

Federal Maritime Commission Seeks Public Input on Cruise Refunds

On October 14, 2020, the Federal Maritime Commission (FMC) is issuing an Advanced Notice of Proposed Rulemaking (ANPRM) seeking public comment on potential regulatory changes to its passenger vessel operator (PVO) financial responsibility requirements. The changes currently under consideration were recommended by Commissioner Louis Sola's Interim Report pursuant to Fact Finding 30, which has been reviewing the impact of COVID-19 on the U.S. cruise industry.

Under the FMC's current regulations, PVOs embarking passengers in the United States must file with the FMC evidence of financial responsibility to indemnify passengers in the event of nonperformance of transportation. As a result of the No Sail Order issued by the Centers for Disease Control and Prevention (CDC) on March 14, 2020 (currently extended through October 31, 2020), PVOs were forced to cancel numerous U.S. cruises planned throughout 2020. In response, the FMC initiated Fact Finding 30, which concluded clearer guidance is needed in determining whether a passenger is entitled to obtain a refund if a PVO cancels a voyage, makes a significant schedule change, or significantly delays a voyage.

Accordingly, the FMC is seeking public input on:

- The manner in which voyage nonperformance is defined;
- The process for obtaining a refund for nonperformance, including:
 - To whom passengers should submit refund requests;
 - Information that passengers must provide when requesting a refund;
 - Changes to the FMC's financial responsibility forms;
 - Deadlines for the submission of refund requests;
 - Deadlines for the issuance of refund payments;
 - The form and amount of refund payments (including what fees should be refunded to passengers);
 - Publication of information on the refund process by PVOs; and
 - The provision of future cruise credits in lieu of refunds.

The FMC is clearly signaling its intent to take a more active role in overseeing the issuance cruise lines refunds. The ANPRM is therefore a tremendous opportunity for PVOs and passengers alike to shape the manner in which the federal government will regulate this important aspect of the U.S. cruise industry.

Comments on the ANPRM are due by **November 13, 2020**.



Jeff R. Vogel

**Co-Chair,
Government
Contracts**

jvogel@cozen.com
Phone: (202) 304-1453
Fax: (202) 861-1905

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