



December 10, 2001

The Honorable Read C. Van de Water  
Assistant Secretary for Aviation  
and International Affairs  
U.S. Department of Transportation  
400 Seventh Street, SW  
Washington, DC 20590

Dear Ms. Van de Water:

We write in response to your December 4 letter to Compensation Applicants concerning the treatment of impairment and similar charges as “incremental losses” for purposes of compensation under the Air Transportation Safety and System Stabilization Act (“the Act”). The Department’s apparent conclusion regarding the extent to which such charges may be compensated conflicts with both the Act and the regulations proposed on October 29, 2001, and with Generally Accepted Accounting Principles (GAAP), which establish standard industry accounting principles for all purposes.

1. The Act and Proposed Regulations. The overriding purpose of the Act is to help carriers recoup “losses incurred . . . as a result of the terrorist attacks” on September 11, 2001. The liquidity crisis caused by the terrorist attacks is well documented and was the driving force behind the Act. In the Act, Congress did not differentiate among aspects of liquidity or otherwise carve out *types* of losses from the compensation it provided. Instead, Congress determined to compensate carriers for direct losses from the ground stop order, and incremental losses incurred between September 11 and December 31, 2001 as a “direct result” of the attacks.

The Act is clear on this point. Section 107 of the Act defines the term “incremental loss” in the negative: “the term ‘incremental loss’ does not include any loss that . . . would have been incurred if the terrorist attacks” had not taken place. This is a broad definition – the natural reading is inherently inclusive. Thus, the only criteria established by the Act for excluding particular loss items are whether an incremental loss is a “direct result” of the attacks, the time when the incremental loss was incurred, and whether it would have been incurred absent the attacks.

The proposed regulation restates the definition of “incremental loss” in the positive, but is equally – and correctly – broad. It does not differentiate among types of losses, but excludes “any loss that would have been incurred” if the terrorist attacks had not occurred.

2. GAAP. The statute establishes a broad definition of “incremental loss,” and GAAP provides a definition of the term “loss” or “expense,” when and how it should be measured, and when it should be recorded. A critically important objective of GAAP is to value accurately and consistently a company and its assets and liabilities at a specific point in time. The inclusion of all gains and losses in the income statement seeks to achieve this objective by recognizing the economic impact of events in the period in which the events occur, as practicable.

Under GAAP, companies, including air carriers, must report impairment losses as a component of income from operations—not as extraordinary items that do not affect operating income—because an impairment charge is intended to reflect the ultimate cash loss of an asset in resale value, appraised value, and discounted cash flows from that asset. The same is true for future lease obligations pertaining to productive assets that have been, or will be, idled prematurely as a result of the events of September 11.

The terrorist attacks on September 11 directly caused a decrease in the demand for and market value of air carriers’ assets, especially used aircraft. The real-world impact on the carrier is thus a diminution in an asset’s ability to generate cash as well as a crisis in liquidity, as revolving lines of credit are based on independently appraised asset values. As the values of these assets have dropped, many air carriers have lost their most valuable sources of liquidity. These are incremental, incurred between September 11 and December 31, 2001, as a “direct result” of the attacks on September 11, and they are recognized by GAAP in the regular and ordinary course of financial accounting. They are not “extraordinary adjustments” as stated in your letter.

Indeed, we believe that these losses are precisely the type of incremental loss that Congress intended to compensate. As noted above, nothing in the Act differentiates among *types* of losses. Furthermore, nothing in the legislative history indicates that Congress intended to compensate revenue-related losses only. In fact, during the debate on the bill, Senator Levin stated that “[t]he airline industry currently has no access to capital because its traditional collateral, airplanes, are now considered worthless by Wall Street.” Likewise, Representative Boswell declared that “[a] failure to act tonight would be like throwing an anvil to a drowning person. The airlines have had their lines of credit cut off, their assets devalued, and their insurance canceled. A catastrophe is staring them in the face.” These statements unambiguously recognize that carriers faced a liquidity crisis due to revenue *and* non-revenue losses. By excluding impairment or other similar losses, DOT is depriving air carriers of funds that were intended to help them stem the liquidity crisis caused by the September 11 attacks, and it is imposing an accounting standard that is contrary to GAAP.

Further support comes from the Financial Accounting Standards Board (FASB). The Emerging Issues Task Force (EITF) of FASB—one of the world’s foremost accounting authorities—released Issue 01-10 in late September 2001, addressing issues arising from the September 11 attacks. EITF 01-10 affirmed that GAAP standards should be applied by companies that expected to report revenues, expenses, or losses associated with the events of September 11, 2001. With respect to impairment losses in particular, the Task Force agreed that “[FASB Statements 121 and 142] should be used to determine when an asset impairment loss incurred as a result of the September 11 events should be recognized and how that impairment

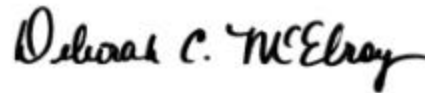
loss should be measured.” Therefore, FASB has gone on record as stating that impairment losses can result from the September 11 events.

We continue to appreciate and applaud DOT’s unflagging efforts in carrying out a program whose size and swiftness has no precedent. To that end, we implore DOT not to impose a narrower definition of incremental losses than that conveyed by the statute or by GAAP requirements. All incremental losses (including impairment losses) and potential benefits incurred as a direct result of the September 11 attacks should be permitted, regardless of whether they are considered non-recurring. In accounting, a loss is considered to be “incurred” if the likelihood that a loss has been experienced is probable or certain, and there is an ability to measure that loss. Impairment and other losses are required by GAAP because they capture the full economic effect to a company’s financial status. Such an approach would fulfill the letter and intent of the Stabilization Act.

Sincerely,



Stephen A. Alterman  
President, Cargo Airline Association



Deborah C. McElroy  
President, Regional Airline Association



Carol B. Hallett  
President and CEO, Air Transport Association

cc: Kirk Van Tine, General Counsel, DOT  
Randall Bennett, Director, Office of Aviation Analysis, DOT  
Docket OST-2001-10885