

**AMERICAN ACADEMY of
DERMATOLOGY | ASSOCIATION**

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April 15, 2020

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Via email to: regs.comments@federalreserve.gov

Subject: Main Street Lending Program

Dear Chairman Powell,

The American Academy of Dermatology Association (Academy), which represents nearly 14,000 dermatologists nationwide, appreciates the opportunity to provide comments to the Federal Reserve as it finalizes its Main Street Lending Program. The Academy applauds this critical initiative “to make sure the program supports the economy as effectively and efficiently as possible while also safeguarding taxpayer funds.”

Dermatologists diagnose and treat more than 3,000 diseases, including skin cancer, psoriasis, immunologic diseases and many genetic disorders. One in four Americans suffers from and seeks care for a skin disease every year. As dermatologists on the front lines fighting skin cancer and treating numerous skin diseases, we welcome this new loan program option to expand and enhance medical practice business continuity in treating the American public.

We are pleased to share the following from the perspective of small business medical practice owners with respect to making the Main Street Lending Program meaningful and impactful to help stabilize the US economic landscape. We recommend that the Federal Reserve consider the following points when issuing further instructive guidance to preserve the longer-term health and viability of medical practices treating patients and serving as community lynchpins by delivering timely quality care:

1. **Clarify the full eligibility criteria for smaller businesses seeking all types of Small Business Administration (SBA) and/or Main Street Lending Program financial relief:** We understand that smaller businesses seeking temporary SBA financial assistance through the Paycheck Protection Program (PPP) are also eligible to pursue further financial support through the Main Street Lending Program.
 - a. We applaud the Federal Reserve for ensuring that smaller businesses are not excluded from this additional loan program.

Bruce H. Thiers, MD, FAAD
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Marta J. Van Beek, MD, MPH, FAAD
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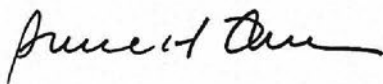
Neal Bhatia, MD, FAAD
Vice President-elect

Daniel D. Bennett, MD, FAAD
Assistant Secretary-Treasurer

- b. However, we urge the Federal Reserve, in consultation with the Department of Treasury and the SBA, to categorically clarify if smaller businesses seeking assistance through the SBA's Economic Injury Disaster Loan (EIDL) program would also be eligible to apply to the Main Street Lending Program since many medical practices are pursuing both loan options offered by or through the SBA—EIDL and PPP.
 - c. Advanced clarification ensures that small businesses are informed and able to take on reasonable relief while avoiding crushing debt burdens.
- 2. As smaller businesses, exercising various loan options, may be saddled by unsustainable debt obligations, we urge the Federal Reserve to consider relaxing the following Main Street Lending Program terms and conditions through targeted exemptions for smaller business:**
- a. Longer repayment schedule: extend repayment beyond the current four years with a one-year deferral to provide a more affordable time table for smaller businesses.
 - b. Lower loan rate: reduce Main Street Lending Program's rate of loan from 2.5% – 4.0% for smaller businesses to align closer with the 1% offered by the SBA's PPP option.
 - c. Lenders should not discriminate against smaller business: remind lenders to avoid discriminatory protocols that may involve privileging and preferring mid-sized business clients to the detriment of smaller businesses.
- 3. Provide clear, concise and timely instructions and guidance to lenders to guarantee that prospective loans to smaller business borrowers are not delayed.**
- a. As smaller businesses face survival decisions, it is urgent that lenders are fully equipped to advise borrowers on all the applicable terms, conditions, exemptions and exclusions afforded by the Main Street Lending Program.
 - b. This will enable small business medical practice owners to continue to contribute to the health of the national economy.

The Academy appreciates the opportunity to provide comments on this request for feedback. We look forward to additional opportunities to provide feedback that may help guide future policy developments. Please contact William Brady, Associate Director of Health Care Policy, at 847.240.1824 or wbrady@aad.org, if you require clarification or would like more information on the comments in this letter.

Sincerely,



Bruce Harris Thiers, MD, FAAD
President
American Academy of Dermatology Association

CC: Marta J. Van Beek, MD, MPH, FAAD, Secretary-Treasurer
Elizabeth Usher, MBA, Executive Director & CEO

April 16, 2020

Jerome Powell, Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Comments on the Main Street Lending Program and Request for Meeting

Dear Chairman Powell,

On behalf of the American Council on Education (ACE) and the undersigned higher education associations, we submit the following comments in regards to the Main Street Lending program. Specifically, we ask that the Federal Reserve update the guidance to clarify that nonprofit private and public institutions are eligible for the Main Street Lending program. In addition, we also ask that student workers be exempted for the purposes of the employee threshold for the eligibility requirements (under 10,000 employees).

Institutions of higher education, often the largest or one of the largest employers in their local communities, are facing a major cash flow crisis in light of the reduced revenue and increased expenses imposed by the COVID-19 pandemic. Institutions expect to refund nearly \$8 billion in room and board charges alone. Some schools have also refunded tuition payments. Anticipated sources of auxiliary revenue have dried up as campus events have been canceled. Summer programs that provide revenue to many institutions also have been canceled.

At the same time, institutions are facing additional costs—such as deep cleaning campus buildings and increased security expenses. Other schools have absorbed increased costs because they have opened their facilities to help medical personnel and first responders. One large public university in the Midwest recently told its Board of Trustees that, as of April 1, it has faced reduced revenue and added costs that total \$71 million—not including the considerable financial impact on its medical center. Another university projects that total revenue losses through the spring semester will exceed \$100 million. A small college serving about 3,000 students is absorbing a hit to its budget of \$4 million. And one university system has estimated that for its campuses the potential financial losses total a minimum of \$340 million, including tuition and auxiliary activity refunds, additional costs of course delivery and student support, as well as cleaning and other general costs.

Many of our colleges and universities are seeking low-cost loans to help address the financial impact of the COVID-19 crisis and are interested in accessing the credit and

loans available under the Main Street Lending program recently announced by the Federal Reserve. Unfortunately, we are concerned with two major barriers keeping our institutions from accessing these programs:

- Institutions of higher education are often the largest, or one of the largest, employers within their community and larger region. There has been confusion about the Main Street Lending program and whether or not nonprofits are eligible, because the current guidance is silent. We ask that the Federal Reserve update the guidance to clarify that nonprofit private and public institutions of higher education, with direct borrowing authority, are eligible for the Main Street Lending program.
- We also ask that student workers be exempted for the purposes of the employee threshold for eligibility (businesses with under 10,000 employees). We hope that future guidance from the Federal Reserve will make it clear that our institutions can exempt student workers from the employee count. Many of our institutions of higher education employ student workers across campus as a part of their overall financial support to help pay for college and provide students with work experiences while keeping them close to campus for the purposes of their education. With the majority of our campuses closed for the spring semester and transitioned to online learning, all or most of these student employees have left campuses, and therefore should not be included for the purposes of the employee threshold.

It is vital to provide this access to low-interest loans to nonprofit colleges and universities financially devastated by the pandemic and struggling to continue to educate and assist students and employ the millions of faculty and staff who work on campuses around the country. As you draft the guidance for this important program, we also request a meeting with you to discuss how institutions of higher education can access these important programs. Sarah Spreitzer, ACE Director of Government Relations (saspreitzer@acenet.edu), will be following up with you regarding this meeting request. We look forward to working with you on this and other important loan programs as the Federal Reserve responds to the COVID-19 crisis.

Sincerely,



Ted Mitchell
President

On behalf of:

ACPA-College Student Educators International
American Association of Collegiate Registrars and Admissions Officers

American Association of Community Colleges
American Association of State Colleges and Universities
American College Health Association
American Council on Education
American Dental Education Association
APPA, “Leadership in Educational Facilities”
Associated Colleges of the Midwest
Association of American Colleges and Universities
Association of American Universities
Association for Biblical Higher Education
Association of Catholic Colleges and Universities
Association of Chiropractic Colleges
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Independent Colleges of Art & Design
Association of Jesuit Colleges and Universities
Association of Presbyterian Colleges and Universities
Association of Public and Land-grant Universities
College and University Professional Association for Human Resources
Consortium of Universities of the Washington Metropolitan Area
Council for Advancement and Support of Education
Council for Christian Colleges & Universities
Council for Higher Education Accreditation
Council of Independent Colleges
EDUCAUSE
ETS
Great Lakes Colleges Association
Hispanic Association of Colleges and Universities
NAFSA: Association of International Educators
NASPA - Student Affairs Administrators in Higher Education
National Association for College Admission Counseling
National Association for Equal Opportunity in Higher Education
National Association of College Stores
National Association of Colleges and Employers
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of Schools and Colleges of the United Methodist Church
Network of Evangelical Lutheran Church in America Colleges and Universities
Phi Beta Kappa Society
State Higher Education Executive Officers Association
UNCF
UPCEA
Work Colleges Consortium
Yes We Must Coalition



AFL-CIO

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April 16, 2020

Mr. Jerome H. Powell, Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Dear Mr. Powell:

On behalf of the AFL-CIO, thank you for the opportunity to submit comments on the Federal Reserve lending programs that have been opened to provide funding assistance to businesses, consumers and state and local governments that are struggling as a result of the coronavirus pandemic. In recent weeks, the Federal Reserve and Department of Treasury have taken unprecedented action to provide trillions of dollars of support to credit markets.¹

The AFL-CIO is a federation of 55 national and international labor unions that represent 12.5 million working men and women. Our unions represent public and private sector workers who are on the front lines providing medical help and essential services during the crisis such as nurses and grocery store clerks. They also represent millions of workers, like flight attendants and construction workers, whose employers are struggling to remain solvent and who do not know whether they will have a job to go back to when the pandemic has subsided.

The AFL-CIO believes that the Federal Reserve and Treasury's actions to support the credit markets are necessary steps to mitigate the economic damage that will be caused by the stay-at-home orders in place throughout most of the country. In an April 9 press release, Chair Powell stated, "Our country's highest priority must be to address this public health crisis, providing care for the ill and limiting the further spread of the virus."² That release also stated that the programs are designed "to promote maximum employment," consistent with the Federal Reserve's mandate.³ While we support these programs, we believe that adjustments are needed to ensure that the facilities achieve the stated goals.

¹ <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>

² <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>

³ <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>

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Federal Reserve Programs Providing Direct Support to Corporate Borrowers

The Commercial Paper Funding Facility (CPFF), Primary Market Corporate Credit Facility (PMCCF), Main Street New Loan Facility (MSNLF), and Main Street Expanded Loan Facility (MSELF) provide direct support for new corporate borrowing. To some extent, the Term Asset-Backed Securities Loan Facility (TALF) will also support corporate borrowing. Eligibility for each of these programs depends on the issuer's size, pre-existing debt load and the structure of the offering. The key weakness with each of these facilities is that none of them condition receipt of government aid on the company's adherence to conditions that they will preserve employment, maintain workers' rights, and use the proceeds of the facilities to minimize the spread of the virus, conditions which are present throughout the CARES Act statute which authorized the Treasury Department to fund these facilities and conditions which ensure that the purpose of the CARES Act is actually fulfilled.

As a threshold matter we are concerned that the basic terms of the loans are contrary to the intention of Congress in appropriating funds to support these facilities. It appears that the terms have been set to result in the full recoupment of the \$450 billion appropriation Congress made to Treasury in the CARES Act. This would defeat Congress' clear purpose in making that appropriation, which was to provide credit support to businesses damaged by the coronavirus and the economic shutdown necessary to fight the virus, and by doing so to preserve employment. While we appreciate the Fed's attempts to structure these programs to preserve taxpayer funds and earn interest on the loans, we are afraid that the interest rates charged for participants along with collateral requirements in these facilities will undermine the stimulative impact that could otherwise be achieved. We are concerned that the interest rates and collateral requirements reflect a reluctance to expend the funds Congress allocated to these programs through the Treasury Department. If these programs actually do not constitute a genuine credit subsidy in these conditions they are unlikely to meaningfully add to employment or prevent a downward macroeconomic spiral.

The term sheets for these facilities state that they are established in accordance with the authority provided to the Federal Reserve under Section 13(3) of the Federal Reserve Act. Beyond the statutory requirements that facilities must be broadly accessible and participants must be solvent, that section grants the Fed broad authority to establish the policies and procedures for access. It should use this authority to establish policies and procedures that will maximize achievement of the Federal Reserve's mandate to promote maximum employment and the top priority, as acknowledged by Chair Powell, to limit the spread of COVID-19.

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Many of the appropriate principles for the conditions can be drawn from the CARES Act. These conditions include:

- a. Retention of 90% of the workforce with full compensation and benefits;
- b. Prohibition on dividends or stock buybacks;
- c. No outsourcing or offshoring for two years after the loan is repaid;
- d. Prohibition on abrogation of collective bargaining agreements for two years after loan is repaid; and
- e. Neutrality in union organizing.⁴

In addition to the fact that the purpose of the CARES Act's authorization of Treasury Department support for the Federal Reserve's facilities was to preserve employment, and that the Federal Reserve's overall mandate is full employment consistent with price stability, there are likely severe post-crisis consequences of not having these requirements as part of the terms of the private sector facilities. Firms that do not give a high priority to retaining their work force during this downturn will lag in the recovery, as they will have to have more time to recruit and train workers. Those firms are more likely to fall behind on regaining lost market shares. In this environment that is a risk factor that should not be ignored.

In addition, there should be clear requirements on borrowers to take basic steps to prevent the spread of the virus in their workplaces, including but not limited to adopting rigorous health and safety practices, providing necessary personal protective equipment, and providing paid sick days to employees. As we have witnessed the need to shutter meat packing plants in South Dakota and Nebraska because too many workers were infected, there is a financial risk in lending to firms that do not practice necessary precautions to prevent the spread of the virus. It would not be prudent, at this time, to ignore these risk factors. In addition, the failure of firms to take appropriate steps to prevent the spread of the virus among employees and customers presents serious macroeconomic risks as it substantially increases the risk of prolonging the current economic shutdown or igniting future outbreaks of the coronavirus that would necessitate further shutdowns following an initial restart of the U.S. economy.

The Federal Reserve should also focus on deploying economic assistance to high-road businesses that adhere to family-supporting wages and benefits. Paying workers adequate wages will provide economic security for families and have an important multiplier effect for the broader economy as it will encourage consumer spending. In the construction industry, the Davis-Bacon federal law sets an important wage floor. Outside of construction, we believe that \$15 per hour is the appropriate minimum wage. Wages can serve as a proxy for firm behavior where other ratings are not available.

