In addition to general materials regarding Obtaining Financial Assistance Under the Coronavirus Aid, Relief and Economic Security (CARES) Act, we are committed to providing business sector specific guidance as the Department of Treasury and other regulatory agencies issue regulations and procedures for obtaining relief under the CARES Act. This fact sheet summarizes provisions of the CARES Act of particular interest to passenger airlines, maintenance, repair, and overhaul (MRO) facilities, and ticket agents.

Available emergency relief. Loans and loan guarantees (up to $25 billion for passenger airlines, MROs, and ticket agents), and payroll support (up to $25 billion for passenger airlines, MROs, and ticket agents).

Eligibility. An applicant must not have other credit reasonably available, and must have losses tied to the COVID-19 pandemic that jeopardize continuation of its business. An applicant must “prudently incur” the loan. Additionally, an applicant must certify that (i) it is organized in the US, (ii) it maintains significant operations in the US, and (iii) the majority of its workforce is US-based. Passenger airline applicants must be a US “air carrier” (as defined in the Transportation Code). MRO applicants must be FAA Part 145 certificated. Ticket agent applicants must meet the definition of “ticket agent” at Sec. 40102 of Title 49 USC (the Transportation Code).

No loan forgiveness, stock buy-backs, or dividends. Loan recipients (and beneficiaries of loan guarantees) will be ineligible for loan forgiveness and may not, for a period of 12 months following loan origination, buy back stock or pay dividends.

Interest rates, loan term, security. Treasury will determine the applicable interest rates based on risk and pre-COVID-19 Treasury yields. Loan terms are to be as short as practicable, and may not exceed five years. Loans must either be “sufficiently secured” or carry an interest rate that both reflects the risk of the loan (or loan guarantee) and reflects pre-COVID-19 rates. Treasury also will require warrants for both general passenger carrier relief (mandatory) and payroll support (at the discretion of Treasury), provided that these will be non-voting interests.

Worker retention. Applicants must endeavor to maintain employment at March 24, 2020 levels, and in all events not reduce workforce more than 10 percent through September 30, 2020.

Executive compensation. The Act imposes limits on borrowers’ executive compensation plans, including no pay increase for executives over 2019 amounts, limitations on severance pay (2x 2019 comp), and other limits on their total compensation. View additional information on executive compensation.

Continuation of service. Carriers availing themselves of CARES Act loan assistance may be subject to the Department of Transportation (DoT) conditioning assistance on the carrier committing to continued service to points the DoT deems critical (with emphases on small communities and pharma supply chain considerations).

Timing of regulations. Treasury must issue guidance and procedures for general relief by April 6, 2020. Treasury must issue guidance and procedures for payroll assistance by April 1, 2020, with first payments to be made on April 6, 2020.

For more information
Eversheds Sutherland will continue to monitor the implementation of the CARES Act. As additional guidance on these regulations becomes available, it may alter our advice on how eligible parties can access this emergency funding. For the latest updates and insight from our lawyers around the world on the CARES Act and COVID-19, visit Eversheds Sutherland Coronavirus Hub.

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