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Main Street Lending Program

PRESENTED BY DMITRIY BERKOVICH AND MARK LAPIKAS

Welcome

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+ All attendees are placed on listen-only mode
+ Submit a confidential question at any time
+ Questions will be reviewed by our team and followed up after the webinar
+ Contact information will be provided
+ Today's webinar recording will be sent via email within 2 hours

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MSLP Team

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MSLP - Overview

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- Three types of program
- Good candidates
- How to apply
- Qualifications
- Restrictions

MSLP Overview

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- Administered by FEDERAL RESERVE BOARD
  – And FRB of Boston
- Starting date in late May

- Program will end on September 30, 2020 unless extended
  - The FED will provide periodic reports about remaining capacity
- $600 billion will be available

MSLP Overview

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- From federal Reserve Bank of Boston President Eric Rosengren May 19th speech

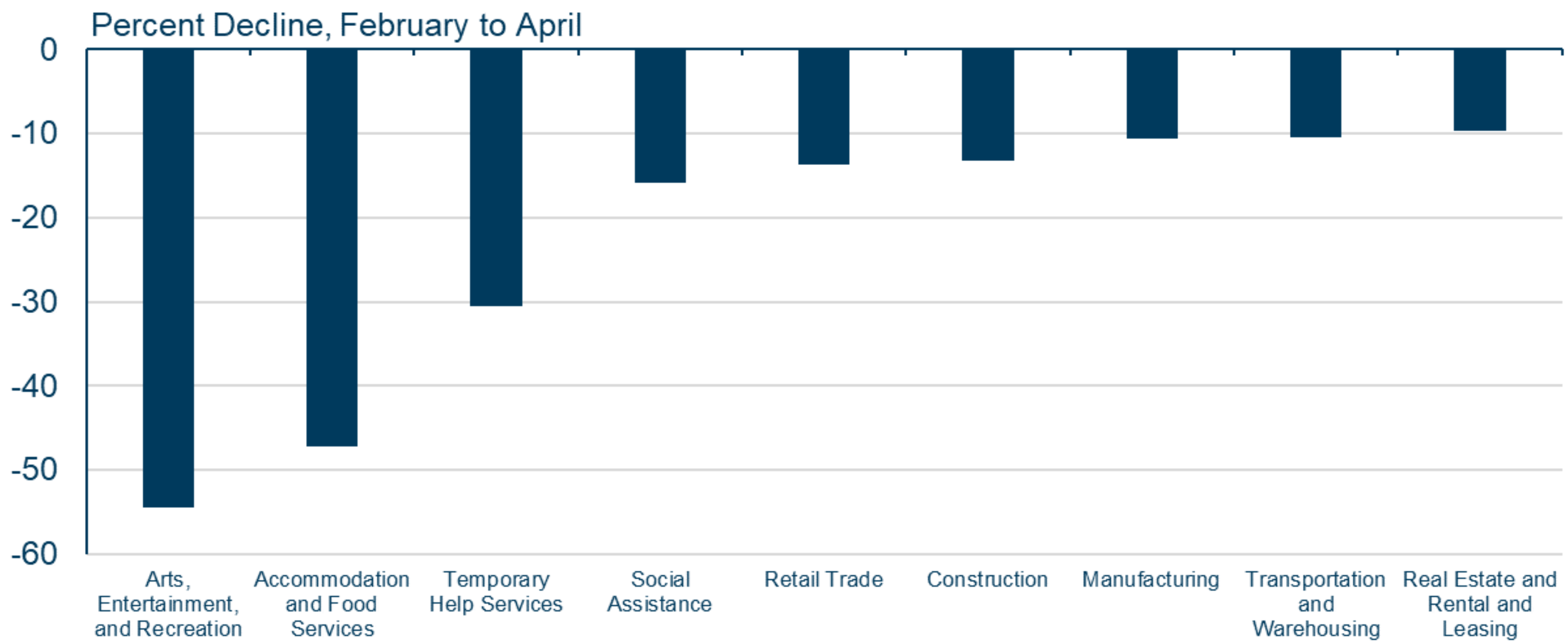
The Fed has taken strong actions to mitigate the economic consequences of the pandemic. We want to limit the potential for medium- and longer-term “scarring” from the crisis. This means, among other things, working to minimize the length of unemployment spells and ensuring solvent firms have necessary liquidity.

