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Federal Reserve Announces New Credit Facility to Help State and Local Governments During COVID-19 Pandemic

In an effort to support the flow of credit and liquidity to state and local governments during the COVID-19 pandemic, the Federal Reserve recently announced a new initiative to facilitate the purchase of up to \$500 billion of eligible notes directly from states and eligible cities and counties.

Under the Municipal Liquidity Facility, the Federal Reserve Bank of New York will commit to lend to a special purpose vehicle (SPV) for the purpose of purchasing the eligible notes. The Department of the Treasury will make an initial equity investment of \$35 billion of appropriated CARES Act funds in the SPV to provide credit protection for the facility. The SPV is scheduled to cease purchasing eligible notes on September 30, 2020, unless the Federal Reserve and Department of the Treasury extend the facility.

At this time, only states, cities with populations exceeding one million residents and counties with populations exceeding two million residents are eligible to benefit directly from this facility. However, smaller cities, counties, other political subdivisions and instrumentalities could have the opportunity to benefit indirectly through pool notes issued by their respective states. Additionally, the Federal Reserve has indicated that it is open to considering alternative approaches to help local governments who do not meet the population thresholds access this facility.

However, smaller U.S. cities and counties could have the opportunity to benefit indirectly through notes issued by their respective states. Additionally, the Federal Reserve has indicated that it is open to considering alternative approaches to help local governments who do not meet the population thresholds to access this facility.

Please find below a summary of the terms and conditions of the Municipal Liquidity Facility. The facility is not expected to be operational for another 4–6 weeks. The terms and conditions remain subject to change, and more operational details are expected in the coming weeks. Frost Brown Todd is continually monitoring the Federal Reserve’s actions and will provide additional information as it becomes available. In the meantime, it would be prudent for states and local governments of all sizes to begin trying to document, calculate and understand their potential losses and/or increased expenses related to or resulting from the COVID-19 pandemic.

Municipal Liquidity Facility Terms and Conditions

Eligible Issuers

- An eligible issuer is any U.S. state (including the District of Columbia), any U.S. city with a population exceeding one-million residents, or any U.S. county with a population exceeding two-million residents.
- City and county population determinations will be based upon the U.S. Census Bureau’s annual estimates as of July 1, 2018 and July 1, 2019, respectively, current as of April 6, 2020.
- An eligible issuer will include an instrumentality of any state or eligible city or county that issues on behalf of the state, city or county for the purpose of managing its cash flows, but only one issuer per state, city or county is eligible.

Eligible Notes

- Eligible notes are tax anticipation notes (TANs), tax and revenue anticipation notes (TRANs), bond anticipation notes (BANs), and other similar short-term notes issued by eligible Issuers.
- Eligible notes must mature no later than 24 months from the date of issuance.

Terms

- The SPV may purchase eligible notes in one or more issuances in an aggregate amount not exceeding 20% of the general

revenue from own sources and utility revenue of the applicable state, city or county government for fiscal year 2017 as reported by the U.S. Census Bureau.

- States may request that the SPV purchase their eligible notes in excess of the foregoing limit so they may lend proceeds of these eligible notes to their cities, counties, and other political subdivisions, and instrumentalities that are not eligible for the facility; provided that states remain liable to repay these notes.
- Pricing will be based on an eligible issuer's rating at the time of purchase, with details to be provided later.
- Each eligible issuer must pay an origination fee equal to 10 basis points of the principal amount of the purchased notes. The origination fee may be paid from the proceeds of the issuance.
- Purchased notes are callable by the eligible issuer at any time at par.

Conditions

- Relevant legal opinions and disclosures will be required as determined by the Federal Reserve prior to the purchase.
- Proceeds must be used to help manage the cash flow impact of income tax deferrals resulting from an extension of an income tax filing deadline; potential reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-19 pandemic; and requirements for the payment of principal and interest on obligations of the relevant state or eligible city or county. A state or eligible city or county may use the proceeds of the purchased notes to purchase similar notes issued by, or otherwise to assist, political subdivisions and instrumentalities of the state or eligible city or county.

Many advocates for states and local governments are hoping for an increase in the amount authorized for this program, given the adverse economic effect of the COVID-19 pandemic on revenues, especially property, sales and income tax collections.

Our team of attorneys is here to help you analyze the availability and features of this funding program. For more information on the Municipal Liquidity program and other financial assistance available to businesses under the CARES Act, please contact Meghan Jackson Tyson, [Denise Barkdull](#), [Laura Theilmann](#), David Rogers or any attorney in Frost Brown Todd's [Public Finance](#) team.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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