

# AVIATION IMPLICATIONS OF CARES ACT

Coronavirus Aid, Relief, and Economic Security Act

April 8, 2020

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# EXECUTIVE SUMMARY

- On March 27, 2020 President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
- The bill provides a total of \$2.2T in economic stimulus aimed at providing emergency assistance and health care response for individuals, families, and businesses, affected by the 2020 coronavirus pandemic
- The bill provides \$61B in grants and loans as well as excise tax relief for the aviation industry
  - Passenger and cargo carriers, part 145 repair stations, ticketing agents, and airline and airport contractors are eligible for assistance under this program
  - \$32B in grants have been allocated to cover salaries and benefits from April 1 to September 30, 2020
  - \$29B in loans and loan guarantees are also available
- An additional \$17B has been provided for “businesses critical to maintaining national security” but it is unclear what companies will be eligible for this funding
- Assistance comes with restrictions and requirements including:
  - Restrictions on stock buybacks and dividends
  - Limits on employee and officer compensation
  - Limits on changes to employment levels and wage rates
  - Government receipt of equity, warrant, or debt instrument to compensate for assistance
  - Maintenance of essential scheduled air service (as defined by Secretary of Transportation)
- The bill also waives fuel and excise taxes through 2020
- Programs will be administered by the Secretary of the Treasury (Steven Mnuchin)
- Timeline
  - 3/27: President signed into law
  - 3/30: Secretary of Treasury published procedures for payroll grants and loan procedures
  - Treasury Secretary has 10 days from (3/27) to make initial grant payments

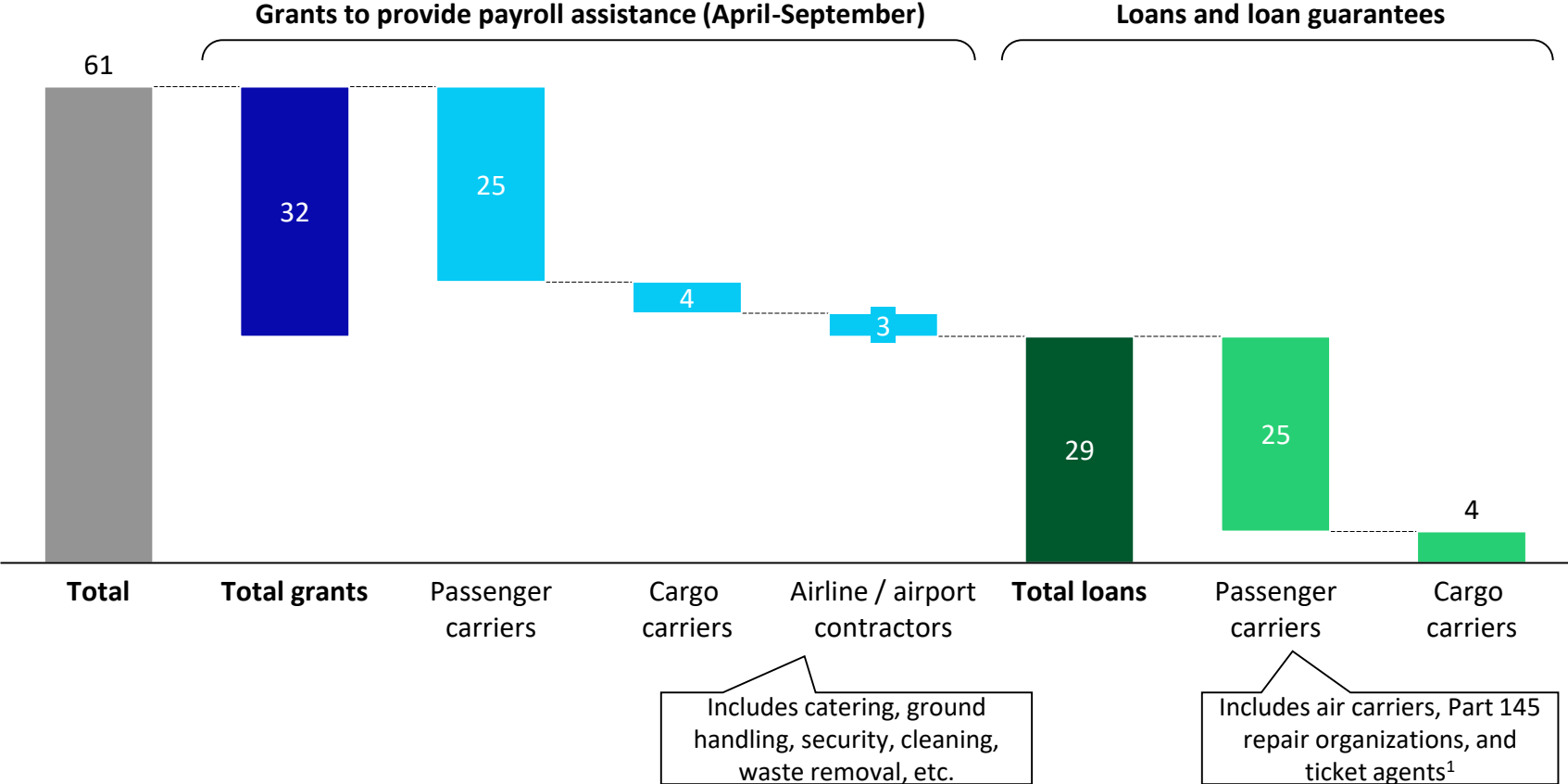
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**CARES ACT FOR AIRLINES, MRO, AND CONTRACTORS**

