NATO WEBINAR:

MAIN STREET LENDING FACILITIES

UPDATED 7 JULY 2020

This webinar and accompanying slides are not legal advice. Exhibitors are encouraged to consult with counsel about specific elements of the Main Street Lending Facilities.

TODAY'S PROGRAM

- Overview of the MSLFs
- New Loans
- Priority Loans
- Expanded Loans
- FAQs
- Open Questions

THREE LOAN FACILITIES: NEW, PRIORITY, AND EXPANDED

- Loans are available through September 30, 2020
- Exhibitors apply through lenders; lenders sell the majority of the loan to the Special Purpose Vehicle and retain a percentage stake
- Loans are not forgivable
- Must choose ONE facility to apply through – but are then eligible for multiple loans in that facility. The total amount of the loans cannot exceed the loan caps for that facility ($25 million for new and priority and $200 million for existing)
- Cannot borrow under MSLF if company OR ITS AFFILIATES have borrowed through Primary Market Corporate Credit Facility
- Lenders can rely on certifications and covenants made by borrower and aren't required to actively monitor compliance, but any noncompliance should be reported to the Fed

BASIC TERMS (SAME FOR ALL THREE FACILITIES)

- Interest rate: LIBOR + 300 basis points
- Origination and transaction fees up to 100 BP for new and priority; up to 75 BP for expanded loans
- No other fees permitted to be charged by lenders
- Eligibility requirements (more on that soon)
- Loans can be secured or unsecured
- Payments on principal deferred for 24 months; interest deferred for 12 months; principal repaid in years 3-5 at15%, 15%, 70% (changed on June 8)

ELIGIBILITY REQUIREMENTS (SAME FOR ALL THREE FACILITIES)

- Formed prior to March 13, 2020
- Must have either fewer than 15,000 employees by headcount OR less than $5 billion in 2019 revenues (more on this later)
- PPP borrowers eligible
- Nonprofits and private equity funds not currently eligible
- Significant operations in the US, to include subsidiaries but not parent companies or sister affiliates, defined as 50% of assets, net income, consolidated operating expenses, and net operating revenues generated in US
- Subsidiaries of foreign companies eligible as long as created or organized in US or under US law with majority of employees and significant employees in US
- Must have been in sound financial condition before the pandemic

LIMITATIONS ON BORROWERS (SAME FOR ALL THREE FACILITIES)

- Until a year after the loan is outstanding, the borrower:
    - Cannot purchase securities, except to meet contractual obligations in effect before March 27, 2020;
    - Cannot pay dividends or make capital distributions; S-corp and ESOP dividends permitted;
    - Cannot increase the compensation of any employee who was making $425,000 or more during 2019 or offer them significant severance or termination benefits (flowchart on compensation based on company size available here); and
    - Must cap compensation of employees and officers whose compensation was $3 million or more in 2019 at $3 million plus 50% of amount over $3 million (earned $5 million in 2019 –> can only earn $4 million)
- Cannot cancel or reduce committed lines of credit with MSLF lender or other lenders

KEY TERMS – CHANGED ON JUNE 8

	NLF	PLF	ELF
Amortization	Principal deferred for 2 years; years 3-5: 15%, 15%, 70%	Principal deferred for 2 years; years 3-5: 15%, 15%, 70%	Principal deferred for 2 years; years 3-5: 15%, 15%, 70%
Loan Minimum	$250,000	$250,000	$10M
Loan Maximum	Lesser of $35M or an amount that when added to outstanding and undrawn debt does not exceed 4x 2019 adjusted EBITDA	Lesser of $50M or an amount that when added to outstanding and undrawn debt does not exceed 6x 2019 adjusted EBITDA	Lesser of $300M or an amount that when added to outstanding and undrawn debt does not exceed 6x 2019 adjusted EBITDA
Lender Risk Retention	5%	5%	5%

