

Main Street Lending Program Summary¹

(as of 5/8/2020)

Program Terms ²	Main Street New Loan Facility ("MSNLF")	Main Street Priority Loan Facility ("MSPLF")	Main Street Expanded Loan Facility ("MSELF")
Overview	A Federal Reserve Bank (the "Fed") will commit to lend to a single common special purpose vehicle (the "SPV") on a recourse basis. The Department of the Treasury (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 \$75 billion equity investment in the SPV (from the \$454 billion appropriation under Title IV of the CARES Act). The combined size of Main Street Loans will be up to \$600 billion. For each loan created under MSNLF and MSELF, the SPV will purchase a 95% participation and the Eligible Lender would retain 5%. For each loan created under MSPLF, the SPV will purchase a 85% participation and the Eligible Lender would retain 15%.		
Eligible Loans	The Main Street term loan would be a new secured or unsecured term loan that was originated <i>after</i> April 24, 2020.	The Main Street term loan would be an expansion of a secured or unsecured term loan or revolving credit facility that was originated <i>on or before</i> April 24, 2020 as long as that underlying loan has a remaining maturity of at least 18 months (including if the maturity date is adjusted after April 24, 2020 to comply with this requirement).	
Eligible Borrowers	<p>Eligible Borrower is a Business³ that must meet the following criteria:</p> <ul style="list-style-type: none"> (a) established prior to March 13, 2020; (b) NOT an Ineligible Business⁴; (c) meets at least one of the following two conditions: (i) have 15,000 employees or fewer,⁵ OR (ii) have 2019 annual revenues of \$5 billion or less;⁶ (d) be 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; (e) may only participate in one of MSNLF, MSPLF, MSELF or the Primary Market Corporate Credit Facility; (f) NOT receive specific support under sections 4003(b)(1)-(3) of the CARES Act (which apply to air and cargo carriers and national security businesses)⁷; AND (g) the President, Vice President, an executive department head, Member of Congress or close relative cannot own over 20% of the outstanding <i>voting</i> stock of the Eligible Borrower.⁸ 		
Eligible Lenders	U.S. federally insured depository institution (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 banking organization, or a U.S. subsidiary of any of the foregoing. ⁹		

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Loan Participation	<p>Eligible Lenders must undertake the following:</p> <p>(a) share risk with the SPV in the Eligible Loan on a <i>pari passu</i> basis; AND</p> <p>(b) continue to retain its portion of the Eligible Loan until it matures, or the SPV sells all of its participation, whichever comes first.</p> <p>The sale of a participation in the Eligible Loan to the SPV will be structured as a "true sale" and must be completed expeditiously after the Eligible Loan's origination.</p>		<p>Eligible Lenders must undertake the following:</p> <p>(a) share risk with the SPV in the upsized tranche on a <i>pari passu</i> basis;</p> <p>(b) hold an interest in the underlying Eligible Loan on the date of upsizing, and must continue to retain its interest in the underlying Eligible Loan until it matures, the upsized tranche of the Eligible Loan matures, or the SPV sells all of its 95% participation, whichever comes first; AND</p> <p>(c) continue to retain its 5% portion of the upsized tranche of the Eligible Loan until it matures, or the SPV sells all of its 95% participation, whichever comes first.</p> <p>The sale of a participation in the upsized tranche of the Eligible Loan to the SPV will be structured as a "true sale" and must be completed expeditiously after the Eligible Loan's upsizing.</p>
Loan Size¹⁰	<p>Minimum: \$500,000</p> <p>Maximum: the lesser of (i) \$25 million OR (ii) an amount that, when added to the Eligible Borrower's existing outstanding undrawn available debt, does not exceed <u>4x</u> 2019 adjusted EBITDA (for MSNLF) or <u>6x</u> 2019 adjusted EBITDA (for MSPLF).¹¹</p>		<p>Minimum size of the expanded loan: \$10 million.</p> <p>Maximum size of the expanded loan: the lesser of (i) \$200 million, (ii) 35% of the Eligible Borrower's existing outstanding and undrawn available debt that is <i>pari passu</i> in priority with the Eligible Loan and equivalent in secured status, OR (iii) an amount that, when added to the Eligible Borrower's existing outstanding and undrawn available debt, does not exceed <u>6x</u> 2019 adjusted EBITDA.</p>
Relationship with PPP	<p>Businesses that have received a CARES Act Paycheck Protection Program ("PPP") loan <u>are</u> eligible to receive Main Street Loans.</p>		
Availability	<p>Loans will be issued until September 30, 2020, unless the Board of Governors of the Fed and the Treasury extend Main Street Loans. The Fed will continue to fund the SPV after September 30, 2020 until the SPV's underlying assets mature or are sold.</p>		
Payment Terms	<p>Maturity: 4 years.</p> <p>Interest rate: Adjustable rate of LIBOR (1 or 3 month) + 300 basis points.¹²</p>		

