

Federal Reserve releases details of lending programs in response to COVID-19 pandemic, including Main Street lending program for mid-sized businesses

On April 9, 2020, the Federal Reserve announced that it would be providing up to \$2.3 trillion in loans to support the US economy in response to the COVID-19 pandemic.¹

The Federal Reserve released details of the Main Street lending program for mid-sized businesses that it had previously announced, released details of a Municipal Liquidity Facility for states, cities and counties and released updated information about several recently announced financing programs: the Primary Market Corporate Credit Facility (PMCCF), the Secondary Market Corporate Credit Facility (SMCCF) and the Term Asset-Backed Securities Loan Facility (TALF).²

The Federal Reserve stated that these programs were still being finalized, and requested comments from interested parties. Comments are open until April 16.

At this point, many details of these programs are yet to be released, including details of how businesses may apply for loans under the programs.

1. Main Street lending program

The Federal Reserve released two term sheets for the Main Street lending program, one for a New Loan Facility and one for an Expanded Loan Facility.³ The New Loan Facility applies to unsecured term loans made by eligible lenders to eligible borrowers on or after April 8, 2020. The Expanded Loan Facility applies to upsizes of term loans originally made by eligible lenders to eligible borrowers on or before April 8, 2020.

Under each Main Street facility, a Federal Reserve Bank will lend to a single common SPV on a recourse basis. The SPV will purchase 95% participations in eligible loans (either new term loans or upsized tranches of existing term loans) from eligible lenders. Eligible lenders must retain 5% of the loan. The Treasury Department, using funds appropriated to the Exchange Stabilization Fund under Section 4027 of the CARES Act,

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¹ See [Federal Reserve takes additional actions to provide up to \\$2.3 trillion in loans to support the economy](#), April 9, 2020.

² Initial term sheets for the PMCCF, the SMCCF and the TALF were published on March 23, 2020, prior to the passage of the CARES Act.

³ [Main Street New Loan Facility term sheet](#); [Main Street Expanded Loan Facility term sheet](#).

will make a \$75 billion equity investment in the SPV in connection with the Main Street facilities. The combined size of the Main Street facilities will be up to \$600 billion.

An eligible borrower can access one of the Main Street facilities, but not both. A borrower accessing either Main Street facility may not also be a borrower under the PMCCF. Borrowers under the Main Street program are also permitted to obtain PPP loans from the SBA.

Because the Main Street program is limited to term loans, and cannot be used to refinance existing debt (see below), borrowers will likely need to consider how to layer borrowing under the program into current capital structures, and, if necessary, request consents from existing lenders.

The SPV will cease purchasing participations in eligible loans no later than September 30, 2020, unless the Federal Reserve Board and the Treasury Department extend the facilities. The Federal Reserve will continue to fund the SPV after such date until the SPV's underlying assets mature or are sold.

a. Eligible borrowers

The Main Street lending program is intended to provide loans to "eligible borrowers," which are defined as businesses with up to 10,000 employees or up to \$2.5 billion in 2019 annual revenue. Each eligible borrower must be a business that 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. The Federal Reserve press release that accompanied the term sheets indicates that the loans would be provided to borrowers that were "in good financial standing before the crisis."

b. Eligible lenders

"Eligible lenders" are defined as US insured depository institutions, US bank holding companies and US savings and loan holding companies. The term sheets exclude non-bank lenders.

c. Loan eligibility criteria common to both facilities

Under both Main Street loan facilities, an eligible loan must have the following features:

1. four year maturity;
2. Amortization of principal and interest deferred for one year;
3. Adjustable interest rate of SOFR plus 250-400 basis points;
4. Minimum loan size of \$1 million; and
5. Prepayable without penalty.

d. New Loan Facility

Under the New Loan Facility, the maximum amount of a loan to any eligible borrower is the lesser of (i) \$25 million, or (ii) an amount that, when added to the borrower's existing outstanding and committed but undrawn debt, does not exceed four times the borrower's 2019 EBITDA.

