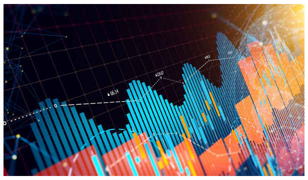

Comparing the Three Main Street Loan Facilities

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Authors:

Maria D. Kroeger
Rebecca M. Moore
Amanda L. England
Meghan Jackson Tyson

The Main Street Lending Program is next in the Federal Reserve's efforts to provide capital to businesses. The Main Street Lending Program was designed to support small and medium-sized businesses that are unable to access the Paycheck Protection Program (PPP) or that require additional financial support after receiving a PPP loan.

On May 27, 2020, the Federal Reserve published the necessary legal forms and agreements for borrowers and lenders participating in the Main Street Lending Program. The Federal Reserve also released additional FAQs on the three Main Street Lending Program facilities. The three facilities are the Main Street Priority Loan Facility ("MSPLF"), the Main Street New Loan Facility ("MSNLF") and the Main Street Expanded Loan Facility ("MSELF").

So which loan may be right for you? All three facilities use the same lender and borrower criteria, and contain many of the same terms, such as the maturity, interest rate, deferral of principal and interest for one year, and the ability of the borrower to prepay without premium. The facilities differ with respect to the minimum and maximum loan amounts and how they interact with a borrower's existing outstanding debt.

We've created an up-to-date comparison chart summarizing the similarities and differences between each facility.

More information on the recent changes can be found in our article, Main Street Lending Program "Very Close" to Operational.

Our team of attorneys is here to help you analyze eligibility and the features of this lending program. For more information on the Main Street Lending Program and other financial assistance under the CARES Act, please contact Becky Moore, Amanda England, Maria Kroeger, Meghan Jackson Tyson or any attorney in Frost Brown Todd's Financial Services Industry Team

Comparing the Three Main Street Loan Facilities

Below is a detailed comparison of the three facilities. **Click here to view a pdf of the chart.**

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY

Type of Funding	New term loans originated after April 24, 2020	New term loans originated after April 24, 2020	Fund increases to previously existing secured or unsecured term loans or revolving credit facilities originated on or before April 24, 2020, that: • Were made by an Eligible Lender(s) to an Eligible Borrower;[1] • Are currently held, at least in part, by the Eligible Lender originating the MSELF upsized tranche; • Have 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); and • Received an internal risk

Eligible Lender	U.S. federally insured depository institutions (including banks, savings associations and credit unions), U.S. branches of foreign banks, U.S. bank holding companies, U.S. intermediate holding companies of foreign banking organizations, or U.S. subsidiaries of any of the foregoing

Eligible Borrower	Borrowers are eligible if they satisfy the following conditions: • Are a for-profit partnership, limited liability company, corporation, association, trust, cooperative, joint venture with no more than 49 percent participation by foreign business entities, or tribal business concern as defined in 15 U.S.C. §657a(b)(2)(C);[3] • Are created or organized in the U.S. or under the laws of the U.S. with significant operations in and a majority of their employees based in the U.S. [4]; • Were established[5] prior to March 13, 2020; • Are not an ineligible business listed in 13 CFR 120.110(b)-(j) and (m)-(s), as modified by the SBA regulations implementing the PPP on or before April 24, 2020, including 85 Fed. Reg. 20811 (as amended by 85 Fed. Reg. 36717 and 85 Fed. Reg. 38301), 85 Fed. Reg. 21747, and 85 Fed. Reg. 23450;[6] • Have 15,000 employees[7] or fewer OR had 2019 annual revenues of $5 billion or less[8]; and • Were in sound financial condition prior to the onset of the COVID-19 pandemic[9]. NOTE: Although the Main Street Lending Program is not a SBA program and will not be administered by the SBA certain SBA rules apply. Borrowers will need to calculate the number of employees and revenues of the borrower and the borrower's affiliates in accordance with the SBA's affiliation rules. NOTE: The requirements above are only the minimum eligibility requirements. Additional covenants, certifications and conditions are listed below. Lenders are also expected to assess each potential borrower's financial condition at the time of the potential borrower's application.