# OVERVIEW OF ASSISTANCE PROVIDED

A total of \$61B is available in assistance to the aviation industry in the form of grants to provide payroll assistance and loans / loan guarantees

## Total funds provided to aviation industry under CARES US \$B



Source: H.R. 748

Note: 1. Ticket agent is defined as person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation. Defined in section 40102 of title 49 U.S. Code

# GRANTS

\$32B is available to cover salaries and benefits from April 1 to September 30

<b>Eligibility</b>	<ul style="list-style-type: none"> <li>• Air carriers (passenger and cargo)</li> <li>• Airline / airport contractors (catering, ground handling, security, cleaning, waste removal, etc.)</li> </ul>
<b>Provisions</b>	<ul style="list-style-type: none"> <li>• Funds are meant to cover salaries and benefits from April 1 to September 30</li> <li>• Based on amounts reported to DOT from April 1 to September 30, 2019 or certified financial statements</li> <li>• Covers employees, not corporate officers</li> </ul>
<b>Assurances and other conditions</b>	<ul style="list-style-type: none"> <li>• Cannot conduct involuntary furloughs or reduce pay rates and benefits until Sep. 30, 2020             <ul style="list-style-type: none"> <li>– Carrier / contractor, subsidiary, or any other affiliated entity (at discretion of Secretary of Treasury)</li> </ul> </li> <li>• No share buybacks until Sep. 30, 2021</li> <li>• No dividends can be issued until Sep. 30, 2021</li> <li>• Secretary of Transportation can require carrier to maintain scheduled air service through March 2022             <ul style="list-style-type: none"> <li>– Instructed to prioritize small and remote communities to maintain health care supply chains</li> </ul> </li> <li>• Limitations on employee compensation through March 2022</li> <li>• Assistance <b>not</b> conditioned on entering into negotiations with bargaining representatives</li> <li>• May refuse assistance for those evaluating or who have taken action to commence bankruptcy filing</li> </ul>
<b>Financial protection of government</b>	<ul style="list-style-type: none"> <li>• Treasury <b>may</b> receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by recipients of financial assistance</li> <li>• Aimed at providing appropriate compensation to Federal government for assistance</li> <li>• Terms set by Secretary of Treasury</li> </ul>
<b>Procedures</b>	<ul style="list-style-type: none"> <li>• Procedures published 3/30, initial applications due 4/3</li> <li>• Initial payments must be made to air carriers 10 days after enactment of Act</li> <li>• Secretary of Treasury shall determine an appropriate method for distribution of payments</li> </ul>

Source: H.R. 748

# LOANS AND LOAN GUARANTEES

\$29B of loans and loan guarantees is available for carriers, part 145 repair organizations, and ticket agents