MAIN STREET NEW LOAN FACILITY

NEW LOANS: BASIC TERMS – CHANGED ON JUNE 8

- $250,000 minimum; amount calculated at the lesser of $35M, or an amount that, when added to outstanding and undrawn available debt, does not exceed 4.0x adjusted EBITDA
- 5% risk retention for lender; principal deferred for two years and then years 3-5 are 15%, 15%, 70%
- Loans cannot be "contractually subordinated in terms of priority"
- Lenders can provide loans to new customers as long as lender requires borrower to "use an adjusted EBITDA methodology that is based on a methodology that the lender has previously required to be used to adjust EBITDA when extending credit to similarly situated borrowers on or before April 24, 2020."
- Access term sheet here: https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200608a1.pdf

MAIN STREET PRIORITY LOAN FACILITY

PRIORITY LOANS: BASIC TERMS – CHANGED ON JUNE 8

- $250,000 minimum; amount calculated at the lesser of $50M, or an amount that, when added to outstanding and undrawn available debt, does not exceed 6.0x adjusted EBITDA
- 5% risk retention for lender; principal deferred for two years and then years 3-5 are 15%, 15%, 70%
- Loans can be used to refinance existing loans
- Lenders can provide loans to new customers as long as lender requires borrow to "use an adjusted EBITDA methodology that is based on a methodology that the lender has previously required to be used to adjust EBITDA when extending credit to similarly situated borrowers on or before April 24, 2020."
- Access term sheet here: https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200608a2.pdf

PRIORITY LOANS: RELATIONSHIP TO OTHER DEBT

- Loan must be senior to or *pari passu* with, in terms of priority and security, the borrower's other **loans or debt instruments**, other than **mortgage debt**
  - **Loan or debt instrument:** debt for borrowed money and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, and all guarantees of the foregoing
  - **Mortgage debt:** debt secured by real property at the time of the MSPLF Loan's origination.

PRIORITY LOANS: SECURED LOANS

- At time of loan origination lenders and borrowers must apply following guidance:
  - Secured Loan: MSPLF must be secured **if borrower has other secured debt** (other than mortgage).
    - If MSPLF loan is secured by the same collateral as an existing debt, then 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.
    - Collateral Coverage Ratio: If secured, then the **Collateral Coverage Ratio** for the MSPLF Loan at the time of its origination must be either (i) at least 200 percent 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).
      - "**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.

PRIORITY LOANS: UNSECURED LOANS

- At time of loan origination lenders and borrowers must apply following guidance:
  - Unsecured loan: The priority loan can be unsecured **only if the borrower does not have, as of the date of origination, any secured loans or debt instruments** (other than mortgage debt).
  - Unsecured priority loans **must not be contractually subordinated** in terms of priority to any of the borrower's other unsecured loans or debt instruments.

PRIORITY LOANS: "EXISTING OUTSTANDING AND UNDRAWN DEBT"

- If a borrower is using a PLF Loan to refinance debt it owes to a different lender, should that debt **does not need** to be counted in its calculation of "existing outstanding and undrawn available debt."
    - To the extent that such outstanding debt is only being **partially** refinanced by the PLF, **only the portion that is being refinanced may be excluded** from the "existing outstanding and undrawn available debt" calculation. The borrower must ensure that all such excluded debt is fully refinanced by the Main Street loan expeditiously.

MAIN STREET EXPANDED LOAN FACILITY

EXPANDED LOANS: BASIC TERMS

- $10 million minimum; amount calculated at the lesser of $300M, or an amount that, when added to outstanding and undrawn available debt, does not exceed 6.0x adjusted EBITDA
- 5% risk retention for lender; principal deferred for two years and then years 3-5 are 15%, 15%, 70%
- To be eligible for “upsizing,” the existing term loan or revolving credit facility must have been originated on or before April 24, 2020, and must have a remaining maturity of at least 18 months.
  - The lender may extend the maturity of an existing loan or revolving credit facility at the time of upsizing in order for the underlying instrument to satisfy the 18-month remaining maturity requirement.
- Access term sheet here: https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200608a3.pdf

EXPANDED LOANS: REQUIREMENTS

- The loan underlying an MSELF Upsized Tranche **can be a secured or unsecured term loan or revolving credit facility** that:
  - was made by an eligible lender(s) to a borrower;
  - is currently held, at least in part, by an eligible lender;
  - was originated on or before April 24, 2020;
  - has 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 rating equivalent to a "pass" in the FFIEC's supervisory rating system by the eligible lender, as of December 31, 2019.
- Any collateral securing the expanded loan (at the time of upsizing or on any subsequent date) must secure the MSELF Upsized Tranche on a *pari passu* basis.