The New Loan Facility only extends to unsecured term loans.

Under the New Loan Facility, a lender will pay the SPV a facility fee of 100 basis points of the principal amount of the loan participation purchased by the SPV. The lender may require the borrower to pay this fee.

Under the New Loan Facility, the borrower will pay the lender an origination fee of 100 basis points of the principal amount of the loan. The SPV will pay the lender 25 basis points of the principal amount of its participation in the loan per annum for loan servicing.

e. Expanded Loan Facility

Under the Expanded Loan Facility, the maximum amount of a loan to any eligible borrower is the least of (i) \$150 million, (ii) 30% of the borrower's existing outstanding and committed but undrawn bank debt, or (iii) an amount that, when added to the borrower's existing outstanding and committed but undrawn debt, does not exceed six times the borrower's 2019 EBITDA.

The Expanded Loan Facility extends to upsizes of both secured and unsecured term loans. Any collateral securing an eligible loan, whether such collateral was pledged under the original terms of the eligible loan or at the time of upsizing, will secure the Federal Reserve's loan participation on a pro rata basis.

Under the Expanded Loan Facility, the borrower will pay the lender a fee of 100 basis points of the principal amount of the upsized tranche at the time of upsizing. The SPV will pay the lender 25 basis points of the principal amount of its participation in the upsized tranche per annum for loan servicing.

f. Required attestations

The following attestations will be required with respect to each eligible loan or upsized tranche:

1. The lender must attest that the proceeds of the loan or upsized tranche will not be used to repay or refinance pre-existing loans or lines of credit made by the lender to the borrower, including, in the case of an upsizing, the pre-existing portion of the upsized tranche.
2. The borrower must commit to refrain from using the proceeds of the loan or upsized tranche to repay other loan balances. The borrower must also commit to refrain from repaying other debt of equal or lower priority, with the exception of mandatory principal payments, unless the borrower has first repaid the loan in full.
3. The lender must attest that it will not cancel or reduce any existing lines of credit outstanding to the borrower. The borrower must attest that it will not seek to cancel or reduce any of its outstanding lines of credit with the lender under the program or with any other lender.
4. The borrower must attest that it requires financing due to the exigent circumstances presented by the COVID-19 pandemic, and that, using the proceeds of the loan or upsized tranche, it will make reasonable efforts to maintain its payroll and retain its employees during the term of the loan or upsized tranche.
5. The borrower must attest that it meets the EBITDA leverage condition that is applicable to the facility.

6. The borrower must attest that it will follow the compensation, stock repurchase and capital distribution restrictions that apply to direct loan programs under Section 4003(c)(3)(A)(ii) of the CARES Act.⁴
7. Each lender and borrower will be required to 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.⁵

g. Comparison with CARES Act Treasury lending program aimed at mid-sized businesses

Section 4003(c)(3)(D) of the CARES Act directs the Secretary of the Treasury to implement a program or facility to provide financing to banks and other lenders to make direct loans to eligible businesses including, to the extent practicable, nonprofit organizations, with between 500 and 10,000 employees. The annualized interest rate applicable to the Treasury program is not to exceed 2% per annum. No principal or interest will be payable for the first 6 months.

The CARES Act requires that the Treasury financing program for mid-sized businesses must contain many significant restrictions that are not set forth in the term sheets for the Federal Reserve's Main Street lending program. The restrictions required by the CARES Act for the Treasury program include detailed requirements as to workforce retention and payment of benefits, restrictions on outsourcing and offshoring jobs, a prohibition on abrogating existing collective bargaining agreements and a commitment to remain neutral in any union organizing effort. In certain cases, these restrictions would apply for a period of time after the loan is repaid.