It is important to note that the powers granted to the Federal Reserve for emergency actions involve “lending, not spending.” All of the Fed’s programs involve loans, to be repaid – they are not grants by the Fed.

MSLP Overview

- Payroll Employment Declines in Selected Industries

February 2020 -April 2020



MSLP Overview

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- Payroll Employment Declines in Selected Industries

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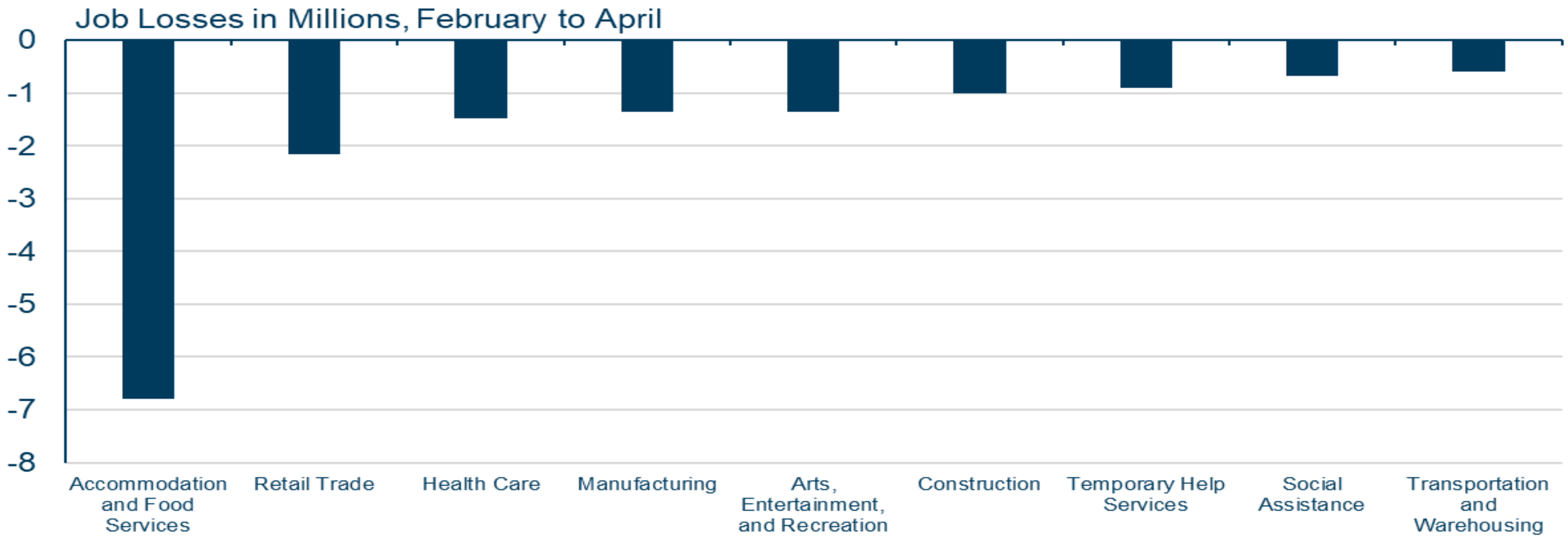

Eligible Borrower

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- (1) **The Business must have been established prior to March 13, 2020.**
- (2) **The Business must not be an Ineligible Business.**
- (3) **The Business must meet at least one of the following two conditions: (a) the Business has 15,000 employees or fewer, or (b) the Business has 2019 annual revenues of $5 billion or less**
- (4) **The Business must be a U.S. Business.** Eligible Borrowers must be Businesses that were created or organized in the United States or under the laws of the United States with significant operations in and a majority of their employees based in the United States.
- (5) **The Business may only participate in one of the Main Street facilities (MSNLF, MSPLF, or MSELF) and must not also participate in the PMCCF.**