<b>Eligibility</b>	<ul style="list-style-type: none"> <li>• Air carriers (passenger and cargo)</li> <li>• Part 145 repair organizations</li> <li>• Ticket agents<sup>1</sup></li> </ul>
<b>Provisions</b>	<ul style="list-style-type: none"> <li>• Credit not reasonably available to organization, continued operations jeopardized</li> <li>• Obligation must be “prudently incurred”</li> <li>• Loan must be secured or made at rate that reflects risk (based on current average Treasury yield)</li> <li>• Maximum loan term: 5 years</li> </ul>
<b>Assurances and other conditions</b>	<ul style="list-style-type: none"> <li>• Maintain employment levels as of Mar. 24 through Sep. 30, 2020 (cannot reduce more than 10%)</li> <li>• No share buybacks for loan term + 12 months</li> <li>• No dividends for loan term + 12 months</li> <li>• Secretary of Transportation can require carrier to maintain scheduled air service through March 2022             <ul style="list-style-type: none"> <li>– Instructed to prioritize small and remote communities to maintain health care supply chains</li> </ul> </li> <li>• Limitations on employee compensation for loan term + 12 months</li> </ul>
<b>Financial protection of government</b>	<ul style="list-style-type: none"> <li>• Treasury <b>must</b> receive warrant, equity, or senior debt instrument</li> <li>• Terms set by Secretary of Treasury             <ul style="list-style-type: none"> <li>– Must provide reasonable benefits to taxpayers in terms of equity appreciation or interest rate premium</li> </ul> </li> <li>• Loan forgiveness prohibited</li> <li>• Loans treated as indebtedness for tax purposes</li> </ul>
<b>Procedures</b>	<ul style="list-style-type: none"> <li>• Secretary of Treasury will publish procedures for application and requirements 10 days after enactment</li> <li>• Secretary of Treasury is authorized to use banks to perform duties the Secretary determines necessary</li> </ul>

Source: H.R. 748

Note: 1. Ticket agent is defined as person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation. Defined in section 40102 of title 49 U.S. Code

# COMPENSATION RESTRICTIONS

Any assistance from the government (grants or loans) comes with restrictions on employee compensation

## Restrictions

Based on 2019 compensation

### Employees with total compensation >\$425,000

- Total compensation cannot exceed 2019 level
- Severance cannot be greater than 2x 2019 total compensation

## Duration

- If company receives grant:
  - March 24, 2020 to March 24, 2022
- If company receives loan or loan guarantee:
  - Duration of loan + 12 months

### Employees with total compensation >\$3,000,000

- Total compensation cannot exceed:
  - \$3M *plus*
  - 50% of excess over \$3M received in 2019

Source: H.R. 748

Note: Total compensation includes salary, bonuses, awards of stock and other financial benefits provided to an officer or employee. These limitations on total compensation do not apply to employees whose compensation is determined by a collective bargaining agreement entered into before March 1.



# MAINTENANCE OF SERVICE REQUIREMENTS: SERVICE OBLIGATION (1/2)

On 4/7 the DOT published final guidelines for the Service Obligations associated with grants and loans

## Overview

- Carriers receiving assistance will need to maintain service to points served before 3/1/2020
  - Based on OAG schedule data from week-ended 2/29/20
  - Applies until at least 9/30/20
  - Seasonal service flexibility (carriers can choose whether to provide winter 20 or summer 19 seasonal service)
- Key specifications
  - Applies to domestic points only
  - Carriers may consolidate operations where multiple airports serve same point
  - Based on marketing carrier
  - No impacts to EAS
  - Only one blanket exemptions to requirements
    - Regional airlines allowed to drop routes served under “financial support agreements” with cities
- Carrier can request points be exempted from their Service Obligation
- No requirements for cargo carriers at this time

# MAINTENANCE OF SERVICE REQUIREMENTS: SERVICE OBLIGATION (2/2)

## Service Obligations: General

Original service level	Min Service Obligation
1 or more flight, 5 or more days per week	At least 1 flight, 5 days per week
Less than 5 days per week	1 flight, 1 day per week
Served from more than one point	Serve from at least one previously served point

### Note:

Even if multiple carriers served a point, each carrier is required to serve point according to proposed levels

## Service Obligations: Based on capacity share

### If carrier has >10% share of 2019 capacity

Original service level	Min Service Obligation
>25x per week	5x per week
5-25x per week	3x per week
<5x per week	1x per week

### If carrier has <10% share of 2019 capacity

Original service level	Min Service Obligation
5x or more per week	3x per week
<5x per week	1x per week

# GRANTS: APPLICATION REQUIREMENTS AND TIMING

On March 30, the Secretary of the Treasury issued guidelines and procedures for payroll support to Air Carriers and Contractors