These details of the relationship between the Treasury financing program for mid-sized businesses and the Federal Reserve's Main Street lending program are not yet clear. Section 4003(c)(3)(D)(ii) of the CARES Act permits the Federal Reserve in its "discretion" to establish a Main Street lending program or other similar program or facility that supports lending to small and mid-sized businesses "on such terms and conditions as the Board may set consistent with section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)), including any such program in which the Secretary makes a loan, loan guarantee, or other investment under [Section 4003(b)(4)]."⁶ Such language states that the Federal Reserve's discretion to set up such programs is not limited by the requirements of Section 4003(c)(3)(D).

2. Primary Market Corporate Credit Facility

The Federal Reserve published an updated term sheet⁷ for the PMCCF, which the Federal Reserve had originally announced on March 23, 2020.

⁴ These requirements are that the borrower must agree (a) while the loan is outstanding and for 12 months thereafter, (i) not to buy back any equity securities of the borrower or any parent company that are listed on any national securities exchange (other than to the extent required under a contractual obligation in effect prior to the enactment of the CARES Act) or (ii) pay any dividend or make other capital distribution, and (b) comply with certain limitations regarding employee compensation set forth by the CARES Act in Section 4004 (essentially, total compensation to officers or employees exceeding \$425,000 in 2019 is frozen and total compensation to officers or employees exceeding \$3 million is limited to the sum of (i) \$3 million and (ii) 50% of the excess over \$3 million received by the officer or employee in 2019).

⁵ This section provides that no covered entity may be eligible for any transaction described in §4003 of the CARES Act. A "covered entity" is an entity in which a covered individual (e.g. the President, Vice President, head of Executive department or a member of Congress, or any of their respective spouses, children, sons-in-law or daughters-in-law) holds a controlling interest. "Controlling interest" is defined to mean owning, controlling, or holding not less than 20%, by vote or value, of the outstanding amount of any class of equity interest in an entity.

⁶ Section 13(3) of the Federal Reserve Act is discussed below.

⁷ Primary Market Corporate Credit Facility term sheet.

Under the PMCCF, the Federal Reserve Bank of New York (FRBNY) will lend to an SPV⁸ on a recourse basis. The SPV will (i) purchase qualifying bonds as the sole investor in a bond issuance; and (ii) purchase portions of syndicated loans or bonds at issuance. The FRBNY's loans will be secured by all the assets of the SPV. The Treasury Department will make an initial \$75 billion equity investment in the SPV.⁹

The SPV will leverage the Treasury equity at 10 to 1 when acquiring corporate bonds or syndicated loans from issuers that are investment grade at the time of purchase. The SPV will leverage the Treasury equity at 7 to 1 when acquiring any other type of eligible asset.

The combined size of the PMCCF and the SMCCF will be up to \$750 billion.

a. Eligible assets.

- i. Eligible corporate bonds as sole investor. The SPV may purchase eligible corporate bonds as the sole investor in a bond issuance. Eligible corporate bonds must meet each of the following criteria at the time of purchase: (i) issued by an eligible issuer; and (ii) have a maturity of four years or less.
- ii. Eligible syndicated loans and bonds purchased at issuance. The SPV also may purchase portions of syndicated loans or bonds of eligible issuers at issuance. Eligible syndicated loans and bonds must meet each of the following criteria at the time of purchase: (i) issued by an eligible issuer; and (ii) have a maturity of four years or less. The SPV may purchase no more than 25% of any loan syndication or bond issuance.

b. Eligible issuers. In order to be an eligible issuer, an issuer must

- i. be a business that 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.
- ii. have been rated at least BBB-/Baa3 as of March 22, 2020 by a major nationally recognized statistical rating organization ("NRSRO") and, if rated by multiple major NRSROs, such issuer must have been rated at least BBB-/Baa3 by two or more NRSROs as of March 22, 2020.
 1. An issuer that was rated at least BBB-/Baa3 as of March 22, 2020, but is subsequently downgraded, must be rated at least BB-/Ba3 as of the date on which the SPV makes a purchase. If rated by multiple major NRSROs, such issuer must be rated at least BB-/Ba3 by two or more NRSROs at the time the SPV makes a purchase.

⁸ The PMCCF and the SMCCF will use the same SPV.

