Federal Reserve Board Expands Main Street Lending Program to Nonprofits and Extends Program to December 31, 2020

I. Background

On July 17, 2020, the Federal Reserve Board announced that it was taking additional actions to facilitate greater access to credit through the Main Street Lending Program ("MSLP") for nonprofit organizations, such as educational institutions, hospitals, and social service organizations.[1] On July 28, 2020, it also announced an extension through December 31, 2020 of what are now five lending facilities under the MSLP.[2]

II. Main Street Lending Program for Nonprofit Organizations

The MSLP was expanded to include two new lending facilities for nonprofit organizations, namely the Nonprofit Organization New Loan Facility ("Nonprofit New Loan Facility") and Nonprofit Organization Expanded Loan Facility ("Nonprofit Expanded Loan Facility"). The terms under these facilities generally mirror those under the corresponding Main Street New Loan Facility ("New Loan Facility") and Main Street Expanded Loan Facility ("Expanded Loan Facility") for for-profit entities (whereby a special purpose vehicle ("SPV") established by the Federal Reserve Bank of Boston will commit to purchase 95% participations in eligible loans to these organizations), and other attributes (such as the universe of eligible lenders) are the same as well, but there are some important differences. The term sheets for the Nonprofit New Loan Facility and Nonprofit Expanded Loan Facility are attached as Annexes A and B, respectively.

Nonprofit organizations seeking to obtain such loans must also satisfy a list of requirements that are in some respects different than those for for-profit borrowers. In addition to the initial requirement that the entity be a 501(c)(3) tax-exempt nonprofit organization or 501(c)(19) tax-exempt veterans' organization, an eligible borrower must meet the following conditions:

1. has been in continuous operation since January 1, 2015;
2. is not an Ineligible Business;[3]
3. either (i) has 15,000 or fewer employees, or (ii) had 2019 annual revenues of $5 billion or less;
4. has at least 10 employees;
5. has an endowment of less than $3 billion;
6. has total non-donation revenues equal to or greater than 60% of expenses for the period from 2017 through 2019;
7. has a ratio of adjusted 2019 earnings before interest, depreciation, and amortization to unrestricted 2019 operating revenue greater than or equal to 2%;

[1] The Federal Reserve press release announcing the modifications to the Main Street Lending Program granting greater access to nonprofit organizations can be found here. We previously discussed the initial terms of the MSLP in our memo dated April 14, 2020, which can be accessed here, and the subsequent expansions and revisions thereof in our memos dated May 13, 2020, and June 26, 2020, which can be accessed here and here.

[2] The Federal Reserve press release announcing the extension of the Main Street Lending Program purchasing period can be found here.

[3] Defined as a type of business listed in 13 CFR 12.1010(b)-(j) and (m)-(s), as modified by regulations implementing the Paycheck Protection Program under the CARES Act.

8. has a ratio (expressed as a number of days) of (i) liquid assets at the time of loan origination or origination of the upsized tranche to (ii) average daily expenses over the previous year, equal to or greater than 60 days;
9. at the time of loan origination or origination of the upsized tranche, has a ratio of (i) unrestricted cash and investments to (ii) existing outstanding and undrawn unavailable debt, plus the amount of any loan under the MSLP facility, plus the amount of any CMS Accelerated and Advance Payments, that is greater than 55%;
10. 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;
11. does not also participate in any other MSLP facility, the Primary Market Corporate Credit Facility, or the Municipal Liquidity Facility; and
12. has not received specific support pursuant to Subtitle A of Title IV of the CARES Act.

Loans or upsized tranches extended under these two facilities also will have terms that match those of the New Loan Facility and Expanded Loan Facility, respectively, except that (i) any such new loan must be originated after June 15, 2020, and the outstanding loan relating to any such upsized tranche must have been originated on or before June 15, 2020, as opposed to the New Loan Facility and Expanded Loan Facilities' cutoffs of April 24, 2020, and (ii) the maximum loan size is the lesser of (x) $35 million for new loans and $300 million for upsized tranches or (y) the borrower's average 2019 quarterly revenue, as opposed to a leverage ratio test used for the New Loan Facility and Expanded Loan Facility.

