

COVID-19 Update: US Senate Republicans Offer Airline Relief Package

March 20, 2020

On Thursday, March 19, Senate Republicans released a proposal for \$58 billion in emergency financial relief for US airlines. The relief measures would form part of the Coronavirus Aid, Relief, and Economic Security Act and is the third stage of economic stimulus related to the outbreak of the coronavirus disease 2019 (COVID-19). Under the proposal, Congress would appropriate funds to provide federal assistance to severely distressed sectors of the economy (such as the airline industry) in the form of secured loans and loan guarantees – up to \$50 billion would be available to passenger air carriers and up to \$8 billion would be available to cargo air carriers. The proposal would provide much needed support to the aviation sector even though it has several significant differences from the request made by the US airlines through its industry group, Airlines for America (A4A). A4A's request included unrestricted, immediate-access grants, unsecured loans and loan guarantees at zero percent (0%) interest, and two years of relief from federal excise taxes. Our previous coverage on the A4A request can be found [here](#).

Providing some details on how the financial assistance would take shape, Senate Republicans offered the following in their initial proposal:

- **Form of financial assistance** – The US Treasury Department would make loans and loan guarantees available to US passenger air carriers and cargo air carriers. Up to \$50 billion would be available to passenger air carriers, and up to \$8 billion would be available to cargo air carriers.
 - **Eligibility requirements** – To qualify for the financial relief, airlines would have to be an “air carrier” (as defined under section 40102 of title 49 of the United States Code) and, following an application process, the Treasury Secretary would have to determine (in its discretion) that:
 - credit is not reasonably available to the airline at the time of the transaction;
 - the intended obligation is prudently incurred; and
 - the loan is sufficiently secured.
 - **Basic loan terms** – The basic terms, conditions, representations, warranties and requirements under the loan or loan guarantee documentation are to be determined by the Treasury Secretary. The applicable interest rate would be determined by the Treasury Secretary, taking into account the current average yield on outstanding Treasury bonds of comparable maturity.
 - **US government equity participation** – The US government is authorized to participate in the gains of the business of an obligor under the program in the form of warrants, stock options, common or preferred stock, or other appropriate equity instruments, subject to the financial success of the airline.
 - **Executive compensation restrictions** – Executive compensation for certain individuals is frozen at 2019 levels for two years. During the two-year period beginning March 1, 2020, and ending March 1, 2022, no officer or employee of an airline whose total compensation exceeded \$425,000 in calendar year 2019 (other than an employee whose compensation is determined through an existing collective bargaining agreement entered into prior to March 1, 2020):
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- will receive an amount of total compensation which exceeds, during any 12 consecutive months of such two-year period, the total compensation received by such officer or employee in calendar year 2019; and
- will receive severance pay or other benefits upon termination of employment which exceeds twice the maximum total compensation received by such officer or employee in calendar year 2019.
- “total compensation” includes salary, bonuses, awards of stock and other financial benefits provided by an eligible business to an officer or employee of the eligible business.
- **Continuation of service requirements** – The Secretary of Transportation is authorized to require an air carrier receiving a loan or loan guarantee to maintain levels of scheduled air transportation service as the Secretary of Transportation deems necessary to ensure services to any point served by that carrier before March 1, 2020 are continued, taking into account the air transportation needs of small and remote communities.
- **Federal excise tax relief** – During the period starting on the date of enactment of the agreed legislation through December 31, 2020, airlines would not be subject to federal excise taxes that would normally apply to transportation, such as the taxes and fees on airline passenger tickets, the taxes on the cost of carrying cargo, and the taxes on aviation jet fuel (and biofuels used in lieu thereof).

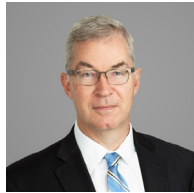
The Republican proposal is now in the hands of the White House and Democrats on Capitol Hill for further negotiation. The stakes are high, but we anticipate that congressional Democrats will act quickly to give the airline industry, among many others, the relief it needs to shore up liquidity in these uncertain times when governments the world over are being called upon to buoy their domestic airlines. Notably, the Republican proposal has significantly modified A4A’s request for relief, and virtually all of the safeguards that have been proposed to protect the federal government’s investment were also part of the federal support package provided to the airlines after the September 11 terrorist attacks, including: (a) collateralized loans, (b) competitive interest rates, (c) eligibility requirements, (d) equity participation by the federal government in the gains of an obligor, (e) executive compensation restrictions, and (f) continuation of service requirements.

CONTACTS

For more information, please contact your Katten attorney, the firm’s [Aviation](#) group or any of the following:



[Timothy J. Lynes](#)
+1.202.625.3686
timothy.lynes@katten.com



[Tom Healey](#)
+1.202.625.3631
thomas.healey@katten.com



[Stewart B. Herman](#)
+1.212.940.8527
stewart.herman@katten.com



[Brett J. Seifarth](#)
+1.202.625.3615
brett.seifarth@katten.com

Katten

katten.com

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