⁹ The initial allocation of the equity will be \$50 billion toward the PMCCF and \$25 billion toward the SMCCF.

2. In every case, issuer ratings are subject to review by the Federal Reserve.
 - iii. not be an insured depository institution or depository institution holding company.
 - iv. not receive direct financial assistance under the CARES Act (e.g., air carriers).
 - v. satisfy the conflicts of interest requirements of Section 4019 of the CARES Act.
- c. **Maximum loan amount.** The maximum amount to be extended to any issuer under the PMCCF will not exceed 130% of the maximum amount of outstanding bonds and loans of such issuer on any day between March 22, 2019 and March 22, 2020 (without giving effect to undrawn commitments). The maximum amount of instruments that SPV will purchase under the PMCCF and the SMCCF with respect to any eligible issuer is capped at 1.5% of the combined potential size of the PMCCF and the SMCCF.
- d. **Pricing.**
 - i. Eligible corporate bonds: Pricing will be issuer-specific, informed by market conditions, plus a 100 bps facility fee.
 - ii. Eligible syndicated loans and bonds: The SPV will receive the same pricing as other syndicate members, plus a 100 bps facility fee on the SPV's share of the syndication.
- e. **Refinancing; new debt issuances.** Issuers may approach the SPV to refinance outstanding debt, from the period of three months ahead of the maturity date of such outstanding debt. Issuers may additionally approach the SPV at any time to issue additional debt, provided their rating is reaffirmed at BB-/Ba3 or above with the additional debt by each major NRSRO with a rating of the issuer.

The SPV will cease purchasing eligible assets under the PMCCF no later than September 30, 2020, unless such date is extended by the Federal Reserve Board and the Treasury Department.

3. Secondary Market Corporate Credit Facility

The Federal Reserve published an updated term sheet¹⁰ for the SMCCF, which the Federal Reserve had originally announced on March 23, 2020.

Under the SMCCF, the FRBNY will lend, on a recourse basis, to an SPV¹¹ that will purchase in the secondary market corporate debt issued by eligible issuers. The SPV will purchase eligible corporate bonds as well as eligible corporate bond portfolios in the

¹⁰ Secondary Market Corporate Credit Facility term sheet.

¹¹ The PMCCF and the SMCCF will use the same SPV.

form of exchange-traded funds (“ETFs”). The FRBNY’s loans will be secured by all the assets of the SPV. The Treasury Department will make an initial \$75 billion equity investment in the SPV.¹²

The SPV will leverage the Treasury equity at 10 to 1 when acquiring corporate bonds that are investment grade at the time of purchase and when acquiring ETFs whose primary investment objective is exposure to US investment-grade corporate bonds. The SPV will leverage the Treasury equity at 7 to 1 when acquiring corporate bonds from issuers that are rated below investment grade at the time of purchase and in a range between 3 to 1 and 7 to 1, depending on risk, when acquiring any other type of eligible asset.

The combined size of the SMCCF and the PMCCF will be up to \$750 billion.

a. Eligible assets.

- i. Eligible individual corporate bonds. The SPV may purchase corporate bonds that, at the time of purchase: (A) were issued by an eligible issuer; (B) have a remaining maturity of five years or less; and (C) were sold to the SPV by an eligible seller.
- ii. Eligible ETFs. The SPV also may purchase US-listed ETFs whose investment objective is to provide broad exposure to the market for US corporate bonds. The preponderance of the SPV’s ETF holdings will be of ETFs whose primary investment objective is exposure to US investment-grade corporate bonds, and the remainder will be in ETFs whose primary investment objective is exposure to US high-yield corporate bonds.

b. Eligible issuers for individual corporate bonds. In order to be an eligible issuer, an issuer must

- i. be a business that 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.
- ii. have been rated at least BBB-/Baa3 as of March 22, 2020, by a major NRSRO and, if rated by multiple major NRSROs, such issuer must have been rated at least BBB-/Baa3 by two or more NRSROs as of March 22, 2020.
 1. An issuer that was rated at least BBB-/Baa3 as of March 22, 2020, but was subsequently downgraded, must be rated at least BB-/Ba3 as of the date on which the SPV makes a purchase. If rated by multiple major NRSROs, such issuer must be rated at least BB-/Ba3 by two or more NRSROs at the time the SPV makes a purchase.