A summary of the key terms of the two nonprofit loan options under the MSLP, as compared to the New Loan Facility and Extended Loan Facility, is set forth below:

Main Street Lending Program Loan Options	Nonprofit New Loan Facility	New Loan Facility	Nonprofit Expanded Loan Facility	Expanded Loan Facility
Term	5 years	5 years	5 years	5 years
Minimum Loan Size	$250,000	$250,000	$10,000,000	$10,000,000
Maximum Loan Size	Lesser of $35M or the borrower's average 2019 quarterly revenue	Lesser of $35M or an amount that, when added to outstanding and undrawn available debt, does not exceed 4.0x adjusted 2019 EBITDA	Lesser of $300M or the borrower's average 2019 quarterly revenue	Lesser of $300M or an amount that, when added to outstanding and undrawn available debt, does not exceed 6.0x adjusted 2019 EBITDA
Lender Risk Retention	5%	5%	5%	5%
Principal Repayment	Principal deferred for two years Year 3 Repayment: 15% Year 4 Repayment: 15% Year 5 Repayment: 70%	Principal deferred for two years Year 3 Repayment: 15% Year 4 Repayment: 15% Year 5 Repayment: 70%	Principal deferred for two years Year 3 Repayment: 15% Year 4 Repayment: 15% Year 5 Repayment: 70%	Principal deferred for two years Year 3 Repayment: 15% Year 4 Repayment: 15% Year 5 Repayment: 70%
Rate	LIBOR + 3%	LIBOR + 3%	LIBOR + 3%	LIBOR + 3%
Fees	• 100 basis points from lender to SPV due at origination (lender can require borrower to pay this amount); plus • Up to 100 basis points from borrower to lender at origination; plus • 25 basis points from SPV to lender per annum	• 100 basis points from lender to SPV due at origination (lender can require borrower to pay this amount); plus • Up to 100 basis points from borrower to lender at origination; plus • 25 basis points from SPV to lender per annum	• 75 basis points from lender to SPV due at origination (lender can require borrower to pay this amount); plus • Up to 75 basis points from borrower to lender at origination; plus • 25 basis points from SPV to lender per annum	• 75 basis points from lender to SPV due at origination (lender can require borrower to pay this amount); plus • Up to 75 basis points from borrower to lender at origination; plus • 25 basis points from SPV to lender per annum
Interest Payments	Deferred for one year	Deferred for one year	Deferred for one year	Deferred for one year
Priority	May not be contractually subordinated, in terms of priority, with borrower's other loans or debt instruments	May not be contractually subordinated, in terms of priority, with borrower's other loans or debt instruments	Senior to or *pari passu* with, in terms of priority and security, borrower's other loans or debt instruments, other than mortgage debt	Senior to or *pari passu* with, in terms of priority and security, borrower's other loans or debt instruments, other than mortgage debt

III. Main Street Lending Program Extension

Prior iterations of the MSLP had stated that the program's SPV would cease purchasing participations in eligible loans under the various facilities on September 30, 2020. However, the related term sheets had left open the possibility that the Federal Reserve Board or the Department of the Treasury could extend these dates. The MSLP has now been extended through December 31, 2020, to help potential participants seeking to aid their economic recovery from the COVID-19 pandemic.

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If you have any questions about the issues addressed in this memorandum, please do not hesitate to call or email authors Geoffrey E. Liebmann at 212.701.3313 or gliebmann@cahill.com; Richard Pan at 212.701.3654 or rpan@cahill.com; or Paul Rafla at 212.701.3388 or prafla@cahill.com; or email publications@cahill.com.