- |  |  |
|--|--|
| <b>Discretion of Secretary of Treasury</b> | <ul style="list-style-type: none"> <li>• Guidelines provide Secretary of Treasury with latitude to set terms of agreements</li> <li>• Any requirements, "may be waived by the Secretary of the Treasury in his sole discretion"</li> <li>• Authorized to, "provide such payroll support in such form, and on such terms and conditions, as he determines appropriate"</li> </ul>   |
| <b>Awardable amounts</b>                   | <ul style="list-style-type: none"> <li>• Based on compensation paid from April 1, 2019 to September 30, 2019</li> <li>• Based on Form 41 data or sworn financial statements</li> <li>• Includes wages, salaries, and benefits</li> <li>• If total approved amount (to all airlines) exceeds amount allocated (e.g. \$25B for passenger carriers), the total amount provided to carriers will be reduced on a pro-rata basis</li> </ul>   |
| <b>Application process</b>                 | <ul style="list-style-type: none"> <li>• Submit Payroll Application Form including:             <ul style="list-style-type: none"> <li>– Proposed financial instruments and terms to provide Federal Government compensation for support</li> <li>– Sworn financial statements for salaries and benefits paid (if Form 41 data unavailable)</li> </ul> </li> <li>• Complete Payroll Support Agreement which contains:             <ul style="list-style-type: none"> <li>– Assurances (see prior slide)</li> <li>– Compensation limitations</li> <li>– Other conditions and covenants</li> <li>– Provisions for claw back if applicant fails to satisfy its assurances, conditions, or agreements</li> <li>– Applications submitted to: <a href="mailto:PayrollSupportApplications@treasury.gov">PayrollSupportApplications@treasury.gov</a> or on web-based form</li> </ul> </li> </ul> |
| <b>Application timing</b>                  | <ul style="list-style-type: none"> <li>• Accepted on rolling basis</li> <li>• First deadline: April 3, 5:00PM EST</li> <li>• Applications received after April 3, 5:00 PM EST may not receive approval as quickly</li> <li>• Applications received after April 27, 11:59PM may not be considered</li> </ul>  |

# GRANTS: APPLICATION EVALUATION AND PAYMENT TIMING

**Application evaluation** “The Treasury Department will consider the eligibility of the applicant, the adequacy of the proposed financial instruments for providing compensation to the Federal Government, the availability of funds, the applicant’s willingness to be bound by the Payroll Support Agreement, and the purposes of the Act in determining whether to approve an application.”

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**Payment timing**

- Likely in multiple payments
- Beginning ~4/6-4/10
- Amounts and timing determined by Secretary of Treasury
- Payments will be made up to the full amount approved
- If total approved amount exceeds amount allocated (e.g. \$25B for passenger carriers), the total amount provided will be reduced over time on a pro-rata basis

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**Application form**

- Specific guidelines and Payroll Support Application Form can be found here:  
<https://home.treasury.gov/system/files/136/Guidelines%20and%20Procedures%20for%20Payroll%20Support%20to%20Air%20Carriers%20and%20Contractors.pdf>

