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

Federal Reserve System: Board of Governors

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July 23, 2020

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 New Loan Facility (NONLF) under section 13(3) of the Federal Reserve Act (12 U.S.C. § 343(3)). The NONLF is intended to facilitate lending to nonprofit organizations by eligible lenders.

Under the Main Street Lending Program, which includes the NONLF, the Nonprofit Organization Expanded Loan Facility (NOELF), 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 NONLF, the SPV will purchase 95 percent participations in eligible loans from eligible lenders. Eligible lenders would retain 5 percent of each eligible loan.

Background on the NONLF

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 NONLF 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 NONLF, NOELF, MSPLF, MSNLF, and the MSELF.

Structure and Basic Terms

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

The term sheet for the NONLF 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 NONLF. 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;

[1] For purposes of the NONLF, 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 NONLF at the discretion of the Federal Reserve.

[2] For purposes of the NONLF, 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 NONLF 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 loan origination to (ii) average daily expenses over the previous year, equal to or greater than 60 days;
9. at the time of loan origination, 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 NONLF, 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 NOELF, 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 made by an Eligible Lender(s) to an Eligible Borrower that was originated after June 15, 2020, provided that the loan has all of the following features:

1. five-year maturity;
2. principal payments deferred for two years and interest payments deferred for one year (unpaid interest will be capitalized);

[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 NONLF, provided that they are Eligible Borrowers.

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 $250,000;
6. maximum loan size that is the lesser of (i) $35 million or (ii) the Eligible Borrower's average 2019 quarterly revenue;
7. is not, at the time of origination or at any time during the term of the Eligible Loan, contractually subordinated in terms of priority to any of the Eligible Borrower's other loans or debt instruments; and
8. prepayment permitted without penalty.

Loan Classification. If the Eligible Borrower had other loans outstanding with the Eligible Lender as of December 31, 2019, such loans must have had an internal risk rating equivalent to a "pass" in the Federal Financial Institutions Examination Council's supervisory rating system on that date.

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 Eligible Loan. The SPV and the Eligible Lender will share risk in the Eligible Loan on a pari passu basis. The Eligible Lender must retain its 5 percent of the Eligible Loan until it matures or the SPV sells all of its participation, whichever comes first. The sale of a participation in the Eligible Loan to the SPV will be structured as a "true sale" and must be completed expeditiously after the Eligible Loan's origination.

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 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 when extending credit to the Eligible Borrower or similarly situated borrowers 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 NONLF, 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 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 origination of the Eligible Loan and after giving effect to such loan, it has the ability to meet its financial obligations for at least 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 NONLF, 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 NONLF should make reasonable efforts to maintain its payroll and retain its employees during the time the Eligible Loan is outstanding.

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[5] An Eligible Lender is expected to collect the required certifications and covenants from each Eligible Borrower at the time of origination 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.

Transaction Fee. An Eligible Lender will pay the SPV a transaction fee of 100 basis points of the principal amount of the Eligible Loan at the time of origination. The Eligible Lender may require the Eligible Borrower to pay this fee.

Loan Origination and Servicing Fees. An Eligible Borrower will pay an Eligible Lender an origination fee of up to 100 basis points of the principal amount of the Eligible Loan at the time of origination. The SPV will pay an Eligible Lender 25 basis points of the principal amount of its participation in 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 NONLF. 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 NONLF. The NONLF includes features that are intended to mitigate risk to the Federal Reserve and taxpayers. For example, the NONLF 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 NONLF will result in losses to the Federal Reserve.