Congress Provides COVID-19 Relief to Airlines and Aviation Workers

By Larry B. Pascal | March 30, 2020

RELATED PRACTICES Aviation

On March 27, 2020, Congress passed the Coronavirus Aid, Relief and Economic Security (CARES) Act. The $2 trillion bipartisan legislation serves as a third round of federal government support in the wake of the economic fallout from the coronavirus (COVID-19) pandemic. Among other things, the Act provides significant relief to air carriers and aviation employees. We outline some of the key provisions below.

Targeted Relief to Passenger and Cargo Air Carriers

One of the key provisions of Title IV of the Act provides $500 billion to support "***Eligible Businesses***." The Act defines Eligible Businesses as both passenger and cargo air carriers (together, "***Air Carriers***") and businesses that have not otherwise received adequate economic relief in the form of loans or loan guarantees under the Act.[1] The $500 billion is allocated as follows:

- $25 billion in loans and loan guarantees for passenger air carriers;
- $4 billion in loans and loan guarantees for cargo air carriers;
- $17 billion in loans and loan guarantees for businesses critical to maintaining national security (together with the monies allocated for Air Carriers, "***Air Carrier and Critical Businesses Relief***"); and
- $454 billion for loans, loan guarantees, and investments in support of facilities established by the Federal Reserve to support lending to Eligible Businesses, states, and municipalities (including purchases of obligations directly or in secondary markets) ("***4003(b)(4) Relief***").

For tax purposes, such loans and guarantees are to be treated as indebtedness for purposes of the Internal Revenue Code (the "***Code***"), but the acquisition of equity under such programs will not result in a change in ownership for purposes of Code Section 382 (dealing with certain built-in losses following ownership changes). The Department of the Treasury will provide subsequent regulations with guidance as to the relevant tax treatment.

Terms and Conditions for Monies Allocated to Air Carriers and Critical Businesses

The CARES Act requires the Secretary of the Treasury (the "***Secretary***") to publish application procedures and minimum requirements for loans, loan guarantees, and other investments within 10 days of enactment. For Air Carriers seeking loans and guarantees consisting of monies specifically allocated for passenger air carriers, cargo air carriers, and businesses critical to maintaining national security, key terms and conditions include:

- *Interest Rate* – loans made under these allocations will be at a rate determined by the Secretary based on the risk and the current average yield on outstanding marketable US

© 2026 Haynes and Boone, LLP

obligations of comparable duration.

- *Maximum Duration* – the loans and loan guarantees must be as short as practicable and, in any case, not longer than five years.
- *Prohibition on Stock Buybacks* – for twelve months after the date of the loan or for as long as the loan is outstanding, participating businesses (and their affiliates) are prohibited from purchasing any equity security of the business (or of any parent entity of the business) listed on a national exchange (unless required under a preexisting contractual obligation to do so).
- *Prohibition on Dividends* - for twelve months after the date of the loan or for as long as the loan is outstanding, participating businesses are prohibited from paying dividends or other capital distributions to common stock.
- *Employment Guarantees* – to the extent practicable, participating businesses must maintain their level of employment as of March 24, 2020 until September 30, 2020 and are prohibited from reducing their employment levels by more than 10% from the level established as of March 24, 2020.
- *US Business Certification* – participating businesses must certify that they are created or organized in the US or under US law and have significant operations in and a majority of their employees based in the United States.
- *Limitation on Executive Compensation* – participating businesses must cap certain executive pay and benefits for the duration of the loan and one year thereafter.
- *Prohibition on Loan Forgiveness* – principal amounts may not be reduced through loan forgiveness.
- *Government Equity Stake* – the Secretary must receive a warrant or equity interest in the recipient (or in some cases, a senior debt interest), but the Secretary may not exercise voting power of common stock.

Terms and Conditions for Monies Allocated to 4003(b)(4) Relief

Air Carriers, moreover, may also seek direct loans through 4003(b)(4) Relief facilities. Key provisions for direct loans made under these facilities are similar to those for Air Carrier and Critical Businesses Relief and include:

- *Prohibition on Stock Buybacks* – for twelve months after the date of the loan or for as long as the loan is outstanding, participating businesses are prohibited from purchasing any equity security of the business (or of any parent entity of the business) listed on a national exchange (unless required under a preexisting contractual obligation to do so).
- *Prohibition on Dividends* - for twelve months after the date of the loan or for as long as the loan is outstanding, participating businesses are prohibited from paying dividends or other capital distributions to common stock.
- *Limitation on Executive Compensation* – participating businesses must cap certain executive pay and benefits for the duration of the loan and one year thereafter.

© 2026 Haynes and Boone, LLP

- *US Business Limitation* – facilities providing 4003(b)(4) relief are only available to businesses that are created or organized in the US or under US law and have significant operations in and a majority of their employees based in the United States.

