



LEGAL UPDATES

Main Street Lending Program Comments Due April 16

04/14/2020 | 4 minute read

Title IV of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") provides for up to \$500 billion in loans and loan guarantees to Federal Reserve programs and facilities to be made available to mid-size businesses and nonprofit organizations under 10,000 employees. Using funding from the CARES Act, the Department of the Treasury will lend to a single purpose vehicle (**SPV**) which will then purchase 95% participations in eligible loans from eligible private lenders, with lenders retaining 5% of each loan. Information has not yet been released on how businesses can access these funds but on April 9, 2020, the Federal Reserve released term sheets for the two facilities created under 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 will likely make adjustments.

Main Street Lending Program (as of 4/9/2020)[1]

The Main Street Lending Program is intended to facilitate lending to small and medium-sized businesses by private lenders. The Program creates two nearly identical loan facilities: (a) the Main Street New Loan Facility, and (b) the Main Street Expanded Loan Facility. The Main Street New Loan Facility provides loans for new borrowers while the Main Street Expanded Loan Facility allows borrowers to increase the size of their existing loans.

The following table summarizes the key provisions of the Program:

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Lender Fees	<ul style="list-style-type: none"> ■ Lender will pay the SPV a facility fee of 100 bps of the principal amount of the loan participation purchased by the SPV. N/A ■ Lender may pass on this fee to the borrower.
Borrower Fees	Borrower will pay the lender an origination/upsizing fee of 100 bps of the principal amount of the eligible loan.
Termination	<ul style="list-style-type: none"> ■ 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.
Capital Distribution Restrictions	<ul style="list-style-type: none"> ■ During the term of the loan plus one year, businesses may not repurchase an equity security that is listed on a national securities exchange of the business or any parent company of the business, unless required by contract ■ During the term of the loan plus one year, the business may not pay dividends or make other capital distributions with respect to the common stock of the business
Compensation Restrictions	<ul style="list-style-type: none"> ■ During the term of the loan plus one year, salaries for critical businesses are limited such that—Officers Making Over \$425,000: (1) no officer or employee whose total compensation exceeded \$425,000 in calendar year 2019 will receive: (A) compensation greater than what they received calendar year 2019; or (B) a severance package twice their 2019 pay. ■ Officers Making Over \$3 million: (2) no officer or employee of the eligible business whose total compensation exceeded \$3 million in calendar year 2019 may receive during any 12 consecutive months of such period total compensation in excess of the sum of: \$3 million plus half of any total over \$3 million.
Required Certifications	<ul style="list-style-type: none"> ■ 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 ■ Borrower must attest that it meets the maximum EBITDA leverage conditions. ■ 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.
Other	<ul style="list-style-type: none"> ■ Borrower may only participate in one Main Street Lending Facility ■ Borrower may also take out PPP Loan

[1] The Board of Governors of the Federal Reserve System and the Secretary of the Treasury may make adjustments to the terms and conditions. Any changes will be described on the Federal Reserve website.



[2] Please note that while the CARES Act mentions a minimum number of employees, the guidance provided by the Federal Reserve makes no mention of a minimum number of employees.