COVID-19

Main Street Lending Program Proposed Legislation

May 4, 2020

BMO

Please consult your legal and tax advisors to understand the specific impact of this legislation on your Company

Main Street New, Priority, and Expanded Loan Facility Programs

Overview:

On April 9th the Federal Reserve announced the Main Street New and Expanded Loan Facility Programs, authorized under section 13(3) of the Federal Reserve Act, which are intended to facilitate lending to small and medium-sized businesses by eligible lenders. The Department of the Treasury, using funds appropriated to the Exchange Stabilization Fund under section 4027 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), will make a $75Bn equity investment into a single common special purpose vehicle ("SPV"), creating a total program size of $600Bn. Under these programs, a Federal Reserve Bank will commit to lend to the SPV on a recourse basis. The SPV will purchase 95% participations, with eligible lender retaining 5%. The Eligible Lender must also retain its 5% portion of the Eligible Loan until the Eligible Loan matures or the SPV sells all of its 95% participation, whichever comes first.

On April 30th the Federal Reserve provided updated guidance on the Main Street New and Expanded Loan Facility Programs and announced a 3rd program within the Main Street Program, The Main Street Priority Loan Program. All three programs will be within the $600Bn program. The Main Street Priority Loan Program has several differences; the most significant is that the SPV will only purchase 85% participation in Eligible Loans from Eligible Borrowers, with the Eligible Lender retaining 15%.

Eligible Lenders:

Eligible Lenders are U.S. federally insured depository institutions (including a bank, savings association, or credit union), a U.S. branch or agency of a foreign bank, a U.S. bank holding company, a U.S. savings and loan holding company, a U.S. intermediate holding company of a foreign bank, or a U.S. subsidiary of any of the foregoing.

Eligible Borrowers[1]:

Eligible Borrowers are businesses established prior to March 13, 2020 that meet one of the following conditions (i) 15,000 employees or less, or (ii) 2019 annual revenues of $5Bn or less. 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. Borrowers under the Paycheck Protection Program ("PPP") are eligible. Borrowers may only participate in one of the Main Street programs or Primary Market Corporate Credit Facility ("PMCCF") and may not have received specific support pursuant to the Coronavirus Economic Stabilization Act of 2020.

[1] Ineligible businesses listed in 13 CRF 120.110(b)-(j) and (m)-(s), in section 1102 of the CARES Act.

Main Street New, Priority, and Expanded Loan Facility Programs

Conditions:

As part of these Programs, Eligible Borrowers must also meet the following Conditions:

- If the Eligible Borrower had other loans outstanding with the Eligible Lender as of December 31, 2019, such loans must have had an internal risk rating equivalent to "pass" in the Federal Financial Institutions Examination Council's supervisory rating system on that date.
- Each Eligible Borrower that participates in the Facility should make commercially reasonable efforts to maintain its payroll and retain its employees during the time the Eligible Loan is Outstanding.

Required Attestations:

In addition to certifications required by applicable statutes and regulations, the following attestations will be required with respect to each Eligible Loan:

Lender

- The Eligible Lender commits that it will not request that the Eligible Borrower repay debt extended by the Eligible Lender to the Eligible Borrower, or pay interest on such outstanding obligations, until the Eligible Loan is repaid in full, unless the debt or interest payment is mandatory and due, or in the case of default and acceleration. [1]
- The Eligible Lender must attest that it will not cancel or reduce any existing committed lines of credit outstanding to the Eligible Borrower, except in an event of default.
- The Eligible Lender must certify that the methodology used for calculating the Eligible Borrower's adjusted 2019 EBITDA for the leverage requirement is the methodology it has previously used for adjusting EBITDA when extending credit to the Eligible Borrower or similarly situated borrowers on or before April 24, 2020.

Borrower

- The Eligible Borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the Eligible Loan is repaid in full, unless the debt or interest payment is mandatory and due. [*However, in the case of a Main Street <u>Priority</u> Loan Facility, the Eligible Borrower may, at the time of origination of the Eligible Loan, refinance existing debt owed by the Eligible Borrower to a lender that is not the Eligible Lender*].
- The Eligible Borrower must commit that it will not cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender.