EXPANDED LOANS: ELIGIBLE LENDERS

- Lender **does not need to be the original lender** *but* must have purchased the interest in the underlying loan as of December 31, 2019, and the lender must have assigned an internal risk rating to the underlying loan equivalent to a "pass" in the FFIEC's supervisory rating system as of that date.
- If loan was originated as part of a multi-lender facility, the lender need only be one of the lenders that holds an interest in the underlying loan at the date of upsizing. The other lenders do not need to meet lender eligibility requirements.
- Lender can amend the underlying credit agreement to contain "opening" or "accordion" clause to meet eligibility.

FREQUENTLY ASKED QUESTIONS

ELIGIBILITY REQUIREMENTS

EMPLOYEE COUNT

- To determine how many employees a Business has, it should follow the framework set out in the SBA's regulation at 13 CFR 121.106. As set out in 13 CFR 121.106, **the Business should count as employees all full-time, part-time, seasonal, or otherwise employed persons, excluding volunteers and independent contractors. Businesses should count their own employees and those employed by their affiliates.**
- In order to determine the applicable number of employees, Businesses should use the **average of the total number of persons employed by the Eligible Borrower and its affiliates for each pay period over the 12 months prior to the origination** or upsizing of the Main Street loan.

REVENUE CALCULATION

- To determine its 2019 annual revenues, **businesses must aggregate their revenues with those of their affiliates**. Businesses may use either of the following methods to calculate 2019 annual revenues for purposes of determining eligibility:
  - (1) A business may use its (and its affiliates') annual "revenue" per its 2019 Generally Accepted Accounting Principles-based (GAAP) audited financial statements; or
  - (2) A business may use its (and its affiliates') annual receipts for the fiscal year 2019, as reported to the Internal Revenue Service. For purposes of the Program, the term "receipts" has the same meaning used by the SBA in 13 CFR 121.104(a).
  - 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.

IMPACT OF AFFILIATES

- An **affiliated group of companies can participate in only one Main Street facility**, and cannot participate in both a Main Street facility and the PMCCF. Therefore, borrowers that are otherwise eligible are subject to the following restrictions:
  - If **any affiliate of the business has participated in the PMCCF**, the business may not borrow under any Main Street facility.
  - If an affiliate has previously participated, or has a pending application to participate, in a Main Street facility, **the business can only participate in the same Main Street facility accessed by its affiliate**.
  - A borrower and its affiliates' **consolidated** participation in a single MSLF **cannot exceed the maximum loan size of that facility**. As result, an Eligible Borrower's maximum loan size would be limited by its own leverage level, the leverage level of the affiliated group on a consolidated basis, and the size of any loan extended to other affiliates in the group.

PRIVATE EQUITY ELIGIBILITY

- Private equity companies are **ineligible** to borrow through the Main Street facilities.
- However, a a portfolio company of a private equity fund is eligible *provided* it meets the other eligibility requirements when ALL affiliated companies are aggregated.

CALCULATING LOAN AMOUNTS

EBITDA CALCULATION

The methodology a lender requires a borrower to use when calculating its adjusted 2019 EBITDA must be a methodology the lender **previously required to be used** for adjusting EBITDA when extending credit to the borrower or to **similarly situated borrowers** on or before April 24, 2020 (for new and priority loans) OR when originating or amending the underlying loan on or before April 24, 2020 (for expanded loans).

EBITDA CALCULATION CONTINUED

- If a lender has used multiple EBITDA 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. The lender should document the rationale for its selection of an adjusted EBITDA methodology.
- **Similarly situated borrowers are borrowers in similar industries with comparable risk and size characteristics**. Lenders should document their process for identifying similarly situated borrowers when they originate an MSNLF Loan or an MSPLF Loan.