Eligible Business

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- Businesses must be legally formed entities that are organized for profit as a partnership; a limited liability company; a corporation; an association; a trust; a cooperative; a joint venture with no more than 49 percent participation by foreign business entities; or a tribal business concern. There is a separate program considered for nonprofit organizations.
- 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

Ineligible Business

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- (a) Non-profit businesses (for-profit subsidiaries are eligible);
- (b) Financial businesses primarily engaged in the business of lending, such as banks, finance companies, and factors (pawn shops, although engaged in lending, may qualify in some circumstances);
- (c) Passive businesses owned by developers and landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds (except Eligible Passive Companies under §120.111);
- (d) Life insurance companies;
- (e) Businesses located in a foreign country (businesses in the U.S. owned by aliens may qualify);
- (f) Pyramid sale distribution plans;
- (g) Businesses deriving more than one-third of gross annual revenue from legal gambling activities;
- (h) Businesses engaged in any illegal activity;
- (i) Private clubs and businesses which limit the number of memberships for reasons other than capacity;
- (j) Government-owned entities (except for businesses owned or controlled by a Native American tribe);
- (k) Businesses principally engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs, whether in a religious or secular setting;
- (m) Loan packagers earning more than one third of their gross annual revenue from packaging SBA loans;
- (n) Businesses with an Associate who is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude;
- (o) Businesses in which the Lender or CDC, or any of its Associates owns an equity interest;
- (p) Businesses which:
- (1) Present live performances of a prurient sexual nature; or
- (2) Derive directly or indirectly more than *de minimis* gross revenue through the sale of products or services, or the presentation of any depictions or displays, of a prurient sexual nature;
- (q) Unless waived by SBA for good cause, businesses that have previously defaulted on a Federal loan or Federally assisted financing, resulting in the Federal government or any of its agencies or Departments sustaining a loss in any of its programs, and businesses owned or controlled by an applicant or any of its Associates which previously owned, operated, or controlled a business which defaulted on a Federal loan (or guaranteed a loan which was defaulted) and caused the Federal government or any of its agencies or Departments to sustain a loss in any of its programs. For purposes of this section, a compromise agreement shall also be considered a loss;
- (r) Businesses primarily engaged in political or lobbying activities;

How Do I Calculate Number of Employees?

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- (a) In determining a concern's number of employees, SBA counts all individuals employed on a full-time, part-time, or other basis. This includes employees obtained from a temporary employee agency, professional employee organization or leasing concern. SBA will consider the totality of the circumstances, including criteria used by the IRS for Federal income tax purposes, in determining whether individuals are employees of a concern. Volunteers (*i.e.*, individuals who receive no compensation, including no in-kind compensation, for work performed) are not considered employees.
- (b) Where the size standard is number of employees, the method for determining a concern's size includes the following principles:
- (1) The average number of employees of the concern is used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months.
- (2) Part-time and temporary employees are counted the same as full-time employees.
- (3) If a concern has not been in business for 12 months, the average number of employees is used for each of the pay periods during which it has been in business.
- (4)(i) The average number of employees of a business concern with affiliates is calculated by adding the average number of employees of the business concern with the average number of employees of each affiliate. If a concern has acquired an affiliate or been acquired as an affiliate during the applicable period of measurement or before the date on which it self-certified as small, the employees counted in determining size status include the employees of the acquired or acquiring concern. Furthermore, this aggregation applies for the entire period of measurement, not just the period after the affiliation arose.

Calculating Revenue

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- 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.

Affiliation Rules

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- Which entities are a Business's affiliates for purposes of the employee and revenue eligibility criteria?
- (1) *Affiliation based on ownership.* For determining affiliation based on equity ownership, a concern is an affiliate of an individual, concern, or entity that owns or has the power to control more than 50 percent of the concern's voting equity. SBA will deem a minority shareholder to be in control, if that individual or entity has the ability, under the concern's charter, by-laws, or shareholder's agreement, to prevent a quorum or otherwise block action by the board of directors or shareholders.