[1] Repayment of debt excludes repaying a revolving line of credit in accordance with normal course operations or refinancing maturing debt.

- The Eligible Borrower must certify that it has a reasonable basis to believe that, as of the date of origination of the Eligible Loan and after giving effect to such loan, it has the ability to meets it financial obligations for at least the next 90 days and does not expect to file for bankruptcy during that time period.
- The Eligible Borrower must commit 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, except that an S corporation or other tax pass-through entity that is an Eligible Borrower may make distributions to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings.
- The Eligible Borrower must certify that it is eligible to participate in the Facility, including in light of the conflicts of interest prohibition in section 4019(b) of the CARES Act.

Facility Termination: The SPV will cease purchasing participations in Eligible Loans on September 30, 2020, unless the Board and the Treasury Department extend the Facility. The Reserve Bank will continue to fund the SPV after such date until the SPV's underlying assets mature or are sold.

1 Main Street New Loan Facility

Eligible Loans:

An Eligible Loan is a secured or unsecured term loan made by an Eligible Lender(s) to an Eligible Borrower that was originated after April 24, 2020, provided that the loan has the following features:

- 4-year maturity;
- Amortization of principal and interest deferred for one year (unpaid interest will be capitalized);
- Principal amortization is one-third at the end of the 2nd year, 3rd year, and maturity.
- Adjustable rate of Libor (1 or 3 month) + 300 basis points;
- Minimum loan size of $500,000;
- Maximum loan size that is the lesser of (i) $25MM, or (ii) an amount that, when added to the borrower's existing outstanding and committed but undrawn available debt, does not exceed 4x the Eligible Borrower's 2019 adjusted EBITDA (the methodology used to calculate adjusted EBITDA must be the methodology previously used for adjusting EBITDA when extending credit to the Eligible Borrower or similarly situated borrowers on or before April 24, 2020);
- Is not, at the time of origination or at any time during the term of the Eligible Loan, contractually subordinated in terms of priority to any of the Eligible Borrower's other loans, or debt instruments; and
- Prepayment permitted without penalty.

Loan Participations:

The SPV will purchase a 95% participation in an Eligible Loan at par value, and the Eligible Lender will retain 5% of the Eligible Loan. The SPV and the Eligible Lender will share risk on a pari-passu basis.

Transaction Fee:

An Eligible Lender will pay the SPV a transaction fee of 100 basis points of the principal amount of the Eligible Loan. The Eligible Lender may require the Eligible Borrower to pay this fee.

Loan Origination and Servicing:

An Eligible Borrower will pay an Eligible Lender an origination fee up to 100 basis points of the principal amount of the Eligible Loan. The SPV will pay Eligible Lender 25 basis points of the principal amount of its participation in the upsized tranche of the Eligible Loan per annum for loan servicing.

2

Main Street Priority Loan Facility

Eligible Loans:

An Eligible Loan is a secured or unsecured term loan made by an Eligible Lender(s) to an Eligible Borrower that was originated after April 24, 2020, provided that the loan has the following features:

- 4-year maturity;
- Amortization of principal and interest deferred for one year (unpaid interest will be capitalized);
- Adjustable rate of Libor (1 or 3 month) + 300 basis points;
- Principal amortization of 15% at the end of 2nd & 3rd year, and a balloon payment of 70% at maturity.
- Minimum loan size of $500,000;
- Maximum loan size that is the lesser of (i) $25MM, or (ii) an amount that, when added to the Eligible Borrower's existing outstanding and undrawn available debt, does not exceed 6x the Eligible Borrowers adjusted 2019 EBITDA;
- At the time of the origination and at all times the Eligible Loan is outstanding, the Eligible Loan is senior to or pari passu with, in terms of priority and security, the Eligible Borrower's other loans or debt instruments, other than mortgage debt;
- Prepayment permitted without penalty; and
- The Eligible Borrower may, at the time of origination of the Eligible Loan, refinance existing debt owed by the Eligible Borrower to a lender that is not the Eligible Lender.