"EXISTING AND UNDRAWN DEBT"

- "**Existing outstanding and undrawn available debt**" includes all amounts borrowed under any loan facility, including unsecured or secured loans from any bank, non-bank financial institution, or private lender, as well as any publicly issued bonds or private placement facilities. If a borrower is using a **PLF Loan** to refinance debt it owes to a different lender, should that debt **does not need** to be counted in its calculation of "existing outstanding and undrawn available debt."
- It also includes **all unused commitments under any loan facility**, excluding:
    - (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 of inventory),
    - (3) any undrawn commitment that cannot be drawn without additional collateral, and
    - (4) any undrawn commitment that is no longer available due to change in circumstance.
- Existing outstanding and undrawn available debt should be calculated as of the date of the loan application.

RELATIONSHIP TO OTHER DEBT

DEBT PAYMENT LIMITATIONS

- The restrictions on repayment of debts do not prohibit a borrower from undertaking any of the following actions during the term of the Main Street loan:
    - **Repaying a line of credit** (including a credit card) in accordance with the borrower's normal course of business usage for such line of credit;
    - **Taking on and paying additional debt obligations required in the normal course of business and on standard terms**, including inventory and equipment financing, provided that such debt is secured only by the newly acquired property (e.g., inventory or equipment), and, apart from such security, is of equal or lower priority than the MSNLF Loan, the MSPLF Loan, or the MSELF Upsized Tranche; or
    - **Refinancing maturing debt**.
- A lender would also not be prevented from accepting repayments on a line of credit from a borrower in accordance with the borrower's normal course of business usage for such line of credit.

DEBT PAYMENT LIMITATIONS CONTINUED

- The restrictions also generally prohibit a borrower from repaying the principal balance of, or paying any interest on, any debt until the Main Street loan is repaid in full, unless the principal or interest payment is "**mandatory and due**." For debt that predates the Main Street loan, principal and interest payments are considered "mandatory and due":
  - on the future date upon which they were scheduled to be paid as of April 24, 2020, OR
  - upon the occurrence of an event that automatically triggers mandatory prepayments under a contract for indebtedness that the borrower executed prior to April 24, 2020, 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.

DEBT PAYMENT LIMITATIONS CONTINUED

- Borrowers **may** continue to pay, and lenders may request that borrowers pay, interest or principal payments on **outstanding debt** on (or after) the payment due date, provided that the payment due date was scheduled prior to April 24, 2020.
- Borrowers may not pay, and lenders **may not** request that borrowers pay, interest or principal payments on such debt **ahead of schedule** during the life of the loan, unless required by a mandatory prepayment clause.
- For **future debt** incurred by the borrower in compliance with the terms and conditions of the loan, principal and interest payments are "mandatory and due" on their scheduled dates or upon the occurrence of an event that automatically triggers mandatory prepayments.

FINDING A LENDER + APPLICATION PROCESS

APPLICATION PROCESS

- Interested exhibitors should speak to lenders (banks that are participating include Chase)
- Lenders will issue loan documents based on Fed requirements; financial statements required
- Lender and borrower information (including names) will be disclosed
- Covenants and other documentation can be reviewed here: https://www.bostonfed.org/supervision-and-regulation/supervision/special-facilities/main-street-lending-program/information-for-lenders/docs.aspx

APPLICATION PROCESS

- Borrowers must submit the following documents with their application

  1. 2019 Financial Information:

     - The borrower must submit its 2019 financial records to its lender including the borrower's 2019 revenues, 2019 adjusted EBITDA, and the borrower's total assets, current assets, and current liabilities as of December 31, 2019.

  2. Most Recent Quarter at Time of Origination:

     - The borrower must also submit financial data consisting of all of the data fields required in Table II of Appendix C to the FAQs (which vary by Main Street facility) for the most recent quarter available at the time of origination of the Main Street loan.

  - All financial data requirements for borrowers and lenders available in Appendix C here.

OPEN QUESTIONS

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NATO