Affiliation Rules - Continued

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- *(2) Affiliation based on management.* Affiliation arises where the CEO or President of the applicant concern (or other officers, managing members, or partners who control the management of the concern) also controls the management of one or more other concerns. Affiliation also arises where a single individual, concern, or entity that controls the Board of Directors or management of one concern also controls the Board of Directors or management of one of more other concerns. Affiliation also arises where a single individual, concern or entity controls the management of the applicant concern through a management agreement.

Affiliation Rules - Continued

- *(3) Affiliation based on identity of interest*— Affiliation may arise among two or more individuals or firms with an identity of interest. Individuals or firms that have identical or substantially identical business or economic interests (such as close relatives, individuals or firms with common investments, or firms that are economically dependent through contractual or other relationships) may be treated as one party with such interests aggregated. Where SBA determines that such interests should be aggregated, an individual or firm may rebut that determination with evidence showing that the interests deemed to be one are in fact separate

Three Programs Under MSLP

	Main Street New Loans	Main Street Priority Loans	Main Street Expanded Loans
Term	4 years	4 years	4 years
Minimum	$500,000	$500,000	$10,000,000
Maximum Loan Lesser of:	$25M or 4X2019 adjusted EBITDA	$25M or 6X2019 adjusted EBITDA	$200M, 35% of outstanding and undrawn available debt, or 6X2019 adj. EBITDA
Risk Retention by Lender	5%	15%	5%
Payment (year one deferred)	Years 2-4 33.33%	Years 2-4: 15%, 15% 70%	Years 2-4: 15%, 15%, 70%
Rate	LIBOR + 3%	LIBOR + 3%	LIBOR + 3%
Transaction Fee	100 basis points	100 basis points	100 basis points
Origination Fee	100 basis points	100 basis points	100 basis points

MSNLF Overview

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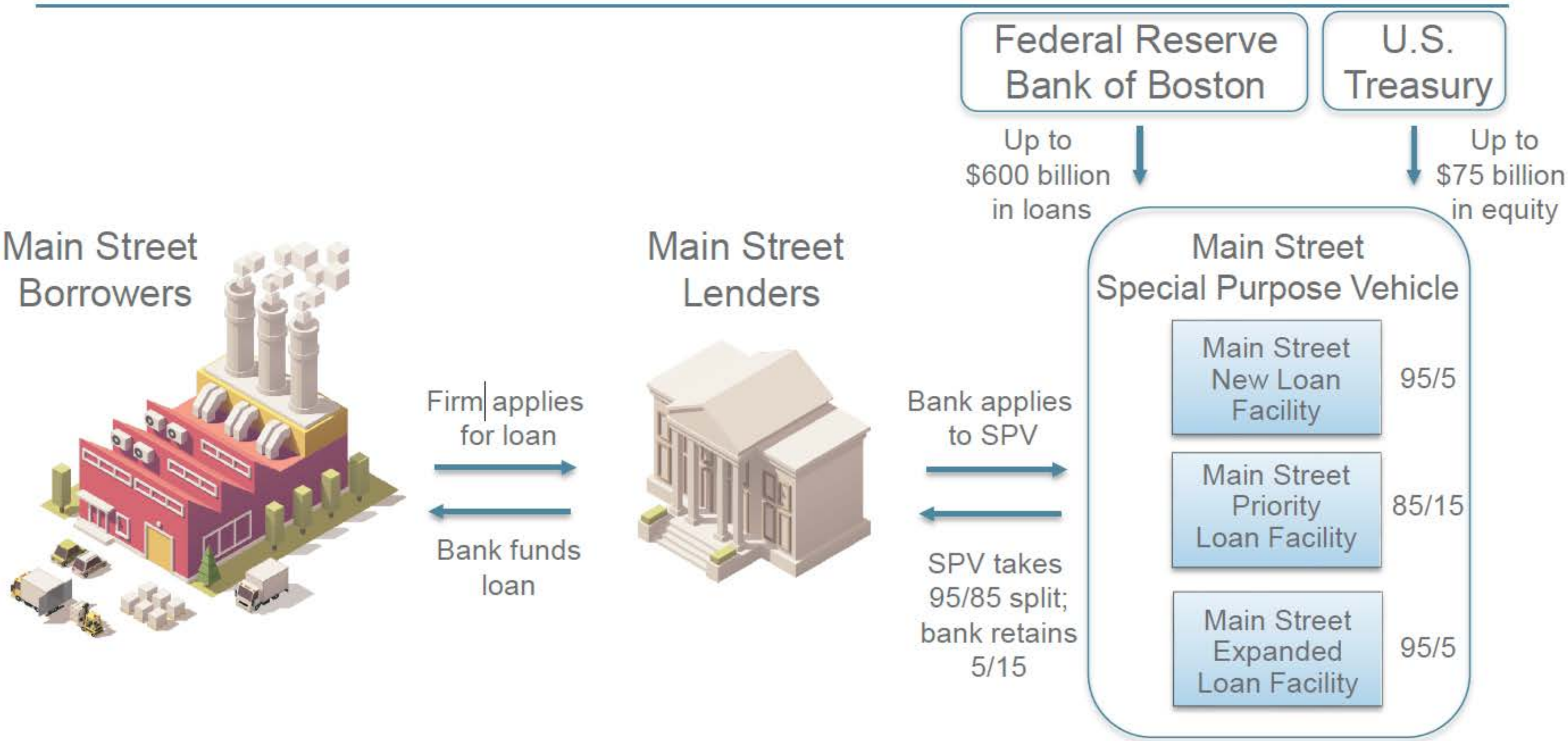

