

New Guidance on Main Street Loan Program for Small and Medium Sized Businesses

The Federal Reserve has published more detailed information about the soon to be launched Main Street Lending Program (MSLP) designed to assist businesses with up to 10,000 employees or up to \$2.5 billion of annual revenue which have been impacted by the COVID-19 pandemic. The MSLP makes available loans of \$500,000 up to \$200 million under the Main Street Expanded Loan Facility (MSELF) or up to \$25 million under the Main Street New Loan Facility (MSNLF) and the Main Street Priority Loan Facility (MSPLF). The loans will have a term of 4 years with an adjustable interest rate equal to one to three months LIBOR plus 300 basis points.

Under these programs, the federal government will make capital available to lenders to make loans to small and medium-size businesses affected by the COVID-19 emergency measures, by means of a Special Purpose Vehicle ("SPV") to purchase a participation interest in eligible new and existing loans from eligible lenders. Depending on the facility, lenders will retain 5% or 15% of the loan. Through this program, the Federal Reserve will purchase up to \$600 billion of eligible loans. The purchases will be by way of true participation agreements rather than loan assignments.

The Federal Reserve will announce when the program is officially launched, and when it will begin purchasing participation interests. Further guidance on many details of the program are expected as the program is launched.

This Alert will discuss the information currently available regarding Available Loan Amounts; Borrower Eligibility; Other Key Loan Terms; Key Restrictions on Borrowers; and Lender Eligibility, Review of Applications and Fees. At the end of this Alert are links to the Federal Reserve's current Frequently Asked Questions regarding the MSLP and its current Term Sheets for all three facilities.

Available Loan Amounts

MSNLF:

The available new loan amount will be from \$500,000 up to the lesser of (i) \$25 million or (ii) an amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed four times the Eligible Borrower's 2019 earnings before interest, taxes, depreciation, and amortization (EBITDA).

MSPLF:

The available loan amount will be from \$500,000 to \$25 million. The maximum size of a loan made in connection with the MSPLF cannot, when added to the Eligible Borrower's existing outstanding and undrawn available debt, exceed six times the Eligible Borrower's adjusted 2019 EBITDA. Eligible Borrowers may, at the time of origination of the loan, refinance existing debt owed by the Eligible Borrower to a lender that is not the Eligible Lender.

MSELF:

The available loan amount for the upsized tranche of an existing term loan or credit facility will be from \$10 million up to the least of (i) \$200 million, (ii) 35 % of the Eligible Borrower's existing and committed but undrawn bank debt that is pari passu in priority with the MSELF loan and equivalent in secured status, or (iii) an amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed six times the Eligible Borrower's 2019 EBITDA. If the existing loan being upsized is secured, the new loan must be secured by the same collateral with the same priority.

Borrower Eligibility

- Businesses with up to 10,000 employees (including affiliates) or up to \$2.5 billion in 2019 annual revenues (including affiliates) which require financing due to the exigent circumstance presented by the COVID-19 pandemic. 2019 annual revenues may be measured by either annual revenue per the business's 2019 GAAP-based audited financial statements, or 2019 annual receipts as reported to the IRS.
- Must be a business formed before March 13, 2020, and be created or organized under the laws of the United States, or one of the States, the District of Columbia, any territory or possession of the United States, or an Indian Tribal government.
- Must have significant operations in the United States, with a majority of its employees based in the United States.
- Must have been in sound financial condition prior to the onset of the COVID-19 pandemic.
- Must not be an ineligible borrower listed in 13 CFR 120.110(b)-(j) and (m)-(s) and modified by SBA PPP regulations.
- For MSELF loans, any existing loan it had with the lender as of December 31, 2019 must have had an internal risk rating with the lender equivalent to a "pass" in Federal Financial Institutions Examinations Counsel's supervisory rating as of that date.
- May participate in the Payroll Protection Program, but may not participate in the Primary Market Corporate Credit Facility or any of the other MSLP facilities.
- Firms seeking Main Street loans must commit to make reasonable efforts to maintain payroll and retain workers.
- Must be able to make all certifications and requirements required under MSLP, as set forth in the Term Sheets.
- Non-profits are not currently eligible. The government is considering the feasibility of adjusting this criterion.