¹² The initial allocation of the equity will be \$50 billion toward the PMCCF and \$25 billion toward the SMCCF.

- iii. not be an insured depository institution or depository institution holding company.
 - iv. not receive specific support pursuant to the CARES Act or any subsequent federal legislation.
 - v. satisfy the conflicts of interest requirements of Section 4019 of the CARES Act.
- c. Eligible Seller.** Each institution from which the SPV purchases securities must be a business that is created or organized in the United States or under the laws of the United States with significant US operations and a majority of US-based employees. The institution also must satisfy the conflicts of interest requirements of Section 4019 of the CARES Act.
- d. Limits per Issuer/ETF.** The maximum amount of instruments that the SPV will purchase under the SMCCF and the PMCCF combined will purchase with respect to any eligible issuer is capped at 1.5% of the combined potential size of the SMCCF and the PMCCF. The maximum amount of bonds of any eligible issuer that the SPV will purchase in the secondary market is also capped at 10% of the issuer's maximum bonds outstanding on any day between March 22, 2019 and March 22, 2020. The SPV will not purchase shares of a particular ETF if after such purchase the SPV would hold more than 20% of that ETF's outstanding shares.
- e. Pricing.** The SPV will purchase eligible corporate bonds at fair market value in the secondary market. The SPV will avoid purchasing shares of eligible ETFs when they trade at prices that materially exceed the estimated net asset value of the underlying portfolio.

The SPV will cease purchasing eligible corporate bonds and eligible ETFs under the SMCCF no later than September 30, 2020, unless such date is extended by the Federal Reserve Board and the Treasury Department.

4. Term Asset-Backed Securities Loan Facility

The Federal Reserve published an updated term sheet¹³ for the TALF, which the Federal Reserve had originally announced on March 23, 2020. The TALF is intended to facilitate the issuance by private entities of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration and certain other assets. The TALF is a revival of a loan facility put in place in response to the 2008 financial crisis.

Under the TALF, the FRBNY will lend to an SPV on a recourse basis. The Treasury Department will make an equity investment of \$10 billion in the SPV.

¹³ Term Asset-Backed Securities Loan Facility term sheet.

The SPV will make up to \$100 billion of loans available. The loans will have a term of three years, will be nonrecourse to the borrower (provided the TALF requirements are met) and will be fully secured by eligible ABS.

a. Eligible borrowers

All US companies¹⁴ that own eligible collateral and maintain an account relationship with a primary dealer¹⁵ are eligible to borrow under the TALF.

b. Eligible collateral

Eligible collateral includes US Dollar denominated cash (not synthetic) ABS that have a credit rating in the highest long-term or, in the case of non-mortgage backed ABS, the highest short-term investment-grade rating category from at least two eligible NRSROs and do not have a credit rating below the highest investment-grade rating category from an eligible NRSRO. All or substantially all of the credit exposures underlying eligible ABS must have been originated by a US company, and the issuer of eligible collateral must be a US company. In a change from the initial TALF term sheet, eligible collateral now includes the triple-A rated tranches of both outstanding commercial mortgage-backed securities (CMBS) and newly issued CLOs.

With the exception of CMBS, eligible ABS must be issued on or after March 23, 2020. CMBS issued on or after March 23, 2020 will not be eligible. For CMBS, the underlying credit exposures must be real property located in the United States or one of its territories in order to be eligible.

