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# Federal Reserve Announces New Main Street Lending Programs

**April 13, 2020**

On April 9, 2020, the Federal Reserve announced that it was taking additional actions to provide up to $2.3 trillion in loans to support the U.S. economy. These actions include:

- supporting the Small Business Administration's Paycheck Protection Program ("PPP") by extending credit to eligible financial institutions that originate PPP loans;
- ensuring cash flow to, and expansion of, previously announced facilities that support capital markets that issue credit to households and businesses through the Primary and Secondary Market Corporate Credit Facilities, as well as the Term Asset-Backed Securities Loan Facility;
- helping state and local governments by establishing a Municipal Liquidity Facility; and
- creation of two new facilities to support lending to small mid-sized businesses (the "Main Street Lending Programs").

This alert provides some details regarding the eligibility, terms, requirements and conditions for the two Main Street Lending Programs which consist of the following:

- the Main Street New Loan Facility ("MSNLF");[1] and
- the Main Street Expanded Loan Facility ("MSELF"). [2]

Both of these facilities under the Main Street Lending Programs will support lending by eligible financial institutions to both investment grade and below investment grade borrowers. Eligible lending institutions will be required to retain a 5 percent share of each loan while selling the remaining 95 percent of the loan to a special purpose vehicle ("SPV") that will be seeded by a Federal Reserve Bank. Funds available for loan purchases will come from the Treasury's Exchange Stabilization Fund under Section 4027 of the CARES Act. This will provide up to $600 billion for loan purchases under the Main Street Lending Programs.

The MSNLF program will finance loans originated on or after April 8, 2020, and the MSELF program will be used to finance the extension of additional credit on loans that were in place before April 8, 2020.

## Eligible Borrowers

- Employees/Annual Revenue – The borrower has up to 10,000 employees **or** up to $2.5 billion in 2019 annual revenue.
- U.S. Company – The borrower must be created or organized in or under the laws of the U.S. and have significant operations and a majority of its employees based in the U.S.
- Limitations on Availability of Other Programs – Borrowers may only participate in one of the Main Street Lending Programs – either the MSNLF or the MSELF. Borrowers are also unable to participate in a Primary Market Corporate Facility. However, borrowers that have taken advantage of the PPP may also take out loans under the Main Street Lending Programs.
- Affiliates – The term sheets for the MSNLF or the MSELF did not provide information regarding whether affiliation rules, similar to the affiliation rules that are included in the PPP, apply when determining eligibility or determining the number of the borrower's employees.

## Eligible Lenders

Eligible lenders include U.S. insured depositaries institutions, U.S. bank holding companies, and U.S. savings and loan holding companies.

## Loan Amounts and Collateral

- MSNLF loans – Loans are unsecured with a minimum loan size of $1 million. The maximum loan size is the lesser of (i) $25 million or (ii) an amount that when added to existing and committed but undrawn debt does not exceed four times 2019 EBITDA.
- MSELF loans – For upsizing additional loans originated before April 8, 2020, the minimum loan size is $1 million. The maximum loan size is the lesser of (i) $150 million, (ii) 30 percent of the borrower's existing outstanding and committed but undrawn bank debt, or (iii) an amount that, when added to the existing outstanding and committed but undrawn debt, does not exceed six times 2019 EBITDA. An MSELF loan can be secured by collateral—either pledged under the original loan or at the time of upsizing—but the SPV's participation must be secured pro rata.

## Significant Terms

- Term – Loans have a four-year term with a one-year deferral of amortization of principal and interest.
- Interest Rate – The applicable interest rate of Secured Overnight Financing Rate (SOFR), plus 250-400 basis points.
- Prepayment – Prepayment is permitted without penalty.
- No Loan Forgiveness – Unlike the PPP loans, loans under the Main Street Lending Programs may not be forgiven.

## Required Attestations

Borrower and Lender, as applicable, must provide the following attestations:

- Use of Proceeds – Proceeds will not be used to repay or refinance any other debt of the borrower.
- Repayment of Debt – During the term of the loan, the borrower will not repay any other debt of equal or lower priority, with the exception of mandatory principal payments.
- Existing Lines of Credit – The participating lender may not cancel or reduce any existing lines of credit outstanding to the borrower and the borrower will not seek to cancel or reduce its outstanding lines of credit with any lender.
- Need for Financing – Financing is required due to COVID-19 circumstances and borrower will use proceeds of the loan to make reasonable efforts to maintain its payroll and retain its employees during the term of the loan.
- Restrictions on Compensation, Stock Repurchase, and Capital Distribution - The Borrower will follow compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act.
  - *Stock Buybacks* – During the period of the loan and for one year after the loan or guarantee is no longer outstanding, the borrower may not buy back an equity security listed on a national securities exchange of the eligible business or any parent company thereof, unless contractually obligated.
  - *Dividends* – During the period of the loan and for one year after the loan or guarantee is no longer outstanding, the borrower may not pay dividends on, or make any capital distributions with respect to, common stock or shares (dividends).
  - *Compensation Limitations* – During the period of the loan and for one year after the loan or loan guarantee is no longer outstanding, (x) total compensation of employees who made more than $425,000 in 2019 will be capped at 2019 levels, and severance will be capped at 2 x 2019 compensation and (y) total compensation of employees (if any) who made more than $3 million in 2019 will be capped at $3 million plus one-half of any amounts more than $3 million that the employee made in 2019.

## Facility, Origination and Servicing Fees

- Facility Fee – Lenders will pay the SPV a facility fee of 100 basis points of the principal amount of the loan purchased by the SPV, but may require the borrower to pay this fee.
- Origination Fee – Lenders are entitled to a 100 basis point origination fee of the principal amount of the loan paid by the borrower to the lender.
- Servicing Fee – The SPV will pay the lender 25 basis points of the principal amount of its participation in the loan per annum for loan servicing.

## Program Termination

The Main Street Lending Programs are expected to close to new participants on September 30, 2020, unless extended.

## Feedback as Program is Finalized

In its press release issued on April 9, 2020, the Federal Reserve noted that businesses vary widely in their financing needs, particularly at this time, and, as a result, invited input from lenders, borrowers, and other stakeholders to make sure the program supports the economy as effectively and efficiently as possible while also safeguarding taxpayer funds. Comments may be sent to the *feedback form*[3] until April 16, 2020.

This alert provides a summary of the Main Street Lending Programs and applicants under these programs should carefully consider the terms and conditions of these programs and any existing debt agreements, corporate governance documents and other contracts, agreements or arrangements that may impact their ability to access the Main Street Lending Programs.

If you have any questions about the information in this alert, please contact Bob Shrosbree (313-568-6641 or rshrosbree@dykema.com), J. Michael Bernard (313-568-5374 or jbernard@dykema.com), or your Dykema relationship attorney.

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[1] Please use this link to access the term sheet for the MSNLF provided by the Federal Reserve in its press release on April 9, 2020: https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200409a7.pdf.

[2] Please use this link to access the term sheet for the MSELF provided by the Federal Reserve in its press release on April 9, 2020: https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200409a4.pdf.

[3] https://www.federalreserve.gov/apps/contactus/feedback.aspx?refurl=/main/.

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