Nonprofit Organization New Loan Facility

Effective July 28, 2020[1]

Program: The Nonprofit Organization New Loan Facility ("Facility"), which has been authorized under section 13(3) of the Federal Reserve Act, is intended to facilitate lending to Nonprofit Organizations by Eligible Lenders. Under the Main Street Lending Program, including the Facility, the Nonprofit Organization Expanded Loan Facility ("NOELF"), the Main Street New Loan Facility ("MSNLF"), the Main Street Priority Loan Facility ("MSPLF"), and the Main Street Expanded Loan Facility ("MSELF"), the Federal Reserve Bank of Boston ("Reserve Bank") will commit to lend to a single common special purpose vehicle ("SPV") on a recourse basis. The SPV will purchase 95% participations in Eligible Loans from Eligible Lenders. Eligible Lenders will retain 5% of each Eligible Loan. 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 $75 billion equity investment in the single common SPV in connection with the Facility, the NOELF, the MSNLF, the MSPLF, and the MSELF. The combined size of the Facility, the NOELF, the MSNLF, the MSPLF, and the MSELF will be up to $600 billion.

Eligible Lenders: An Eligible Lender is a 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.

Eligible Borrowers: An Eligible Borrower is a Nonprofit Organization[2] that:

1. has been in continuous operation since January 1, 2015;
2. is not an Ineligible Business;[3]
3. meets at least one of the following two conditions: (i) has 15,000 employees or fewer, or (ii) had 2019 annual revenues of $5 billion or less;
4. has at least 10 employees;
5. has an endowment of less than $3 billion;
6. has total non-donation revenues equal to or greater than 60% of expenses for the period from 2017 through 2019;[4]

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[1] The Board of Governors of the Federal Reserve System ("Board") and the Secretary of the Treasury may make adjustments to the terms and conditions described in this term sheet. Any changes will be announced on the Board's website.

[2] For purposes of the Facility, a Nonprofit Organization is a tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code ("IRC") or a tax-exempt veterans' organization described in section 501(c)(19) of the IRC. Other forms of organization may be considered for inclusion as a Nonprofit Organization under the Facility at the discretion of the Federal Reserve.

[3] For purposes of the Facility, an Ineligible Business is a type of business listed in 13 CFR 120.110(b)-(j) and (m)-(s), as modified by regulations implementing the Paycheck Protection Program established by section 1102 of the CARES Act ("PPP") on or before April 24, 2020. The application of these restrictions to the Facility may be further modified at the discretion of the Federal Reserve.

[4] For purposes of this requirement, the following definitions apply: "non-donation revenues" equal gross revenues minus donations; "donations" include proceeds from fundraising events, federated campaigns, gifts, donor-advised funds, and funds from similar sources, but exclude (i) government grants, (ii) revenues from a supporting organization, (iii) grants from private foundations that are disbursed over the course of more than one calendar year, and (iv) any contributions of property other than money, stocks, bonds, and other securities (noncash contributions), provided that such noncash contribution is not sold by the organization in a transaction unrelated to the organization's tax-exempt purpose; and "expenses" equal total expenses minus depreciation, depletion, and amortization.

7. has a ratio of adjusted 2019 earnings before interest, depreciation, and amortization ("EBIDA") to unrestricted 2019 operating revenue,[5] greater than or equal to 2%;
8. has a ratio (expressed as a number of days) of (i) liquid assets[6] at the time of loan origination to (ii) average daily expenses over the previous year, equal to or greater than 60 days;
9. 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 the Facility, plus the amount of any CMS Accelerated and Advance Payments, that is greater than 55%;
10. 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;
11. does not also participate in the NOELF, the MSNLF, the MSPLF, the MSELF, the Primary Market Corporate Credit Facility, or the Municipal Liquidity Facility; and
12. has not received specific support pursuant to the Coronavirus Economic Stabilization Act of 2020 (Subtitle A of Title IV of the CARES Act).[7]

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 June 15, 2020, provided that the loan has all of the following features:

1. 5 year maturity;
2. principal payments deferred for two years and interest payments deferred for one year (unpaid interest will be capitalized);
3. principal amortization of 15% at the end of the third year, 15% at the end of the fourth year, and a balloon payment of 70% at maturity at the end of the fifth year;
4. adjustable rate of LIBOR (1 or 3 month) + 300 basis points;
5. minimum loan size of $250,000;
6. maximum loan size that is the lesser of (i) $35 million or (ii) the Eligible Borrower's average 2019 quarterly revenue;
7. 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
8. prepayment permitted without penalty.

Loan Classification: 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.