Maximum Loan Amount	Lesser of: • $35 million; or • An amount that, when added to existing outstanding and undrawn available debt[10], does not exceed four times the borrower's adjusted 2019 EBITDA.[11] [12]	Lesser of: • $50 million; or • An amount that, when added to existing outstanding and undrawn available debt, does not exceed six times the borrower's adjusted 2019 EBITDA.[13]	Lesser of: • $300 million; or • An amount that, when added to existing outstanding and undrawn available debt, does not exceed six times the borrower's adjusted 2019 EBITDA [14]. NOTE: More than one lender under an existing multi-lender facility may choose to "upsize" the existing facility to originate an MSELF upsized tranche. However, the Eligible Borrower's aggregate borrowing cannot exceed $300 million or an amount that, when added to the Eligible Borrower's existing outstanding and undrawn available debt, exceeds six times the Eligible Borrower's

Minimum Loan Amount	$250,000	$10,000,000
Interest Rate	Adjustable rate of LIBOR[15] (1 or 3 month) + 300 basis points[16] NOTE: Eligible Lenders are not allowed to include a LIBOR floor in the interest rate on a Main Street loan.	
Loan Term	5 years	
Use of Proceeds	No known restrictions on the use of proceeds other than: • a borrower that is a subsidiary of a foreign company must use the proceeds only for the benefit of the borrower, its consolidated U.S. subsidiaries, and other affiliates of the borrower that are U.S. businesses (and not for the benefit of a borrower's foreign parents, affiliates or subsidiaries); • the restrictions on the repayment of other debt and restrictions on executive compensation, stock repurchase and distributions, which are described below.[17]	
Amortization	Year 1: Principal and interest payments deferred (unpaid interest will be capitalized). Year 2: Principal payments deferred.[18] Year 3: 15% of principal due at the end of the third year. Year 4: 15% of principal due at the end of the fourth year. Year 5: Balloon payment of 70% of principal due at maturity.	
Prepayment Penalty	None	

Collateral	Secured or Unsecured	The MSPLF loan must be secured if, at the time of origination, the borrower has any other secured loans or debt instruments, other than mortgage debt [19]. If the MSPLF loan is secured, then the Collateral Coverage Ratio for the MSPLF loan at the time of its origination must be either (i) at least 200% or (ii) not less than the aggregate Collateral Coverage Ratio for all of the borrower's other secured loans or debt instruments (other than mortgage debt).[20] NOTE: The MSPLF loan need not share in all of the collateral that secures the borrower's other loans or debt instruments.	The MSELF upsized tranche must be secured if, at the time of origination, the borrower has any other secured loans or debt instruments, other than mortgage debt that does not secure any other tranche of the underlying credit facility. The MSELF upsized tranche must be secured by the collateral (including, if applicable, any mortgage debt) securing any other tranche of the underlying credit facility on a pari passu basis.[21]

	Priority	At the time of origination or any time during the term of the loan, the loan may not be contractually subordinated in terms of priority to any of the borrower's other loans or debt instruments.[22] A MSNLF loan may not be junior in priority in bankruptcy to the borrower's other unsecured loans or debt instruments. [23] This restriction does not prevent: • the issuance of a MSNLF loan that is a secured loan (including in a second lien or other capacity), • the issuance of a MSNLF loan that is an unsecured loan, or • new secured or unsecured	If the MSPLF loan is secured by the same collateral as any of the borrower's other loans or debt instruments (other than mortgage debt), the lien upon such collateral securing the MSPLF loan must be and remain senior to or pari passu with the lien(s) of the other creditor(s) upon such collateral. The MSPLF loan must not be contractually subordinated in terms of priority to any of the borrower's other loans or debt instruments.	At the time of upsizing and always the upsized tranche is outstanding, the upsized tranche must be senior to or equal with, in terms of priority and security, the borrower's other loans or debt instruments, other than mortgage debt.

