

EMERGENCY STABILIZATION FUND FEDERAL RESERVE FACILITIES AND PROGRAMS

Title IV of the CARES Act

OVERVIEW

The CARES Act provides at least \$454 billion to the Treasury Department to back various forms of assistance provided by the Federal Reserve to lenders and eligible businesses, states, and municipalities.¹ The Treasury Department and Federal Reserve have broad discretion in how the financial assistance will be provided—which has yet to be decided.

While eligibility is broadly defined, there are no requirements for the Treasury or Federal Reserve to establish programs or facilities for which all eligible entities qualify.

U.S. Travel and industry partners are working with Treasury and the Federal Reserve to quickly establish programs that will provide lending and other financial tools to impacted sectors of the travel industry.

WHO QUALIFIES?

GENERAL ELIGIBILITY

- **Any U.S. business**, regardless of size, which may include any nonprofit that is tax exempt under 501(c) of the tax code, including 501(c)(4) and 501(c)(6) organizations. Businesses must also meet ALL of the following criteria:
 - Created or organized in the United States;
 - Have significant operations in the United States;
 - Have a majority of its employees based in the United States; and
 - Have not otherwise received adequate economic relief in the form of loans or loan guarantees provided elsewhere under the CARES Act—such as through SBA loan programs.
- **States**, including the District of Columbia; territories, any bi-state or multi-state entity; and any Indian Tribe.
- **Municipalities**, including:
 - A political subdivision of a state, such as State Tourism Office;
 - An instrumentality of a municipality, state or a political subdivision of a state; such as a Destination Marketing Organization classified as a political subdivision; a city or county airport authority; or a convention authority.

ADDITIONAL ELIGIBILITY REQUIREMENTS:²

- The Treasury and Federal Reserve have broad authority to determine the eligibility requirements for any loans, loan guarantees or financial assistance enabled through these funds.

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- For any programs and facilities established by the Federal Reserve, all borrowers must meet the loan collateralization, taxpayer protection, and borrower solvency requirements of emergency lending in section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)).

WHAT TYPES OF ASSISTANCE WILL BE AVAILABLE?

- **Secured loans through banks:** Banks and credit unions are going to be the main distribution channels for loans made available under this program. The terms, conditions and maximum loan amounts will be set by the Federal Reserve and the financial institution. However, at a minimum, the borrower must be solvent, provide sufficient collateral, and comply with other established taxpayer protections.³
- **Direct Loans through the Federal Reserve:** The Treasury may provide direct loans as part of a Federal Reserve program or facility. The specific terms, conditions and eligibility will be determined by the Treasury and Federal Reserve. However, at a minimum, during the duration of the loan plus 12 months after the loan is no longer outstanding, the borrower:⁴
 - Cannot repurchase its own equity or its parent company's equity (stock buybacks);
 - Cannot pay dividends or make other capital distributions on its common stock; and
 - Must agree to limitations on total compensation (salary, bonuses, stock awards, golden parachutes and other financial benefits) paid to officers and employees whose total compensation was more than \$425,000 in 2019.
- **Direct Federal Investment:** Treasury may also establish a program (through the Federal Reserve) to offer funding to eligible entities in exchange for debt obligations (e.g. corporate or municipal bonds), securities, or an ownership interest in assets.
- **Loans for Mid-Sized Businesses and Nonprofits:** The CARES Act encourages Treasury to establish a specific program targeted at mid-sized nonprofit organizations and businesses with between 500 and 10,000 employees. For any direct loans made under the program, the annualized interest rates will be no more than 2% and the borrower will not be required to pay principle or interest for at least the first six months. Borrowers under this program must certify, along with other conditions, that:
 - The uncertainty of the economic conditions makes the loan necessary to support ongoing operations;
 - Funds are used to retain at least 90% of employee workforce with full compensation and benefits through September 30, 2020;
 - The borrower intends to restore not less than 90% of the workforce that existed as of February 1, 2020 and to restore all worker compensation and benefits no less than four months after the pandemic;

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- The borrower is not a debtor in bankruptcy;
 - It cannot repurchase its own equity or its parent company's equity (stock buybacks) while the loan is outstanding;
 - It cannot pay dividends on its common stock while the loan is outstanding;
 - During the term of the loan and for two years after repayment, the borrower will not outsource jobs or use offshore employees and will not abrogate existing collective bargaining agreements; and
 - The borrower will remain neutral in union organizing efforts for the loan term.
- **Main Street Lending Program for Small and Mid-Sized Businesses:** The Federal Reserve is also encouraged to establish a program to support lending to small and mid-sized businesses on terms and conditions set by the Federal Reserve consistent with Section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)). The term "business" is not defined under this section, so it is unclear if this will include nonprofits.
 - **Troubled Debt Restructuring (TDR):** The CARES Act provides temporary relief from TDR, which will allow banks to renegotiate loan terms with coronavirus impacted borrowers (companies and individuals) without having to hold extra capital, as long as the new terms are needed as a result of the coronavirus outbreak (and not pending pre-crisis for other solvency reasons).

WHAT TYPES OF ASSISTANCE WILL BE AVAILABLE?

- **To Be Determined:** The types of assistance that will be available and who qualifies will be determined through the programs and facilities established by the Treasury and Federal Reserve, in addition to any private lenders providing loans enabled through the Federal Reserve.
- **Assistance will not be provided on a company specific basis, but will be made broadly available:** The CARES Act ensures that Treasury and the Federal Reserve cannot provide assistance on terms limited to just one company or entity. Instead, Treasury and the Federal Reserve must establish programs with terms and the ability to borrow on an industry basis or covering a broad swath of the economy.
- **U.S. Travel is working with the Treasury Department and Federal Reserve to quickly establish programs that provide loans and liquidity to all sectors of the travel industry.**

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HOW CAN I APPLY?

- **Application procedures are forthcoming:** Once a program is established, Treasury and the Federal Reserve will likely publish application procedures and minimum requirements for loans and other assistance made available under the programs. For lending enabled through financial institutions, additional application procedures will be provided by the bank.

1. The \$454 billion can be leveraged by the Federal Reserve to provide an estimated \$4 trillion in additional liquidity for impacted businesses. The fund can also be used to support the previously announced Federal Reserve facilities such as the PMCCF, the Secondary market credit facility, TALF, and the CPFF.
2. Businesses owned or controlled by the President, Vice President, an Executive Branch Department Head, a Member of Congress, or their spouses and children are ineligible for any assistance.
3. Requirements of section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)) will apply.
4. The Treasury Secretary has authority to waive these requirements under certain conditions.