Eligible collateral must be ABS where the underlying credit exposures are one of the following:

1. Auto loans and leases;
2. Student loans;
3. Credit card receivables (both consumer and corporate);
4. Equipment loans and leases;
5. Floorplan loans;
6. Insurance premium finance loans;
7. Certain small business loans that are guaranteed by the Small Business Administration;
8. Leveraged loans; or
9. Commercial mortgages.¹⁶

Eligible collateral will not include ABS that bear interest payments that step up or step down to predetermined levels on specific dates. In addition, the underlying credit exposures of eligible collateral will not include exposures that are themselves cash ABS or synthetic ABS.

To be eligible collateral, all or substantially all of the underlying credit exposures must be newly issued, except for legacy CMBS.

¹⁴ A US company is defined as a business that is created or organized in the United States or under the laws of the United States and that has significant operations in and a majority of its employees based in the United States.

¹⁵ "Primary dealers" refer to banks and broker-dealers that are trading counterparties of the FRBNY in its implementation of monetary policy. See, e.g., FRBNY, Primary dealers.

¹⁶ The detailed terms and conditions will further define the eligible credit exposures for purposes of the TALF. The Fed stated that it expects the definitions to be broadly consistent with the defined terms used for purposes of the 2008 TALF.

The Federal Reserve will consider the feasibility of adding other asset classes to the TALF or expanding the scope of existing asset classes in the future.

c. Conflicts of interest

Eligible borrowers and issuers of eligible collateral will be subject to the conflicts of interest requirements of Section 4019 of the CARES Act.

d. Collateral and collateral valuation

Under the TALF, single-asset single-borrower (SASB), CMBS and commercial real estate collateralized loan obligations (CRE CLOs) will not be eligible collateral. Only static CLOs (meaning only those CLOs that do not permit substitution of the underlying loans held by such CLO) will be eligible collateral.

The haircut for collateral valuation is consistent with the haircut used for the TALF established in 2008 and is attached to the [TALF Term Sheet as the Haircut Schedule](#).

e. Pricing and Fees

For CLOs, the interest rate will be 150 basis points over 30-day average SOFR. For SBA Pool Certificates (7(a) loans), the interest rate will be the top of the federal funds target range plus 75 basis points. For SBA Development Company Participation Certificates (504 loans), the interest rate will be 75 basis points over the three-year fed funds overnight index swap (OIS) rate.

For all other eligible ABS with underlying credit exposures that do not have a government guarantee, the interest rate will be 125 basis points over the two-year OIS rate for securities with a weighted average life less than two years, or 125 basis points over the three-year OIS rate for securities with a weighted average life of two years or greater. The pricing for other eligible ABS will be set forth in the detailed term sheet.

The SPV will assess an administrative fee equal to 10 basis points of the loan amount on the settlement date for collateral.

f. Prepayment

Loans made under the TALF will be prepayable in whole or in part at the option of the borrower, but substitution of collateral during the term of the loan generally will not be allowed.

g. Program termination

No new credit extensions will be made under the TALF after September 30, 2020, unless the TALF is extended by the Federal Reserve Board and the Treasury Department.

The Federal Reserve will provide more detailed terms and conditions at a later date, primarily based off the terms and conditions used for the 2008 TALF. In addition, the Federal Reserve reserves the right to review and make adjustments to the terms and conditions of the TALF Term Sheet - including size of the program, pricing, loan maturity, collateral haircuts, and asset and borrower eligibility requirements - consistent with the policy objectives of the TALF.

5. Municipal Liquidity Facility

The Federal Reserve released a term sheet for the Municipal Liquidity Facility (MLF).¹⁷ The MLF is intended to support lending to US states and the District of Columbia (States), US cities with a population exceeding 1 million residents (Cities) and US counties with a population exceeding 2 million residents (Counties).

Under the MLF, a Federal Reserve Bank will lend to an SPV on a recourse basis. The SPV will purchase up to \$500 billion in eligible notes directly from eligible issuers. The Federal Reserve Bank will be secured by all the assets of the SPV. The Treasury Department, using funds appropriated to the Exchange Stabilization Fund under Section 4027 of the CARES Act, will make a \$35 billion equity investment in the SPV.