⁴ 4003(c)(3)(D)

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Finally, the Fed should consider paying close attention to which entities actually employ workers and focus their lending activities on those companies, rather than providing subsidized credit to shell companies or highly leveraged passive investment vehicles.

All companies that receive financial support from the federal government during the crisis should be required to adhere to these conditions and the Fed and Treasury should work with the Special Inspector General for the CARES Act to ensure compliance throughout the relationship of the borrower with the Fed.

Specific Concerns Related to Access to CPFF by Utility Companies

The Federal Reserve's decisions in March to reopen the CPFF and clarify that it would extend purchases to Tier 2 issuers downgraded from Tier 1 after March 17 were positive steps in providing necessary short-term liquidity to American businesses.

Unfortunately, utilities are left out of the CPFF's scope because they are classified as Tier 2 issuers. Utilities are regulated entities and are prohibited from keeping the necessary cash on hand, in proportion to debt, that credit rating agencies demand in order to assign them a Tier 1 rating. We believe the Tier 2 ratings for utility companies are inappropriate given the likelihood of default.

The commercial paper (CP) market for Tier 2 issuers has encountered severe disruption in recent weeks, including declining liquidity and higher costs. These factors could have increasingly negative consequences for utilities' customers, employees, suppliers, and banks. For example, electric utilities use CP to fund working capital needs to support payrolls, suppliers and vendors, and critical infrastructure projects—the costs of which are typically collected from customers. In addition, with the continued challenges in the CP market, many Tier 2 issuers will need to draw down their bank revolving credit lines, which puts increased pressure on banks' balance sheets.

With this in mind, we recommend that the Federal Reserve have the CPFF purchases be extended to commercial paper rated at A2/P2/F2 by at least two of the major credit rating agencies and issued by companies in sectors designated as critical infrastructure under the Presidential Policy Directive on Critical Infrastructure Security and Resilience (PPD-21).

Federal Reserve Programs Providing Secondary Market Support

The Fed's Secondary Market Corporate Credit Facility (SMCCF) is designed to support the secondary market for corporate borrowing. We appreciate that the direct participants in this facility will not be the issuers but financial market intermediaries. Nonetheless, it is possible that through this facility the Federal Reserve will become a major owner of the outstanding debt of many large businesses. To the extent that, through secondary market purchases, the Fed comes into possession of 20% or more of the outstanding value of any issuance, we believe that the Fed

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should apply the same conditions on borrowers that are outlined above including those drawn from the CARES Act related to employee retention, workers' rights, and limitations on dividends, stock buybacks and executive compensation. In addition, the Fed should require companies to adopt rigorous health and safety practices, provide necessary personal protective equipment, provide paid sick days to employees, and pay a living wage or prevailing wages where applicable.

Federal Reserve Program Supporting State and Local Government Borrowing

The Municipal Liquidity Facility (MLF) will directly purchase up to \$500 billion in newly-issued bonds from states, cities with one million or more residents, and counties with two million residents or more.⁵ The AFL-CIO has been very concerned by turmoil in the municipal debt markets and we were pleased by the Fed's announcement that it was opening this facility to help provide additional short-term liquidity.

More than anything else, state and local governments need federal grants to compensate for an anticipated \$750 billion total budget shortfall resulting from lost revenues and extra expenses incurred because of COVID-19. While the MLF may help provide state and local governments with access to short-term bridge loans to help mitigate the immediate impact of the delayed tax deadline, further improvements are necessary to maximize the utility of the program.

We believe the Fed should expand access to the MLF to all smaller cities and counties and other subordinate jurisdictions, and then apply appropriate risk based criteria for who can actually access the facility at any given time. The size requirements currently applicable mean that only 15 U.S. counties and 10 U.S. cities will be able to access the facility. Not only does this standard unnecessarily privilege larger metropolitan areas, but it also means that cities and counties with higher African American populations will not have access to the facilities.⁶ While these consequences are likely unintended, they are also unacceptable and must be addressed by expanding access to the MLF.

The terms currently defined by the Fed provide that eligible notes will typically be issued in anticipation of near-term tax and other revenue and mature in no more than two years. While we do not believe this program should be used to support long-term borrowing to fund state and local government operations, in this extraordinary situation the Fed should be prepared to intervene in secondary markets for longer term state and municipal government securities should circumstances require that type of intervention. This should include terms that allow the Fed to

⁵ <https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200409a3.pdf>

⁶ <https://www.brookings.edu/research/a-chance-to-improve-the-equity-impact-of-the-feds-municipal-lending-facility/>

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help state and local governments restructure their debt to lower interest rates, reducing their debt burden.

The term sheet for the MLF released on April 9 also stated, generally, that pricing will be based on the issuer's rating and that the details are still being determined. State and municipal governments are on the front lines fighting COVID-19 and protecting the American people. They need to be able to dedicate as many of their resources as possible to the fight. They should not be forced to spend money on interest payments to the federal government that could be spent on essential items like respirators and personal protective equipment for essential personnel. As such, the Fed should not make any money on these loans. We encourage the Fed to charge interest at the Federal Funds Rate for these loans.

As we look ahead, the drop in revenues for state and local governments may lead to reductions in their bond ratings that will not reflect the long term credit worthiness of the issuers. So, a rise in interest rates at that time may well lead to the deferral of needed infrastructure until greater stability is achieved and state and local governments see their ratings increase. This deferral will weaken the strength of any recovery, since state and local infrastructure may be too delayed to help in the economy's rebound.

In the longer term, we urge the Board of Governors to give thought to how it can modify the MLF or design a new facility to support longer term state and municipal government investment in infrastructure. Infrastructure investment will be critical to a speedy recovery from the economic crisis brought on by the coronavirus, and is essential to making our economy more resilient in the face of possible recurring outbreaks. We urge the Board of Governors to think in a creative way about how to address this need consistent with overall Federal Reserve policy and practice.

Conclusion

We applaud the Federal Reserve for taking these extraordinary measures to mitigate the economic damage resulting from the COVID-19 pandemic. We believe that the improvements outlined above will help you to better achieve your goals of preserving employment and mitigating the spread of the virus.

Thank you for the opportunity to comment. If you have any questions or would like to discuss our views, please email me at wspriggs@aflcio.org.

Sincerely,

William E. Spriggs, PhD
Chief Economist

cc: Richard H. Clarida, Vice Chair
Randal K. Quarles, Vice Chair for Supervision
Michelle W. Bowman
Lael Brainard

April 16, 2020

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Federal Reserve Funding Facilities

Dear Chairman Powell:

The American Financial Services Association (AFSA)¹ commends the Federal Reserve for its rapid response to the economic crisis caused by the coronavirus pandemic. The Federal Reserve established several funding facilities to assist households and employers of all sizes to bolster the ability of state and local governments to deliver critical services during this crisis.

We are asking that the Federal Reserve make some key changes to the funding facilities so that they will serve a broader sector of the American economy and help more consumers. Below, we have outlined the changes that we are hoping the Federal Reserve will consider for each funding facility. We have also submitted these requests by facility on the Federal Reserve's feedback form.

I. Term Asset-Backed Securities Loan Facility (TALF)

The TALF has the potential to provide a much-needed jumpstart to the asset-backed securities market. The sooner TALF is operational, and the more asset-classes that are included, the better. We recommend that the Federal Reserve:

- Expedite the operational start by eliminating time-consuming requirements;
- Expand eligible collateral to include unsecured consumer installment loans and non-purchase finance automotive-secured loans;
- Expand required credit ratings to all investment grade ratings;
- Allow private ABS and structured finance securities to be eligible;
- Allow eligible ABS to participate with a single qualifying rating from a nationally recognized statistical rating organization;
- Allow underlying securitized assets originated some period of time prior to creation of the TALF 2020 program to be eligible assets;
- Expand TALF to allow substitution of equivalent collateral during the term of the loan; and
- Allow ABS investors to borrow under the TALF after the closing date of the ABS issuance.

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

II. Primary Market Corporate Credit Facility (PMCCF)

To be an eligible issuer under the PMCCF, an entity must not have received specific support pursuant to the CARES Act or any subsequent federal legislation. This prohibition has raised a couple of questions that we hope the Federal Reserve will answer. We respectfully request that the Federal Reserve clarify that: (1) taking advantage of the delay in payroll tax payments, or (2) being designated as a Paycheck Protection Program lender by the Small Business Administration does not disqualify an entity from qualifying as an eligible issuer.

In addition, on April 9, the updated PMCCF Term Sheet excluded depository institutions and depository institution holding companies (as such terms are defined in the Dodd-Frank Act) from eligibility. We ask that the Federal Reserve clarify that this revision was not intended to exclude certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities.

Furthermore, we ask that the Federal Reserve expand the PMCCF to include issuers with a non-investment grade credit rating, clarify the section 4019 conflict-of-interest provisions (section 4019 takes a broad approach to defining the term “equity interest,” which includes a share in an entity regardless of whether it is transferable or classified as stock), and clarify whether “maximum amount of outstanding bonds or loans of an eligible issuer” includes committed but undrawn amounts.

III. Secondary Market Corporate Credit Facility (SMCCF)

On April 9, the updated SMCCF Term Sheet excluded depository institutions and depository institution holding companies (as such terms are defined in the Dodd-Frank Act) from eligibility. We request that the Federal Reserve clarify that this revision was not intended to exclude certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities.

Furthermore, as with the PMCCF, we ask that the Federal Reserve expand the SMCCF to include issuers with a non-investment grade credit rating, clarify the section 4019 conflict-of-interest provisions, and clarify whether “maximum amount of outstanding bonds or loans of an eligible issuer” includes committed but undrawn amounts.

IV. Paycheck Protection Program Lending Facility (PPPLF)

First, we ask that the Federal Reserve expand eligibility requirements to allow non-bank consumer lenders to participate as lenders.

Second, we request that the Federal Reserve clarify that an electronic collateral origination process that complies with the Electronic Signatures in Global and National Commerce Act, the Uniform Electronic Transactions Act, and Uniform Commercial Code § 9-105 (Control of Electronic Chattel Paper) satisfies the pledging collateral requirements at each Federal Reserve Bank for e-loans.

V. Main Street Lending Program (MSLP)

While appropriate for a number of industries, the proposed debt-to-EBITDA metrics mean that many finance companies will fail to qualify for the MSLP.

Many financial services companies raise the majority of their debt via securitization. Issuers can essentially choose to account for securitizations as on-balance sheet debt or as a sale in which the assets leave the balance sheet and, therefore, no debt appears on the balance sheet. Finance companies generally ensure that they account for securitization as debt so as to avoid gain-on-sale accounting.

For finance companies that account for their securitizations as on-balance sheet transactions, debt-to-EBITDA measures are typically quite high. Lenders are leveraged entities, and the amount of leverage suitable for lenders is generally higher than the amount of leverage tolerated in other sectors. EBITDA, in fact, is not a metric used by bankers who cover the lending sector – money is a lender’s primary raw material, so talking about earnings before interest (the cost of that raw material) is rather like talking about a chair manufacturer’s earnings before cost of wood, fabric, and nails.

We ask that the Federal Reserve either: (1) recognize that securitization debt is non-recourse to the issuer and, therefore, does not need to be counted in the calculation, or (2) require an alternative leverage metric and/or threshold that is more suitable for the financial services sector.

We also request that the Federal Reserve issue an FAQ to provide additional clarity. In the FAQ, the Federal Reserve could clarify the following:

- Eligibility requirements – The Federal Reserve has not defined how the employee thresholds should be calculated, or whether the thresholds require prospective borrowers to aggregate their employee or revenue levels with those of their affiliated entities.
- Clarify acceptable uses for the loan proceeds – Currently, the term sheet merely states to refrain from paying “other loan balances.”
- Clarify the “reasonable efforts” standard that a borrow must satisfy in its efforts to maintain payroll and retain workers. The Federal Reserve should consider establishing specific levels.
- Further define eligibility and underwriting criteria related to the borrower’s financial condition. The term sheet merely states that the borrow must attest that they require financing due to the exigent circumstances presented by the COVID-19 pandemic and they are not insolvent.
- Clarify the “reasonable efforts” standard that a borrow must satisfy in its efforts to maintain payroll and retain workers. The Federal Reserve should consider establishing specific levels.

VI. Commercial Paper Funding Facility (CPFF)

By ensuring the smooth functioning of this market, particularly in times of strain, the CPFF will support families, businesses (particularly small businesses), and jobs across the economy.

In order to do so, though, the CPFF must be expanded. Currently, the SPV will only purchase U.S. dollar-denominated commercial paper (including asset-backed commercial paper) that is rated at least A-1/P-1/F-1 by a major nationally recognized statistical rating organization (NRSRO) and, if rated by multiple major NRSROs, is rated at least A-1/P-1/F-1 by two or more major NRSROs, in each case subject to review by the Federal Reserve.

As the CPFF is structured right now, many vehicle finance companies cannot access this line of credit as they do not qualify under the credit rating limitation. Many vehicle finance companies are Tier II/III issuer (A-2/P-3) rated company. However, they still have solid credit and may be in the greatest need of assistance.

In addition, there is a need to increase the CPFF limit beyond the commercial paper that was issued in the year prior to the crisis. Many issuers limited their drawings in the last year, as commercial paper is sometimes used last when times were good. Those companies should not now be punished for not drawing heavily on those lines. Commercial paper may have been a backstop that was not really used extensively until recently and those issuers should not be so limited in their use of this program.

* * *

Thank you for considering these recommendations. Please contact me at 202-776-7300 or cwinslow@afsamail.org with any questions.

Sincerely,



Celia Winslow

Senior Vice President

American Financial Services Association

April 16, 2020

BY ELECTRONIC MAIL

Chairman Jerome H. Powell
Board of Governors of the Federal
Reserve System
20th St. & Constitution Ave., NW
Washington, DC 20551

Re: Stand-alone Gaming Company Eligibility in the Main Street Facilities

Dear Chairman Powell:

The American Gaming Association (AGA) is the nation's leading voice in promoting sound policies and smart regulations on behalf of America's commercial and tribal casino operators, U.S.-licensed gaming suppliers, and other key stakeholders in the gaming industry. Collectively, the industry supports 1.8 million workers in 43 states and generates \$40.79 billion in federal, state, and local tax revenue. As the vast majority of our industry is ineligible to participate in the Primary Market Corporate Credit Facility or the Payroll Protection Program, we respectfully request your assistance in ensuring their eligibility for the Main Street New Loan Facility and/or the Main Street Expanded Loan Facility (together, the "MS Facilities") so that they may continue to pay workers even though gaming establishments have been shut down by state and local COVID-19-related ordinances.