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	Principal and interest deferral: 1 year (unpaid interest to be capitalized). Prepayment: Permitted without penalty. The Main Street Loans cannot be forgiven.		
Amortization	Principal amortization (and the 1 st year's interest) of: <ul style="list-style-type: none"> • 1/3 at the end of the 2nd year • 1/3 at the end of the 3rd year • 1/3 at the end of the 4th year. 	Principal amortization (and the 1 st year's interest) of: <ul style="list-style-type: none"> • 15% at the end of the 2nd year • 15% at the end of the 3rd year • 70% at the end of the 4th year. 	
Security Features	Secured or unsecured loan.		Any collateral provided for the underlying loan will secure the expanded loan on a pro rata basis.
Priority of Debt	When the loan is made and while it is outstanding, the loan shall not be contractually subordinated in terms of priority to any of the Eligible Borrower's other loans or debt instruments.	When the loan is made and while it is outstanding, the loan shall be senior to or <i>pari passu</i> with, in terms of priority and security, the Eligible Borrower's other loans or debt instruments, other than mortgage debt.	
Loan Classification (Measure of Borrower Credit Quality)	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 a "pass" in the Federal Financial Institutions Examination Council's supervisory rating system on that date. Eligible Lenders are expected to conduct an assessment of each potential borrower's financial condition at the time of the potential borrower's application.		The underlying loan must have had an internal risk rating equivalent to a "pass" in the Federal Financial Institutions Examination Council's supervisory rating system as of December 31, 2019. Eligible Lenders are expected to conduct an assessment of each potential borrower's financial condition at the time of the potential borrower's application.
Ability to Pay Other Debt¹³	Until the new loan is repaid, the Eligible Borrower contractually must agree not to (i) make any non-mandatory principal or interest payments on any debt or (ii) cancel or reduce any of its existing committed lines of credit.	Concurrent with the priority loan being made, the Eligible Borrower may refinance existing debt that it owes to a lender that is not the Eligible Lender. Until the priority loan is repaid, the Eligible Borrower contractually must agree not to (i) make any non-mandatory principal or interest payments on any debt or (ii) cancel or	Until the expanded loan is repaid, the Eligible Borrower contractually must agree not to (i) make any non-mandatory principal or interest payments on any debt or (ii) cancel or reduce any of its existing committed lines of credit.