# GRANTS: CONFIRMED CARRIERS THAT HAVE APPLIED

Southwest<sup>®</sup> 

*Alaska*

 DELTA

American Airlines 

UNITED 

***spirit***<sup>®</sup>

jetBlue<sup>®</sup>

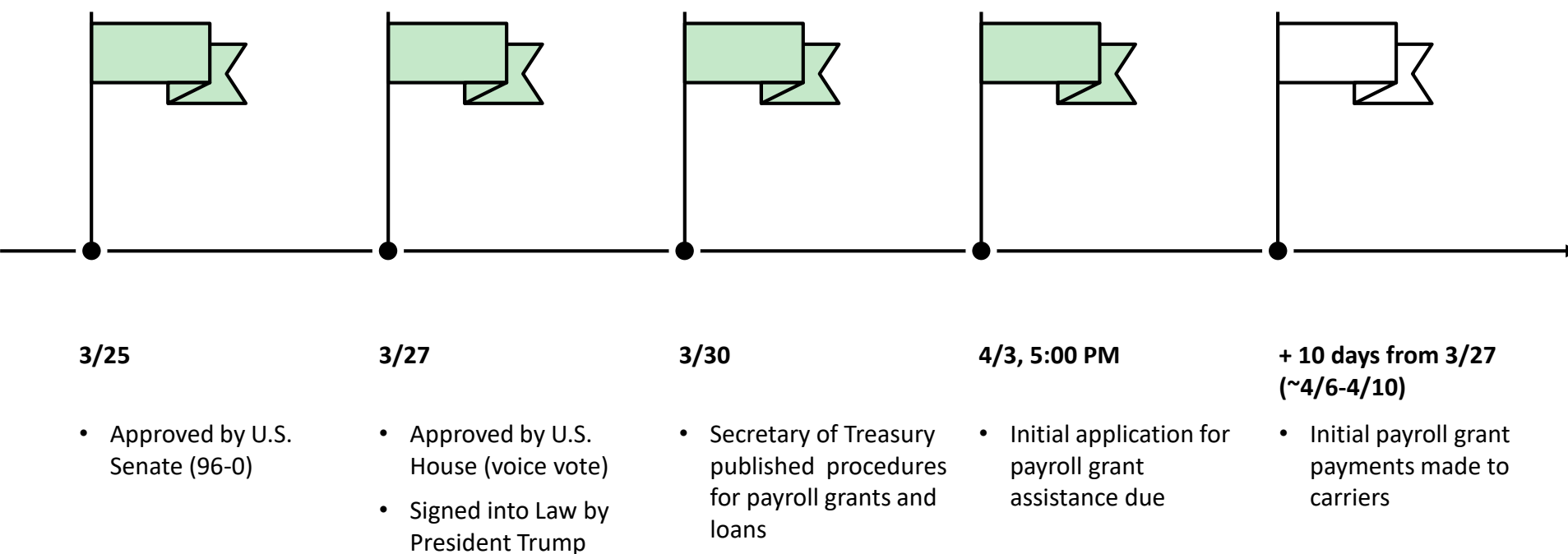
# LOANS: ADDITIONAL CLARIFICATION FROM TREASURY

On March 30, the Secretary of the Treasury issued guidelines and procedures for loan support

<b>Form of assistance</b>	<ul style="list-style-type: none"> <li>Borrowers will be able to apply for a loan directly from the Treasury Department, which will disburse a loan directly to borrowers whose applications are approved by the Treasury Department.</li> </ul>
<b>Financial protection of government</b>	<ul style="list-style-type: none"> <li>Borrowers must identify financial instruments it proposes to issue Treasury Department</li> <li>May not issue a loan to:             <ul style="list-style-type: none"> <li>1. A borrower that has tradeable securities on a national exchange unless Department receives warrant</li> <li>2. Any other borrower unless Department receives warrant, equity interest, or senior debt instrument</li> </ul> </li> <li>“Treasury Department is prohibited from exercising voting power”</li> </ul>
<b>Application information requirements (initial list)</b>	<ul style="list-style-type: none"> <li>Debt: Description of borrowers existing secured and unsecured debt, bank, and other credit lines</li> <li>Debt service: Scheduled debt service for next 3 years</li> <li>Employment levels: As of 3/24/20 and any proposed changes during 2020</li> <li>Financial statements</li> <li>Covered losses: Description of losses borrower has or will incur as result of coronavirus</li> <li>Evidence of lack of credit elsewhere</li> <li>Operational data: 2019 ASMs, RASM, CASM, and forecast for 2020 created no earlier than 10/1/19</li> <li>Security: Value of all security (assets, property, revenue streams) available to be pledged to secure loan</li> <li>Use of proceeds</li> <li>Financial needs: Expected revenues, operating costs, credit, how loan will address needs</li> <li>Operating plan for remainder of 2020 including how loan fits with borrower’s business plan and evidence that it is prudently incurred</li> <li>Cost restructuring: Description of any plans borrowers has to restructure to improve financial condition</li> </ul>

Source: Procedures and Minimum Requirements for Loans to Air Carriers and Eligible Businesses and National Security Businesses under Division A, Title IV, Subtitle A of the Coronavirus Aid, Relief, and Economic Security Act

# CARES ACT TIMELINE



**1B**

**9/11 BAILOUT PERSPECTIVES**



## HISTORICAL PERSPECTIVE

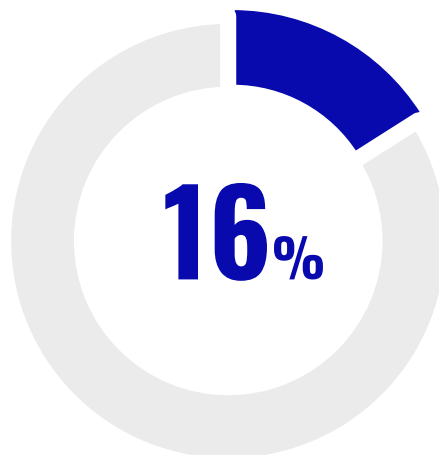
Following 9/11, the Air Transportation Safety and System Stabilization Act provided relief to the aviation industry. This can provide perspectives on how the current assistance might be used