Loan Guarantees	If all or substantially all of a borrower's assets are equity interests in other entities, then the borrower must select one or more operating subsidiaries to provide a guarantee for the loan or upsized tranche on a joint and several basis, and the following conditions must be satisfied: • each selected subsidiary must itself be eligible to borrow under the applicable facility's eligibility criteria; • the aggregate adjusted 2019 EBITDA of the selected subsidiaries must be used to calculate the borrower's maximum loan size; and • if the loan is a secured MSPLF loan or a secured MSELF upsized tranche, then the guarantee must also be secured.

Participation Amount Retained by Lender**[24]**	5% until (i) the MSNLF loan matures or (ii) neither the SPV nor a governmental assignee holds an interest in the MSNLF loan in any capacity, whichever comes first.	5% until (i) the MSPLF loan matures or (ii) neither the SPV nor a governmental assignee holds an interest in the MSPLF loan in any capacity, whichever comes first.	5% until (i) the MSELF upsized tranche matures or (ii) neither the SPV nor a governmental assignee holds an interest in the MSELF upsized tranche in any capacity, whichever comes first.[25] NOTE: The lender must also retain its interest in the underlying loan until (i) the underlying loan matures, (ii) the MSELF upsized tranche matures or (iii) neither the SPV nor a governmental assignee holds an interest in the MSELF upsized tranche in any capacity, whichever comes first.

Termination Date of the Loan Program	December 31, 2020, unless otherwise extended. NOTE: The Federal Reserve Bank will continue to fund the operation of the Special Purpose Vehicle (SPV) after December 31, 2020 until the SPV’s underlying assets mature or are sold.

Restrictions on Repayment of Other Debt	The borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until (i) the new loan is repaid in full or (ii) neither the SPV nor a governmental assignee holds an interest in the loan in any capacity, unless the debt or interest payment is mandatory and due.[26] NOTE: Borrowers will still be able to (i) repay a line of credit (including a credit card) in the normal course, (ii) incur equipment financing or similar debt in the ordinary course (as long as it is secured by newly acquired property and is	Borrowers may refinance existing debt owed to a lender that is not the lender making the MSPLF loan (or an affiliate of the lender making the MSPLF loan) at the time the MSPLF loan is originated. Otherwise, the borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until (i) the new loan is repaid in full or (ii) neither the SPV nor a governmental assignee holds an interest in the loan in any capacity, unless the debt or interest payment is mandatory and due. NOTE: Borrowers will still be able to (i) repay a line of credit (including a credit card) in the normal course, (ii) incur equipment financing or	The borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until (i) the upsized trance is repaid in full or (ii) neither the SPV nor a governmental assignee holds an interest in the upsized tranche in any capacity, unless the debt or interest payment is mandatory and due. NOTE: Borrowers will still be able to (i) repay a line of credit (including a credit card) in the normal course, (ii) incur equipment financing or similar debt in the ordinary course (as long as it is secured by newly acquired property and is otherwise lower priority).

Restrictions on Existing LOCs	The borrower must commit that it will not seek to cancel or reduce any of its committed lines of credit with the lender or any other lender until (i) the new loan is repaid in full or (ii) neither the SPV nor a governmental assignee holds an interest in the loan in any capacity. NOTE: Borrowers will still be able to (i) reduce or terminate uncommitted lines of credit, (ii) let existing lines of credit expire in accordance with their terms, (iii) reduce availability under existing lines of credit in accordance with their terms due to changes in borrowing bases or reserves in asset-based or similar structures.
Solvency Certification	The borrower must certify that (i) it is not insolvent[28] and (ii) it has a reasonable basis to believe that, as of the date of origination of the new loan (or the date of the upsizing in the case of a MSELF 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.

Restrictions on Executive Compensation, Stock Repurchase and Distributions	Until 12 months after the date the loan has been repaid in full the borrower must commit that it will not:
	• Repurchase equities securities listed on a national securities exchange of the borrower or its parent company (except if required under contractual obligations entered into prior to March 27, 2020).
	• Pay dividend payments or capital distributions on common stock of the borrower.
	• Pay any officer of employee whose compensation exceeded $425,000 in calendar year 2019 (other than an employee whose compensation is determined through an existing collective bargaining agreement entered prior to March 1, 2020):
	  ◦ more than such person's 2019 total compensation during any 12 consecutive month period
	  ◦ more than twice such person's 2019 total compensation in severance pay.
	• Pay any officer or employee whose compensation exceeded $3 million in calendar year 2019 more than $3 million plus 50% of the amount above $3 million that such person received in calendar year 2019 during any 12 consecutive month period.
	NOTE: The restriction on distributions does not apply to distributions made by an S corporation or other tax pass-through entity to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings or distributions made by a tribal business to a tribal government owner.