The gaming industry has been among the most severely impacted by this recent pandemic, with all of the country's 989 commercial and tribal casinos currently closed to protect public health and safety. Together these operations employ an estimated 652,000 people – nearly all direct gaming employees in the country.

The AGA appreciates that the Board of Governors of the Federal Reserve (the "Board") and commercial banks that originate MS Facility loans will, in their underwriting, seek to ensure the loan is capitalizing a distinct entity with substantially all of its operations and employees in the United States, as required by the CARES Act. The unique state-based regulatory framework applicable to gaming companies lends itself perfectly to these underwriting criteria. As a condition of licensure, every state that authorizes gaming requires each gaming company to report financials on a stand-alone basis and to be capitalized separately from any corporate parent or affiliate. Gaming companies employ individuals directly, may obtain loans for which it alone is the obligor, and operate with a high degree of independence. As a result, each gaming company, even if owned or controlled by a parent, generates its own earnings before interest, taxes, depreciation, and amortization.

Hon. Jerome H. Powell
April 16, 2020

(EBITDA)—the important denominator in the maximum leverage ratios used by both MS Facilities—and thus can provide, through appropriate loan covenants, a dedicated source of revenue from which to repay any MS Facility Loan.

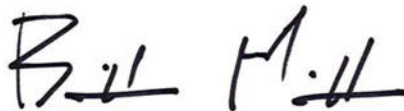
As the Board, in consultation with the Department of the Treasury, (“Treasury”), develops more granular program rules for the MS Facilities, we request that you consider the unique attributes of America’s gaming companies, including the fact that each company has its own distinct employee base and ability to repay any Board-backed loan. We encourage you to use flexible eligibility rules so that AGA’s members can access the MS Facilities and continue to support our workforce during this pandemic. We encourage you to ensure that a stand-alone gaming company’s individual eligibility for the MS Facilities be based on the number of employees it employs at a particular property and its ability to repay a Board-back loan.

Our members understand that any separate, stand-alone gaming company that receives a loan may be requested to make appropriate covenants to ensure that any Board-backed loan is not used to capitalize any parent or affiliate which they themselves may be ineligible, whether through issuance of a dividend, provision of a guarantee, or otherwise. Our only goal is to ensure the continued employment of our loyal workers until government stay-home orders are lifted and customers can safely enjoy our world-class venues.

Finally, as you develop new programs to assist large employers, we urge you to ensure that additional lending facilities are accessible to the broad array of businesses most in need of support under these programs, and not limit lending exclusively to investment grade companies. Providing this flexibility is critical to ensure these emergency lending facilities are as effective as intended by Congress.

Thank you for your attention to these concerns. We stand ready to work with the Board and Treasury at your request to provide additional data and information.

Sincerely,

A handwritten signature in black ink that reads "Bill Miller". The signature is written in a cursive, slightly stylized font.

William C. Miller, Jr.
President & CEO

cc: Hon. Steven T. Mnuchin, Secretary of the Treasury

April 12, 2020

The Honorable Steven Mnuchin
Secretary of the Treasury
Main Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

The Honorable Jerome Powell
Chair of the Board of Governors
The Federal Reserve
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

RE: Guidance needed to support hospitals' ability to access Main Street New Loan Facility

Dear Secretary Mnuchin and Chairman Powell:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners — including more than 270,000 affiliated physicians, 2 million nurses and other caregivers — and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) is writing to supplement [its letter](#) dated April 3, 2020 regarding access by hospitals to financing provided under Section 4003(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), including the Main Street New Loan Facility (the New Loan Facility) described in the term sheet posted by the Federal Reserve on April 9, 2020. The AHA and our members appreciate the speedy efforts of the Department of the Treasury and the Federal Reserve to create and outline new credit facilities to assist numerous business sectors, including the country's health care organizations, in surviving the health care and financial crises instigated by the COVID-19 virus pandemic.

As noted in our April 3 letter, access by health care organizations to the low-cost loans described under Section 4003(b)(4) of the CARES Act and/or the New Loan Facility is an essential component of federal support for hospitals. Whether or not additional loan facilities are developed with Section 4003(b)(4) funds, time is of the essence for working capital support of the hospitals and other organizations on the frontline of battling the virus, and the New Loan Facility is the facility most likely to address federal loan assistance needs for health care organizations ineligible for Paycheck Protection Program (PPP) loans or for which PPP loan maximums are insufficient. We urge Treasury and the Federal Reserve to supplement the New Loan Facility term sheet with prompt guidance on the following points to ensure that access to this critically-necessary loan facility will be attainable for hospitals without delay.



Eligibility of Non-profit Organizations. Section 4003(c)(3)(D) of the CARES Act tasks Treasury and the Federal Reserve with implementing a non-exclusive emergency loan program under Section 4003(b)(4) that provides assistance to mid-sized businesses, including non-profit organizations, that have up to 10,000 employees. The New Loan Facility is, at this time, that loan program. The New Loan Facility term sheet describes eligible borrowers as “businesses with up to 10,000 employees or up to \$2.5 billion in 2019 revenues.” The term sheet does not distinguish between for-profit businesses and non-profit businesses, or mention nonprofits. Many hospitals are nonprofits. It is AHA’s understanding, bolstered by congressional intent expressed in Section 4003 of the CARES Act, that “businesses” include non-profit organizations, and that nonprofits which otherwise meet the New Loan Facility eligibility requirements are eligible for loans thereunder. In order to avoid uncertainty or delay with participating lenders under the program, AHA urges Treasury and the Federal Reserve to make an unequivocal statement that nonprofits are included.

In addition, guidance should clarify that the eligibility requirements are satisfied if either the 10,000 employee maximum or the \$2.5 billion revenue maximum are satisfied, and that exceeding one of these two criteria is not disqualifying.

Moreover, the New Loan Facility term sheet is silent on the applicability of affiliation principles in calculating employees and revenues. In the event further guidance on this topic is contemplated, we reiterate, as discussed in AHA’s April 3 letter, that a non-profit applicant should be permitted to establish eligibility for the New Loan Facility program by reference to the number of employees of that entity, and the revenues of that organization, without regard to any affiliated entities.

Eligibility of Public Hospitals. Public hospitals operated by states, counties or cities are involved in the battle against the COVID-19, and are essential to the viability of the economies of their geographic locations, as are for-profit- and non-profit hospitals. Due to the size and other requirements of the Municipal Liquidity Facility described in the applicable term sheet posted by the Federal Reserve on April 9, 2020, it appears that the Federal Reserve’s municipal liquidity facility will not be directly available to public hospitals, and indirect availability, much less timely indirect availability, also is doubtful given the complexities of intermediated financings. These separate enterprises of state, county or local government should not be permitted to fall into a no-man’s land in which they are ineligible for assistance under any of the Federal Reserve facilities developed for this crisis. AHA urges Treasury and the Federal Reserve to either specify that public hospitals are considered businesses eligible under the New Loan Facility if the remaining eligibility criteria are satisfied, or to supplement the Municipal Liquidity Facility to make public hospitals independently and directly eligible under that facility.

Compensation Restrictions. The New Loan Facility term sheet indicates that the compensation restrictions in Section 4004 will be applicable to loans under that facility although Section 4004 does not impose such restrictions on Section 4003(b)(4)

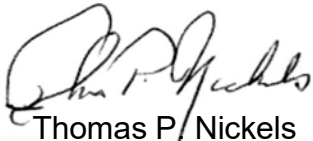
The Honorable Steven Mnuchin
The Honorable Jerome Powell
April 12, 2020
Page 3 of 3

assistance. For the reasons stated in its April 3 letter, AHA urges that the Secretary of the Treasury waive such requirements, as the CARES Act authorizes, in the case of “employees” providing medical services. As previously noted, given the national undersupply of medical professionals, hospitals and health systems receiving this type of federal loan should not be pitted against those that do not receive such loans and are able to compensate physicians and other medical personnel at market rates. At a minimum, guidance should clarify that borrowers may honor employment contracts executed prior to March 1, 2020, just as Section 4004 excludes from its restrictions compensation determined pursuant to a collective bargaining agreement entered into prior to March 1, 2020.

EBITDA Test. The New Loan Facility term sheet restricts the loan size to 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 earnings before interest, taxes, depreciation, and amortization (EBITDA). We urge Treasury and the Federal Reserve to provide an override mechanism for hospitals and/or other borrowers that do not satisfy this EBITDA test, or cannot obtain adequate loan assistance as a result of this EBITDA test, as long as other stated provisions, such as partial collateralization, are met which satisfy the taxpayer protection objective. In addition, guidance should clarify that undrawn lines of credit are excluded from the leverage ratio calculation.

Once again, we appreciate your leadership on these issues relating to this health, financial and societal crisis, and we look forward to continuing to work with you during this critical time to protect the health of our nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas P. Nickels". The signature is fluid and cursive, with the first name being the most prominent.

Thomas P. Nickels
Executive Vice President



April 16, 2020

Submitted via e-mail to: regs.comments@federalreserve.gov.

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave NW
Washington, DC 20551

Dear Secretary Mnuchin and Chairman Powell:

The American Hotel & Lodging Association (AHLA), Asian American Hotel Owners Association (AAHOA) and hoteliers across the country thank you for your continued leadership during the coronavirus pandemic.

At its core, the hotel industry is an industry of people taking care of people and our single greatest asset is our workforce. The health and safety of our associates and our guests has been and continues to be the top priority for the hotel industry. The historic CARES Act created by Congress and the Administration is a shining example of bi-partisan leadership to address one of the greatest challenges our nation has faced. It is also playing a vital role preventing significant and long-lasting economic damage for millions of Americans that work in the hotel industry.

Our organizations and hoteliers across the country were also very pleased by the recent announcement of the expansion of the Term Asset-Backed Securities Loan Facility (TALF) to include triple-A-rated commercial mortgage-backed securities (CMBS). Furthermore, we are pleased to see the launch of the new "Main Street" lending facility to further solidify the Trump Administration and Congress' efforts to bolster the American economy.

AHLA represents all segments of the hotel industry in the United States, which encompasses over 55,000 properties nationwide, 61% of which are small businesses, and supports 1 in 25 American jobs. AAHOA is the largest hotel owners association in the nation. The 19,500+ AAHOA Members own almost one in every two hotels in the United States. With billions of dollars in property assets and hundreds of thousands of employees, AAHOA Members are core economic contributors in virtually every community.

The hotel industry is currently facing an unprecedented cash flow crisis, with revenues nationwide declining more than 80% in recent weeks and expected to worsen. Many hotels are unable to pay operating costs and thus debt service. This will cause a snowball effect of foreclosures, and lenders taking ownership of severely distressed assets, leading to full scale layoffs and extended property closures. Hoteliers have a very limited ability to work directly with servicers of CMBS debt to achieve meaningful relief during this crisis. It is critical that regulators act swiftly to ensure that the \$86B of CMBS debt backed by hotel and lodging assets, as well as the total \$300B debt backed by those assets, remains in good standing. Widespread default and foreclosure on hotel CMBS debt would be disastrous for the

commercial real estate market at large as well as the holders of that debt, including pension plans and other large investors. Borrowers need access to capital to pay these debts and servicers must have the ability to provide necessary debt relief, including forbearance and other loan modifications during this extraordinary time.

AHLA, AAHOA and hoteliers from across the country respectfully request **as part of the new “Main Street” lending facility the Treasury and the Federal Reserve act to create a CMBS market relief fund with a specific focus on the hotel industry and it’s dire need for relief in this sector.** The hotel industry recommends:

- The terms of the lending need to allow for realistic repayment given the recovery curve ahead for the hotel industry – experts project that it will take between two and five years for hotel industry revenues to return to pre-crisis levels.
- The program should be \$10B to allow a year’s worth of full payments against the total \$86B CMBS debt for the industry.
 - The maximum size of each individual loan should be one year of CMBS debt payments (principal and interest). This should be sized for each individual asset which has CMBS debt against it with loans available for each asset as necessary. The withdrawal schedule should be matched against the CMBS loan payment due dates.
 - Allowable use of the funds should be payment of CMBS debt service obligations as well as necessary tax and insurance payments.
- Loan borrowers must be borrowing to pay CMBS debt against a hotel or lodging asset.
- The borrower must have been current on their payments and not in default as of February 1, 2020.
- The loans should be at a 2% rate to ensure an ability for borrowers to repay while at the same time ensuring taxpayers are not adversely affected. The loans should be non-recourse.
- Loan payoffs should begin five years after the final loan payment is made, with interest accruing until payments start.
 - The loans should be pre-payable at any time with no penalties.
 - The loan would come due upon the sale of more than 20% of the property.
- Loans should be administered through the master servicers (such as Wells Fargo, Midland, etc).
 - The servicers should collect a 10 basis points servicing fee deducted from the accrued or current interest as it is paid.
- The loans should have a 10-year amortization schedule.

The master servicers will also need to work constructively with borrowers to facilitate this program. They will need to consider waiving tests around debt-service coverage ratio, debt yield, performance, and other items. Additionally, many CMBS loans prohibit taking on additional debt, a potential requirement that would need to be waived under this program. Existing CMBS loans maturing within the next two years should be extended to avoid the risk of an inability for the borrower to refinance under current conditions.

The goal of this lending facility would be to allow hotel owners to keep current on CMBS loans and avoid foreclosure so that our valued workforce would have a place to return when the coronavirus pandemic subsides. Structuring the facility as loans administered by the master servicers allows for urgent, immediate relief for borrowers and eases concerns around CMBS loan covenants.

This lending facility would also forestall the impending debt crisis in the hotel CMBS market and prevent it from rippling out into other areas. If CMBS servicers are forced to foreclose on these hotels, they have no realistic path to restarting the business or reselling the property into the market in a reasonable amount of time, leading to shuttered hotels. **Without action, the country faces a potentially catastrophic prolonged impact on jobs and tax revenues as nearly 30% of hotel debt is backed by CMBS loans.**

The establishment of a program to provide liquidity to the CMBS market specific to hotels as part of the Treasury and Federal Reserve's response to the coronavirus would support all segments of our nation's domestic lodging industry and the more than 8 million employees it supports. A wave of foreclosures would impact the entire industry and all lodging employees.