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[5] The methodology used by the Eligible Lender to calculate adjusted 2019 EBIDA must be the methodology it has previously used for adjusting EBIDA when extending credit to the Eligible Borrower or similarly situated borrowers on or before June 15, 2020. The Eligible Lender should calculate operating revenue as unrestricted operating revenue, excluding funds committed to be spent on capital, and including a proxy for endowment income in place of unrestricted investment gains or losses. The methodology used by the Eligible Lender to calculate the proxy for endowment income must be the methodology it has used for the Eligible Borrower or similarly situated borrowers on or before June 15, 2020.

[6] For purposes of this requirement, "liquid assets" is defined as unrestricted cash and investments that can be accessed and monetized within 30 days. An organization may include in "liquid assets" the amount of cash receipts it reasonably estimates to receive within 60 days related to the provision of services, facilities, or products, or any other program service that exceed its reasonably estimated cash outflows payable within the same 60-day period.

[7] For the avoidance of doubt, Nonprofit Organizations that have received PPP loans are permitted to borrow under the Facility, provided that they are Eligible Borrowers.

Assessment of Financial Condition: Eligible Lenders are expected to conduct an assessment of each potential borrower's financial condition at the time of the potential borrower's application.

Loan Participations: The SPV will purchase at par value a 95% 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 5% of the Eligible Loan until it matures or the SPV sells all of its participation, whichever comes first. 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.

Required Lender Certifications and Covenants: In addition to other certifications required by applicable statutes and regulations, the following certifications and covenants will be required from Eligible Lenders:

- The Eligible Lender must commit 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.
- The Eligible Lender must commit that it will not cancel or reduce any existing committed lines of credit 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 EBIDA and operating revenue in section 7 of the Eligible Borrower paragraph above is the methodology it has previously used when extending credit to the Eligible Borrower or similarly situated borrowers on or before June 15, 2020 (except with respect to the methodology instructions specified above in note 5).
- The Eligible Lender 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.

Required Borrower Certifications and Covenants: In addition to other certifications required by applicable statutes and regulations, the following certifications and covenants[8] will be required from Eligible Borrowers:

- 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.
- The Eligible Borrower must commit that it will not seek to cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender.
- 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 meet its 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.
- 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 of the CARES Act.

Retaining Employees: Each Eligible Borrower that participates in the Facility should make reasonable efforts to maintain its payroll and retain its employees during the time the Eligible Loan is outstanding.

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[8] An Eligible Lender is expected to collect the required certifications and covenants from each Eligible Borrower at the time of origination of the Eligible Loan. Eligible Lenders may rely on an Eligible Borrower's certifications and covenants, as well as any subsequent self-reporting by the Eligible Borrower.

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 of origination. The Eligible Lender may require the Eligible Borrower to pay this fee.

Loan Origination and Servicing Fees: An Eligible Borrower will pay an Eligible Lender an origination fee of up to 100 basis points of the principal amount of the Eligible Loan at the time of origination. 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.[9]

Facility Termination: The SPV will cease purchasing participations in Eligible Loans on December 31, 2020, unless the Board and the Department of the Treasury 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.

[9] Further information regarding credit administration and loan servicing will be made available on the Board's website.

Nonprofit Organization Expanded Loan Facility

Effective July 28, 2020[1]

Program: The Nonprofit Organization Expanded Loan Facility ("Facility"), which has been authorized under section 13(3) of the Federal Reserve Act, is intended to facilitate lending to Nonprofit Organizations by Eligible Lenders. Under the Main Street Lending Program, including the Facility, the Nonprofit Organization New Loan Facility ("NONLF"), the Main Street New Loan Facility ("MSNLF"), the Main Street Expanded Loan Facility ("MSELF"), and the Main Street Priority Loan Facility ("MSPLF"), the Federal Reserve Bank of Boston ("Reserve Bank") will commit to lend to a single common special purpose vehicle ("SPV") on a recourse basis. The SPV will purchase 95% participations in the upsized tranche of Eligible Loans from Eligible Lenders. Eligible Lenders will retain 5% of the upsized tranche of each Eligible Loan. 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 $75 billion equity investment in the single common SPV in connection with the Facility, the NONLF, the MSELF, the MSPLF, and the MSNLF. The combined size of the Facility, the NONLF, the MSELF, the MSPLF, and the MSNLF will be up to $600 billion.