Conflict of Interest Certification	The borrower must certify that it is eligible to participate in the program, including in light of the conflicts of interest prohibition in Section 4019(b) of the CARES Act. [29]

COVID-19 Need	Borrowers must certify that they are unable to secure adequate credit accommodations from other banking institutions.[30] Borrowers must make *commercially reasonable efforts* to maintain their payroll and retain their employees during the term of the loan (or the upsized tranche in the case of a MSELF loan). NOTE: What constitutes as "commercially reasonable efforts?" Borrowers will need to use good-faith efforts to maintain payroll and retain employees considering its capacities, the economic environment, its available resources, and the business need for labor. Borrowers that have already laid-off or furloughed workers as a result of the disruptions from COVID-19 are still eligible to apply for Main Street Lending Program loans.

Lender Certifications and Covenants	• <u>Repayment of Other Debt</u>: The lender will not require that the borrower use the loan proceeds to repay debt owed to the lender, or pay interest on such outstanding obligations, until the new loan (or the upsized tranche of an existing loan in the case of a MSELF loan) is repaid in full, unless the debt or interest payment is mandatory and due, or in the case of default and acceleration. • <u>Existing LOCs:</u> The lender will not cancel or reduce any existing committed lines of credit to the borrower, except in an event of default. NOTE: This requirement does not prohibit the reduction or termination of uncommitted lines of credit, the expiration of existing lines of credit in accordance with their terms, or the reduction of availability under existing lines of credit due to changes in borrowing bases or reserves in asset-based or similar structures. • <u>Calculation of 2019 EBITDA</u>: The lender must certify that the methodology used for calculating the borrower's 2019 EBITDA is the methodology it had previously used for adjusting EBITDA when extending credit to the borrower or similarly situated borrowers on or before April 24, 2020 (or when originating or amending the existing loan on or before April 24, 2020, in the case of a MSELF loan). • <u>Eligibility:</u> The lender must certify that it is eligible to participate in the program, including considering the conflicts of interest prohibition in Section 4019(b) of the CARES Act.

		• Transaction Fee: The lender will pay the SPV a transaction fee of 100 basis points of the principal amount of the new loan at the time of origination. It may be passed through to the borrower.[31] • Origination Fee: The borrower will pay the lender an origination fee of up to 100 basis points of the principal amount of the new loan at the time of origination.	• Transaction Fee: The lender will pay the SPV a transaction fee of 75 basis points of the principal amount of the upsized tranche at the time of upsizing. It may be passed through to the borrower. • Origination Fee: The borrower will pay the lender an origination fee of up to 75 basis points of the principal amount of the upsized tranche at the time of upsizing. • Servicing Fee: The SPV will pay the lender 25 basis points of the principal amount of its

Loan Forgiveness	Loans extended under the Main Street Lending Program are not forgivable; however, in the event of a restructuring or workout, the SPV may agree to reductions in interest (including capitalized interest), extended amortization schedules and maturities, and higher priority "priming" loans.
Participation in Other CARES Act Programs	Affiliated groups of companies[32] may only participate in one of the following loan programs: MSNLF, MSELF, MSPLF or the Primary Market Corporate Credit Facility.[33] Affiliated groups of companies may receive more than one loan under a single Main Street facility so long as the loans taken together do not exceed the maximum loan size that the affiliated group is eligible to receive on a consolidated basis. Borrowers may not participate in the Main Street Lending Program if they have received specific support pursuant to the CARES Act designated for passenger air carriers, cargo air carriers or businesses critical to maintaining national security. Borrowers may have both a PPP Loan and a Main Street Loan facility.[34]

