Main Street Loans for Nonprofits*Federal Reserve Modifies Main Street Lending Program to Allow Lending to Nonprofit Organizations*

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OVERVIEW

On Friday, July 17, 2020, the Federal Reserve released an update to its Main Street Lending Program (the "MSLP") to provide term sheets for two new loan facilities for nonprofit organizations. The Federal Reserve established the MSLP to support lending to small and mid-size businesses, in response to the economic crisis prompted by the spread of the COVID-19 pandemic. However, until now only businesses that were organized for-profit were eligible to apply for this assistance.

The MSLP nonprofit loan terms generally mirror those for MSLP loans to for-profit businesses, including the interest rate, principal and interest payment deferral, five-year term, and minimum and maximum loan sizes. Nonprofits will be eligible for two loan options: the Nonprofit Organization New Loan Facility ("NONLF") and the Nonprofit Organization Expanded Loan Facility ("NOELF").

An eligible borrower is a U.S., tax-exempt nonprofit organization described in Section 501(c)(3) or Section 501(c)(19) of the Internal Revenue Code of 1986, as amended, that has not participated in or received specific support pursuant to the CARES Act, and meets the following criteria:

1. has been in continuous operation since January 1, 2015;

2. has 15,000 employees or fewer or had 2019 revenues of $5 billion or less;

3. has at least 10 employees;

4. has an endowment of less than $3 billion;

5. has total non-donation revenues equal to or greater than 60% of expenses for the period from 2017 through 2019;

6. has a ratio of adjusted 2019 EBIDA to unrestricted 2019 operating revenue greater than or equal to 2%;

7. has a ratio (expressed as a number of days) of (i) liquid assets at the time of loan origination to (ii) average daily expenses over the previous year, equal to or greater than 60 days;

8. at the time of loan origination, has a ratio of (i) unrestricted cash and investments to (ii) existing outstanding and undrawn available debt, plus the amount of any loan under a

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MSLP facility, plus the amount of any CMS Accelerated and Advance Payments, that is greater than 55%; and

9. is not one of the ineligible businesses listed in 13 C.F.R. 120.110(b)-(j) and (m)-(s).

Like other MSLP loans, NONLF and NOELF loans each have a 5-year term, with floating rates. Principal payments are deferred during the first two years and interest payments are deferred during the first year. Principal payments will be amortized such that 15% will be due at the end of each of the 3rd and 4th years of the loan, with a balloon payment of 70% due at maturity at the end of the 5th year.

Pursuant to the newly released terms, loans issued under NONLF will range in size from $250,000 to the lesser of $35 million or the borrower's average 2019 quarterly revenue and may not be contractually subordinate to any of the borrower's other loans and debt instruments, in terms of priority. Borrowers can increase existing debt under NOELF by borrowing an additional $10 million to the lesser of $300 million or the borrower's average 2019 quarterly revenue. The upsized tranche must at all times be senior to or *pari passu* with all of the borrower's other loans and debt instruments (other than mortgage debt) in terms of both priority and security. Prepayment of any of the MSLP loans is permitted without penalty.

Borrowers must make certain certifications and covenants. These include the commitment not to prepay other debt before the MSLP loan is repaid in full, the absence of a conflict of interest, and that the borrower has a reasonable basis to believe that it will be able to meet its financial obligations for at least the next 90 days after the loan origination and does not expect to file for bankruptcy during that time period. Compensation caps will also apply during the term of the loan and for a period of one year after the loan is no longer outstanding.

Unlike loans under the Paycheck Protection Program, there is no requirement that funds received from a MSLP loan be used only for payroll, mortgage interest, rent, and utilities. However, borrowers should make commercially reasonable efforts to maintain payroll and retain employees. A company that has already reduced its workforce will not be barred from participating in the program for that reason.

<u>CONSIDERATIONS</u>

Further information about this program, which we anticipate will launch soon, is available at the website of the Federal Reserve Bank of Boston.