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Report to Congress Pursuant to Section 13(3) of the Federal Reserve Act: Nonprofit Organization Expanded Loan Facility

Federal Reserve System: Board of Governors

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Overview

On July 16, 2020, the Board of Governors of the Federal Reserve System (the Board), by the unanimous vote of its five members, authorized the Federal Reserve Bank of Boston (Reserve Bank) to establish and operate the Nonprofit Organization Expanded Loan Facility (NOELF) under section 13(3) of the Federal Reserve Act (12 U.S.C. § 343(3)). The NOELF is intended to facilitate lending to nonprofit organizations by eligible lenders.

Under the Main Street Lending Program, which includes the NOELF, the Nonprofit Organization New Loan Facility (NONLF), the Main Street Priority Loan Facility (MSPLF), the Main Street New Loan Facility (MSNLF), and the Main Street Expanded Loan Facility (MSELF), the Reserve Bank will commit to lend on a recourse basis to a single common special purpose vehicle (SPV). For the NOELF, the SPV will purchase 95 percent participations in the upsized tranche of eligible loans from eligible lenders. Eligible lenders would retain 5 percent of the upsized tranche of each eligible loan.

Background on the NOELF

Recent events have significantly and adversely impacted global financial markets. The spread of the coronavirus disease 2019 (COVID-19) has substantially slowed economic activity in many countries, including the United States. As a result of the disruptions caused by COVID-19, nonprofit organizations have experienced a significant decrease in revenues and increase in expenses, heightening the need for nonprofit organizations to obtain financing in order to manage cash flows and sustain themselves until economic conditions normalize.

In these circumstances, the Board determined that unusual and exigent circumstances existed and approved the establishment of the NOELF to help facilitate access to credit so that nonprofit organizations are better able to manage the period of disruption related to the pandemic. The Department of the Treasury, using funds appropriated to the Exchange Stabilization Fund under section 4027 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), will make a $75 billion equity investment in the single common SPV in connection with the NOELF, NONLF, MSPLF, MSNLF, and the MSELF.

Structure and Basic Terms

Under the NOELF, the Reserve Bank will commit to lend, on a recourse basis, to the SPV, which will purchase 95 percent participations in the upsized tranche of eligible loans from eligible lenders. Eligible lenders would retain 5 percent of the upsized tranche of each eligible loan. The Reserve Bank will be secured by all of the assets of the SPV. The NOELF is not yet operational.

The term sheet for the NOELF is available to the public on the Board's website at https://www.federalreserve.gov/monetarypolicy/mainstreetlending.htm. The discussion below summarizes the terms and conditions for the NOELF. These terms and conditions may be modified as the Board and the Department of the Treasury determine appropriate.

Eligible Lenders. An Eligible Lender is a U.S. federally insured depository institution (including a bank, savings association, or credit union), a U.S. branch or agency of a foreign bank, a U.S. bank holding company, a U.S. savings and loan holding company, a U.S. intermediate holding company of a foreign banking organization, or a U.S. subsidiary of any of the foregoing.

Eligible Borrowers. An Eligible Borrower is a Nonprofit Organization[1] that:

1. has been in continuous operation since January 1, 2015;
2. is not an Ineligible Business;[2]
3. meets at least one of the following two conditions: (i) has 15,000 employees or fewer, or (ii) had 2019 annual revenues of $5 billion or less;
4. has at least 10 employees;
5. has an endowment of less than $3 billion;

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[1] For purposes of the NOELF, a Nonprofit Organization is a tax-exempt nonprofit organization described in section 501(c)(3) of the Internal Revenue Code (IRC) or a tax-exempt veterans' organization described in section 501(c)(19) of the IRC. Other forms of organization may be considered for inclusion as a Nonprofit Organization under the NOELF at the discretion of the Federal Reserve.

[2] For purposes of the NOELF, an Ineligible Business is a type of business listed in 13 CFR 120.110(b)-(j) and (m)-(s), as modified by regulations implementing the Paycheck Protection Program (PPP)established by section 1102 of the CARES Act on or before April 24, 2020. The application of these restrictions to the NOELF may be further modified at the discretion of the Federal Reserve.