Eligible Lenders: An Eligible Lender is a 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.

Eligible Borrowers: An Eligible Borrower is a Nonprofit Organization[2] that:

1. has been in continuous operation since January 1, 2015;
2. is not an Ineligible Business;[3]
3. meets at least one of the following two conditions: (i) has 15,000 employees or fewer, or (ii) had 2019 annual revenues of $5 billion or less;
4. has at least 10 employees;
5. has an endowment of less than $3 billion;
6. has total non-donation revenues equal to or greater than 60% of expenses for the period from 2017 through 2019;[4]

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[1] The Board of Governors of the Federal Reserve System ("Board") and the Secretary of the Treasury may make adjustments to the terms and conditions described in this term sheet. Any changes will be announced on the Board's website.

[2] For purposes of the Facility, a Nonprofit Organization is a tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code ("IRC") or a tax-exempt veterans' organization described in section 501(c)(19) of the IRC. Other forms of organization may be considered for inclusion as a Nonprofit Organization under the Facility at the discretion of the Federal Reserve.

[3] For purposes of the Facility, an Ineligible Business is a type of business listed in 13 CFR 120.110(b)-(j) and (m)-(s), as modified by regulations implementing the Paycheck Protection Program established by section 1102 of the CARES Act ("PPP") on or before April 24, 2020. The application of these restrictions to the Facility may be further modified at the discretion of the Federal Reserve.

[4] For purposes of this requirement, the following definitions apply: "non-donation revenues" equal gross revenues minus donations; "donations" include proceeds from fundraising events, federated campaigns, gifts, donor-advised funds, and funds from similar sources, but exclude (i) government grants, (ii) revenues from a supporting organization, (iii) grants from private foundations that are disbursed over the course of more than one calendar year, and (iv) any contributions of property other than money, stocks, bonds, and other securities (noncash contributions), provided such noncash contribution is not sold by the organization in a transaction unrelated to the organization's tax exempt purpose; and "expenses" equal total expenses minus depreciation, depletion, and amortization.

7. has a ratio of adjusted 2019 earnings before interest, depreciation, and amortization ("EBIDA") to unrestricted 2019 operating revenue,[5] greater than or equal to 2%;
8. has a ratio (expressed as a number of days) of (i) liquid assets[6] at the time of the origination of the upsized tranche to (ii) average daily expenses over the previous year, equal to or greater than 60 days;
9. at the time of the origination of the upsized tranche, has a ratio of (i) unrestricted cash and investments to (ii) existing outstanding and undrawn available debt, plus the amount of any loan under the Facility, plus the amount of any CMS Accelerated and Advance Payments, that is greater than 55%;
10. 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;
11. does not also participate in the NONLF, the MSNLF, the MSPLF, the MSELF, the Primary Market Corporate Credit Facility, or the Municipal Liquidity Facility; and
12. has not received specific support pursuant to the Coronavirus Economic Stabilization Act of 2020 (Subtitle A of Title IV of the CARES Act).[7]

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 June 15, 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 June 15, 2020, including at the time of upsizing), provided that the upsized tranche of the loan is a term loan that has all of the following features:

1. 5 year maturity;
2. principal payments deferred for two years and interest payments deferred for one year (unpaid interest will be capitalized);
3. principal amortization of 15% at the end of the third year, 15% at the end of the fourth year, and a balloon payment of 70% at maturity at the end of the fifth year;
4. adjustable rate of LIBOR (1 or 3 month) + 300 basis points;
5. minimum loan size of $10 million;
6. maximum loan size that is the lesser of (i) $300 million or (ii) the Eligible Borrower's average 2019 quarterly revenue;
7. at the time of 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
8. prepayment permitted without penalty.

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[5] The methodology used by the Eligible Lender to calculate adjusted 2019 EBIDA must be the methodology it has previously used for adjusting EBIDA when extending credit to the Eligible Borrower or similarly situated borrowers on or before June 15, 2020. The Eligible Lender should calculate operating revenue as unrestricted operating revenue, excluding funds committed to be spent on capital, and including a proxy for endowment income in place of unrestricted investment gains or losses. The methodology used by the Eligible Lender to calculate the proxy for endowment income must be the methodology it has used for the Eligible Borrower or similarly situated borrowers on or before June 15, 2020.