The next few weeks will be critical, and we urge action without delay. With historically low occupancy, hoteliers have struggled to make April payments and we know more many will face default when May payments come due. Any hesitation will create a domino effect of negative consequences in Main Street America and across the spectrum of commercial real estate market.

Again, on behalf of our nation's domestic lodging industry and the more than 8 million employees it supports, we thank you for your leadership during this unprecedented time and for your consideration of establishing the hotel specific CMBS market relief fund in the new "Main Street" lending facility. We stand ready to work with you in this critical moment to help stabilize our economy and support our impacted employees.

Sincerely,

Chip Rogers
President and CEO
American Hotel & Lodging Association (AHLA)

Cecil Staton
President and CEO
Asian American Hotel Owners Association (AAHOA)

Partner State Associations

Mindy Hanan
Alabama Restaurant & Hospitality Association
Montgomery, AL

Amie Mayhew
Colorado Hotel & Lodging Association
Denver, CO

Kim Sabow
Arizona Lodging & Tourism Association
Phoenix, AZ

Ginny Kozlowski
Connecticut Lodging Association
New Haven, CT

Montine McNulty
Arkansas Hospitality Association
Little Rock, AR

Bill Silva
Delaware Hotel & Lodging Association
Wilmington, DE

Lynn Mohrfeld
California Hotel & Lodging Association
Sacramento, CA

Carol Dover
Florida Restaurant & Lodging Association
Tallahassee, FL

Jim Sprouse

Georgia Hotel & Lodging Association
Duluth, GA

Steve Hewins

Hospitality Maine
Augusta, ME

Vijay Dandapani

Hotel Association of New York City
New York, NY

Solomon Keene

Hotel Association of Washington DC
Washington, DC

Michael Jacobson

Illinois Hotel & Lodging Association
Chicago, IL

Patrick Tamm

Indiana Restaurant & Lodging Association
Indianapolis, IN

William Langkopp

Louisiana Hotel & Lodging Association
New Orleans, LA

Amy Rohrer

Maryland Hotel & Lodging Association
Annapolis, MD

Paul Sacco

Massachusetts Lodging Association
Boston, MA

Justin Winslow

Michigan Restaurant & Lodging Association
Lansing, MI

Liz Rammer

Minnesota Lodging Association
Saint Paul, MN

Stuart Doggett

Montana Lodging & Hospitality Association
Helena, MT

Scott Merritt

Nebraska Hotel & Lodging Association
Lincoln, NE

Mike Somers

New Hampshire Lodging & Restaurant Assoc.
Concord, NH

Joseph Simonetta

New Jersey Hotel & Lodging Association
Trenton, NJ

Mark Dorr

New York State Hospitality & Tourism Assoc.
Albany, NY

Lynn Minges

North Carolina Restaurant and Lodging Assoc.
Raleigh, NC

Joseph Savarise

Ohio Hotel & Lodging Association
Columbus, OH

Patti Colley

Oklahoma Hotel & Lodging Association
Oklahoma City, OK

Jason Brandt

Oregon Restaurant & Lodging Association
Wilsonville, OR

John Longstreet

Pennsylvania Restaurant & Lodging Association
Harrisburg, PA

Dale Venturini

Rhode Island Hospitality Association
Cranston, RI

John Durst

South Carolina Restaurant & Lodging Association
Columbia, SC

Vicki Boyer

St. Louis Area Hotel Association
Saint Louis, MO

Rob Mortensen

Tennessee Hospitality & Tourism Association
Nashville, TN

Scott Joslove

Texas Hotel & Lodging Association
Austin, TX

Kaitlin Eskelson

Utah Tourism Industry Association
Kamas, UT

Amy Spear

Vermont Chamber of Commerce
Montpelier, VT

Eric Terry

Virginia Restaurant, Lodging, and Travel Assoc.
Richmond, VA

Teran Haase

Washington Hospitality Association
Olympia, WA

Carol Fulks

West Virginia Hospitality & Travel Association
Charleston, WV

Trisha Pugal

Wisconsin Hotel & Lodging Association
Brookfield, WI

Chris Brown

Wyoming Lodging & Restaurant Association
Cheyenne, WY

[View 2,000 Additional Signatures Here](#)



April 16, 2020

VIA ELECTRONIC SUBMISSION

Jerome H. Powell, Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Steven T. Mnuchin, Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Re: Proposed Main Street Expanded Loan Facility and Main Street New Loan Facility

Dear Chairman Powell and Secretary Mnuchin:

The American Investment Council (the “AIC”)¹ and its members commend your efforts to support the economy and employment during these unprecedented times. It is critical to the U.S. economy and its eventual recovery that the Board of Governors of the Federal Reserve System (the “Board”) and the Secretary of the Treasury (the “Secretary”) boldly use section 13(3) of the Federal Reserve Act and the Exchange Stabilization Fund to reach businesses threatened by the pandemic. Nowhere is this need more evident than in small- and medium-sized businesses. Main street businesses, along with people they employ and the local communities they support, have borne the brunt of the economic effects of the pandemic and need relief. The private equity industry directly employs over 8 million Americans in businesses of all sizes in every state and every sector of our economy. Main Streets across America are lined with private equity backed businesses that employ local workers. For example, there are 523,000 private equity-backed employees in Florida, 102,000 employees in Kentucky, and 703,000 employees in Texas.

We applaud your efforts to support main street businesses through these challenging times. While acknowledging the numerous strengths in what you have done, our comments below focus on some important adjustments and clarifications to the main street lending facilities

¹ The AIC is an advocacy, communications, and research organization established to advance access to capital, job creation, retirement security, innovation, and economic growth by promoting responsible long-term investment. In this effort, the AIC develops, analyzes, and distributes information about the private equity and private credit industry and its contributions to the U.S. and global economy. Established in 2007, and formerly known as the Private Equity Growth Capital Council, the AIC is based in Washington, D.C. The AIC’s members are the world’s leading private equity and private credit firms, united by their commitment to growing and strengthening the businesses in which they invest. For further information about the AIC and its members, please visit our website at <http://www.investmentcouncil.org>.

that would further improve the effectiveness of the facilities. We urge the Board and Secretary to ensure that the emergency lending programs directed at main street businesses reach a wide range of creditworthy businesses that have been affected by the pandemic (“qualifying businesses”). Targeted adjustments to the proposed facilities should be made to ensure that certain restrictions—ones that are inconsistent with the current realities of the lending environment—do not prevent the facilities from having the effects intended by the Administration and the Congress. The shared policy imperative is for necessary relief and liquidity to reach all parts of the economy and not unfairly to penalize employees, suppliers, business people and communities that the Administration and Congress sought to help. In short, the Board and Secretary must seek to ensure that as many qualifying businesses as possible are “eligible borrowers” under the main street lending facilities.

I. The AIC Supports Many Aspects of the Main Street Facilities.

Many aspects of the main street lending facilities would appear to facilitate this goal. In particular, the AIC and its members support the following aspects of the Main Street New Loan Facility (the “MSNLF”) and the Main Street Expanded Loan Facility (the “MSELF”) and, together with the MSNLF, the “Main Street Facilities”):

- *The Main Street Facilities would not impose any criterion related to credit ratings.* As most small- to medium-sized businesses either do not have credit ratings or do not have investment-grade ratings, imposing a credit rating requirement for such businesses would largely nullify the utility of the Main Street Facilities.
- *The Main Street Facilities would not require borrowers to post collateral.* A requirement to provide new collateral also would drastically decrease the scope and utility of the Main Street Facilities.² Small- and medium-sized businesses have very limited ability to post collateral, which for these firms generally consists of illiquid assets like inventory, equipment and their own equity. Moreover, taking such collateral may significantly increase the administrative burden on lenders and slow the speed at which liquidity is delivered to the economy.
- *The Main Street Facilities would not restrict access based on a minimum size or participation in most other government programs.* Investor-owned businesses should be afforded the same opportunities for financial support and liquidity as other similarly-situated small- and medium-sized businesses, whether or not they have more than 500 employees and whether or not they have access to other relief measures provided under the CARES Act.

² Although the MSELF would require any collateral securing an eligible loan to secure the loan participation on a pro rata basis, we understand that the facility would not necessarily require new collateral to receive an upsized tranche of an existing loan.

II. Narrowly Tailored Changes Should Be Made to Allow Creditworthy Borrowers to Access the Main Street Facilities.

Notwithstanding our support for the principal elements of the Main Street Facilities, we believe that clarifications and narrowly tailored changes should be made to allow more creditworthy businesses to be eligible borrowers. Specifically, the following changes and clarifications are necessary to allow a significant number of investor-owned and other qualifying businesses to have access to the Main Street Facilities.

- A. *EBITDA and related calculations should be determined based on existing loan documentation or, for new loans, on the criteria normally used by the eligible lender.*

The Main Street Facilities would limit the maximum loan amount to the lesser of (1) a multiple of the borrower's 2019³ earnings before interest, taxes, depreciation and amortization ("EBITDA") and (2) one or more other metrics.⁴ Although AIC understands the Board's and Secretary's interest in establishing clear and easily administrable standards regarding creditworthiness for the Main Street Facilities, eligible lenders should retain some discretion in determining a borrower's EBITDA. A set, "one size fits all" calculation for EBITDA—one that would not allow an eligible lender to make appropriate modifications based on the borrower's credit condition—would exclude many qualifying businesses.

Lenders, especially those with outstanding loans to a borrower, best understand whether EBITDA modifications would more accurately reflect the borrower's cash flow, and most credit agreements contain detailed calculations to ensure that EBITDA is accurate and appropriate to the borrower. Moreover, eligible lenders have strong incentives to carefully determine the appropriate EBITDA calculation, as they would share in any loss under a Main Street Facility loan and their lending remains subject to the supervision, and potential criticism, of the federal banking agencies. For example, a Quality of Earnings report prepared by an independent third party may provide a better understanding of a company's cash flow and EBITDA. In the corporate loan market, EBITDA is customarily modified to make it more suitable to the borrower's existing credit arrangements or regular financial reporting. A failure to adapt EBITDA would likely exclude many non-profits, including many hospitals that have been severely impacted by the crisis.

³ Although basing the EBITDA on 2019 financials may be appropriate for many borrowers, certain borrowers may have more recent financials that more accurately reflect the borrower's cash flow and financial condition. The Board should clarify that eligible lenders may use for EBITDA calculations either 2019 financials or more financials for a more recent 12-month period.

⁴ The limit is six times EBITDA for the MSELF and four times EBITDA for the MSNLF.

That the Board should permit lenders discretion in calculating EBITDA is particularly evident for the MSELF. Specifically, lenders and borrowers should be able to rely on the EBITDA definition in existing loan documents. This definition would be the best measure of the borrower's cash flow, as the loan terms were negotiated at arm's length before the proposal of the Main Street Facilities, and therefore should reflect the EBITDA measure that the market believed was the best measure of the company's cash flow. For the same reasons, the definition of indebtedness in the existing credit documents should be able to be used for the MSELF, which would allow lenders to take into account the relative priority of MSELF loans. Moreover, using the definitions of EBITDA and indebtedness established in the documents should reduce the potential conflicts between the existing loan documentation and the upsized tranche as well as increase the speed at which the upsized tranche may be executed.⁵ Minimizing the administrative burden of lenders, such as by allowing the use of existing EBITDA definitions, also should increase the number of loans under the MSELF that may be provided expeditiously.

B. Additional narrowly tailored modifications should be made to the maximum loan size.

A few additional modifications to the calculation of the maximum loan size for the MSELF, or both Main Street Facilities, would more accurately reflect current lending realities and borrowers' ability to repay the facilities. The MSELF's loan limit to 30% of existing "bank debt" should be based on debt from both bank and nonbank lenders as creditworthy small- and medium-sized businesses commonly obtain credit from non-bank lenders. Therefore, excluding non-bank debt from this cap may significantly reduce the amount that many eligible borrowers would receive from the MSELF and, in certain cases, essentially exclude the borrower from participating in the facility based on an irrelevant criterion (i.e., whether its primary borrowing was through a bank).

In addition, items that would be treated as debt for accounting purposes but that would not typically be taken into account when determining what is treated as debt for lending purposes (e.g., capital leases, trade payables) should also be excluded as they generally are distinguished from debt when making lending decisions. Likewise, the Main Street Facilities should allow netting of cash against existing indebtedness as doing so is a common practice in the lending markets because it allows for a more accurate depiction of a borrower's ability to repay. Similarly, debt that is junior to the Main Street Facility debt should not be counted because the eligible lender will have priority should the borrower become insolvent. Making these changes

⁵ As there will be few existing loan facilities that contemplate the precise terms specified in the MSELF term sheet, the Board should make clear that the "upsized" contemplated by the MSELF may be provided in the form of a new non-fungible tranche or incremental facility under an existing arrangement and need not be limited to an increase in loans under an existing facility.

will allow many more borrowers to have meaningful access to the Main Street Facility by increasing the eligible borrowing level.

C. *The MSELF should include syndicated term loans for which an eligible lender is the agent.*

Clarifying that “term loans” under the MSELF include syndicated term loans, such as those in which nonbank lenders participate, would help ensure that a significant portion of medium-sized businesses are able to access the facility. Loan syndication involving agent banks is a primary borrowing method for many medium-sized businesses. For example, the Shared National Credit (“SNC”) population totaled \$4.8 trillion in commitments in 2019, a number which excludes commitments of less than \$100 million.⁶

Loan syndication is a critical method of preventing the concentration of credit risk within banking organizations and the U.S. financial system. Moreover, banking organizations originate and participate in syndicated term loans in a safe and sound manner just as they do for other term loans. Loan syndication is closely supervised by the federal banking agencies. For example, large agent banks receive two reviews under the SNC Program each year and most other agent banks receive one review a year.⁷ Accordingly, excluding syndicated loans would unnecessarily exclude an important form of safe and sound lending to medium-sized businesses and significantly reduce the number of businesses that would be able to access the MSELF.

D. *The MSELF’s requirement that the borrower have a term loan made by an eligible lender should be modified.*

The MSELF’s requirement that the borrower have a term loan made by an eligible lender, even if clarified as discussed above, could still exclude many qualifying businesses based on borrowing decisions that have little to do with a borrower’s creditworthiness or need for liquidity. Two changes should be made to the requirement to ensure that the MSELF is able to provide relief to a broader range of qualifying businesses. First, an eligible lender should not be required to have made the initial loan as long as the eligible lender participates in the upsized tranche.⁸ As noted, small- and medium-sized businesses commonly obtain credit from non-bank lenders, which may participate in existing loans alongside regulated lenders, or as members of a syndicate. In fact, traditional banks in many respects have exited the business of lending to small- and medium-sized companies since the financial crisis.