Loan Participations:

The SPV will purchase an 85% participation in the Eligible Loan. The SPV and the Eligible Lender will share risk in the Eligible Loan on a pari passu basis. The Eligible Lender must retain its 15% of the Eligible Loan until it matures or the SPV sells all of its participation, whichever comes first.

Transaction Fee:

An Eligible Lender will pay the SPV a transaction fee of 100 basis points of the principal amount of the Eligible Loan at the time or origination. The Eligible Lender may require the Eligible Borrower to pay this fee.

Loan Origination and Servicing:

An Eligible Borrower will pay an Eligible Lender an origination fee up to 100 basis points of the principal amount of the Eligible Loan. The SPV will pay an Eligible Lender 25 basis points of the principal amount of its participation in the Eligible Loan per annum for loan servicing.

3 Main Street Expanded Loan Facility

Eligible Loans:

An Eligible Loan is a secured or unsecured term loan or revolving credit facility made by an Eligible Lender(s) to an Eligible Borrower that was originated on or before April 24, 2020, and that has a remaining maturity of at least 18 months (taking into account any adjustments made to the maturity of the loan after April 24, 2020, including at the time of upsizing), provided that the upsized tranche of the loan is a term loan as follows:

- 4-year maturity;
- Amortization of principal and interest deferred for one year (unpaid interest will be capitalized);
- Adjustable rate of Libor (1 or 3 month) + 300 basis points;
- Principal amortization of 15% at the end of 2nd & 3rd year, and a balloon payment of 70% at maturity.
- Minimum loan size of $10MM;
- Maximum loan size that is the lesser of (i) $200MM, (ii) 35% of the Eligible Borrower's existing and outstanding and undrawn available debt that is pari passu in priority with the Eligible Loan and equivalent in secured status (i.e. secured or unsecured), or (iii) an amount that, when added to the Eligible Borrower's existing outstanding and undrawn available debt, does not exceed 6x the Eligible Borrowers adjusted 2019 EBITDA;
- At the time of the upsizing and at all times the upsized tranche is outstanding, the upsized tranche is senior to or pari passu with, in terms of priority and security, the Eligible Borrower's other loans or debt instruments, other than mortgage debt; and
- Prepayment permitted without penalty.

Loan Participations:

The SPV will purchase a 95% participation in the upsized tranche of the Eligible Loan, provided that it is upsized on or after April 24, 2020, at par value. The SPV and the Eligible Lender will share risk in the upsized tranche on a pari passu basis. Any collateral securing an Eligible Loan (at the time of the upsizing or on any subsequent date) must secure the upsized tranche on a pro rata basis.

Transaction Fee:

An Eligible Lender will pay the SPV a transaction fee of 75 basis points of the principal amount of the upsized tranche of the Eligible Loan. The Eligible Lender may require the Eligible Borrower to pay this fee.

Loan Origination and Servicing:

An Eligible Borrower will pay an Eligible Lender an origination fee up to 75 basis points of the principal amount of the upsized tranche of the Eligible Loan. The SPV will pay Eligible Lender 25 basis points of the principal amount of its participation in the upsized tranche of the Eligible Loan per annum for loan servicing.

Main Street Program Comparison

Main Street Lending Program Loan Options	1 New Loans	2 Priority Loans	3 Expanded Loans
Term	4 years	4 years	4 years
Minimum Loan Size	$500,000	$500,000	$10,000,000
Maximum Loan Size	Lesser of $25M or 4x 2019 adjusted EBITDA	Lesser of $25M or 6x 2019 adjusted EBITDA	Lesser of $200M, 35% of outstanding and undrawn available debt, or 6x 2019 adjusted EBITDA
Risk Retention	5%	15%	5%
Payment (Year 1 Deferral)	Years 2-4: 33.33% each year	Years 2-4: 15%, 15%, 70%	Years 2-4: 15%, 15%, 70%
Rate	LIBOR + 3%	LIBOR + 3%	LIBOR + 3%
Use of Proceeds	Support business operations. No prepayment or cancellation of existing debt.	Support business operations. Refinance existing debt owed to a lender that is not the Eligible Lender.	Support business operations. No prepayment or cancellation of existing debt.

Source: Federal Reserve Board

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