[6] For purposes of this requirement, "liquid assets" is defined as unrestricted cash and investments that can be accessed and monetized within 30 days. An organization may include in "liquid assets" the amount of cash receipts it reasonably estimates to receive within 60 days related to the provision of services, facilities, or products, or any other program service that exceed its reasonably estimated cash outflows payable within the same 60-day period.

[7] For the avoidance of doubt, Nonprofit Organizations that have received PPP loans are permitted to borrow under the Facility, provided that they are Eligible Borrowers.

Loan Classification: The Eligible 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.

Assessment of Financial Condition: Eligible Lenders are expected to conduct an assessment of each potential borrower's financial condition at the time of the potential borrower's application.

Loan Participations: The SPV will purchase at par value a 95% participation in the upsized tranche of the Eligible Loan, provided that it is upsized on or after June 15, 2020. The SPV and the Eligible Lender will share risk in the upsized tranche on a pari passu basis. The Eligible Lender must be one of the lenders that holds an interest in the underlying Eligible Loan at the date of upsizing. The Eligible Lender must retain its 5% portion of the upsized tranche of the Eligible Loan until the upsized tranche of the Eligible Loan matures or the SPV sells all of its 95% participation, whichever comes first. The Eligible Lender must also retain its interest in the underlying Eligible Loan until the underlying Eligible Loan matures, the upsized tranche of the Eligible Loan matures, or the SPV sells all of its 95% participation, whichever comes first. Any collateral securing the Eligible Loan (at the time of upsizing or on any subsequent date) must secure the upsized tranche on a pro rata basis. 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.

Required Lender Certifications and Covenants: In addition to other certifications required by applicable statutes and regulations, the following certifications and covenants will be required from Eligible Lenders:

- The Eligible Lender must commit 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 upsized tranche of 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.
- The Eligible Lender must commit that it will not cancel or reduce any existing committed lines of credit 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 EBIDA and operating revenue in section 7 of the Eligible Borrower paragraph above is the methodology it has previously used for adjusting EBIDA when originating or amending the Eligible Loan on or before June 15, 2020 (except with respect to the methodology instructions specified above in note 5).
- The Eligible Lender 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.

Required Borrower Certifications and Covenants: In addition to other certifications required by applicable statutes and regulations, the following certifications and covenants[8] will be required from Eligible Borrowers:

- The Eligible Borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the upsized tranche of the Eligible Loan is repaid in full, unless the debt or interest payment is mandatory and due.
- The Eligible Borrower must commit that it will not seek to cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender.
- The Eligible Borrower must certify that it has a reasonable basis to believe that, as of the date of upsizing of the Eligible Loan and after giving effect to such upsizing, it has the ability to meet its financial obligations for at least the next 90 days and does not expect to file for bankruptcy during that time period.

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[8] An Eligible Lender is expected to collect the required certifications and covenants from each Eligible Borrower at the time of upsizing of the Eligible Loan. Eligible Lenders may rely on an Eligible Borrower's certifications and covenants, as well as any subsequent self-reporting by the Eligible Borrower.

- 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.
- 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 of the CARES Act.

Retaining Employees: Each Eligible Borrower that participates in the Facility should make reasonable efforts to maintain its payroll and retain its employees during the time the upsized tranche of the Eligible Loan is outstanding.

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 at the time of upsizing. The Eligible Lender may require the Eligible Borrower to pay this fee.

Loan Upsizing and Servicing Fees: An Eligible Borrower will pay an Eligible Lender an origination fee of up to 75 basis points of the principal amount of the upsized tranche of the Eligible Loan at the time of upsizing. The SPV will pay an 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.[9]

Facility Termination: The SPV will cease purchasing participations in Eligible Loans on December 31, 2020, unless the Board and the Department of the Treasury 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.

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[9] Further information regarding credit administration and loan servicing will be made available on the Board's website.