6. has total non-donation revenues equal to or greater than 60 percent of expenses for the period from 2017 through 2019;
7. has a ratio of adjusted 2019 earnings before interest, depreciation, and amortization (EBIDA) to unrestricted 2019 operating revenue,[3] greater than or equal to 2 percent;
8. has a ratio (expressed as a number of days) of (i) liquid assets at the time of the origination of the upsized tranche to (ii) average daily expenses over the previous year, equal to or greater than 60 days;
9. at the time of the origination of the upsized tranche, has a ratio of (i) unrestricted cash and investments to (ii) existing outstanding and undrawn available debt, plus the amount of any loan under the NOELF, plus the amount of any Centers for Medicare & Medicaid Services Accelerated and Advance Payments, that is greater than 55 percent;
10. 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;
11. does not also participate in the NONLF, the MSNLF, the MSPLF, the MSELF, the Primary Market Corporate Credit Facility, or the Municipal Liquidity Facility; and
12. has not received specific support pursuant to the CARES Act (Subtitle A of Title IV of the CARES Act).[4]

Eligible Loans. An Eligible Loan is a secured or unsecured term loan or revolving credit facility made by an Eligible Lender(s) to an Eligible Borrower that was originated on or before June 15, 2020, and that has a remaining maturity of at least 18 months (taking into account any adjustments made to the maturity of the loan after June 15, 2020, including at the time of upsizing), provided that the upsized tranche of the loan is a term loan that has all of the following features:

1. five-year maturity;

[3] The methodology used by the Eligible Lender to calculate adjusted 2019 EBIDA must be the methodology it has previously used for adjusting EBIDA when extending credit to the Eligible Borrower or similarly situated borrowers on or before June 15, 2020. The Eligible Lender should calculate operating revenue as unrestricted operating revenue, excluding funds committed to be spent on capital, and including a proxy for endowment income in place of unrestricted investment gains or losses. The methodology used by the Eligible Lender to calculate the proxy for endowment income must be the methodology it has used for the Eligible Borrower or similarly situated borrowers on or before June 15, 2020.

[4] For the avoidance of doubt, Nonprofit Organizations that have received PPP loans are permitted to borrow under the NOELF, provided that they are Eligible Borrowers.

2. principal payments deferred for two years and interest payments deferred for one year (unpaid interest will be capitalized);
3. principal amortization of 15 percent at the end of the third year, 15 percent at the end of the fourth year, and a balloon payment of 70 percent at maturity at the end of the fifth year;
4. adjustable rate of LIBOR (one- or three-month) + 300 basis points;
5. minimum loan size of $10 million;
6. maximum loan size that is the lesser of (i) $300 million or (ii) the Eligible Borrower's average 2019 quarterly revenue;
7. at the time of upsizing and at all times the upsized tranche is outstanding, the upsized tranche is senior to or pari passu with, in terms of priority and security, the Eligible Borrower's other loans or debt instruments, other than mortgage debt; and
8. prepayment permitted without penalty.

Loan Classification. The Eligible Loan must have had an internal risk rating equivalent to a "pass" in the Federal Financial Institutions Examination Council's supervisory rating system as of December 31, 2019.

Assessment of Financial Condition. Eligible Lenders are expected to conduct an assessment of each potential borrower's financial condition at the time of the potential borrower's application.

Loan Participations. The SPV will purchase at par value a 95 percent participation in the upsized tranche of the Eligible Loan, provided that it is upsized on or after June 15, 2020. The SPV and the Eligible Lender will share risk in the upsized tranche on a pari passu basis. The Eligible Lender must be one of the lenders that holds an interest in the underlying Eligible Loan at the date of upsizing. The Eligible Lender must retain its 5 percent portion of the upsized tranche of the Eligible Loan until the upsized tranche of the Eligible Loan matures or the SPV sells all of its 95 percent participation, whichever comes first. The Eligible Lender must also retain its interest in the underlying Eligible Loan until the underlying Eligible Loan matures, the upsized tranche of the Eligible Loan matures, or the SPV sells all of its 95 percent participation, whichever comes first. Any collateral securing the Eligible Loan (at the time of upsizing or on any subsequent date) must secure the upsized tranche on a pro rata basis. The sale of a participation in the upsized tranche of the Eligible Loan to the SPV will be structured as a "true sale" and must be completed expeditiously after the Eligible Loan's upsizing.