- *Prohibition on Loan Forgiveness* – principle amounts may not be reduced through loan forgiveness.

Note that for 4003(b)(4) Relief (but not for Air Carrier and Critical Businesses Relief), the Secretary may waive the prohibitions on stock buybacks, dividend payments, and executive compensation if it is deemed that such a waiver is necessary to protect the interest of the federal government.

Lender Financing Facilities

The CARES Act also provides for the creation of a 4003(b)(4) Relief facility to provide financing to banks and other lenders to make direct loans to Air Carriers and other Eligible Businesses. Key terms and conditions of direct loans made through such a facility include:

- *Interest Rate* – direct loans made as 4003(b)(4) Relief will be subject to an annualized interest rate capped at 2% per annum.

- *Six-month Grace Period* – no principal or interest is due during the first six months of the loan, and such grace period is extendable at the Secretary's discretion.

- *Employment Guarantees* – recipients must retain or restore, within four months after the termination of the public health emergency, at least 90% of the recipient's workforce (existing as of February 1, 2020), at full compensation and benefits, until September 30, 2020.

- *US Business Limitation* – the recipient must be an entity or business domiciled in the United States with significant operations and employees located in the United States.

- *Bankruptcy Exclusion* – loans are not available to debtors currently in bankruptcy proceedings.

- *Prohibition on Outsourcing* – recipients may not outsource or offshore jobs for the term of the loan and two years after repayment.

- *Labor Union Conditions* – recipients must (i) maintain existing collective bargaining agreements for the term of the loan and two years after repayment and (ii) remain neutral in any union organizing effort for the term of the loan.

Continuation of Certain Air Service

For any Air Carrier receiving loans or loan guarantees under the previously mentioned facilities, the Secretary of Transportation may require (to the extent reasonable and practicable) that such recipients maintain scheduled air transportation service as may be deemed necessary to ensure services to any point served by that carrier before March 1, 2020. This authority, however, terminates on March 1, 2022.

Aviation Excise Tax Holiday

The Act suspends aviation excise taxes until January 1, 2021.

© 2026 Haynes and Boone, LLP

Targeted Relief to Aviation Employees

In addition to relief for Air Carriers, the CARES Act also provides financial assistance targeted to Air Carrier and aviation industry workers. More specifically, the Act allocates funds to Air Carriers and certain contractors on the condition that they be used to continue wages, salaries, and benefits for Air Carrier and aviation industry employees (excluding corporate officers). The funds are allocated in the following amounts:

- $25 billion for passenger air carriers;
- $4 billion for cargo air carriers; and
- $3 billion for certain contractors and subcontractors.

Awardable amounts under these provisions are capped at the total amount of salaries and benefits (or, in certain cases, the total amount of wages, salaries, benefits and other compensation) reported by a recipient from April 1, 2019 through September 30, 2019. Note that these reported amounts are subject to audits by the Inspector General of the Department of the Treasury.

The CARES Act requires the Secretary to publish streamlined and expedited procedures for Air Carriers and contractors to submit requests for employee-related financial assistance within five days after enactment, and the Secretary must make initial payments for all approved requests within 10 days after enactment.

Terms and Conditions for Monies Allocated to Aviation Employee Relief

In order to qualify for the financial assistance, Air Carriers and contractors must satisfy the following terms and conditions:

- *Prohibition on Furloughs and Pay Reductions* – recipients may not conduct involuntary furloughs or reduce pay rates and benefits through September 30, 2020.
- *Prohibition on Stock Purchases* – recipients (and their affiliates) are prohibited from purchasing any equity security of the recipient (or of any parent entity of the recipient) listed on a national exchange through September 30, 2021.
- *Prohibition on Dividends* - recipients are prohibited from paying dividends or other capital distributions to common stock (or equivalent interests) through September 30, 2021.
- *Limitation on Executive Compensation* – recipients must cap certain executive pay and benefits for the two-year period from March 24, 2020 until March 24, 2022.

Continuation of Certain Air Service

Finally, just as in the conditions of loans and guarantees described above, the Secretary of Transportation may require (to the extent reasonable and practicable) that recipients maintain scheduled air transportation service as may be deemed necessary to ensure services to any point served by that carrier before March 1, 2020. This authority, however, terminates on March 1, 2022.

For additional information, please contact any member of Haynes Boone's Aviation Practice Group.

© 2026 Haynes and Boone, LLP

[1] At this point, it remains unclear which businesses would qualify as “businesses that have not otherwise received adequate economic relief in the form of loans or loan guarantees” under the Act. However, we expect that the Department of the Treasury will promulgate rules and regulations to provide further guidance.

© 2026 Haynes and Boone, LLP