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# New Detail Available Regarding Main Street Loan Facilities

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This *Legal Update* follows our earlier update entitled CARES Act Programs for Businesses Too Large for the Paycheck Protection Program. The Federal Reserve recently released term sheets that detail the Main Street Loan Facilities for businesses with too many employees to qualify for the Paycheck Protection Program. This *Legal Update* discusses those released details.

Many businesses have found that they do not qualify for financial assistance under the Paycheck Protection Program. However, a business in this circumstance still may qualify for a different assistance program under the Main Street Loan Facilities.

**Eligibility**
Any business with up to 10,000 employees or up to $2.5 billion in revenue in 2019 which 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 is eligible for a Main Street Expanded Loan Facility or Main Street New Loan Facility. The term sheets released by the Federal Reserve did not explicitly define the term “business,” so it is unclear at this time whether non-profit organizations would qualify for these loans.

As a requirement of receiving the loan, the borrower must certify:

- That it will refrain from using the proceeds of the loan to repay other loan balances.
- That it will not repay any other debt of equal or lower priority; however, the borrower may still pay mandatory principal payments.
- That it will not cancel or reduce any of its outstanding lines of credit with any lender.
- That it requires financing due to the COVID-19 pandemic and will make reasonable efforts to maintain its payroll and retain its employees during the term of the loan.
- That its meets the EBITDA leverage condition of six times 2019 EBITDA for Main Street Expanded Loan Facilities or four times 2019 EBITDA for Main Street New Loan Facilities.
- That it will comply with the following restrictions of Section 4003(c)(3)(A)(ii) of the CARES Act:
    - For 12 months after the loan is no longer outstanding, the borrower will not buyback any equity security in the borrower or a parent company listed on a national securities exchange;
    - For 12 months after the loan is no longer outstanding, the borrower will not pay any dividends or make any capital distributions with respect to common stock of the borrower; and
    - The borrower will comply with the following compensation limits as applicable:
        - An officer or employee whose total compensation exceeded $425,000 in 2019 may not receive more compensation than that officer or employee did in 2019, and may not receive any severance pay or termination benefits which exceed twice the maximum total compensation received in 2019.
        - An officer or employee whose total compensation exceeded $3,000,000 in 2019 may not receive more than the sum of $3,000,000 plus 50% of the excess over $3,000,000 of the total compensation received by the officer or employee in 2019.
- That it is eligible to participate in the facility and is not subject to the conflict of interest which is prohibited by Section 4019(b) of the CARES Act.

**Loan Features**
The Main Street Loan Facilities fall into two categories: (i) loans that originated on or after April 8, 2020, referred to as “Main Street New Loan Facilities,” and (ii) loans that originated before April 8, 2020, referred to as “Main Street Expanded Loan Facilities.” All Main Street Loan Facilities have the following features:

- 4 year maturity
- Amortization of principal and interest on the facility is deferred for one year
- An adjustable interest rate of SOFR (the Secured Overnight Financing Rate) plus 250-400 basis points
- Minimum loan size of $1 million
- Maximum loan size that is the lesser of:
    - For Main Street Expanded Loan Facilities, (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
    - For Main Street New Loan Facilities, (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
- Prepayment is allowed without penalty

**Facility Fees**
A borrower seeking a Main Street Loan Facility will be required to pay a fee for the facility. A borrower of a Main Street Expanded Loan Facility is required to pay a fee equal to 100 basis points of the principal amount of the upsized tranche of the facility at the time of upsizing to the lender. A borrower of a Main Street New Loan Facility is required to pay a fee equal to 100 basis points of the principal amount of the loan. In addition, the borrower may be required to pay an additional facility fee equal to 100 basis points of the principal amount of the loan participation purchased by the special purpose vehicle established for the facility.

**Application**
Unlike the SBA Paycheck Protection Program, no application is available at this time. Loans under these programs will be made through eligible lenders and a borrower will need to apply directly with its bank.

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