
Impact on Large Businesses

The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocates \$454 billion to the Federal Reserve to make loans and loan guarantees to eligible businesses, states, and municipalities.

The CARES Act requires the Secretary of Treasury to publish application procedures and minimum requirements for businesses to apply for this financial assistance within 10 days. While those regulations will detail how to access this aid, Congress provided the following parameters.

- Eligible businesses are those that have been “created or organized in the United States... and that have significant operations in and a majority of its employees based in the United States”, and have not received adequate economic relief in the form of loans or loan guarantees provided elsewhere in the CARES Act (such as the SBA Paycheck Protection Program).
- For the duration of the loan plus one year, the business cannot:
 - Repurchase an equity security of the business (or a parent company) that is listed on a “national securities exchange”¹ except to the extent required by an existing contract,
 - Pay dividends or make capital distributions with respect to the business’s common stock,
 - Increase the total compensation² of any officer or employee who made more than \$425,000 in calendar year 2019,³
 - Provide an officer or employee with severance or other benefits which is more than twice the maximum total compensation received by the officer or employee, and
 - Provide more than \$3 million plus 50 percent of the excess over \$3 million for officers or employees whose total compensation exceeded \$3 million in calendar year 2019

Further, Congress provided specific requirements for non-profits and mid-sized businesses with 500 to 10,000 employees. The Secretary of Treasury will provide financing to banks and other lenders that make direct loans to these entities with the following conditions:

- An annualized interest rate not higher than 2% with no required payments on the principal or interest in the first 6 months (or longer, if Treasury agrees).
- When applying for the loan, the business must make a good faith-certification that:
 - The loan is necessary to support ongoing operations due to economic uncertainty.
 - The funds received will be used to retain at least 90% of the recipient’s workforce, at full compensation and benefits, until September 30, 2020.
 - The business intends to restore not less than 90% of the workforce that existed as of February 1, 2020, and intends to restore all compensation and benefits to workers not later than 4 months after the termination of HHS’ COVID-19 public health emergency.
 - The business is not a debtor in a bankruptcy proceeding.
 - For the duration of the loan, the business will not pay dividends or purchase any of the business’s (or parent company’s) equity securities (or a parent company’s).
 - The business will not outsource or offshore jobs for the term of the loan plus 2 years after completing repayment of the loan.
 - The business will not abrogate an existing collective bargaining agreement for the term of the loan plus 2 years after completing repayment of the loan.
 - The business will remain “neutral” in any union organizing effort for the term of the loan.

¹ This is defined as an “exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f).

² “Total compensation” includes “salary, bonuses, awards of stock, and other financial benefits provided” to an officer or employee of the business.

³ Note: employees subject to collective bargaining agreements are exempt from this requirement.