**\$15B**

Made available to  
airlines post 9/11

\$5B in cash

\$10B in loan guarantees



Of loan guarantees  
distributed

\$1.6B

**None**

No major airlines took  
advantage of loan  
guarantees following  
9/11

# SUMMARY

## Background

- Post 9/11, the government intervened with Air Transportation Safety and System Stabilization Act and creation of the Air Transportation Stability Board (ATSB)
- Board made up of Secretary of Transportation, Chairman of the Fed, Secretary of Treasury, and the Comptroller General of the US
- \$15B in assistance was available
  - \$5B in cash payouts
    - Cash injection following government-mandated grounding and immediate demand loss (Allocated by ASMs)
  - \$10B in loan guarantees
    - Government required compensation for assistance provided to airlines (e.g. warrants, debt instruments, etc.)

## Carrier response

- Only seven applications were approved while only six airlines received loan guarantees
  - Only \$1.6B in loan guarantees actually provided by government
  - Other airlines sought financing from other sources and / or elected to enter Chapter 11 bankruptcy
- US Airways, received biggest loan guarantees award by the ATSB - \$900 million
- United applied for loan guarantees, including a revised proposal, but did not receive them and went into Chapter 11 bankruptcy
- Despite losing billions collectively, American, Continental, Delta, and Northwest decided to forgo government guarantees and required compensation required by ATSB
- Southwest did not apply

## Conclusion

- Few airlines sought loan guarantees following 9/11 but they did provide valuable reassurance to financial markets

Sources: <https://www.nytimes.com/2004/09/15/business/new-scrutiny-for-airline-bailout-plan-three-years-after-sept-11.html>, <https://www.federalregister.gov/documents/2002/04/09/02-8431/administrative-regulations-for-air-transportation-stabilization-board-under-section-101a1-of-the-air>, <https://mckinneylaw.iu.edu/ilr/pdf/vol36p367.pdf>; [planestats.com](http://planestats.com) / US DOT Form 41

# ONLY 6 SMALLER AIRLINES APPLIED FOR AND RECEIVED LOAN GUARANTEES WHILE THE LARGEST AIRLINES DECLINED, SOME ENTERING BANKRUPTCY

## Summary of airlines requesting and receiving loan guarantee assistance

		Amount of loan guarantee (\$M)	Date or bankruptcy or ceased operations
Applied and were rejected	Applied and received		
 2002  2001  2006  2002    2001 <p>As well as:</p> <ul style="list-style-type: none"> <li>MEDjet International</li> <li>Great Plains Airlines 2004</li> </ul>	 900 2002  380  149 2008  63 2008  41 2004  27 2013	 2005  2005  2011   	

Source: <https://mckinneylaw.iu.edu/ilr/pdf/vol36p367.pdf>; <https://laane.org/wp-content/uploads/2019/04/ShortchangedStudy.pdf>; Oliver Wyman research

Note: Information not available for airlines not listed here. Based on publicly available information

# AMERICA WEST AND US AIRWAYS BOTH OFFERED EQUITY WARRANTS IN RETURN FOR THEIR LOAN GUARANTEES



- First to ask for and receive a government loan guarantee (November 2001)
- Several rounds of negotiations with government
- \$379.6M guarantee
  - Represented 85% of the financing it was seeking
- **Concessions**
  - Warrants representing 33% of common stock (fully diluted basis)
    - 10 year exercise period
    - \$3 exercise price
    - Anti-dilution provisions
  - Found outside lender to supply \$20M in guarantees
  - Concessions from aircraft OEMs and lessors
  - Revised business plan
  - Commitment to keep labor costs under control



- Did not officially apply until June 2002 (three weeks before deadline)
- Received government's largest aid package
- \$900M guarantee
  - On \$1B loan
- **Concessions**
  - Offered an undisclosed equity stake
    - Reportedly well below 33% given by America West
  - Govt asked for legally binding agreements on concessions from other stakeholders (unions, suppliers, and lenders)
  - Promised to resolve outstanding issues around airport slots
  - Promised to win approval of bankruptcy court for its plan of reorganization

