

March 31, 2020

## CARES Act Federal Reserve Emergency Lending Program

*Legislation includes emergency lending authority for most types of organizations; encourages Treasury to establish a lending program specifically for midsize organizations, including nonprofits*

The Coronavirus Aid, Relief and Economic Security (CARES) Act authorized \$2.2 trillion in new spending to help individuals and businesses weather the economic downturn caused by COVID-19, as well as to provide critical resources to the health care system. It included a lending program through the Small Business Administration targeted to both for-profit and nonprofit organizations with fewer than 500 total employees and is intended to help businesses maintain their workforce through the economic downturn. Details of this program were included in the March 30 [Special Bulletin](#).

In addition, the legislation authorizes \$454 billion for emergency loans at favorable terms for businesses, states and municipalities, subject to certain conditions. As part of this authority, the bill encourages the Department of Treasury to establish a lending program specifically for organizations with between 500 and 10,000 employees, including nonprofits. We expect that this program for mid-size organizations will be most relevant to hospitals and health systems. Some parameters and requirements are established in the law, but Treasury has yet to announce details about program implementation.

We will keep you informed as regulations or other pronouncements are issued. To assist you in understanding the potential of this new authority for your hospital or health system, please see the following answers to questions about the program as we now understand it.

### FAQs REGARDING CARES ACT ASSISTANCE TO HOSPITALS

#### **How much financial assistance is available to hospitals under the newly enacted CARES Act?**

This is not yet known and will depend on decisions to be made by the Department of Treasury and the Federal Reserve Bank. The CARES Act appropriates \$454 billion for application by the Department of Treasury through Federal Reserve emergency lending programs for businesses, states and municipalities. (It also appropriates an additional \$46 billion for airlines and national security businesses, with any unused amount being added to the \$454 billion general pool.) The legislation does not specify which business

sectors Treasury and the Federal Reserve will target or what portion of the aggregate amount will be available to specific types of businesses, such as hospitals. The CARES Act encourages Treasury to seek implementation, among the lending programs to be funded with the \$454 billion, of a program for mid-sized businesses, defined as “businesses, including, to the extent practicable, nonprofit organizations, with between 500 and 10,000 employees.” Accordingly, Congress has expressed an intent, though not a mandate, for such mid-sized nonprofit organizations to be included as loan recipients.

### **What are the terms of CARES Act loans to mid-sized hospitals?**

The legislation provides that loans to mid-sized businesses will bear an interest rate not higher than 2% per year, and that for the first six months after any such loan is made, or for such longer period as the Secretary of Treasury may determine, no principal or interest shall be due and payable. The CARES Act does not specify a maximum loan amount or the term of loans made to mid-sized businesses. (Loans for other types of eligible borrowers are required to be “as short as practicable and in any case not longer than five years.”)

### **What conditions are attached to CARES Act loans to mid-sized hospitals?**

The CARES Act restricts stock buybacks and dividends and capital contributions by a loan recipient for specified periods and may limit compensation increases and severance payments for officers and employees of loan recipients who received total compensation in excess of \$425,000 in calendar year 2019. These conditions may be waived by Treasury.

In addition, any eligible borrower applying for a loan under the mid-sized business lending program will be required to certify in good faith to the following items, which include workforce preservation commitments, restrictions on outsourcing and protections for unions and unionizing:

- the uncertainty of economic conditions as of the date of the application makes necessary the loan to support the ongoing operations of the recipient;
- the funds it receives will be used to retain at least 90% of the recipient’s workforce, at full compensation and benefits, until Sept. 30, 2020;
- the recipient intends to restore not less than 90% of the workforce of the recipient that existed as of Feb. 1, 2020, and to restore all compensation and benefits to the workers of the recipient no later than four months after the termination date of the coronavirus public health emergency declared by the Secretary of Health and Human Services on Jan. 31, 2020;
- the recipient is an entity or business that is domiciled in the United States with significant operations and a majority of its employees based in the United States;
- the recipient is not a debtor in a bankruptcy proceeding;
- the recipient will not outsource or offshore jobs for the term of the loan and two years after completing repayment of the loan;

- the recipient will not abrogate existing collective bargaining agreements for the term of the loan and two years after completing repayment of the loan; and
- the recipient will remain neutral in any union organizing effort for the term of the loan.

### **Will CARES Act loans to mid-sized hospitals require collateral?**

This is not yet known. The CARES Act states that loans made with CARES Act funds under the Federal Reserve emergency lending programs must comply with Federal Reserve Act requirements regarding collateralization. Federal Reserve regulations for prior emergency lending programs require that all credit extended under such a program be secured to the satisfaction of the lending Federal Reserve Bank.

### **Who will the lender be on CARES Act mid-sized business loans?**

The CARES Act states that the mid-sized business loan program will provide financing to banks and other lenders that make direct loans to eligible businesses. However, as noted above, the legislation also states that such loans will be part of the Federal Reserve emergency lending program, which operates through the Federal Reserve Banks. It is not yet clear whether the immediate lender to borrowers under the mid-sized business loan program will be a Federal Reserve Bank or a broader group of banks and lenders. AHA will monitor developments on the designation of the applicable lenders.

### **When will applications for mid-sized business loans be accepted?**

As described above, the CARES Act leaves various details regarding this program to the Department of Treasury and the Federal Reserve. AHA will be monitoring developments, including any announcements regarding the application process.

### **Further Questions**

If you have questions, please contact AHA at 800-424-4301.