

Additional Business Relief: Federal Reserve Releases Guidance on \$600 Billion Main Street Lending Program

April 13, 2020

On Thursday, April 9, 2020, the Treasury Department and the Federal Reserve (the “Fed”) released details of the Main Street Lending Program, which is comprised of the Main Street Expanded Loan Facility (the “Expanded Loan Facility”) and the Main Street New Loan Facility (the “New Loan Facility”). Together, these two facilities will make up to \$600 billion of funding available for loans to small and mid-sized companies on favorable terms in order to provide additional COVID-19-related financial relief. The Main Street Lending Program should provide much-needed liquidity to businesses that may not have qualified for a PPP loan under the CARES Act by having a special purpose vehicle created by the Fed purchase 95% of each loan from eligible lenders made under this program through September 30, 2020.

Eligible borrowers are businesses with up to 10,000 employees or under \$2.5 billion in 2019 annual revenue. Borrowers must be businesses created or organized in, or under the laws of, the United States, with a majority of their employees based in the United States. Firms that have taken advantage of the PPP loans may also take out Main Street Lending Program loans.

Eligible banks may originate New Main Street Loans after April 8, 2020 or expand (or upsize) existing Main Street Loans that were originated before April 8, 2020. Loans under this program will generally have the following terms:

1. 4 year maturity;
2. Amortization of principal and interest deferred for one year;
3. Adjustable rate of Secure Overnight Financing Rate (SOFR) (0.01% as of April 8, 2020) + 250-400 basis points;
4. Minimum loan size of \$1 million;

5. Maximum loan size that is:
 - a. **For Upsized Existing Main Street Loans:** the lesser of (i) \$150 million, (ii) 30% of the Eligible Borrower's existing outstanding and committed but undrawn bank debt, or (iii) an amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed six (6) times the Eligible Borrower's 2019 earnings before interest, taxes, depreciation, and amortization ("EBITDA"); or
 - b. **For New Main Street Loans:** 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 (4) times the Eligible Borrower's 2019 EBITDA; and
6. Prepayment permitted without penalty.
7. An Eligible Borrower must pay an origination fee equal to 100 basis points of the principal amount of (i) a New Main Street Loan, or (ii) the upsized tranche of an Expanded Main Street Loan.

Lenders will require the following attestations from Borrowers:

- The Eligible Borrower must commit to refrain from using the proceeds of the upsized tranche of the Eligible Loan or New Loan proceeds to repay other loan balances. The Eligible Borrower must commit to refrain from repaying other debt of equal or lower priority, with the exception of mandatory principal payments, unless the Eligible Borrower has first repaid the Eligible Loan in full.
- The Eligible Borrower must attest that it requires financing due to the exigent circumstances presented by the coronavirus disease 2019 ("COVID-19") pandemic, and that, using the proceeds of the upsized tranche of the Eligible Loan or the New Loan proceeds, it will make reasonable efforts to maintain its payroll and retain its employees during the term of the upsized tranche of the Eligible Loan.

In addition, each applicant (whether or not public) must agree not to pay dividends on common stock for the duration of the loan plus one year. No guidance was provided as to whether exceptions to the dividend restriction will be implemented for tax distributions to owners of pass-through businesses such as S-corporations or

LLC/partnerships. For the duration of the loan plus one year, the borrower must agree to the following:

- for any non-union employee or officer whose 2019 total compensation exceeded \$425,000, total compensation for any 12-month period may not exceed 2019 total compensation levels;
- for any employee or officer whose 2019 total compensation exceeded \$3.0 million, total compensation for any 12-month period may not exceed the sum of (i) \$3.0 million plus (ii) 50 percent of the excess over \$3.0 million of compensation received during 2019;
- for any person in either of the above categories, severance upon termination may not exceed two times the 2019 maximum total compensation.

Further details for obtaining, completing and/or submitting applications for loans under the Main Street Lending Program have not been released. The Federal Reserve and Treasury recognize that financing needs among businesses vary widely. They are seeking comments from the public through April 16, 2020 as they work on finalizing the program. Eligible entities should contact their existing lenders pending the release of any further guidance.

Comments can be made at:

<https://www.federalreserve.gov/apps/contactus/feedback.aspx?refurl=/main/>

Please contact your Anchin Relationship Partner or our COVID-19 Resources Team at COVID19@anchin.com for additional information.

Disclaimer: Please note this is based on the information that is currently available and is subject to change.