

## Alert

### Businesses with 10,000 or Fewer Employees: Federal Reserve Publishes Details on CARES Act Loans

April 9, 2020

On April 9, 2020, the Board of Governors of the Federal Reserve System (“Federal Reserve”) took additional action to facilitate lending to small- and medium-sized businesses. The Federal Reserve will provide up to \$600 billion under both the Main Street New Loan Facility and the Main Street Expanded Loan Facility (collectively, the “Main Street Lending Program”) using funds appropriated to it under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

The CARES Act was signed into law on March 27, 2020 with the goal of providing \$2 trillion in aid to financially support individuals and businesses that have been affected by the coronavirus pandemic. Under Title IV of the CARES Act, referred to as the “Coronavirus Economic Stabilization Act of 2020,” the Secretary of the Treasury (“Treasury Secretary”) was authorized to make loans, guarantees and “other investments” to support certain eligible businesses, as well as state and local governments, of up to \$500 billion in the aggregate. Today, the Federal Reserve took action within its authority under section 13(3) of the Federal Reserve Act, with approval of the Secretary, to significantly expand the amount of financial aid available under the Main Street Lending Program.

This *Alert* provides a brief overview of the terms of the Main Street Lending Program. For more information on the relief provided under the CARES Act, please see our March 30, 2020 [Alert](#) for mid-sized businesses and our March 30, 2020 [Alert](#) for small businesses.

#### Eligible Borrowers

The Main Street Lending Program will provide enhanced support for small- and mid-sized businesses that (i) were in good financial standing before the crisis caused by the COVID-19 pandemic; (ii) are U.S. entities and have significant operations in and a majority of their employees based in the United States; and (iii) (a) have up to 10,000 employees or (b) have up to \$2.5 billion in revenue.<sup>1</sup> Eligible businesses will also be required to attest to certain statements concerning eligibility and the use of loan proceeds, including that:

- The business requires financing due to the exigent circumstances presented by the COVID-19 pandemic, and that it will make reasonable efforts to maintain its payroll and retain its employees during the term of the loan; and

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<sup>1</sup> While the Federal Reserve’s press release indicated that businesses “with revenues of *less than* \$2.5 billion,” would be eligible, the terms sheets published state the threshold as “*up to* \$2.5 billion.”

- The business will follow compensation, stock repurchase and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act (for more information on these restrictions, please see our prior [Alert](#)).

Eligible businesses must choose only one of the Main Street Loan Program facilities in which to participate. Moreover, those that participate may not also participate in the Primary Market Corporate Credit Facility, but *may* also participate in the Paycheck Protection Program.

### Loan Overview

To provide this enhanced support, the Federal Reserve will issue four-year loans to these eligible businesses, with principal and interest payments deferred for one year after the loan is disbursed. Loans will be made for a minimum of \$1 million and may not exceed either:

- For the Main Street New Loan Facility, the lesser of (a) \$25 million; or (b) an amount that, when added to the eligible business' existing outstanding and committed but undrawn debt, does not exceed four times the eligible business' 2019 earnings before interest, taxes, depreciation and amortization ("EBITDA"); or
- For the Main Street Expanded Loan Facility, the lesser of (a) \$150 million; (b) 30% of the eligible business' existing outstanding and committed but undrawn bank debt; or (c) an amount that, when added to the eligible business' existing outstanding and committed but undrawn debt, does not exceed six times the eligible business' 2019 EBITDA. Under either program, there will be no prepayment penalty.

Such loans will be facilitated by eligible lenders,<sup>2</sup> which may either originate new loans or expand existing loans to eligible businesses. The Federal Reserve, through a special purpose vehicle, will purchase 95% of Main Street Lending Program loans from eligible lenders, up to \$600 billion, with eligible lenders required to retain a 5% share of the loans it originates.

For more information, please see the Main Street New Loan Facility term sheet [here](#) or the Main Street Expanded Loan Facility [here](#).

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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<sup>2</sup> Eligible lenders are U.S. insured depository institutions, U.S. bank holding companies and U.S. savings and loan holding companies. Eligible lenders will be required to make certain certifications, including that it (i) will not cancel or reduce any existing lines of credit outstanding to the borrower, and (ii) will not use the proceeds of the loan or upsized tranche of the loan, as applicable, to repay or refinance pre-existing loans or lines of credit made by the lender to the borrower.