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Special Bulletin

April 9, 2020

Federal Reserve Announces New Main Street Lending Program to Enhance Support for Small- and Mid-sized Businesses

The Federal Reserve today announced the terms of both expanded and new "Main Street" lending facilities that would provide loans to a variety of eligible borrowers, including borrowers that obtain loans through the Paycheck Protection Program (PPP) administered by the Small Business Administration and larger borrowers with up to 10,000 employees or $2.5 billion in annual revenues. The Federal Reserve term sheet specifies that these facilities will be available to "businesses" without specifically addressing, or excluding, non-profits. The AHA in an April 3 letter to the Treasury Secretary and Federal Reserve Chairman urged them to implement this loan program quickly and make it available to hospitals of all ownership types, including municipal, county and other public hospitals.

Lenders under the "Main Street" program will include U.S. insured depository institutions, U.S. bank holding companies, and U.S. savings and loan holding companies, which will retain a 5% participation in the loans, with the other 95% funded by a Federal Reserve special purpose vehicle (SPV). The combined expanded and new Main Street facilities have the capacity to make up to $600 billion in aggregate loans.

This Special Bulletin is based on an initial review of available information. Various important points remain unclear, and the terms of the loan program and their interpretation are likely to change and evolve as the program is implemented.

Summary of Provisions

Based on the term sheet available on the Federal Reserve webpage, the following are the principal known terms and features of the new Federal Reserve Main Street facility, which are subject to adjustment by the Federal Reserve. (The "expanded" Main Street facility involves additional lending under loans made prior to April 8, 2020, and has different terms and requirements than the "new" Main Street facility.)

Eligible Borrowers: Eligible borrowers include "businesses" with up to 10,000 employees or up to $2.5 billion in 2019 annual revenues, created or organized in the United States or under the laws of the United States with significant operations in and a majority of its employees based in the United States. The Federal Reserve term sheet does not specify whether affiliation rules used in the PPP program will apply to these "Main Street" facilities.

Loan Terms: Loans will be unsecured and have the following features:

- 4-year maturity;
- Amortization of principal and interest deferred for one year;
- Adjustable rate of Secured Overnight Financing Rate (SOFR) + 250-400 basis points;
- Minimum loan size of $1 million;
- Maximum loan size that is the lesser of (i) $25 million or (ii) an amount that, when added to the borrower's existing outstanding and committed but undrawn debt, does not exceed four times the borrower's 2019 earnings before interest, tax, depreciation and amortization (EBITDA); and
- Prepayment permitted without penalty.

Required Attestations: The following attestations will be required with respect to each loan:

- The lender must attest that the proceeds of the loan will not be used to repay or refinance pre-existing loans or lines of credit made by the lender to the borrower.

- The borrower must commit to refrain from using the proceeds of the loan to repay other loan balances. The borrower must commit to refrain from repaying other debt of equal or lower priority, with the exception of mandatory principal payments, unless the borrower has first fully repaid the Main Street loan.

- The lender must attest that it will not cancel or reduce any existing lines of credit outstanding to the borrower, and the borrower must attest that it will not seek to cancel or reduce any of its outstanding lines of credit with any lender.

- The borrower must attest that it requires financing due to the exigent circumstances presented by the COVID-19 pandemic, and that, using the proceeds of the loan, it will make reasonable efforts to maintain its payroll and retain its employees during the term of the loan.

- The borrower must attest that its outstanding and committed but undrawn debt does not exceed four times the borrower's 2019 EBITDA.

- The borrower must attest that it will follow compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The compensation restrictions are required to last during the term of the loan and for a year after full repayment. They require a freeze in total compensation for officers and employees whose total compensation exceeded $425,000 in calendar year 2019, restrict severance or termination pay to no more than twice the maximum total compensation received in calendar year 2019, and require a haircut of 50% of compensation above $3 million for officers and employees whose total compensation exceeded $3 million in calendar year 2019.

- Lenders and borrowers will each be required to certify that the entity is eligible to participate in the facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act.

Facility Fee: The lender will pay to the Federal Reserve SPV a facility fee of 100 basis points of the principal amount of the loan participation purchased by the SPV, and may require the borrower to pay this fee.

Loan Origination and Servicing: The borrower will pay the lender an origination fee of 100 basis points of the principal amount of the loan.

Facility Termination: The Federal Reserve will cease funding participations in these loans on Sept. 30, 2020, unless the Federal Reserve Board and the Treasury Department extend the facility.

The facility does not appear to require the union neutrality and specific workforce retention and reinstatement requirements that were congressionally encouraged in the CARES Act.

The release indicates that PPP borrowers will be eligible for this facility as well – i.e., “small” borrowers eligible for forgivable PPP loans also may be eligible to obtain these non-forgivable 4-year low interest loans.

The Federal Reserve also announced a separate “corporate” bond facility that will purchase bonds by “business” issuers rated at least BBB-/Baa3 as of March 22, 2020 by a major nationally recognized statistical rating organization (NRSRO), or, if rated by multiple major NRSROs, rated at least BBB-/Baa3 by two or more NRSROs as of March 22, 2020. Issuers that were rated at least BBB-/Baa3 as of March 22, 2020, but are subsequently downgraded, must be rated at least BB-/Ba3 at the time the corporate bond facility makes a purchase, and, if rated by multiple major NRSROs, must be rated at least BB-/Ba3 by two or more NRSROs at the time the facility makes a purchase. It is not yet clear whether this facility will purchase bonds issued by or on behalf of non-profits, such as non-profit hospitals. Borrowers under the Main Street lending facility are ineligible for the corporate bond facility.

The Federal Reserve’s release states that it will accept comments on its term sheet descriptions until April 16, 2020. Watch for more information as it becomes available.