Source: <https://mckinneylaw.iu.edu/ilr/pdf/vol36p367.pdf>; <https://laane.org/wp-content/uploads/2019/04/ShortchangedStudy.pdf>

Note: Based on publicly available information

**2**

**CARES ACT FOR AEROSPACE**

# OVERVIEW OF ASSISTANCE PROVIDED

## Overview

- The CARES Act provides \$17B for loans and loan guarantees for “businesses critical to maintaining national security”
- These funds have the same eligibility and restrictions as the loans / loan guarantees provided for air carriers e.g.:
  - Maintenance of employment levels
  - No stock buybacks or dividends for length of loan + 12 months
  - Limitations on employee compensation
  - Etc.
- They also carry the same financial protections for the government (i.e. Treasury must receive warrant, equity, or senior debt instrument in return)
- The exact companies eligible for the funds included in this \$17B are unclear

Source: <https://www.cnn.com/2020/03/25/politics/boeing-bailout/index.html>; <https://www.reuters.com/article/us-boeing-737max/boeing-ceo-does-not-want-u-s-to-take-stake-in-company-after-coronavirus-stimulus-idUSKBN21B1WN>; <https://www.washingtonpost.com/business/2020/03/25/boeing-bailout-coronavirus/>

# APPENDIX

# KEY REFERENCES

- Full text of CARES ACT: <https://www.congress.gov/bill/116th-congress/house-bill/748/text?q=%7B%22search%22%3A%5B%22h.r.+748%22%5D%7D&r=1&s=1>
- Final DOT Service Obligations: <https://www.transportation.gov/sites/dot.gov/files/2020-04/CARES%20Final%20Order%20FINAL.PDF>
- Treasury Payroll Grant Application: <https://forms.treasury.gov/caresact/PayrollSupportRequestForAirCarriers>
- Treasury Loan Application: <https://home.treasury.gov/system/files/136/Airline-Loan-Application-4-6-20.pdf>

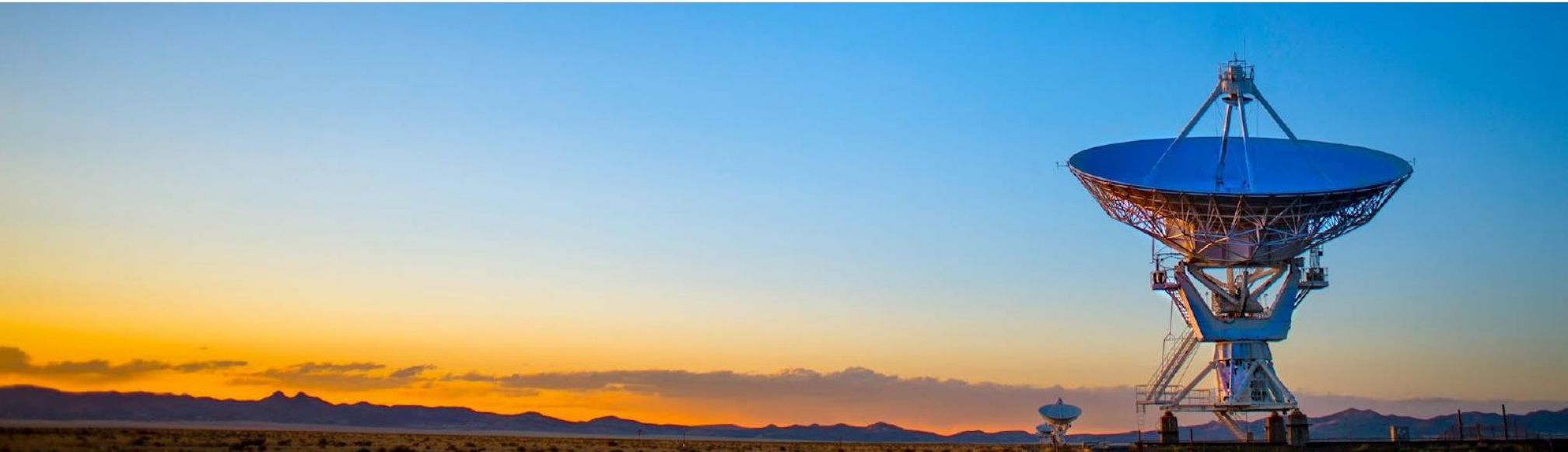


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