Lenders' Risks

- Eligible Lenders must retain 15% of MSPLF Loans, in contrast with the 5% risk retention requirement under the MSNLF and MSELF. Increased risk retention is required in light of the increased leverage ratio with respect to MSPLF Loans.
- Comparison to MSNLF: The maximum size of an MSPLF Loan is an amount that, when added to the Eligible Borrower's existing outstanding and undrawn available debt, does not exceed six times the Eligible Borrower's adjusted 2019 EBITDA (in no case to exceed $25 million). By contrast, the maximum size of an MSNLF Loan is an amount that, when added to the Eligible Borrower's existing outstanding and undrawn available debt, may not exceed four times the Eligible Borrower's adjusted 2019 EBITDA (in no case to exceed $25 million). Thus, the MSPLF – as compared to the MSNLF – allows Eligible Borrowers with higher leverage to access the Program.
- Comparison to MSELF: While the MSELF also uses six times adjusted EBITDA as one measure to limit maximum loan size, it contains an additional maximum loan size test not applicable to the MSPLF. An MSELF Upsized Tranche may not exceed 35% of the Eligible Borrower's existing outstanding and undrawn available debt that is pari passu in priority with the underlying loan and equivalent in secured status. Further, MSELF Upsized Tranches share in any security associated with the underlying loan that is being upsized.

MSNLF Overview

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- Eligible Lenders may extend a new MSNLF Loan to an Eligible Borrower and sell a 95% participation in that MSNLF Loan to the Main Street SPV at par value. All such sales will be structured as “true sales” and must be completed expeditiously after the origination of the MSNLF Loan. The Eligible Lender must retain 5% of the MSNLF Loan until it matures or the Main Street SPV sells all of its participation, whichever comes first

- The Eligible Borrower must have been in sound financial condition prior to the onset of the COVID-19 pandemic. In order for an Eligible Borrower to receive an MSNLF Loan, any existing loan it had outstanding with the Eligible Lender as of December 31, 2019, must have had an internal risk rating (based on the Eligible Lender’s risk rating system) that was equivalent to a “pass” in the Federal Financial Institutions Examination Council’s rating system as of that date.