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		reduce any of its existing committed lines of credit.	
Fees	<p>Origination fee paid to the Eligible Lender by the Eligible Borrower: 100 basis points of the principal amount of the Eligible Loan at the time of origination. The SPV will pay the Eligible Lender 25 basis points of the principal amount of its participation (i.e., 95% for MSNLF or 85% MSPLF) per annum as a servicing fee.</p> <p>Transaction fee: The Eligible Lender will pay the SPV a transaction fee of 100 basis points of the principal amount of the Eligible Loan at the time of origination. The Eligible Lender may require the Eligible Borrower to pay this fee.</p>		<p>Origination fee paid to the Eligible Lender by the Eligible Borrower: up to 75 basis points of the principal amount of the expansion tranche at the time of upsizing. The SPV will pay the Eligible Lender 25 basis points of the principal amount of its participation per annum as a servicing fee (i.e., 25 bps of 95% of the expansion tranche).</p> <p>Transaction fee: The Eligible Lender will pay the SPV a transaction fee of 75 basis points of the principal amount of the expansion tranche at the time of upsizing. The Eligible Lender may require the Eligible Borrower to pay this fee.</p>
Employee Compensation	<p>While the loan is outstanding and for 1 year thereafter:</p> <p>(a) No officer or employee whose total compensation exceeded \$425,000 in 2019 can receive compensation which exceeds the total compensation received by such person in 2019;</p> <p>(b) No officer or employee whose total compensation exceeded \$425,000 in 2019 can receive severance pay that exceeds twice such person's 2019 total compensation; AND</p> <p>(c) No officer or employee whose total compensation exceeded \$3 million in 2019 can receive total compensation that exceeds \$3 million + 50% of the amount above \$3 million that such person received in 2019. This applies for any 12 consecutive month period.</p> <p>Total compensation includes salary, bonuses, stock awards and other financial benefits.¹⁴</p>		
Employee Retention	<p>Eligible Borrowers must make commercially reasonable efforts to maintain its payroll and retain its employees during the time the Eligible Loan is outstanding.</p>		
No Dividends or Buybacks	<p>Until one year after the date the loan or loan guarantee is no longer outstanding, the Eligible Borrower may not:</p> <p>(a) pay dividends or other capital distributions on its common stock, 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; or</p> <p>(b) engage in public company stock buybacks unless contractually obligated to do as of March 27, 2020 (i.e., the enactment date of the CARES Act). This requirement also applies to any of the Eligible Borrower's parent companies while the loan is outstanding.</p>		

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Required Borrower Certifications	<p>Each Eligible Borrower must certify that:</p> <p>(a) after giving effect to the Eligible Loan, it has the ability to meet its financial obligations for at least the next 90 days and does not reasonably expect to file for bankruptcy for at least the next 90 days;</p> <p>(b) it will not seek to cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender; AND</p> <p>(c) it meets all eligibility requirements and other restrictions (such as the EBITDA leverage condition).</p>		
Required Lender Certifications	<p>Each Eligible Lender must certify that:</p> <p>(a) 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 (for MSNLF and MSPLF) or the upsized tranche of the Eligible Loan is repaid in full (for MSELF), unless the debt or interest payment is mandatory and due or in the case of default and acceleration;</p> <p>(b) it will not cancel or reduce any existing committed lines of credit that is has outstanding to the Eligible Borrower, except in an event of default;</p> <p>(c) the methodology used for calculating the Eligible Borrower's adjusted 2019 EBITDA for the leverage requirement is the methodology it previously used for adjusting EBITDA when extending credit to the Eligible Borrower or similarly situated borrowers (for MSPLF and MSNLF), or when originating or amending the Eligible Loan (for MSELF) on or before April 24, 2020; AND</p> <p>(d) that the Eligible Lender is eligible to participate in the loan.</p>		

¹ This chart describes information from the term sheets for MSNLF, MSPLF and MSELF ("**Main Street Loans**") that were released by the Fed on April 30, 2020 (the "**Term Sheets**"). The Term Sheets refer to undertakings, terms and other restrictions contained in Title IV of the CARES Act but for ease of reference and reading, we describe the substantive information in this chart and use endnotes to indicate where applicable provisions are found in the CARES Act. The Term Sheets are supplemented by the Main Street Lending Program Frequently Asked Questions released by the Fed on April 30, 2020 (the "**FAQs**").