Key Differences

- Type of Funding – The MSNLF and the MSPLF are new term loans. The MSELF is an increase to previously existing term loans or revolving credit facilities.
- Loan Amount – The MSNLF and the MSPLF loans range in size from $500,000 to $25,000,000, while the MSELF upsized tranches range in size from $10,000,000 to $250,000,000. The maximum loan amount under each facility is dependent upon varying levels of the Borrower's existing outstanding and undrawn available debt (four times the borrower's 2019 EBITDA for the MSNLF and six times the Borrower's 2019 EBITDA for the MSPLF and the MSELF). The maximum loan amount for the MSELF is further limited to 35% of the

borrower's existing outstanding and undrawn available debt that is equal in priority and secured status (i.e., secured or unsecured) with the loan.

- Repayment of Main Street Loan – Principal and interest are deferred for one year for each facility. After the first year, MSNLF loans amortize equally over the remaining three years, while MSPLF and MSELF loans amortize 30% (in the aggregate) over the following two years with a 70% balloon payment due at the end of the fourth year.
- Participation Amount Retained by Lender – The lender retains 5% under each of the MSNLF and MSELF facilities and retains 15% under the MSPLF facility.
- Priority – Loans and upsized tranches under the MSPLF and MSELF facilities must be senior to or equal with, in terms of priority and security, the borrower's other loans or debt instruments, other than mortgage debt. Loans under the MSNLF may not be contractually subordinated in terms of priority to any of the borrower's other loans or debt instruments.
- Repayment of Other Debt – Only the MSPLF may be used to refinance existing debt. Proceeds may be used to refinance other debt at the time of origination so long as such debt is not held by the lender.
- Fees – Lenders and borrowers will pay lower Origination and Transaction Fees under the MSELF facility (100 basis points under the MSNLF and the MSPLF facilities, and 75 basis points under the MSELF facility).

Takeaways

For Borrowers:

- There is no automatic qualification if borrowers meet the minimum eligibility requirements set forth above.
- Borrowers will need to apply the SBA affiliation rules applicable to the PPP loan program. Private equity and VC-backed companies should understand whether employees or

revenues of affiliated entities will need to be included in determining eligibility. See our article on the affiliation rules for portfolio companies

- Borrowers should review existing debt documents to see if any amendments or waivers may be needed. Existing lenders will need to agree to the subordination provisions required under each facility.
- A borrower is not obligated to provide an attestation that it requires financing due to the exigent circumstances presented by COVID-19. However, a borrower will need to use good-faith efforts to maintain payroll and retain employees considering its capacities, the economic environment, its available resources, and the business need for labor. Borrowers that have already laid-off or furloughed workers as a result of the disruptions from COVID-19 are still eligible to apply for Main Street Lending Program loans.
- While EBITDA is the key underwriting metric for the Main Street Lending Program the Federal Reserve noted in the FAQs that it will be evaluating the feasibility of adjusting the loan eligibility metrics for asset-based borrowers given that credit risk for such borrowers is generally not evaluated based on EBITDA.
- While nonprofits are not currently eligible under the program, the Federal Reserve recognizes the critical role that nonprofit organizations play throughout the economy and indicated that it is evaluating a separate approach to meet their unique needs. Other forms of for-profit businesses may be considered for inclusion under the Main Street Lending Program at the discretion of the Federal Reserve.
- The Federal Reserve expects to disclose the names of lenders and borrowers, amounts borrowed and interest rates charged, overall costs, revenues and other fees.

For Lenders:

- Lenders will need to assess the prospective borrower's financial condition and apply their own underwriting standards.