⁶ Board, FDIC, OCC, *Shared National Credit Program, 1st and 3rd Quarter Reviews* (Jan. 2020).

⁷ *Id.*

⁸ In such a case, the eligible lender should be able to rely on existing loan documentation for the calculation of EBITDA and indebtedness, as described above, to the extent consistent with safe and sound lending practices.

Second, the initial loan should not be required to be a term loan, as the upsized tranche may be a term loan even though the initial loan is not. Many small- and medium-sized businesses may choose to maintain existing credit facilities rather than term loans. Such a choice is not reflective of the borrower's creditworthiness or current liquidity need, and lenders carefully underwrite lines of credit as they would term loans. Therefore, the requirement that the initial loan be a term loan does not appear to further the policy goals of the MSELF and may arbitrarily exclude many qualifying businesses from eligibility. Revolving lines of credit and other non-term loans should be included among the loans that may receive an upsized tranche under the MSELF.

- E. The Main Street Facilities should not require that eligible loans be senior to other debt and should otherwise permit lenders flexibility in setting maturity and amortization (as well as other loan terms) to avoid violating existing debt covenants.*

Existing debt of small- and medium-sized businesses often contain restrictions regarding the incurrence of new debt, including requirements that new debt must be junior to the existing loan and that the term of any new debt must extend beyond that of the existing debt. Exceptions to these covenants in the loan agreements are usually limited to relatively small amounts. Moreover, borrowers may not be able to modify these covenants and, in any event, the length of such a modification process is likely to be costly and significantly increase risk to the business's liquidity.

Therefore, eligible loans should not be required to be senior to all other debt, and eligible lenders should be permitted discretion to modify eligible loan terms to the extent necessary to avoid violating existing debt covenants as long as such modifications are consistent with safe and sound lending practices and as long as the eligible lender documents its determination that the borrower has the ability to repay the additional credit extended under the Main Street Facility.

At a minimum, eligible lenders should have the ability to modify the required maturity and amortization schedules, as term loans frequently have a tenor of five years or longer. This is a significant structural aspect of the debt markets for small- and medium-sized businesses and providing this limited additional flexibility is critical for the effectiveness of the Main Street Facilities.

- F. A narrowly tailored adjustment and clarification should be made to permit borrowers to use funds efficiently.*

The Main Street Facilities would place a number of restrictions on the borrower's business decisions, including restrictions on the use of the loan proceeds, the payment or cancellation of the borrower's other debt, and the payment of dividends. Although the AIC understands the need for certain restrictions on borrowers, a narrowly tailored adjustment and

clarification would allow borrowers additional flexibility in managing liquidity when they need it most. Specifically, the prohibition on repayment of debt of equal or lower priority should not extend to amounts that can then be re-borrowed under a revolving line of credit.⁹ This minor relaxation of the restrictions stated in the term sheets would allow companies to use their limited liquidity more efficiently by avoiding the need for cash to sit idly on their balance sheets while incurring interest expense associated with funds already drawn under a revolving line of credit.

Similarly, the Main Street Facilities should clarify that borrowers are allowed to repay maturing indebtedness. The ability to use funds from the facility to refinance existing senior debt with a near-term maturity also should allow businesses to use limited liquidity as efficiently as possible.

G. Application of SOFR is premature.

Mandated application of Secured Overnight Financing Rate (“SOFR”) is premature given the ongoing process in the market to transition away from the London Interbank Offered Rate (“LIBOR”). Borrowers are familiar with LIBOR, but are not yet prepared for SOFR. Requiring that Main Street Facility loans use SOFR would require borrower education and lender operational changes and would therefore result in delay. Accordingly, the Main Street Facilities should permit the use of LIBOR with “fallback” provisions for transitioning to SOFR consistent with the policy endorsed by the Alternative Reference Rates Committee. This approach would provide sufficient time for participants to prepare for the transition in a manner that is consistent with current market capabilities and does not discourage use of the facilities.

⁹ We understand that this prohibition to refrain from repaying other debt of equal or lower priority would not apply to mandatory interest payments as well as mandatory principal payments.

AMERICAN INVESTMENT COUNCIL

The AIC appreciates the opportunity to comment on the Main Street Facilities and would be pleased to answer any questions that you might have concerning our comments.

Respectfully submitted,



Jason Mulvihill
Chief Operating Officer & General Counsel
American Investment Council

cc: Mark Van Der Weide
Andreas Lehnert
Michael Kiley
Board of Governors of the Federal Reserve System

Eric Froman
Kipp Kranbuhl
Peter Phelan
U.S. Department of the Treasury



Kristen F. Soares, President

April 16, 2020

Jerome Powell, Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW Washington, DC 20551

Subject: Comments on the Main Street Lending Program and Request for Meeting

Dear Chairman Powell:

On behalf of the Association of Independent California Colleges and Universities (AICCU), I submit the following comments regarding the Main Street Lending program. Specifically, we ask that the Federal Reserve update the guidance to clarify that nonprofit private and public institutions are eligible for the Main Street Lending program. In addition, we also ask that student workers be exempted for the purposes of the employee threshold for the eligibility requirements (under 10,000 employees).

AICCU is the organizational voice for 85 nonprofit higher education institutions in California. Together, our institutions serve 358,000 students, both undergraduate and graduate.

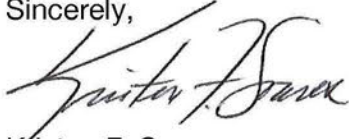
Institutions of higher education, often the largest or one of the largest employers in their local communities, are facing a major cash flow crisis in light of the reduced revenue and increased expenses imposed by the COVID-19 pandemic. Institutions expect to refund nearly \$8 billion in room and board charges alone. Some schools have also refunded tuition payments. Anticipated sources of auxiliary revenue have dried up as campus events have been canceled. Summer programs that provide revenue to many institutions also have been canceled. At the same time, institutions are facing additional costs—such as deep cleaning campus buildings and increased security expenses.

Many of our colleges and universities are seeking low-cost loans to help address the financial impact of the COVID-19 crisis and are interested in accessing the credit and loans available under the Main Street Lending program recently announced by the Federal Reserve. Unfortunately, we are concerned with two major barriers keeping our institutions from accessing these programs:

- Institutions of higher education are often the largest, or one of the largest, employers within their community and larger region. There has been confusion about the Main Street Lending program and whether or not nonprofits are eligible, because the current guidance is silent. We ask that the Federal Reserve update the guidance to clarify that nonprofit private and public institutions of higher education, with direct borrowing authority, are eligible for the Main Street Lending program.
- We also ask that student workers be exempted for the purposes of the employee threshold for eligibility (businesses with under 10,000 employees). We hope that future guidance from the Federal Reserve will make it clear that our institutions can exempt student workers from the employee count. Many of our institutions of higher education employ student workers across campus as a part of their overall financial support to help pay for college and provide students with work experiences while keeping them close to campus for the purposes of their education. With the majority of our campuses closed for the spring semester and transitioned to online learning, all or most of these student employees have left campuses, and therefore should not be included for the purposes of the employee threshold.

It is vital to provide this access to low-interest loans to nonprofit colleges and universities financially devastated by the pandemic and struggling to continue to educate and assist students and employ the millions of faculty and staff who work on campuses around the country. Thank you for the consideration and we look forward to working with you on this and other important loan programs as the Federal Reserve responds to the COVID-19 crisis.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen F. Soares". The signature is fluid and cursive, with a large initial "K" and "S".

Kristen F. Soares

April 16, 2020

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

The Honorable Steve Mnuchin
Secretary
U.S. Department of the Treasury Reserve
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: Main Street Lending Program Comments

Dear Federal Reserve Chairman Powell and Treasury Secretary Mnuchin:

I am pleased to submit these comments on behalf of Alliance HealthCare Services, Inc. to the Federal Reserve and Treasury Department in response to the Main Street Lending Program for small and mid-sized businesses. Our comments focus on the need for further clarification regarding subordination and use of funds.

Alliance is a 47-state network of radiological imaging and oncology treatment centers that employs a 2,600 member team that partners with more than 1,100 hospitals and serves more than 1 million patients annually. Also, Alliance's mobile diagnostic imaging units work directly with hospitals and physicians' offices throughout the United States to expand their ability to provide imaging and cancer treatment services including MRI, CT and radiation oncology.

Alliance has been impacted disproportionately by the COVID-19 outbreak. Although diagnostic imaging services remain an essential part of our healthcare system and continue, a significant number of elective medical procedures, such as orthopedic procedures, have been postponed or cancelled across America in an effort to keep people without COVID-19 or other critical medical issues out of hospitals and ambulatory surgery centers. In fact, the American College of Radiology has recommended that all non-essential diagnostic imaging services be placed on hold. And so, while hospital admissions in many parts of the country are at record high levels, complex diagnostic imaging services throughout the nation are down—substantially.

This unprecedented and nearly overnight decrease in diagnostic imaging studies has severely impacted radiology service providers in the United States. Alliance has been forced to furlough many personnel and delay and, also, defer capital expenditures to provide enhanced diagnostic imaging and oncology treatment equipment with the latest technological advancements that improve patient care and save lives. As this crisis continues, Alliance faces significant liquidity challenges and the ability to borrow additional capital is vital to the company's diagnostic imaging and oncology treatment network throughout the country.

We are grateful that the Federal Reserve and the Treasury Department are working quickly to create and implement the Main Street Lending Program as encouraged by the CARES Act. Having reviewed the preliminary April 9 Term Sheets, we are concerned that certain aspects of the Federal Reserve's April 9 Term Sheets for the Main Street Lending facilities could lead to misinterpretation or confusion and thereby limit the ability of potential borrowers such as Alliance to access this program. Our comments relate to two key areas—subordination and use of funds.

Subordination Clarification

In the attestations related to the repayment of existing debt, we think the correct interpretation of the April 9 Term Sheets is that borrowers should be allowed to continue to make debt service payments for which they are legally obligated, including any ordinary course principal and interest payments, any principal prepayments required by contractual terms, any scheduled principal payments at maturity or otherwise and any payment required pursuant to the exercise of acceleration remedies by lenders. We respectfully request that additional guidance make explicit that all these categories are permitted, without regard to whether any such payment utilizes Main Street Lending Program proceeds or other available funds.

We have heard from at least some lenders that they may ***decline to allow additional tranches or issue necessary waivers or consents*** to allow potential borrowers to participate if there is any potential scenario where the borrower's payment obligations to the existing lender could be interpreted ***to be effectively subordinated to the borrower's obligations in respect of the Main Street Lending Program loan***. If this occurs, then the Main Street Lending Program would be unavailable to some of the companies that need to access this capital most.

Accordingly, we respectfully seek clarification or confirmation that existing lenders need not subordinate, in any manner, their rights to any funding furnished under the newly established Main Street Lending Program.

Use of Main Street Program Funds Clarification

Second, we are writing to seek confirmation that the use of the proceeds from the Main Street Lending Program can be used by companies such as Alliance for capital expenditures, particularly those related to health care operations. We believe the April 9 Term Sheets were intentionally drafted without restrictions on the use of proceeds, other than the restriction on voluntary pre-payment or refinancing of existing debt as noted above and the referenced statutory limitations on buybacks, capital distributions and compensation. From our view, the absence of such restrictions allows U.S. companies flexibility to determine how to use and invest Main Street Lending Program funds in order to secure the future of their businesses and their workforce. However, absent an explicit statement in the guidance that there are no other restrictions on use of funds beyond those explicitly stated, Alliance is concerned that others could interpret that the Main Street Lending Program funds would only be available for operating expenses during the public health emergency period. The dynamic and entrepreneurial nature of the American economy and American businesses requires growth and investment in the future, and potential borrowers under the Main Street Lending Program shouldn't have to worry that taking a loan under the program would limit their ability to make capital expenditures or acquisitions during the term of the loan.

We respectfully request that additional guidance make clear that there are no restrictions on borrowers' use of funds during the loan term except as explicitly stated in the April 9 Term Sheets.

* * *

We look forward to working with you to ensure these critical loan programs are available to help healthcare providers such as Alliance stay in business to help with surge capacity and offer ways to treat non-COVID patients away from impacted hospitals. And, importantly, that critical components of the country's diagnostic and oncology delivery services such as those operated by Alliance have access to

capital to get through this crisis. If Federal Reserve or Treasury Department officials have additional questions please contact Harry Sporidis at hsporidis@polsinelli.com or 202-669-7399.

Thank you for your consideration of this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Johns', with a long horizontal flourish extending to the right.

Richard W. Johns
Chief Operating Officer, Chief Legal Officer



April 16, 2020

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

RE: Change Eligibility Requirements for the Main Street Lending Program to Include Section 501(c)(6) Organizations

Dear Board of Governors of the Federal Reserve System:

On behalf of the American Society of Association Executives (ASAE), which represents more than 48,000 association professionals nationwide, I write regarding the potential eligibility changes to the Main Street Lending Program. **ASAE urges you to include Section 501(c)(6) associations and organizations to be eligible to receive this much needed assistance.**

As the largest organization to represent trade and professional associations, part of ASAE's mission is to advocate legislative, regulatory and legal issues that directly or potentially impact the broad association, nonprofit and tax-exempt communities. This includes, travel, tourism and conferences, with which associations and other Section 501(c) organizations play a major role.

More than 62,000 associations across the country play an important role to train America's workforce, create industry and professional standards, and disseminate essential information and resources to people in need – particularly during times of crisis. These organizations are already relied upon to help coordinate federal resources to combat the coronavirus pandemic, and they require staff to fulfill this duty. Associations now face, however, unprecedented financial losses from event cancellations. Most associations also anticipate further losses in dues revenues, as members address their own economically precarious circumstances by cutting expenses, including association membership. Without support, Section 501(c)(6) organizations will be unable to continue to provide the services on which so many rely.

The Coronavirus Aid, Relief and Economic Security (CARES) Act does not provide sufficient and critically needed emergency funds to trade and professional associations in desperate need of support. For example, Section 501(c)(6) organizations do not have access to the Paycheck Protection Program and statutory language for Economic Injury Disaster Loans (EIDL; Section 1110) is unclear in exactly how it treats associations.