Required Lender Certifications and Covenants. In addition to other certifications required by applicable statutes and regulations, the following certifications and covenants will be required from Eligible Lenders:

- The Eligible Lender must commit that it will not request that the Eligible Borrower repay debt extended by the Eligible Lender to the Eligible Borrower, or pay interest on such outstanding obligations, until the upsized tranche of the Eligible Loan is repaid in full, unless the debt or interest payment is mandatory and due, or in the case of default and acceleration.
- The Eligible Lender must commit that it will not cancel or reduce any existing committed lines of credit to the Eligible Borrower, except in an event of default.
- The Eligible Lender must certify that the methodology used for calculating the Eligible Borrower's adjusted 2019 EBIDA and operating revenue in section 7 of the Eligible Borrower paragraph above is the methodology it has previously used for adjusting EBIDA when originating or amending the Eligible Loan on or before June 15, 2020 (except with respect to the methodology instructions specified above in note 3).
- The Eligible Lender must certify that it is eligible to participate in the NOELF, including in light of the conflicts-of-interest prohibition in section 4019(b) of the CARES Act.

Required Borrower Certifications and Covenants. In addition to other certifications required by applicable statutes and regulations, the following certifications and covenants[5] will be required from Eligible Borrowers:

- The Eligible Borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the upsized tranche of the Eligible Loan is repaid in full, unless the debt or interest payment is mandatory and due.
- The Eligible Borrower must 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.
- The Eligible Borrower must certify that it has a reasonable basis to believe that, as of the date of upsizing of the Eligible Loan and after giving effect to such upsizing, it has the ability to meet its financial obligations for at least

[5] An Eligible Lender is expected to collect the required certifications and covenants from each Eligible Borrower at the time of upsizing of the Eligible Loan. Eligible Lenders may rely on an Eligible Borrower's certifications and covenants, as well as any subsequent self-reporting by the Eligible Borrower.

the next 90 days and does not expect to file for bankruptcy during that time period.

- The Eligible Borrower must commit that it 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.
- The Eligible Borrower must certify that it is eligible to participate in the NOELF, including in light of the conflicts of interest prohibition in section 4019 of the CARES Act.

Retaining Employees. Each Eligible Borrower that participates in the NOELF should make reasonable efforts to maintain its payroll and retain its employees during the time the upsized tranche of the Eligible Loan is outstanding.

Transaction Fee. An Eligible Lender will pay the SPV a transaction fee of 75 basis points of the principal amount of the upsized tranche of the Eligible Loan at the time of upsizing. The Eligible Lender may require the Eligible Borrower to pay this fee.

Loan Upsizing and Servicing Fees. An Eligible Borrower will pay an Eligible Lender an origination fee of up to 75 basis points of the principal amount of the upsized tranche of the Eligible Loan at the time of upsizing. The SPV will pay an Eligible Lender 25 basis points of the principal amount of its participation in the upsized tranche of the Eligible Loan per annum for loan servicing.

Facility Termination. The SPV will cease purchasing participations in Eligible Loans on September 30, 2020, unless the Board and the Department of the Treasury extend the NOELF. The Reserve Bank will continue to fund the SPV after such date until the SPV's underlying assets mature or are sold.

Expected Costs to Taxpayers. The Federal Reserve and the Department of the Treasury, through its equity investment, will bear the risk of loss on the participations purchased by the SPV under the NOELF. The NOELF includes features that are intended to mitigate risk to the Federal Reserve and taxpayers. For example, the NOELF will receive interest payments and facility fees, the maximum loan size will be limited, Eligible Lenders will be required to keep a portion of each loan, and each Eligible Borrower must meet the eligibility and financial condition requirements described above. In addition, the Department of the Treasury will make a $75 billion equity investment in the SPV. As a result, the Board does not expect at this time that the NOELF will result in losses to the Federal Reserve.