MSNLF Overview

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- Will eligible Borrowers qualify automatically for a loan?

- No. The term sheet contains minimum requirements for the Program. Eligible Lenders are expected to conduct an assessment of each potential borrower's financial condition at the time of the potential borrower's application. Eligible Lenders will apply their own underwriting standards in evaluating the financial condition and creditworthiness of a potential borrower. An Eligible Lender may require additional information and documentation in making this evaluation and will ultimately determine whether an Eligible Borrower is approved for a Program loan in light of these considerations. Businesses that otherwise meet the Eligible Borrower requirements may not be approved for a loan or may not receive the maximum allowable amount.

MSNLF Overview

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- “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. 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, (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.

Terms Overview

No payments of principal or interest will be required during the first 12 months of the loan. Principal and interest payments for all loans obtained under the Program (MSNLF, MSPLF, or MSELF) are deferred for one year. Unpaid interest will be capitalized.

- **MSNLF**: No principal is paid in the first year. The loan will be amortized over the remaining term of the loan, with one-third of principal due at the end of each of years 2 and 3, and one-third due at maturity at the end of year 4.
- **MSPLF and MSELF**: After the first year, the loan will be amortized over the remaining term of the loan, with 15% of principal due at the end of year 2, 15% of principal due at the end of year 3, and a balloon payment of 70% of principal at the end of year 4.

Terms Overview

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- Eligible Borrowers should make commercially reasonable efforts to retain employees during the term of the MSNLF Loan, MSPLF Loan, or MSELF Upsized Tranche. Specifically, an Eligible Borrower should undertake good-faith efforts to maintain payroll and retain employees, in light of its capacities, the economic environment, its available resources, and the business need for labor. Borrowers that have already laid-off or furloughed workers as a result of the disruptions from COVID-19 are eligible to apply for Main Street loans.

Terms Overview

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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 apply under each of the MSELF, MSNLF and MSPLF, except that, in each case, restrictions on dividends and other capital distributions will not apply to distributions made by an S corporation or other tax pass-through entity to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings.

Other Covenants

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- No expectations of bankruptcy in the next 90 days

- No excessive compensation to be paid to officers and highly-compensated employees for any 12 consecutive months during loan period and for one year thereafter.
- If total 2019 calendar year compensation exceeded $425,000,

  cannot exceed 2019 compensation; and severance pay for such officers or employees cannot exceed twice their2019 comp.
- If total 2019 calendar year compensation exceeded $3,000,000,

  cannot exceed the sum of (1) $3,000,000 plus (2) 50% of the total compensation received over $3,000,000 for calendar year 2019
- No stock repurchase allowed for the same period

PPP Vs. MSLP Quick Chart

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	PPP	MSLP
Forgivable	YES	NO
Limited allowed use for proceeds	YES	NO
Compensation limits	YES (for forgiveness computation)	YES (for officers and highly compensated)
Limit on distributions	NO	YES
Collateral required	NO	Could be
Loan covenants	NO	YES
Mutually allowed	YES	YES

Existing Debt Covenants

- **MSNLF and MSELF**: The Eligible Borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the MSNLF Loan or the MSELF Upsized Tranche is repaid in full, unless the debt or interest payment is mandatory and due. The Eligible Borrower must also commit that it will not seek to cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender.

Existing Debt Covenants

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- **MSPLF**: The Eligible Borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the MSPLF Loan is repaid in full, unless the debt or interest payment is mandatory and due; however, the Eligible Borrower may, at the time of origination of the MSPLF Loan, refinance existing debt owed by the Eligible Borrower to a lender that is not the Eligible Lender. The Eligible Borrower must also commit that it will not seek to cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender

Existing Debt Covenants

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These covenants would not prohibit an Eligible Borrower from undertaking any of the following actions during the term of the MSNLF Loan, MSPLF Loan, or MSELF Upsized Tranche:

- Repaying a line of credit (including a credit card) in accordance with the Eligible 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 by 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.
- An Eligible Lender must commit that it will not cancel or reduce any existing committed lines of credit outstanding to the Eligible Borrower, except in an event of default. This requirement does not prohibit the reduction or termination of uncommitted lines of credit, the expiration of existing lines of credit in accordance with their terms, or the reduction of availability under existing lines of credit in accordance with their terms due to changes in borrowing bases or reserves in asset-based or similar structures.

