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Main Street Lending Program: An Overview

Service

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act granted the Board of Governors of the Federal Reserve System (FRB) the authority to establish a "Main Street Lending Program" to support lending to small and mid-sized businesses on terms and conditions as the FRB may set consistent with the relevant provisions of the Federal Reserve Act. On April 9, 2020, the Federal Reserve issued a press release outlining such terms and conditions. This client alert summarizes the significant features of the Main Street Lending Program.

Please note that the Federal Reserve is taking comments from lenders, borrowers, and other stakeholders on the program's terms and conditions until April 16, 2020 and may make adjustments. Any such adjustments will be publicly announced, and we will supplement this alert as applicable.

Program summary

The Main Street Lending Program is comprised of two loan facilities: (1) the "Main Street Expanded Loan Facility" and (2) the "Main Street New Loan Facility". The combined size of both facilities will be up to $600 billion, with $75 billion coming from the Treasury Department (part of the $454 billion previously authorized under the CARES Act). Unlike the SBA's Paycheck Protection Program (PPP) for small businesses, loans provided under the Main Street Lending Program are not eligible for loan forgiveness.

Eligible borrowers are businesses with up to 10,000 employees or up to $2.5 billion in 2019 annual revenues. Each eligible borrower must be a business that is 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. An eligible borrower may only participate in one of the two Main Street Lending Programs; however, a borrower that has taken advantage of PPP may also take out loans under the Main Street Lending Program.

Eligible lenders are U.S. insured depository institutions, U.S. bank holding companies, and U.S. savings and loan holding companies. Eligible lenders would originate new loans or increase the size of existing loans to businesses. Eligible lenders would then retain a 5% percent share of the loans, selling a 95% participation to a special purpose vehicle (SPV) established by the Federal Reserve.

As detailed below, the primary differences between the two facilities are the collateral package and the maximum loan size. Terms relating to maturity, amortization/interest deferrals and pricing are the same.

Eligible loans under the Main Street expanded loan facility

An eligible loan would be an existing term loan—secured or unsecured—that was originated **before** April 8, 2020; *provided* that the upsized tranche of the term loan has the following features:

1. Four-year maturity;
2. amortization of principal and interest deferred for one year;
3. adjustable interest rate of the Secured Overnight Financing Rate (SOFR) + 250-400 bps;
4. minimum loan size of $1 million;
5. maximum loan size equal to the lesser of (i) $150 million, (ii) 30% of the borrower's existing outstanding and committed but undrawn bank debt or (iii) an amount that, when added to the borrower's existing outstanding and committed but undrawn debt, does not exceed 6x 2019 EBITDA; and
6. no early prepayment penalty.

Any collateral securing an eligible loan, whether pledged under the original terms of the eligible loan or at the time of upsizing, would secure the loan participation on a pro rata basis.

Eligible loans under the Main Street new loan facility

An eligible loan would be a new **unsecured** term loan that was originated **on or after** April 8, 2020; *provided* that the loan has the following features:

1. Four-year maturity;
2. amortization of principal and interest deferred for one year;
3. adjustable interest rate of SOFR + 250-400 bps;

4. minimum loan size of $1 million;
5. maximum loan size equal to 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 4x 2019 EBITDA; and
6. no early prepayment penalty.

Required certifications

In addition to certifications required under applicable law, both the borrower and lender would need to make the following certifications:

1. Restrictions on use of proceeds and cancellation/reduction of existing debt:

The lender must attest that the proceeds of the eligible loan will not be used to repay or refinance pre-existing loans or lines of credit made by the lender to the borrower (including the pre-existing portion of the eligible loan if under the Main Street Expanded Loan Facility).

The borrower must commit to refrain from using the proceeds of the eligible 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 repaid the eligible loan in full.

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

2. 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 eligible loan, it will make reasonable efforts to maintain its payroll and retain its employees during the term of the eligible loan.
3. The borrower must attest that it meets the maximum EBITDA leverage condition referenced above.
4. 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 CARES Act.

5. The lender and borrower will each be required to certify that the entity is eligible to participate in the applicable facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act.[1]

Fees

The borrower will pay the lender an origination/upsizing fee of 100 bps of the principal amount of the eligible loan.

Additionally, under the Main Street New Loan Facility, the lender will pay the SPV a facility fee of 100 bps of the principal amount of the loan participation purchased by the SPV. The lender may pass on this fee to the borrower.

Termination

The SPV will cease purchasing participations in eligible loans on September 30, 2020, unless the FRB and the Treasury Department extend the Main Street Lending Program. The Federal Reserve will continue to fund the SPV after such date until the SPV's underlying assets mature or are sold.

Contact us

If you have further questions or require more information regarding these loan facilities or other aspects of the CARES Act, please contact your Husch Blackwell attorney.

CARES Act updates

Husch Blackwell's CARES Act resource team has reviewed the Act carefully and is developing content to help clients determine how best to access the available assistance. The team will add new content frequently as the Act is implemented through a number of agency rulemakings over the coming weeks.

COVID-19 resource

Husch Blackwell has launched a COVID-19 response team providing insight to businesses as they address challenges related to the coronavirus outbreak. The page contains programming and content to assist clients and other interested parties across multiple areas of operations, including labor and employment, retailing, and supply chain management, among others.

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[1] No economic stabilization funds may be provided to entities in which the President, the Vice President, the head of an Executive Department or a Member of Congress (or their spouse, child,

daughter-in-law or son-in-law) has a “controlling interest,” defined as direct or indirect control of 20%+ by vote or value of any class of equity.