment level would apply unless applicable state provisions are more robust.

Eliminate new tax breaks for wealthy investors included in the CARES Act: The CARES Act rolled back two of the rare revenue raising provisions of the 2017 Tax Cuts and Jobs Act; the CARES Act expanded the losses companies and wealthy tax filers could use to offset the taxes they owe — including using losses from before the COVID crisis in 2018 and 2019 as well as 2020 losses (and allows the deduction of those losses at the higher tax rates from before the Trump tax cut). The CARES Act provisions applied to corporations and wealthy business owners (the pass-through businesses like sole proprietorships, partnerships, and S corporations, whose income-tax obligations are paid by the business owners, not the business itself) to carry back tax losses. But another provision further allowed the wealthiest pass-through businesses (over $250,000 in income or $500,000 if filing jointly) to apply these business losses to their non-business income, a tax break the Joint Committee on Taxation estimated would cost $170 billion over the next ten years with over 80% of the benefits going to millionaires. The next legislation should eliminate these two tax breaks.