² Sec. 4003(c)(3)(D)(i) of the CARES Act mandates Treasury to "endeavor to seek to implement" a program, working with the Fed exercising its Section 13(3) emergency authority under the Federal Reserve Act, that provides direct loans or loan guaranties to mid-size businesses, and sets forth eligibility and other terms and restrictions that would apply to such a Treasury implemented program. The Term Sheets and the FAQs contain some but not all of these enumerated terms and restrictions. Without them, it is unclear whether Treasury's participation in Main Street Loans alone satisfies Congress's mandate to Treasury to seek to implement a mid-size business loan program. It remains to be seen whether Treasury will nonetheless impose these requirements on mid-size businesses in order to clearly satisfy the Congressional mandate.

³ "**Business**" is defined in the Term Sheets as an entity that is organized for profit as a partnership; a limited liability company; a corporation; an association; a trust; a cooperative; a joint venture with no more than 49% participation by foreign business entities; or a tribal business concern as defined in 15 U.S.C. § 657a(b)(2)(C), except that "small business concern" in that paragraph should be replaced with "Business" as defined herein. Other forms of organization may be considered for inclusion as a Business under Main Street Loans at the discretion of the Fed. The Small Business Administration (the "**SBA**") eligibility rules define a joint venture as not necessarily a stand-alone legal entity, but rather "an association of individuals and/or concerns with interests in any degree or proportion consorting to engage in and carry out no more than three specific or limited-purpose business ventures for joint profit over a two year period, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally." (13 CFR 121.103(h)). Additionally, the joint venture has to be established pursuant to a written contract that spells out the rights and obligations of the partners, which can take the form of a separate entity/partnership agreement or a Joint Venture Agreement between separate entities. Main Street Loans are not available

for non-profit organizations because EBITDA is the key underwriting metric used for determination of credit risk for Eligible Borrowers for Main Street Loans. The Fed acknowledged in the FAQs that non-profit organizations have unique needs and many of which are on the front lines providing critical services to fight the pandemic. The Fed and the Treasury will be evaluating the feasibility of adjusting the borrower eligibility criteria and loan eligibility metrics of Main Street Loans for non-profit organizations.

⁴ “**Ineligible Business**” is defined in the Term Sheets as those listed in 13 CFR 120.110(b)-(j) and (m)-(s), as modified by regulations implementing the PPP. Ineligible Businesses include, without limitation, the following:

- Financial businesses primarily engaged in the business of lending, such as banks, finance companies, and factors (pawn shops, although engaged in lending, may qualify in some circumstances);
- Passive businesses owned by developers and landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds (except eligible passive companies under § 120.111);
- Life insurance companies;
- Businesses located in a foreign country (businesses in the U.S. owned by aliens may qualify);
- Pyramid sale distribution plans;
- Businesses engaged in any illegal activity;
- Private clubs and businesses which limit the number of memberships for reasons other than capacity;
- Government-owned entities (except for businesses owned or controlled by a Native American tribe);
- Loan packagers earning more than one third of their gross annual revenue from packaging SBA loans;
- Businesses with an associate who is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude;
- Businesses in which the Eligible Lender or CDC, or any of its associates owns an equity interest;
- Businesses which: (i) present live performances of a prurient sexual nature; or (ii) derive directly or indirectly more than de minimis gross revenue through the sale of products or services, or the presentation of any depictions or displays, of a prurient sexual nature;
- Unless waived by SBA for good cause, businesses that have previously defaulted on a federal loan or federally assisted financing, resulting in the Federal government or any of its agencies or departments sustaining a loss in any of its programs, and businesses owned or controlled by an applicant or any of its associates which previously owned, operated, or controlled a business which defaulted on a federal loan (or guaranteed a loan which was defaulted) and caused the Federal government or any of its agencies or departments to sustain a loss in any of its programs. For purposes of this section, a compromise agreement shall also be considered a loss;
- Businesses primarily engaged in political or lobbying activities; and
- Speculative businesses (such as oil wildcatting).

Specifically, the SBA streamlined and relaxed the eligibility criteria for businesses engaged in legal gambling and hospitals owned by governmental entities (please see our blog post detailing additional PPP eligibility guidance [here](#)).