Many associations have little or no financial cushion to carry them through these times. One coalition of teaching organizations, which collectively are ASAE members, was forced to cancel its April annual meeting and now faces a loss of \$226,000 – without support, this loss will bankrupt the coalition, which has supported education and teaching for 50 years.

Another ASAE member, which provides critical assistance for rural healthcare, faces almost \$2.5 million in financial loss as a result of major event cancellations. This would be a vast loss for any organization and a crippling one for many ASAE members.

We urge you to change the eligibility requirements for the Main Street Lending Program to include 501(c)(6) organizations. Thank you for your consideration. If you have questions regarding ASAE or its request for critically-needed assistance to the association and nonprofit sectors, please contact Mary Kate Cunningham, CAE, vice president of public policy, at mcunningham@asaecenter.org or 202- 626-2787.

Sincerely,



Susan Robertson, CAE
President and CEO

Ashford Inc.
Ashford Hospitality Trust, Inc.
Braemar Hotels & Resorts Inc.

April 10, 2020

Honorable Steven T. Mnuchin
Secretary
U.S. Department of the Treasury

Honorable Wilbur L. Ross, Jr.
Secretary
U.S. Department of Commerce

Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve

Lawrence A. Kudlow
Director
National Economic Counsel

Dear Secretary Mnuchin, Secretary Ross, Chairman Powell and Director Kudlow:

My name is Monty Bennett, and I am Chairman of the Ashford group of companies. Our companies include Ashford Inc. (NYSE American: AINC), Ashford Hospitality Trust, Inc. (NYSE: AHT) and Braemar Hotels & Resorts Inc. (NYSE: BHR). Combined, we own and provide services to 130 hotels throughout the United States that, when fully staffed, employ nearly 13,000 associates.

Hotel owners occupy a unique space in America during the Covid-19 crisis, as we are collectively one of the country's largest employers *and* among its hardest hit businesses.

In just a few weeks, we have seen our once-thriving business grind to a complete stop. With over 300 million Americans under stay-at-home orders, many of our hotels are closed or running at only single-digit occupancy. Our revenues stand at less than 6% of the revenues we experienced during the same period last year. What's more, we face a very long road back. After each of the 9/11 tragedy and the 2008-09 financial crisis, it took more than 6 years for U.S. hotels to return to their pre-crisis levels of occupancy and revenue. *See attached chart. This crisis is significantly worse than 9/11 and the financial crisis combined!*

We were disappointed to learn the details of the Main Street New Loan and Extended Loan Facilities announced yesterday. Neither facility provides useful assistance to most hotel owners, or indeed to other real estate sector participants. Among several deficiencies, the newly-announced programs specifically prohibit borrowers from using the proceeds of the new (or expanded) loans to refinance their current debt. The leverage limits are too low, and the interest rates too high. In other words, this program prevents hotel owners from getting the help we need most!

Ashford's hotels **Confidential Business Information**

Confidential Business Information We estimate that the entire U.S. lodging industry currently has approximately \$300 billion in debt, nearly all of which faces

near-term default and needs to be re-financed. **We need the Fed and the Treasury to create a program that allows hotel owners to refinance most or all of our mortgage loans.**

In order for us to keep our hotels, re-hire our workers and slowly return to prosperity, we need the Main Street Lending program, including the facilities designed to help Mid-Sized Businesses, to provide the following for all hotel loans that were performing prior to the Covid-19 crisis:

- Government-mandated forbearance for 2 years, or until new financing is in place. This includes prohibiting lenders and servicers from charging “forbearance,” “special servicing” or other predatory fees.
- Loan guarantees from the Fed to FDIC-regulated banks, thus enabling the banks to make mortgage loans secured by our hotels to replace our existing loans, in an amount equal to 110% of current indebtedness – this will allow us to pay off our current lenders at par (thus providing them with much-needed liquidity), replace depleted reserves and fund capital investment in our properties, resulting in significant job creation for construction workers, skilled tradesmen, architects and many more.
- The loans need to be for a term of at least 5 years. They need to be interest-free for 3 years and bear interest at 25 to 50 bps thereafter. No origination or other fees.
- The loans should provide multi-year extension options to allow for an orderly re-finance over time (rather than hundreds of billions all maturing in 5 years).
- They need to be prepayable at any time, without penalty, so we can re-finance when lodging and capital market conditions stabilize.
- We need a measured, flexible approach to any conditions imposed on CARES Act borrowers. For example, many hotels are owned by REITs that are subject to IRS regulations governing the return of capital to shareholders. Accordingly, it is not feasible to prohibit REITs from paying dividends on their common stock or from buying back their stock when market conditions warrant.
- We need relief from the labor union provisions. The surest way to bankrupt hotel owners is to pass laws that make it easier for workers to unionize. Simply put, we will not survive both the Covid-19 crisis *and* higher labor costs on top of each other! Now is the time to be increasing owners’ flexibility, not tying our hands by requiring us to remain neutral in the face of union organizing efforts.

Many hotel owners, including Ashford, have opened their hotels to Covid-19 patients, healthcare workers on the frontlines, first responders and many others leading the charge to battle this pandemic. At our Embassy Suites New York Midtown Manhattan, we house nurses treating Covid-19 patients at nearby hospitals that are the epicenter of the pandemic. We have just opened the doors of our Marriott in Durham, NC for the county to use as a temporary shelter for the homeless. And we have proposals out to more than two dozen cities to use our hotels to house first responders. We believe in hospitality and lending a helping hand. And we ask the same of our government in times of need.

Our management team has spoken with several regional Federal Reserve Presidents this week, several of whom have suggested that we reach out directly to Secretary Mnuchin and Chairman

Powell to express our concerns and describe the parameters of the assistance we need. I would welcome the opportunity to speak with each of you directly.

Our situation is dire, and our need for help is urgent.

Best,

A handwritten signature in black ink, appearing to read 'MJB', written in a cursive style.

Monty J. Bennett
Chairman

Ashford Inc.
Ashford Hospitality Trust, Inc.
Braemar Hotels & Resorts Inc.

BakerHostetler

Baker&Hostetler LLP

Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5304

T 202.861.1500
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www.bakerlaw.com

April 30, 2020

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
Marriner S. Eccles Federal Reserve Board Building
20th Street and Constitution Avenue, NW
Washington, DC 20418

VIA ELECTRONIC MAIL

Dear Chairman Powell:

American Dream was three days from opening its doors.


Over eight years and \$3 billion of expenditures, American Dream combines a rich blend of global retail, destination dining and upscale arts with the largest mix of family-friendly indoor activities and leisure facilities in the world. American Dream was set to revolutionize tourism and must-see entertainment. Three million square feet. Acres of theme park rides and waterslides. More than 450 retail stores. A projected 40+ million visitors each year – more than who visit the Mall of America, currently the largest visitor attraction in North America.

Located in northern New Jersey, with the New York City skyline as a backdrop, American Dream was scheduled to open March 19, 2020 – three days after the COVID-19 pandemic shuttered the property and shut down America's economy. American Dream is owned by Triple Five Worldwide.¹

¹Triple Five Worldwide Group of Companies has developed, own & operate some of the world's largest tourism retail and entertainment complexes of its kind: Mall of America® in the United States and American Dream™ in Metropolitan New York. These and other projects will attract over 112 million visitors annually, as well as an extensive portfolio of diverse and independent divisions that currently employs over 5,000 professionals and has created over 50,000 jobs. Triple Five's wide-ranging experience is suited to creating successful mixed-use developments and activities worldwide

The financial impact on American Dream, its employees, customers, and 450 tenants – and the thousands of vendors they support – has been catastrophic.

Confidential Business Information



American Dream's initial opening was on pace to generate tens of thousands of jobs in New Jersey and surrounding states as well as spur massive economic activity and boost state and local tax revenues. For example, ongoing operations would support 23,200 jobs, more than \$1 billion in annual employee income, more than \$2.8 billion in annual economic output, and nearly \$150 million annually in state and local taxes.

Now all of that is in jeopardy.

Responding to the financial crisis triggered by the economic shut down, the Federal Reserve has acted with dispatch and skill, establishing lending facilities that serve as lifelines for businesses large and small. However, many businesses – including American Dream – are unable to benefit from those lifelines. That is because they do not qualify for the lending facilities or meet the facilities' many lending thresholds, and as a result these businesses and their employees are falling through the cracks.

The CARES Act authorized the Treasury Department to invest more than \$450 billion in lending programs to be established by the Federal Reserve. These funds are designed to help companies that have a history of accessing the capital markets stabilize their operations until the overall economy recovers. However, the programs announced by the Federal Reserve this month do not reach enough businesses.

that encompass the development, management and ownership of world-scale ventures in many fields.

² See Sec. 4013. Temporary relief from troubled debt restructurings, "Coronavirus Aid, Relief, and Economic Security Act" or the "CARES Act," (P.L. 116-136)

Specifically, the term sheets for the Main Street lending facilities include an EBITDA test that prevents numerous businesses from qualifying. For example, businesses scheduled to open in 2020 but for which significant capital expenses were previously dedicated have little or no revenue because of the shuttered economy. These businesses are unable to meet that current EBITDA threshold. Even so, pre-COVID-19, the American Dream was profitable, and it is projected to be Triple Five's most successful and substantially most profitable property.

That is why we are turning to you. Disqualified from existing lending facilities and unable to secure the necessary and additional private funding, American Dream is urging the Federal Reserve create a new lending facility that would allow American Dream and other entities similarly situated to receive a lifeline.

The Federal Reserve has clear statutory and precedential authorities to construct a lending facility consistent with its long-standing authority under Section 13(3) of the Federal Reserve Act to implement broad-based lending programs in "unusual and exigent circumstances."³ Indeed, while the Federal Reserve will be lending to entities that heretofore have not been eligible for its support, the lending facilities funded by the Treasury Department pursuant to Title IV of the CARES Act, do not alter the Federal Reserve's 13(3) authority. The 13(3) authority is clear and we believe that there are businesses struggling in the COVID-19 economy that the Federal Reserve Board of Governors may in "unusual and exigent circumstances" offer discounted notes to any participant in a "facility with broad-based eligibility[.]"⁴ The Federal Reserve bank issuing the note must assure it is "secured to the satisfaction of the Federal Reserve bank"⁵ and that the participant "is unable to secure adequate credit accommodations from other banking institutions,"⁶ and the Federal Reserve cannot establish a facility for the purpose of "aiding specific companies to avoid bankruptcy or resolution."⁷

This new facility would allow entities like American Dream and similarly situated projects to receive bridge loans from the Federal Reserve until either Congress authorizes new programs for the Treasury Department to establish and the Federal Reserve to administer or the capital markets stabilize.

³ See 12 U.S.C. § 343(3); 12 C.F.R. § 201.4(d).

⁴ 12 C.F.R. § 201.4(d)(4)(iv)

⁵ 12 C.F.R. § 201.4(d)(6)

⁶ 12 C.F.R. § 201.4(d)(8)

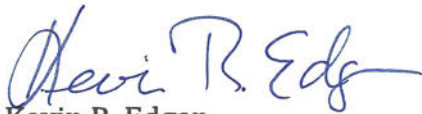
⁷ 12 C.F.R. § 201.4(d)(4)(ii)

A new facility would comply with Federal Reserve's Final Rule specifying its Section 13(3) procedures, which became effective on January 1, 2016.⁸ Indeed, as then-Chairwoman Janet Yellen noted at the time of the adoption of the new procedures in 2015: "Emergency lending is a critical tool that can be used in times of crisis to help mitigate extraordinary pressures in financial markets that would otherwise have severe adverse consequences for households, businesses and the U.S. economy."⁹

In a matter of weeks, the COVID-19 pandemic transformed a thriving economy into a stagnate economy. The Federal Reserve has the unique opportunity to lend to creditworthy projects that need temporary financing assistance from the Federal government until the capital markets return and can provide access to permanent financing.

If your staff would like to discuss further, I can be reached at kedgar@bakerlaw.com or (202) 861-1796.

Sincerely yours,



Kevin R. Edgar
Counsel

⁸ See "Federal Reserve Board approves final rule specifying its procedures for emergency lending under Section 13(3) of the Federal Reserve Act," November 30, 2015, available at <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20151130a.htm>

⁹ Id.

April 16, 2020

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue N.W.
Washington, D.C. 20551

Dear Chairman Powell:

My organization, the Community Development Bankers Association (CDBA), is the national trade association for banks that are Community Development Financial Institutions (CDFIs). We are the voice and champion of banks with a mission of serving distressed and underserved communities. Our membership is comprised of banks that are mission focused and designated by the U.S. Treasury Department as CDFIs. Our members serve distressed and disenfranchised rural communities and high poverty urban neighborhoods. In total, the US Treasury has certified 138 CDFI banks and 96 CDFI bank holding companies throughout the United States that serve distressed urban, rural, and Native American communities.

We respectfully submit comments and recommendations on the liquidity facilities released by the Board of Governors on April 9, 2020. We sincerely appreciate and commend the agency's leadership in responding to the COVID-induced economic crisis faced by communities across our nation and beyond. We commend the agency for its willingness to step in to help financial institutions meet the credit needs of businesses, nonprofits, consumers and others during the crisis, as well as manage the resultant liquidity and credit risk that will undoubtedly emerge in the coming months.

We believe the current facilities are a good start, but refinement is needed. Below we have outlined comments and questions about the Federal Reserve's three liquidity facilities (PPP, Main Street New Loan and Main Street Expanded) that most directly address the liquidity of concerns of our banks. Above all, we believe these facilities must position Low- and Moderate-Income (LMI) communities that are part of America's "Main Street" for long-term recovery. In addition, we make recommendations on additional facilities needed to address the systemic economic challenges the economy will face, as well as gaps not addressed by the previously issued term sheets.

GENERAL RECOMMENDATIONS:

- Given the unique and acute needs of LMI communities, we believe the Federal Reserve should establish CDFI- and MDI-designated special purpose vehicles within the liquidity facilities. Media reports and early data on the health and economic impacts of the crisis find that LMI communities and communities of color are disproportionately affected – precisely those that CDFIs serve.

- The Federal Reserve’s liquidity facilities should include a broad range of assets, including loans to businesses, nonprofits, churches, multifamily and single family housing, and others.
- We appreciate the timely April 16 release of documents essential to the operation of the PPP program. Yet, for future releases, CDFIs should have an opportunity to review processes, underwriting criteria, and loan documentation to ensure the initiatives fit their capabilities and the types of loans and borrowers they serve. This is vitally important for the success of the programs.

