



Oct 26, 2020

Categories:

[Coronavirus Response Team](#)

Authors:

[Rebecca M. Moore](#)
[Meghan Jackson Tyson](#)

Hotels, Nursing Homes and Speculative Home Builders May Be Eligible for Main Street Lending Program

The Federal Reserve confirmed in its latest webinar that businesses who fall under exceptions to the Small Business Administration (SBA) list of ineligible businesses, such as hotels, nursing homes, assisted living facilities and speculative home builders, are eligible businesses under the Main Street Lending Program (MSLP) and may obtain a MSLP loan if such businesses satisfy the other eligibility requirements.

The SBA's list of ineligible businesses^[1] include businesses engaged in lending, passive businesses owned by developers and landlords that do not actively use or occupy the assets (shopping centers, retail centers, apartment buildings), life insurance companies, businesses deriving more than one-third of gross annual revenue from legal gambling activities, and speculative businesses. There are exceptions to the list specified in the SBA rules, but the MSLP term sheets and FAQs are silent with how those apply in the MSLP.

According to the Federal Reserve, any borrower who falls under an exception to the list of ineligible businesses will be deemed an eligible business under the MSLP and thus may qualify as an eligible borrower under the MSLP.

These include:

- Hotels, motels and similar types of businesses if more than 50% of the business's revenue for the prior year is derived from transients who stay for 30 days or less at a time. This would be based on projections if the applicant is a start-up.
- Nursing homes or assisted living facilities.
- Businesses engaged in leasing equipment, household goods or other items.

- Barber shops, hair salons, nail salons and other types of personal services businesses.
- Businesses engaged in building homes for future sale if the business qualifies under the SBA's Builders CAPLines Program.
- Businesses who qualify as an Eligible Passive Company^[2] under the SBA rules.

In addition to the ineligible business list, there may be other areas of the MSLP where there is flexibility for borrowers to fit within the MSLP requirements. The Federal Reserve seemed to imply vagueness in the rules was intentional. The MSLP FAQs state that where the MSLP term sheets, legal forms and the FAQs do not expressly address a specific set of facts and circumstances, eligible borrowers should work with lenders and legal counsel to make informed, reasonable, good-faith applications of the MSLP terms and conditions to their individual facts and circumstances. The Federal Reserve wants MSLP loans to be made and understands that borrowers need flexibility now more than ever.

Businesses were advised at the webinar to become familiar with the program terms and documents before approaching a lender as a way to help lenders get more comfortable making these types of loans. Determining the appropriate borrower and loan structure to be deemed an eligible business can be complicated and requires knowledge of the SBA requirements. Because lenders are taking on risk with these loans it is also important to understand the lender's underwriting process and find ways to be creative in structuring a MSLP loan.

Our Frost Brown Todd team has been assisting borrowers and lenders with the Main Street Lending Program, including the SBA eligibility requirements and affiliation rules. We understand the terms of each MSLP loan facility and are assisting borrowers and lenders with structuring and closing such loans.

^[1] Ineligible Businesses are listed in 13 CFR 120.110(b)–(j), (m)–(s), as modified and clarified by SBA regulations for purposes of the PPP on or before April 24, 2020. Such modifications and clarifications include the SBA's recent interim final rules available at 85 Fed. Reg. 20811, 85 Fed. Reg. 21747, and 85 Fed. Reg. 23450 (released by the

SBA on April 24, 2020). In addition, as of July 15, 2020, the Federal Reserve has incorporated the SBA's Interim Final Rules published in the Federal Register on June 18, 2020 (85 Fed. Reg. 36717) and June 26, 2020 (85 Fed. Reg. 38301), which amended the SBA's earlier Interim Final Rule published in the Federal Register on April 15, 2020 (85 Fed. Reg. 20811).

[2] An Eligible Passive Company is a small entity or trust which does not engage in regular and continuous business activity, which leases real or personal property to an operating company for use in the operating company's business and which complies with the conditions set forth in 13 CFR 120.111. (See 13 CFR 120.10)

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.