



The Real Estate Roundtable

Coronavirus Aid, Relief, and Economic Security (CARES) Act and Implications for U.S. Real Estate

Mid-Sized Lending Facility





MID-SIZED LENDING FACILITY (SEC. 4003(c)(3)(D) OF THE CARES ACT)

This summary is based on The Real Estate Roundtable’s preliminary analysis of the CARES Act. It is subject to change.

OVERVIEW

Title IV of the CARES Act authorizes \$454 billion for loans, loan guarantees, and other investments to eligible businesses to provide liquidity to the financial system. Among the uses of the \$454 billion, legislation states that the Treasury 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 businesses and nonprofit organizations with 500 to 10,000 employees.

Unlike the small business emergency loans for businesses with 500 or fewer employees, there is no direct appropriation for the Mid-Sized Lending Facility, and there is no authorization for loan forgiveness. Implementation of the program is at the discretion of the Treasury Secretary.

KEY ELEMENTS OF THE MID-SIZED BUSINESS FACILITY (PER CONGRESSIONAL INTENT)

- Available to eligible businesses and nonprofits with between 500 and 10,000 employees
- Loans would have a maximum interest rate of 2 percent
- No principal or interest shall be due or payable in the first 6 months after a loan originates
- Under sec. 4003(c)(3)(D)(i), the borrower must make a “good faith certification” at the time of application regarding economic need, employee retention, and several other issues. Specifically, the certification must state the following:
 1. the uncertainty of economic conditions at the time of application makes necessary the loan request to support the ongoing operations of the recipient;
 2. the funds it receives will be used to retain at least 90 percent of the recipient’s workforce, at full compensation and benefits, until September 30, 2020;
 3. the recipient intends to restore not less than 90 percent of the workforce of the recipient that existed as of February 1, 2020, and to restore all compensation and benefits to the workers of the recipient no later than 4 months after termination of the HHS Secretary’s COVID-19 public health emergency declaration;
 4. the recipient is an entity or business that is domiciled in the United States with significant operations and employees located in the United States;
 5. the recipient is not a debtor in a bankruptcy proceeding;



6. the recipient is created or organized in the United States or under the laws of the United States and has significant operations in and a majority of its employees based in the United States;
 7. the recipient will not pay dividends with respect to the common stock of the eligible business, or repurchase publicly traded stock of the recipient or its parent company, while the loan is outstanding (unless contractually required);
 8. the recipient will not outsource or offshore jobs for the term of the loan and 2 years after completing repayment;
 9. the recipient will not abrogate existing collective bargaining agreements for the term of the loan and 2 years after completing repayment; and
 10. the recipient will remain neutral in any union organizing effort for the term of the loan.
- The mid-sized lending facility also would be subject to many of the terms and conditions that apply to programs and facilities established by the Treasury Secretary and Federal Reserve for larger businesses. These include requirements in section 13(3) of the Federal Reserve Act related to loan collateralization, taxpayer protection, and borrower solvency.
 - The Federal Reserve is working on a Main Street Lending Program for businesses with 500 to 10,000 employees under section 13(3) of the Federal Reserve Act. See: To Avoid a Repeat of 2008, Main Street America Says Help Needs to be Fast, Reuters, Mar. 26). Whether the Federal Reserve Main Street program will incorporate the key congressional directives for the Mid-Sized Lending Facility remains unclear.