Paycheck Protection Program (PPP) Facility

Many CDBA members (est. 60+) are already Small Business Administration approved lenders and active participants in the Payroll Protection Program (PPP) authorized under the CARES Act. Liquidity has emerged as a key issue. We believe our members and their customers will benefit from the agency’s proposed PPP facility, given simple, clear, and actionable guidelines for participation. We request that guidance specifically answer the following concerns:

- How will interest accrue (e.g. 365/365)?
- What is the form of collateral that will be required for submission? (e.g. is it a subtotal, a data format, or a submission of supporting documentation?)
- After a loan is sold back or forgiven, how quickly will the borrowing base be required to be updated?
- How will the facility address loans that have multiple disbursements? Will there be a mechanism to simply update the loan amount pledged?
- How will the facility ensure the eligibility of loans disbursed following the April 8 guidance stating the disbursement window is “no later than ten calendar days from the date of loan approval,” rather than the previously published five days?

Main Street Facilities (Main Street New Loan Facility and Main Street Expanded Loan Facility)

Minimum Loan Amount: The Main Street facilities’ term sheets include many helpful attributes. The current Main Street New Loan Facility (MSNLF) and Main Street Expanded Loan Facility (MSELF) establish a minimum loan size of \$1 million. While some of our CDFI banks will be able to utilize MSNLF and MSELF for a subset of its largest borrowers, a solution is needed for borrowers with credit needs under \$1 million.

The minimum loan amount of \$1 million is simply too high. This amount is significantly higher than the most recently available average business loan amounts reported by Federal Reserve. In the Federal Reserve’s now-discontinued (May 2017) *Survey of Terms of Business Lending*, the average loan amount for *all* Commercial and Industrial loans made by *all* commercial banks was only \$663,000.¹ The average was even smaller when the population was narrowed to domestic banks (\$491,000), and smaller yet when narrowed to small banks (\$146,000).

CDBA strong urges the agency to develop a new Main Street Small Loan Facility (MSSLF) for loans under \$1 million. Such an MSSLF should have either no minimum or a de minimus loan amount -- recognizing the unique needs of the smallest businesses. MSSLF should have special provisions for assets purchased from CDFIs to cover both pre-April 8 and post-April 8 originations, and offer to pool loans of

¹ <https://www.federalreserve.gov/releases/e2/current/default.htm>

diverse asset classes. Underwriting must be more flexible than proposed under MSNLF and MSELF and the required attestations need to be simplified and tailored to fit the smallest businesses.

Maturity Cap: To facilitate long-term recovery, CDBA urges the Federal Reserve to create liquidity facilities with varying maturities up to ten (10) years to meet the needs of different borrowers. Both MSNLF and MSELF have a four-year maturity. We believe economic recovery will take significantly more time. Over the coming months, anticipated revenue losses for businesses, nonprofits, consumer and others will be significant and may take many years to recover. Offering longer term and more varied maturities will enable lenders to structure payments that are affordable, more feasible to manage, and will promote rebuilding and recovery. Prior recessions and natural disasters have taught us that economic recovery will be slowest in LMI communities. Even in 2017, a decade after the onset of the Great Recession, the LMI communities that rely on businesses served by CDFIs had not fully recovered: 37 percent of those earning less than \$30,000 per year said they would not be able to pay their bills within one month of being unemployed.² **We urge such facilitates accommodate the unique needs of LMI borrowers for those loans purchased from CDFIs, cover both pre-April 8 and post-April 8 originations, and allow loans from diverse asset classes.**

Underwriting: As proposed, MSNLF and MSELF will require a full credit underwriting, loan loss provision, and dedicated problem loan resolution resources. Given this complexity, we anticipate that new loans will not be deployed quickly. Furthermore, at the end of the term, it will require significant work for assets to exit the facilities. CDBA urges caution. The agency should not to design facilities, criteria and processes that are so complex and rigid that they cannot quickly and effectively serve borrowers. Borrowers served by CDFIs are unlikely meet to the same underwriting criteria as borrowers of traditional banks. Yet, these are the borrowers most affected by the recession. The coming months will be difficult for sectors across the economy. Flexibility will be important for promoting economic recovery.

Attestations: The proposed attestations are complex and will be cumbersome for lenders to maintain compliance. As currently outlined, we believe the requirements will reduce demand for MSNLF and MSELF. **We urge the Federal Reserve to simplify the attestations requirements as much as possible.**

Example 1: The requirement that the lenders not reduce credit line amounts could be problematic, such as excluding loans that reduce revolving lines of credit. Similarly, if the demand for the line of credit goes down -- or the borrower defaults -- lenders will be keeping too much credit open to the borrower during the entire term of the junior loan.

Example 2: The requirement that borrowers not repay other loans of equal or lower priority first may be problematic for operations in the case businesses with complex, capital stacks.

Loan Size Limitations: The rigid calculations of loan maximums could inadvertently disqualify some businesses that would otherwise be a good fit for the MSNLF and MSELF facilities -- or the proposed MSSLF. For example, in the case of unsecured loans, the loan maximum is four-times the trailing 2019 EBITDA. If a business is already leveraged with some debt, it might not be able to access much from the unsecured program. Yet, such a borrower may not be in a position to pledge collateral that is already

² <https://www.cnbc.com/2017/07/13/a-decade-after-great-recession-1-in-3-americans-still-havent-recovered.html>

committed to existing senior lenders. New borrowers may be able to benefit – but may qualify for much more than they need.

Risk Sharing: Greater clarity is needed on risk sharing. In the first paragraph of the MSNLF and MSELF term sheets, it states that a Reserve Bank will commit on a “recourse basis.” Yet, under “Loan Participations” it states that risk is shared on a pari passu basis. The former suggests that lenders will retain full recourse on any loan losses, whereas the latter outlines a risk sharing arrangement. Without a risk share arrangement, few lenders will be able to effectively utilize such facilities.

Clarifying Questions: Prior to launching the facilities, we request guidance on the following technical aspects of the program:

- How will interest accrue (e.g. 365/365)?
- How will loans amortize (e.g. bullet, straight line or mortgage)?
- What constitutes “reasonable efforts” by the borrower to maintain payroll? What is the penalty to the lender if a borrower fails to maintain its payroll?
- Must MSNLF loans be unsecured? Must MSELF loans be collateralized?

Small Borrower Rescue Fund

We urge the agency to design facilities to buy or guarantee pools of performing and pools of troubled loans originated by CDFIs. We propose the loans include both pre- and post-April 8 loans (rather than restricting post-April 8 liquidity to upsized tranches as with MSELF). The rationale is that these lenders are serving communities most severely impacted by the COVID health and economic crisis.

Under Section 4003 (b)(4) of the CARES Act and the emergency authority of Section 13(3) of the Federal Reserve Act, the agency has the authority to make loans, loan guarantees, or other investments including purchasing obligations or other interests originated by others to facilitate liquidity. Eligible loans should include a broad range of assets, including business loans, nonprofits, churches, multifamily, and others.

In the case of performing loans, such a facility can provide a new liquidity tool for lenders. In the case of troubled loans, we propose the agency buy pools of small loans at par from lenders whose borrowers are faced with immediate repayment difficulties because of COVID-19 crisis. Borrowers should be forgiven from paying interest and principle during the COVID-19 crisis or for at least six months thereafter, or a longer period of time if the Federal Reserve believes that a longer recovery period is appropriate given the severity of the crisis with respect to the economic sector of the borrower. CDFIs can collaborate with the Federal Reserve and continue to service the loans and workout troubled loans at a modest fee set by the agency. Regulated lenders should have no capital impairment from such sales. This treatment will provide lenders with cash to re-lend to new borrowers without pressure from regulatory agencies to foreclose or impair the lenders’ capital.

We thank you for the opportunity to comment. We sincerely appreciate the agency’s leadership in providing tools to the financial services sector to respond to the economic crisis and to stabilize our local communities.

If you have any questions or comments about this letter, please contact me directly on my Cell Phone
Number [REDACTED], or jacokesj@pcgloanfund.org. If I am temporarily unavailable, you may also contact Brian Blake at (646) 283-7929 or blakeb@pcgloanfund.org.

Sincerely,

A handwritten signature in black ink, reading "Jeannine S. Jacokes". The signature is written in a cursive style with a large, looping initial "J".

Jeannine Jacokes
Chief Executive Officer



COUNCIL FOR CHRISTIAN COLLEGES & UNIVERSITIES

April 16, 2020

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Main Street Lending Program

Dear Board of Governors of the Federal Reserve System,

On behalf of the Council for Christian Colleges & Universities (CCCUC) and the undersigned Christian colleges & universities, we submit the following comments in regards to the Federal Reserve's Main Street Lending program. The CCCUC represents over 180 institutions around the world, including around 145 in the United States that enroll approximately 445,000 students annually. Christian colleges pursue faith and intellect for the common good. Our institutions require faculty and staff that uphold the institution's religious mission, while at the same time promoting the common good and seeking to serve the broader public. Our faith is what inspires us to serve our students and others in our communities.

Thank you for the opportunity to comment on the Main Street Lending program. We appreciate the Board seeking comments from the public. Specifically, we ask that the Federal Reserve update the guidance to clarify that nonprofit private and public institutions are eligible for the Main Street Lending program. In addition, we also ask that student workers be exempted for the purposes of the employee threshold for eligibility requirements (under 10,000 employees).

First, we ask for clarity that nonprofit private and public institutions are eligible for this program. Colleges and universities across the country, particularly smaller and mid-sized institutions, are facing devastating unexpected costs in this unprecedented time. Campuses have put students first by implementing measures such as closing residence halls and switching to online learning. These measures are important to prevent the spread of disease, but they come at a high cost. Our institutions are going above and beyond to serve their students, but it comes at a high financial cost. They need access to the Main Street Lending program to ensure the well-being of their students, staff, and faculty, while ensuring they remain open and provide jobs for their community. Here are some examples from our institutions:

- One CCCUC institution in California opened a food pantry and created a benevolence fund for students who need assistance. However, that much needed assistance is already being depleted quickly, and the institution needs more dollars to replenish the fund and take care of students.

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321 8th Street NE | Washington, D.C. 20002 | www.cccu.org | 202.546.8713



COUNCIL FOR CHRISTIAN COLLEGES & UNIVERSITIES

- A campus in Ohio reported that they have students who have financial hardships, broken homes, the inability to travel, or have inadequate basic necessities at home. They are committed to providing safe housing, food, and caring RDs to watch over them. This school gave an example of a 19-year old freshman transfer student currently residing off-campus in inadequate housing made available to her by her family. The house has no central heat and a faulty hot water tank that provides for cold running water, thus no hot showers or baths. She has also reported that occasionally the electricity service is “unreliable” and she is left without power for hours at a time.
- One institution on the West Coast is expecting to lose at least \$7.5 million from room and board. They are also expecting a loss in revenue from summer events to be around \$2 million. If the pandemic continues into the fall, they will be down an additional \$22 million. They have some students who are unable to return home or who have no safe home to which to return. They are providing travel funds and some housing funds for students in dire need. They are spending a few hundred thousand dollars on these students alone.

These are just a few examples from our institutions that demonstrate the vital need for additional dollars to care for students.

In addition, many of these campuses are economic engines for their areas. They are often a large, if not the largest, employer in the area, and they desire to keep their faculty and staff employed. Most of our institutions have small endowments and are tuition dependent. Many of our campuses report expected losses of \$3-9 million dollars. They need access to loan programs like the Main Street Lending program to partially offset some of these losses and to continue to employ their staff.

Secondly, we also ask that student workers be exempted for the purposes of the employee threshold for eligibility (businesses with under 10,000 employees). We hope that future guidance from the Federal Reserve will make it clear that our institutions can exempt student workers from the employee count. Many of our institutions of higher education employ student workers across campus as a part of their overall financial support to help pay for college. With the majority of our campuses closed for the spring semester and transitioned to online learning, all or most of these student employees have left campuses, and therefore should not be included for the purposes of the employee threshold.

There is precedent for excluding student workers in employee counts. For example, Treasury issued this [guidance](#) related to the Affordable Care Act that excluded student workers under a federal or state work-study program. Also, campuses do not pay FICA taxes on student workers who are at least half-time students.

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We share the Reserve's goal of providing low-interest loans to those financially devastated by the pandemic to bolster the economy and care for workers. We believe that by including nonprofit private and public institutions and excluding student workers, our institutions will be better positioned to continue employment and start strong in the fall to educate our nation's young people. We stand ready to assist the Board however we can in furthering this goal, and we appreciate the opportunity to provide comments.

Sincerely,

A handwritten signature in blue ink that reads "Shirley Hoogstra". The signature is fluid and cursive, with the first name "Shirley" and last name "Hoogstra" clearly legible.

Shirley V. Hoogstra, J.D.
President
Council for Christian Colleges & Universities

On behalf of:

Abilene Christian University
Asbury University
Belhaven University
Bethany Lutheran College
Bethel University - IN
Bethel University - MN
Campbell University
Charleston Southern University
Concordia University, Nebraska
Cornerstone University
Crown College
Dordt University
Eastern Nazarene College
Eastern University
Faulkner University
George Fox University
Grace College & Seminary
Hardin-Simmons University
Hope International University
Houghton College

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Houston Baptist University
John Brown University
Judson College
King University
Kuyper College
Life Pacific University
Lipscomb University
MidAmerica Nazarene University
Mid-Atlantic Christian University
Milligan College
Missouri Baptist University
Montreat College
Mount Vernon Nazarene University
North Park University
Northwest Nazarene University
Oklahoma Baptist University
Olivet Nazarene University
Palm Beach Atlantic University
Providence Christian College
Samford University
San Diego Christian College
Southern Nazarene University
Southwest Baptist University
Spring Arbor University
Tabor College
Taylor University
The King's College
Trinity Christian College
University of Mary Hardin - Baylor
University of Northwestern - St. Paul
University of the Southwest
Vanguard University
Westmont College
Whitworth University
William Jessup University

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April 16, 2020

Federal Reserve Board
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Main Street Lending

Dear Board Members:

I write today on behalf of Convenience Distribution Association (CDA), the trade organization working on behalf of convenience products distributors in the United States. CDA members play a critical role in the continuity of American life and CDA members directly employ nearly 59,000 people. The necessity that convenience stores, like grocery stores, remain open during the current Covid-19 crisis is well established. Our distributor members supply these convenience stores with products on a daily basis. As a result, convenience product wholesale distributors are and have been determined by the nation's Governors to be essential businesses. Without CDA members the supply of food, medicines and cleaning products the American public require would be seriously and negatively affected.