Required Certifications

Added on 5/27/2020

- Specific Support under CARES Act. Consistent with the definition of an "eligible business" under section 4002(4) of the CARES Act, the Borrower must certify that it has not received specific support pursuant to the Coronavirus Economic Stabilization Act of 2020 (Subtitle A of Title IV of the CARES Act). For purposes of this certification, a Borrower is ineligible only if it has received support pursuant to section 4003(b)(1)-(3) of the CARES Act. 2.B. U.S. Business Requirement.
- The Borrower must certify that it is 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, consistent with section 4003(c)(3)(C) of the CARES Act

Required Certifications

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Added on 5/27/2020

- Eligible under Conflicts of Interest Prohibition. Section 4019(c) of the CARES Act requires the principal executive officer and principal financial officer (or individuals performing similar functions) of a Borrower to certify to the Secretary and the Board that the Borrower is not a Covered Entity
- For purposes of the Borrower Certifications and Covenants, “Covered Entity” means an entity in which a Covered Individual directly or indirectly holds a Controlling Interest

Compensation Clarifications

Added on 5/27/2020

Restrictions on compensation for employees or officers with total compensation exceeding $3,000,000. No employee or officer whose total compensation exceeded $3,000,000 in calendar year 2019 or the Subsequent Reference Period will, until 12 months after the date on which the Eligible Loan is no longer outstanding:

- receive, during any 12 consecutive month period, total compensation in excess of the sum of (1) $3,000,000; and (2) 50 percent of the excess over $3,000,000 of the total compensation received by the officer or employee from the Borrower in calendar year 2019 or the Subsequent Reference Period;

Except for an employee whose compensation is determined through an existing collective bargaining agreement entered into prior to March 1, 2020

Compensation Clarifications

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Restrictions applicable to new hires and existing officers or employees who become highly compensated.

For an officer or employee whose employment with a Borrower started during 2019 or later, the "Subsequent Reference Period" is the 12-month period starting from the end of the month in which the officer or employee commenced employment, if such officer's or employee's total compensation exceeds $425,000 (or $3,000,000) during such period. For an officer or employee whose total compensation first exceeds $425,000 during a 12-month period ending after 2019, the "Subsequent Reference Period" is the 12-month period starting from the end of the month in which the officer or employee's total compensation first exceeded $425,000 (or $3,000,000).

Use of Proceeds

If the Borrower is a subsidiary of a foreign company, the Borrower must commit that it will use the proceeds of the Eligible Loan only for the benefit of the Borrower, its consolidated U.S. subsidiaries, and other affiliates of the Borrower that are U.S. businesses. The proceeds of the Eligible Loan may not be used for the benefit of the Borrower’s foreign parents, affiliates, or subsidiaries.

Required Financial Reporting

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Each Main Street loan should contain a financial reporting covenant requiring the regular delivery of certain financial information and calculations. The items listed in Table I must be provided by each Main Street borrower to their Eligible Lender at least annually. The items listed in Table II must be provided by each Main Street borrower to their Eligible Lender at least quarterly; the quarterly requirements vary based on the Main Street facility in which the borrower is participating.

The lists are very lengthy and will be posted later on our website.

Final Thoughts

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- From federal Reserve Bank of Boston President Eric Rosengren May 19th speech

"This is an important program, and we've worked very hard to get it right. We listened carefully to initial feedback and expanded the program in a number of ways to serve a wider range of borrowers. It will not be able to assist everyone, but we expect that it will provide an important bridge for many businesses that employ much of the American workforce."

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Thank You

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