Other Key Loan Terms for All Three Facilities

- Interest rate of one to three months LIBOR plus 3%;
- Full recourse loans, not forgiven;
- Four-year maturity;
- May be a secured or unsecured loan (if the underlying loan on an MSELF is secured, the upside tranche must be secured);

- Cannot be subordinated to other loans or debt instruments (for MSPLF and MSELF, any existing debt other than mortgage debt must be at most pari passu in priority with the MSPLF or MSELF loan an dequivalnet in secured status);
- Origination fees of up to 100 basis points for MSNLF and MSPLF, and up to 75 basis points for MSELF;
- Amortization of principal and interest deferred for one year, unpaid interest will be capitalized. For MSNLF, 1/3 of the loan will be due at the end of years 2, 3 and 4. For MSPLF and MSELF, 15% will be due at the end of years 2 and 3, and 70% will be due at the end of year 4.
- Must meet the lender's additional underwriting criteria;
- Prepayment permitted without penalty;
- If the loan underlying a MSELF upsize tranche is part of a multi-lender facility, the MSELF lender must be one of the lenders that holds an interest in the underlying loan at the date of upsizing;
- For MSELF, the existing loan must have been originated on or before April 24, 2020, and must have a remaining maturity of at least 18 months. The maturity date of an existing loan or credit facility may be extended to satisfy the 18 month maturity requirement.

Key Restrictions on Borrowers

- Compensation, stock repurchase on and capital distributions restrictions apply;
- The Borrower may not repay principal balance or interest on any debt until the MSPL loan is repaid in full, unless the principal or interest is mandatory and due; The Borrower may not cancel or reduce any committed lines of credit with any lender, including the MSPL lender. However, the Borrower may:
 - repay a line of credit (including a credit card) in accordance with the Borrower's normal course of business usage for the line of credit;
 - take on and pay additional debt obligations required in the normal course of business on standard terms, including equipment and inventory financing, provided that such debt is secured by newly acquired property and, apart from such new security, is of equal or lower priority than the MSPL loan; refinance existing debt; and
 - for MSPLF, the Borrower may, at the time of the MSPLF loan, refinance existing debt with another lender.

Lender Eligibility, Review of Applications and Fees

The following are eligible lenders: U.S. federally insured depository institutions, U.S. bank holding companies, U.S. savings and loan holding companies, a U.S. branch or agency of a foreign bank, a U.S. intermediate holding company of a foreign banking organization, or a U.S. subsidiary of any of the foregoing, are eligible to participate as lenders.

Lenders are expected to conduct an assessment of each applicant's financial condition and creditworthiness, and to apply their own underwriting standards. To conduct such evaluations, lenders may require additional documents and information from applicants.

At the time of origination, lenders will pay the SPV a transaction fee of 100 basis points for MSNLF and MSPLF loans, and 75 basis points for MSELF loans.

As a servicing fee, the SPV will pay lenders 25 basis points of its participation in the loan per annum.

Links to Federal Reserve FAQs and Term Sheets

[Federal Reserve Frequently Asked Questions](#)

[Main Street New Loan Facility](#)

[Main Street Priority Loan Facility](#)

[Main Street Expanded Loan Facility](#)

If we can be of assistance and to discuss various options and specific situations, please feel free to contact any of the Buchalter Commercial Finance Group Attorneys below.



Robert Gillison

Commercial Finance, Practice Chair
(213) 891-5014
rgillison@buchalter.com



Anthony Callobre

Shareholder
(213) 891-5024
acallobre@buchalter.com



Matthew Kavanaugh

Shareholder
(213) 891-5449
mkavanaugh@buchalter.com



Michael C. Flynn

Mortgage Banking Practice Co-Chair
(213) 891-5262 or mflynn@buchalter.com

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