⁵ Calculated using the SBA methodology in 13 CFR 121.106 which includes part-time and seasonal employees but not volunteers or independent contractors. Borrowers should use the average of the total number of employees of it and its affiliates for each pay period over the 12 months prior to the origination or upsizing of Main Street Loans. We note that this differs from the measurement period in PPP which is measured as of the application date. For further discussion regarding PPP’s affiliation rules, please see our recent blog posts analyzing the affiliation rules [here](#) and [here](#). For general information regarding PPP eligibility, please see our recent blog posts [here](#).

⁶ Revenues are aggregated with affiliates and are measured based upon either (which may be at the borrower’s election) (1) the most recent audited financial statements or (2) the annual receipts as reported on its most recent income tax returns. Receipts are as defined in 13 CFR 121.104 (and includes all revenue in whatever form received or accrued from whatever source but excludes net capital gains or losses, taxes collected and remitted if included in income, proceeds from intercompany transactions, among other things).

⁷ The FAQs clarify that a borrower is not disqualified because it has received a PPP loan.

⁸ Although this is not in the Term Sheets’ definition of Eligible Borrower, this is a type of eligibility requirement that is described in required attestation provisions of the Term Sheets. The conflict of interest requirement can be found in Section 4019 of the CARES Act.

⁹ Eligible Lenders is currently limited to regulated financial institutions and does not include, for example, BDCs, funds, insurance companies or other non-bank unregulated financial institutions. While nonbank lenders may be part of an existing loan facility of an Eligible Lender that receives a Main Street Loan, nonbank lender cannot issue or hold Main Street Loans. However, the Fed state in the FAQs that it is considering options to potentially expand the list of Eligible Lenders.

¹⁰ “Existing outstanding and undrawn available debt” means all amounts borrowed under any loan facility, publicly issued bonds or private placement facilities and all unused commitments under any loan facility but excludes (1) any undrawn commitment that serves as a backstop for commercial paper issuance, (2) any undrawn commitment used to finance receivables (including seasonal financing of inventory), (3) any undrawn commitment that requires additional collateral and (4) any undrawn commitment that is no available due to a change in circumstance.

¹¹ Reference to 2019 EBITDA appears to refer to calendar year 2019 regardless of the applicant’s fiscal year. For MSNLF and MSPLF, the methodology used by the Eligible Lender to calculate adjusted 2019 EBITDA for an Eligible Borrower must be a methodology it previously used for adjusting EBITDA when extending credit to the Eligible Borrower or to similarly situated borrowers on or before April 24, 2020. For MSELF, the methodology used by the Eligible Lender to calculate adjusted 2019 EBITDA for the Eligible Borrower must be the methodology it previously used for adjusting EBITDA when originating or amending the underlying loan on or before April 24, 2020.

¹² The adjustable rate of LIBOR (1 or 3 month) + 300 basis points pricing for all programs ignores the difference in leverage between MSNLF and MSPLF which may make MSPLF less appealing to Eligible Lenders. Additionally, the Fed, noting that LIBOR is expected to cease as an index at the end of 2021, encouraged the inclusion of LIBOR fallback provisions.

¹³ These covenants would not prohibit an Eligible Borrower from undertaking any of the following actions during the term of Main Street Loans: (1) repaying a line of credit (including a credit card) in accordance with the Eligible Borrower’s normal course of business usage for such line of credit, (2) taking on and paying additional debt obligations required in the normal course of business and on standard terms, including inventory and equipment financing, provided that such debt is secured by newly acquired property (e.g., inventory or equipment), and, apart from such security, is of equal or lower priority than the MSNLF loan, the MSPLF loan, or the MSELF upsized tranche, or (3) refinancing maturing debt.

¹⁴ Section 4004 of the CARES Act.

*As you are aware, things are changing quickly and the aid measures and interpretations described here may change.
This summary represents our best understanding and interpretation based on where things currently stand as of May 1, 2020.*

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