- Lenders may rely on their borrowers' certifications and covenants, as well as any subsequent self-reporting by their borrowers. Lenders do not need to independently verify the certifications or actively monitor ongoing compliance with the covenants required by the Main Street term sheets. If a lender becomes aware that a borrower made a material misstatement or otherwise breached a covenant during the term of a Main Street loan the lender should notify the Federal Reserve Bank of Boston.
- Lenders should start putting together loan document packages that include the required certifications and covenants. The documents should also contain an alternate for LIBOR based on the Fallback Contract Language from the ARRC.
- The Federal Reserve does not include non-bank lenders in its list of lenders; however, the Federal Reserve is considering expanding this list.
- The Federal Reserve's release does not include the necessary documentation for lenders to sell loan participations to the SPV. It is anticipated that these documents, as well as other guidance for lenders participating in the Main Street Lending Program, will be made available before the start date of the program.
- The Federal Reserve expects to disclose the names of lenders and borrowers, amounts borrowed, interest rates charged, overall costs, revenues and other fees.

The Federal Reserve has not set a launch date for the Program. Updates regarding the Program, including the official start date and when the Main Street SPV will begin purchasing participations in the Main Street loans will be made available on the Federal Reserve's Main Street page. In the meantime, interested borrowers should reach out to their lenders to start discussions regarding what the lenders may require as part of the underwriting process.

Our team of attorneys is here to help you analyze the availability and features of these lending programs. For more information on the Main Street Lending Program and other financial assistance under the CARES Act, please contact Becky Moore, Amanda England, Maria Kroeger, Meghan Jackson Tyson or any attorney in Frost Brown Todd's Financial Services Industry 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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[1] The Eligible Lender originating the MSELF upsized tranche is not required to have been the Eligible Lender that originally extended the loan underlying an MSELF upsized tranche.

[2] If the underlying loan was originated (or purchased) after December 31, 2019, the Eligible Lender should use the internal risk rating given to that loan at origination (or at the time of purchase).

[3] Sole proprietorships are not Eligible Borrowers.

[4] To determine if it has "significant operations" and a "majority of its employees" in the U.S., the borrower's operations should be evaluated on a consolidated basis together with its subsidiaries, but not its parent companies or sister affiliates.

[5] "Established" means the date of formation, incorporation, or organization. If an otherwise Eligible Borrower was established before March 13, 2020, but does not have a financial history sufficient to establish that it was in sound financial condition before the onset of the pandemic (i.e., using an adjusted 2019 EBITDA that covers at least part of the calendar year 2019), it will not qualify for a Main Street loan (unless such entities have clear predecessors or subsidiaries that can be referenced to calculate adjusted 2019 EBITDA).

[6] This includes financial businesses primarily engaged in the business of lending, such as banks, finance companies and factors, passive businesses owned by developers or landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds, life insurance companies, businesses located in a foreign county (although businesses owned by foreign aliens or entities may qualify), government-owned entities, businesses

primarily engaged in political or lobbying activities and speculative businesses, and private equity funds. The Federal Reserve FAQs note that it may further modify the application of these restrictions.

[7] Businesses will need to count all full-time, part-time, seasonal or otherwise employed persons (excluding volunteers and independent contractors) employed by the borrower and all of its affiliates as employees (See 13 CFR 121.106). Businesses should use the average total number of persons employed by the borrower and its affiliates for each pay period over the 12 months prior to the origination or upsizing of the loan.

[8]A borrower (and its affiliates) may use either one of the following methods to calculate 2019 annual revenues for purposes of determining eligibility: (1) annual "revenue" per its 2019 GAAP-based audited financial statements; or (2) annual receipts (as defined by the SBA in 13 CFR 121.104(a)) for the fiscal year 2019, as reported to the IRS. If a potential borrower (or its affiliate) does not yet have audited financial statements or annual receipts for 2019, the borrower (or its affiliate) should use its most recent audited financial statements or annual receipts.

[9] For MSNLF and MSPLF loans, if a borrower had other loans outstanding with the 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 (FFIEC) supervisory rating system on that date. For MSELF loans, the existing loan must have had an internal risk rating equivalent to a "pass" in the FFIEC's supervisory rating system as of December 31, 2019.

[10] Existing outstanding and undrawn available debt does not include (1) any undrawn commitment that serves as a backup line for commercial paper issuance, (2) any undrawn commitment that is used to finance receivables (including seasonal financing inventory), (3) any undrawn commitment that cannot be drawn without additional collateral, or (4) any undrawn commitment that is no longer available due to change in circumstance.

