

### **FEDERAL RESERVE LENDING PROGRAMS**

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which is designed to provide financial relief to American businesses in response to the economic fallout from the efforts to stem the coronavirus (COVID-19) pandemic. Title IV of the CARES Act provides \$500 billion for loans, loan guarantees, and investments in the Federal Reserve's lending facilities to support states, municipalities, and eligible businesses. Eligible businesses are defined as air carriers and businesses that have not received adequate economic relief in the form of other loans or loan guarantees.

Under Title IV of the CARES Act, Section 4003(b) makes available the following loans, loan guarantees and other investments:

- (1) Up to \$25 billion in loans and loan guarantees for passenger air carriers, eligible businesses that are certified and approved to perform inspection, repair, replace or overhaul services, as well as ticket agents;
- (2) Up to \$4 billion in loans and loan guarantees for cargo air carries;
- (3) Up to \$17 billion in loans and loan guarantees for businesses critical to maintaining national security;
- (4) Not more than the sum of \$454 billion plus any unused available amounts under (1) through (3) above shall be available to make loan and loan guarantees to, and other investments in, programs or facilities established by the Board of Governors of the Federal Reserve System for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, states, or municipalities by:
  - Purchasing obligations or other interests directly from issuers of such obligations or other interests;
  - Purchasing obligations or other interests in secondary markets or otherwise;  
or
  - Making loans, including loans or other advances secured by collateral.

The Federal Reserve programs include the following facilities: the Money Market Mutual Fund Liquidity Facility, the Commercial Paper Funding Facility, the Primary Market Corporate Credit Facility, the Secondary Market Corporate Credit Facility, and the Term Asset-Backed Securities Loan Facility.

The CARES Act requires the Secretary of the Treasury to publish procedures for application and minimum requirements for the loans, loan guarantees and investments described in (1), (2), and (3) above within 10 days after the CARES Act is implemented.

With respect to the loans, loan guarantees, and investments described in (4) above, the Secretary shall endeavor to seek the implementation of a program or facility that provides financing to banks and other lenders that make direct loans to eligible businesses, including, to the extent practicable, non-profit organizations, with between 500 and 10,000 employees. Such loans will have a maximum interest rate of 2% and a 6-month deferral on loan payments.

Any eligible business seeking a loan under this program will be required to make a good faith certification that:

(a) The uncertainty of economic conditions has made the loan request necessary to support ongoing operations;

(b) the funds received will be used to retain at least 90% of the applicant's workforce, at full compensation and benefits, until September 30, 2020;

(c) The applicant intends to restore not less than 90% of its workforce that existed as of February 1, 2020 and to restore all compensation and benefits to the applicant's workers no later than 4 months after the termination date of the public health emergency declared on January 31, 2020 in response to the COVID-19 pandemic;

(d) The applicant is domiciled in the United States with significant operations and employees located in the United States;

(e) The applicant is not a debtor in a bankruptcy proceeding

(f) The applicant is a US entity with a majority of its employees based in the United States;

(g) The applicant will not make dividend payments or repurchase equity securities while the loan is outstanding, except as required under a contractual obligation already in effect as of enactment of the CARES Act;

(h) The applicant will not outsource or offshore jobs for the term of the loan and for two years following repayment of the loan;

(i) The applicant will not abrogate existing collective bargaining agreements for the term of the loan and for two years after repayment of the loan; and

(j) The applicant will remain neutral in any union organizing effort for the term of the loan.

These loans may not be forgiven.

Whiteman Osterman & Hanna LLP can assist with these issues and more, as you and your business work to navigate the novel and difficult decisions arising from the COVID-19 pandemic. For assistance with tax issues, please contact one of our tax attorneys:

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