In addition to the MLF, the Federal Reserve stated that it would continue to closely monitor conditions in the primary and secondary markets for municipal securities and would evaluate whether additional measures are needed to support the flow of credit and liquidity to state and local governments.

a. Eligible issuers

The MLF is intended for the purchase of notes from “eligible issuers”, which are defined as a State, City or County or a instrumentality that issues on behalf of a State, City or County for the purposes of managing cash flows. Only one issuer per State, City or County will be eligible.

b. Eligible notes

“Eligible notes” refer to tax anticipation notes, tax and revenue anticipation notes, bond anticipation notes and other similar short-term notes issued by eligible issuers, provided that such notes mature no later than 24 months from the date of issuance. The eligibility of the notes is subject to review by the Federal Reserve.¹⁸

The maturity of the notes must be no later than 24 months from the date of issuance. The notes are callable by the eligible issuer at any time at par.

c. Limit per State, City and County

The SPV may purchase notes up to an aggregate amount of 20% of the general revenue from own sources and utility revenue of each applicable State, City or County government for fiscal year 2017. States may request that the SPV purchase eligible notes in excess of the applicable limit in order to assist political subdivisions and instrumentalities that are not eligible for the MLF.

d. Pricing and fees

The pricing of the notes will be based on the rating of the issuer at the time of purchase and the notes will be subject to an origination fee equal to 10 basis points of the principal amount of the eligible issuer’s notes purchased by the SPV. Origination fees may be paid from the proceeds of the issuance.

e. Eligible use of proceeds

The proceeds of notes purchased by the SPV may be used by the issuer to help manage:

¹⁷ Municipal Liquidity Facility term sheet.

¹⁸ Legal opinions and certain disclosures will be required as determined by the Fed prior to each purchase.

1. the cash flow impact of income tax deferrals resulting from an extension of an income tax filing deadline;
2. potential reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-10 pandemic;
3. requirements for the payment of principal and interest on obligations of the relevant State, City or County.

In addition, proceeds of notes may be used to purchase similar notes issued by, or otherwise to assist, political subdivisions and instrumentalities of the relevant State, City or County for any of the foregoing purposes.

f. Termination

The SPV will cease purchasing eligible notes on September 30, 2020 (subject to any extensions by the Federal Reserve or the Treasury Department). The Federal Reserve will continue to fund the SPV after September 30, 2020 until all of the underlying assets of the SPV mature or are sold.

6. Section 13(3) of the Federal Reserve Act

The Main Street lending program, the PMCCF, the SMCCF, the TALF and the MLF are all being established by the Federal Reserve under Section 13(3) of the Federal Reserve Act. Section 13(3) sets forth several requirements for financing programs undertaken thereunder. Among other things, the borrower cannot be insolvent, the program must have “broad-based eligibility,”¹⁹ the Federal Reserve must have evidence that each “participant in any program or facility with broad-based eligibility is unable to secure adequate credit accommodations from other banking institutions,” and that the Federal Reserve must ensure that “the security for emergency loans is sufficient to protect taxpayers from losses.”

Section 13(3)(C) of the Federal Reserve Act provides that the Federal Reserve is to provide certain information to Congress relating to credit extended under Section 13(3) on a periodic basis. This information includes borrower identities and the material terms of the assistance provided to each borrower.²⁰

Further information

If you would like to review our other global resources developed by Baker McKenzie on COVID-19, please visit our [Beyond COVID-19: Resilience, Recovery & Renewal](#) resource hub.

¹⁹ Section 13(3)(B)(iii) of the Federal Reserve Act specifies that “a program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding, shall not be considered a program or facility with broad-based eligibility.”

²⁰ Section 13(3)(D) provides that certain information to be provided to Congress, including borrower identity, may be kept confidential upon request upon the written request of the Chairman of the Board of Governors of the Federal Reserve, in which case such information shall be made available only to the chairpersons or ranking members of the relevant Congressional committees.

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