[11] The methodology used by the lender to calculate a borrower's 2019 earnings before interest, taxes, depreciation and amortization

(EBITDA) must be a methodology previously used by the lender for adjusting EBITDA when extending credit to the borrower or to similarly situated borrowers on or before April 24, 2020 (or the methodology previously used by the lender to calculate adjusted EBITDA when originating or amending the underlying loan on or before April 24, 2020, for MSELF loans). Similarly situated borrowers are borrowers in similar industries with comparable risk and size characteristics. If the lender has used multiple adjustment methods with respect to the borrower or similarly situated borrowers, the lender should choose the most conservative method it has employed. In all cases, the lender must select a single method used at a point in time in the recent past and before April 24, 2020, and the lender should document the rationale for its selection of an adjusted EBITDA methodology and its process for identifying similarly situated borrowers.

[12] Eligible Borrowers that are subject to U.S. GAAP reporting requirements or that already prepare their financials in accordance with U.S. GAAP must submit U.S. GAAP-compliant financial records in connection with the EBITDA calculation. Eligible Borrowers that do not have to comply with U.S. GAAP and that do not typically prepare their financials in accordance with U.S. GAAP are not required to submit U.S. GAAP compliant financials. Additionally, Eligible Borrowers that typically prepare audited financial statements must submit audited financial statements. Otherwise Eligible Borrowers should submit reviewed financial statements or financial statements prepared for the purpose of filling taxes. If an Eligible Borrower does not yet have audited or reviewed financial statements for 2019, the Eligible Borrower should use its most recent audited or reviewed financial statements. Finally, Eligible Borrowers that typically prepare financial statements that consolidate the Eligible Borrower with its subsidiaries (but not its parent companies or sister affiliates) must submit such consolidated financial statements. If an Eligible Borrower does not typically prepare consolidated financial statements, it is not required to do so, unless so required by the Eligible Lender.

[13] If the borrower is using a MSPLF loan to refinance debt, that debt will not be counted in the calculation of "existing outstanding and undrawn available debt" for purposes of determining the

maximum loan amount.

[14] If the borrower's EBITDA was not calculated or included in the loan documentation or internal risk analysis when originating the underlying loan or revolving credit facility, the lender must require the borrower to calculate its adjusted EBITDA using a methodology that the lender has required to be used in other contexts for the borrower or, if there is no such calculation, for similarly situated borrowers.

[15] The loan documents should include fallback contract language if London Inter-bank Offered Rate (LIBOR) becomes unavailable during the term of the loan consistent with the recommendations of the Alternative Reference Rates Committee (ARRC).

[16] Eligible Lenders and Eligible Borrowers may hedge interest rate risk associated with Main Street loans. Eligible Lenders may also hedge credit risk associated with a Main Street borrower's industry, but may not engage in borrower name specific hedging of a Main Street loan.

[17] The initial term sheets for the MSNLF and the MSELF issued on April 9, 2020, expressly required the use of loan proceeds to maintain the borrower's payroll and retain its employees during the term of the loan. However, the revised term sheets for the MSNLF and the MSELF and the new term sheet for the MSPLF issued on April 30, 2020, removed this express requirement and replaced it with a covenant to use commercially reasonable efforts to maintain the borrower's payroll and retain its employees.

[18] After the first year of the loan, an Eligible Lender may require the payment of interest at the frequency it would ordinarily require payment with respect to loans made to similarly situated borrowers (e.g., quarterly or annually). The Federal Reserve does not expect that the frequency would ever be more than monthly.

[19] "Mortgage debt" means (i) debt secured only by real property at the time of origination and (ii) limited recourse equipment financings (including equipment capital or finance leasing and purchase money equipment loans) secured only by the acquired equipment.

[20] The "Collateral Coverage Ratio" means (i) the aggregate value of any relevant collateral security, including the pro rata value of any shared collateral, divided by (ii) the outstanding aggregate principal amount of the relevant debt.

[21] Lenders and borrowers may add new collateral to secure the loan (including the MSELF upsized tranche on a pari passu basis) at the time of upsizing. If the underlying credit facility includes both term loan tranche(s) and revolver tranche(s), the MSELF upsized tranche needs to share collateral on a pari passu basis with the term loan tranche(s) only.

[22] The Federal Reserve defines "loans or debt instruments" to include all guarantees.

[23] For the avoidance of doubt, prohibitions on contractual subordination with respect to loans extended under the Main Street Lending Program do not prevent the incurrence of obligations that have mandatory priority under the bankruptcy code or other insolvency laws that apply to entities generally.

[24] Lenders will have two options for funding MSLP loans: (1) lenders may fund the loan in full and then seek to sell a participation to the SPV or (2) lenders may make funding of the MSLP loan contingent on a binding commitment from the SPV that it will purchase a participate in the loan. If lenders choose the first option, they will be required to submit all of the required documentation, completed and signed, for processing no later than 14 days after the closing of the loan. Lenders who choose the first option must count the full amount of the MSLP loan toward the lender's lending limit until such time as the SPV has purchased the participation. If lenders choose the second option, they will be required to fund the loan within three business days of the date of the SPV's commitment letter and provide notice to the SPV of the date funding occurred. The SPV will generally be able to advance funds to purchase the participation within one business day of receiving the funding notice. As long as the SPV purchases its participation within one business day after the loan is funded, the lender need only include the retained percentage of the loan when calculating its lending limit.

[25] The lender must retain 5% of the MSELF upsized tranche even when the underlying loan is part of a multi-lender facility (i.e. the lender may not share its 5% retention of the MSELF upsized tranche with other members of a multi-lender facility).

[26] With respect to debt that predates the loan extended under the Main Street Lending Program, principal and interest payments are mandatory and due (i) on the future date upon which they were scheduled to be paid as of the date of origination of the Main Street loan; or (ii) upon the occurrence of an event that automatically triggers mandatory prepayments under a contract for indebtedness that the borrower executed prior to the date of origination of the Main Street loan (except that any such prepayments triggered by the incurrence of new debt can only be paid if such prepayments are de minimis or under the MSPLF at the time of origination of an MSPLF loan).

[27] While Eligible Borrowers are permitted to refinance debt that is maturing within 90 days during the life of a Main Street loan, it may not be done at origination, unless it is a qualifying MSPLF refinancing.

[28] "Insolvent" means such entity is in bankruptcy, resolution under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding, or such entity was generally failing to pay undisputed debts as they become due during the 90 days preceding the date of borrowing for reasons other than disruptions to its business resulting from COVID-19.

[29] Section 4019(b) prohibits any entity "controlled" by the President, Vice President, head of an Executive Department, or Member of Congress or by any of their immediate family (including son or daughter-in-law) from being eligible as a borrower or lender under the Main Street Lending Program.

[30] This does not necessarily mean that no other credit is available for the borrower's purposes. Rather, the borrower can certify that it is unable to secure adequate credit accommodations because the amount, price, or terms of credit available from other sources are inadequate for the borrower's needs during the current unusual and

exigent circumstances. Borrowers are not required to demonstrate that applications for credit have been denied by other lenders or otherwise document that the amount, price, or terms of credit available elsewhere are inadequate.

[31] The transaction fee will be based on the principal amount of the MSNLF loan, MSPLF loan, or MSELF upsized tranche at the time a loan participation is submitted for sale to the SPV (including any deferred interest that has been capitalized and added to the principal amount and purchase amount in accordance with the Eligible Lender's customary practices for capitalizing interest for loans that were extended prior to the date upon which the Main Street Lending Program became active on July 6, 2020).

[32] Affiliated groups of companies are to be determined in accordance with the SBA's affiliation rules.

[33] The Primary Market Corporate Credit Facility (PMCCF) is a lending program released by the Federal Reserve, which is open to investment grade companies and will provide bridge financing of four years. The facility supports large companies through the purchase of eligible corporate bonds from, and lending through syndicated loans to, large companies. PMCCF loans are not forgivable. The term sheet detailing the features of that program can be found here.

[34] The portion of any outstanding PPP loan that has not yet been forgiven is counted as outstanding debt for the purposes of the maximum loan size test.

FBT Gibbons