There is a provision in the Main Street New and Expanded Loan Facility term sheets that requires a borrower to calculate and deduct from its maximum loan the amount of its "committed but undrawn debt." While the apparent intent of this provision is to require a business to use its available debt/credit before taking advantage of MSLP loans, the provision will have the unintended consequences of making many companies ineligible for the MSLP program.

It is a common practice in the wholesale distribution industry for companies to use asset-based lending as a form of secured borrowing to fund their inventory needs. In many cases a large portion of the revolving credit – often 20-30 percent – is considered to be cushion by the banks and is only accessible to the company with the addition of fees, penalties, restrictions or limitations on its operations.

Dominion control of bank accounts by the lenders is not uncommon when the company draws debt below the bank-mandated cushion. Realistically, the amount of "committed but undrawn debt" that should be used in calculating the amount of requested loan under the MSLP should not include debt that is not actually available to the borrower without untenable restrictions being imposed by the banks.

The wholesale distribution industry may be uniquely impacted by the "committed but undrawn debt" restriction because use of that credit method is widely used to finance inventory, and we would therefore ask that you consider removing that condition in its entirety from the term sheets.

Absent that, we urge the Federal Reserve to consider modifying the Loan Facility Term sheets to allow borrowers to calculate their loan amounts using only the amount of "committed but undrawn debt" that is available to them without punitive bank responses.

To that end, we propose the following modification options for your consideration:

Option 1:

- Substitute “available” for “committed” in item 5. (Both terms are universally understood terms in asset-based lending, but they mean two very different things).
- Add the following clarifying language: “For purposes of determining the eligible loan amount (or, for purposes of this provision), an eligible borrower’s existing outstanding and available but undrawn bank debt does not include any amount that, if drawn, would cause the Borrower to suffer fees, penalties, restrictions, or limitations on its operations. Lease financing obligations are also excluded.”

Option 2:

- No change to the term committed in item 5.
- Add the following clarifying language: “For purposes of determining the eligible loan amount (or, for purposes of this provision), an eligible borrower’s existing outstanding and committed but undrawn bank debt does not include any amount that is not currently available under the terms of the facility, nor does it include any amount that, if drawn, would cause the Borrower to suffer fees, penalties, restrictions, or limitations on its operations. Lease financing obligations are also excluded.”

Thank you for your consideration.

Sincerely,



Kimberly Bolin
President & CEO



April 16, 2020

BY ELECTRONIC MAIL

Chairman Jerome H. Powell
Board of Governors of the Federal
Reserve System
20th St. & Constitution Ave., NW
Washington, DC 20551

Secretary Steven T. Mnuchin
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Dear Chairman Powell and Secretary Mnuchin:

Century 21 Stores ("C21") is an iconic, family-run, mid-sized retailer employing 4,000 employees in the New York metro area; with a flagship store across the street from One World Trade Center in downtown Manhattan. Our business, however, is in serious jeopardy due to the economic fallout of the COVID-19 pandemic. We wrote to you on April 6 to request your help in establishing lending facilities under the CARES Act that C21 could access to temporarily support our workforce, trade lines, and rent. We were therefore pleased by the Board of Governors' (the "Board") announcement last week of preliminary program terms for the Main Street New Loan Facility ("MSNLF") and Main Street Expanded Loan Facility ("MSELF," and together with the MSNLF, the "MS Facilities"). However, we remain skeptical that either of the MS Facilities could provide meaningful support to C21 for the reasons outlined in this letter; we respectfully request that you consider our comments and, as appropriate, amend the terms of the MS Facilities to enable them to support the credit needs of C21 and thousands of other mid-sized retailers like us.

Comments and Concerns

1. EBITDA. Maximum loan sizes in both MS Facilities are determined, in certain circumstances, with reference to 2019 EBITDA. C21's audited 2019 financial statements will not be available by the time C21 applies for a MS Facility loan. **Request:** We respectfully request the Board permit the use of 2018 audited EBITDA or, alternatively, a three-year average EBITDA as the denominator in the applicable leverage tests for the MS Facilities.

Hon. Jerome H. Powell
Hon. Steven T. Mnuchin
April 16, 2020
Page 2

2. Eligibility in the MSELF. Between the two MS Facilities, the MSELF is the more attractive program for many borrowers, including C21, because it enables more borrowing. The MSELF, however, is available only to borrowers that have an existing term loan in place as of April 8, 2020. C21 does not presently use a term loan to finance the business. Instead, like many retailers, C21 uses an asset-backed loan (ABL). The ABL is secured by our inventory. **Request:** We respectfully request that ABLs be eligible for expansion under the MSELF.

3. MS Facility Leverage and Loan Terms. Whether a new term loan or an expansion of our existing ABL, the leverage ratios of 4:1 or 6:1 under the MS Facilities are likely too low to permit C21 to borrow under these facilities—a circumstance we believe will be the case for many retail establishments. Moreover, given the likelihood that shoppers will be slow to return to retail stores even after the government’s stay-home orders are lifted due to fear of contracting an illness, a four-year loan maturity is likely too short for C21. **Request:** We respectfully request the Board permit a pro forma leverage ratio of 8:1 for one or both of the MS Facilities and that loan terms of 7-10 years be permitted for use by MS Facility loan originators.

4. Insolvency. While we believe the Board is aware of the likely consequences of the application of the current regulatory definition of “insolvency” for purposes of section 13(3) of the Federal Reserve Act, we remain concerned that C21 and thousands of other businesses will be ineligible to borrow from the MS Facilities at all if that definition remains operable. **Request:** We respectfully request the Board reconsider the inclusion of “generally not paying undisputed debts as they become due within the 90 days prior to borrowing” as a regulatory definition of insolvency.

Thank you for your attention to our concerns. While we are proud of the business we have built, the reality is that C21 is more than a store. C21 is an anchor of the cultural fabric of America, where free and diverse individuals use fashion choices as a primary means of self-expression. In stark but not unrealistic terms, the choices government makes on program eligibility will make the difference between bright, vibrant city streets and boarded up stores for the 2020 holiday shopping season.

Please do not hesitate to contact us directly if we can be of assistance or provide any additional information to you.

Sincerely,



Raymond Gindi
Co-Chief Executive Officer



IG Gindi
Co-Chief Executive Officer

April 15, 2020

Chairman Jerome H. Powell
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue N.W.,
Washington, DC 20551

Re: Main Street Lending Program

Chairman Powell,

Thank you for the opportunity to comment on the Main Street Lending Program. As a brief introduction, Cohen & Company, Ltd. is a CPA firm that has had a strong emphasis on tax expertise since the firm's inception in 1977. We provide tax, assurance and consulting services to a significant number of businesses.

Regarding the Main Street Lending Program, we commend the Federal Reserve and the Department of Treasury with the speed at which this program was introduced. Businesses desperately need this aid to facilitate maintaining employees' pay while weathering the financial effects of COVID-19. As the Federal Reserve and the Department of Treasury finalize the rules, we request you consider the following:

Maximum Loan Size

The maximum loan size is defined as the lesser of (i) \$25 million or (ii) an amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed four times the Eligible Borrower's 2019 earnings before interest, taxes, depreciation, and amortization ("EBITDA").

Comments:

- 1.) Using a calculation only taking into account 2019 could hurt businesses with one-time events that decreased EBITDA. We received comments from clients with pertinent examples, such as the United Auto Workers Union and General Motors strike and its impact on manufacturers in the supply chain, natural disasters, product recalls and one-time litigation.

We recommend that the calculation be changed to a three-year average of EBITDA to alleviate such anomalies. We also recommend that eligible lenders are given authority to accept adjustments to EBITDA for one-time, nonrecurring expenses and non-cash charges such as impairment losses.

- 2.) We recommend that eligible lenders and borrowers are provided clear definitions as to how to calculate EBITDA. Lenders struggled with the Paycheck Protection Program because a number of items in determining the maximum loan size were not clearly defined. As such, we recommend the following definitions be used in the EBITDA calculation:

Basis of accounting: Accrual basis

Method of accounting: Accounting principles generally accepted in the United States of America (GAAP)

Earnings: Net income/net earnings in accordance with GAAP (i.e. sales minus cost of goods sold, selling, general and administrative expenses, operating expenses, depreciation, interest, taxes, and other expenses)

Taxes: Federal, state, and local taxes that the eligible borrower is subject to, including both current and deferred taxes

Eligible Borrowers

Eligible borrowers are defined as businesses with up to 10,000 employees or up to \$2.5 billion in 2019 annual revenues. Each Eligible Borrower must be a business that 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. Eligible Borrowers that participate in the Facility may not also participate in the MSELF or the Primary Market Corporate Credit Facility.

Comments:

- 1.) We recommend that 2019 annual revenues are clearly defined as all sources of income on the accrual basis in accordance with GAAP.
- 2.) Significant operations should be clearly defined. We recommend this is measured by full-time equivalent employees (FTE) located in the U.S. versus total FTEs. A business will meet this test if they have at least 51% FTEs in the U.S.
- 3.) There was significant confusion for the Paycheck Protection Program around how to apply the SBA's affiliation rules. The affiliation rules were put in place to require companies with parent subsidiary or brother sister relationships to aggregate sales and employee numbers to determine if the business was an eligible borrower. Both lenders and borrowers struggled in applying these rules for the Paycheck Protection Program, which led to certain businesses who were eligible being denied loans. The term sheet is silent on whether similar rules would apply. We recommend to not include affiliation rules or similar provisions to this program.

Attestations

There are a number of attestations included in the term sheet that may be problematic for lenders and borrowers.

- 1.) The Eligible Lender must attest that it will not cancel or reduce any existing lines of credit outstanding to the Eligible Borrower.

Comment: We are concerned this could cause lenders not to loan funds if they perceive they can't take corrective action if a customer's business goes south.

- 2.) The Eligible Borrower must attest that it will not seek to cancel or reduce any of its outstanding lines of credit with the Eligible Lender or any other lender.

Comment: We feel this language should be clarified to say: The Eligible Borrower must attest that it will not use proceeds of the MSL to cancel or reduce any of its outstanding lines of credit with the Eligible Lender or any other lender.

- 3.) The Eligible Borrower must attest that it requires financing due to the exigent circumstances presented by the coronavirus disease 2019 ("COVID-19") pandemic, and that, using the proceeds of the Eligible Loan, it will make reasonable efforts to maintain its payroll and retain its employees during the term of the Eligible Loan.

Comment: We recommend using the certification in the CARES Act, which states: The uncertainty of economic conditions as of the date of the application makes necessary the loan request to support the ongoing operations of the recipient.

The statement “due to the exigent circumstances” appears to be a stronger statement that might 1) discourage Eligible Borrowers and 2) cause Eligible Lenders to conduct more detailed underwriting, which will slow down loan processing.

We received numerous comments from clients on the Paycheck Protection Program regarding the certification statement: “Current economic uncertainty makes this loan request necessary.” The CARES act includes a provision in other sections of the Act that all borrowers are assumed to be affected by COVID-19. Both borrowers and lenders struggled applying this certification statement and whether risk was assumed if, at the time of application, the borrower hadn’t yet experienced a loss. A loss was not required under the PPP program, only that economic uncertainty existed.

We recommend that Eligible Borrowers and Eligible Lenders can rely on the presumption that all borrowers are assumed to be affected by COVID-19.

Missing Items

The following items were missing from the term sheet but were included in Section 4003 of the CARES Act.

- 1.) The funds the borrower receives will be used to retain at least 90 percent of the recipient’s workforce, at full compensation and benefits, until September 30, 2020;
- 2.) The recipient intends to restore not less than 90 percent of the workforce of the recipient that existed as of February 1, 2020, and to restore all compensation and benefits to the workers of the recipient no later than four months after the termination date of the public health emergency declared by the Secretary of Health and Human Services on January 31, 2020, under Section 319 of the Public Health Services Act (42 U.S.C. 247d) in response to COVID-19;
- 3.) The recipient will not outsource or offshore jobs for the term of the loan and two years after completing repayment of the loan.

We thank you for your consideration of our comments and, again, we appreciate all you have done to provide guidance on the Main Street Lending Program.

We welcome the opportunity to discuss our recommendations further. Please feel free to contact Dave Sobochan at 216.774.1163 or dsobochan@cohencpa.com, Adam Hill at 216.774.1130 or ahill@cohencpa.com, or Tony Bakale at 216.774.1147 or tbakale@cohencpa.com.

Very truly yours,



COHEN & COMPANY, LTD.



April 16, 2020

Via email submission: regs.comments@federalreserve.gov

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave NW
Washington, DC 20551

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: Main Street Lending Program Comments

Dear Sirs:

The Commercial Real Estate Finance Council (CREFC) is submitting comments on the Main Street Lending Program, including the [Main Street New Loan Facility](#) (MSNLF) and the [Main Street Expanded Loan Facility](#) (MSELF), collectively the "Program". Overall, we applaud Treasury and the Federal Reserve for taking rapid, decisive action to deliver emergency relief to the numerous individuals and businesses impacted by the COVID-19 pandemic.

Our comments are intended to ensure all impacted sectors of the economy are able to secure appropriate, temporary relief in order to weather this crisis and be able to resume business on a strong footing when the pandemic subsides.

The Program is an important tool to aid small- and medium-size businesses, and we recommend that it be made available to all COVID-19 impacted businesses that meet the specified criteria.

The impact of the crisis is broad, deep, and goes beyond shuttered storefronts. Specifically, we encourage you to make the Program available to U.S. operating companies across all sectors of the economy, to the extent permitted by statute. This includes promulgating rules that are flexible and inclusive of businesses, regardless of ownership structure or whether they are public companies or those financed in part by private investors. Doing so will insure that the Program reaches all parts of the economy and promotes growth and recovery to the greatest extent possible.

Ultimately, the inclusion of all types of businesses will be vital to restarting the economy. Ignoring the below considerations could mean that the properties in which we shop, eat, work, learn, seek medical care, shelter, and more would be jeopardized. In comparison to other sectors of the economy, the commercial real estate sector would be greatly disadvantaged in its return to normalization.

Below are CREFC' recommendations for ensuring that the Program delivers its highest and best use impact:

The Program's leverage limitations should be amended to recognize prudent debt practices in other industries where EBITDA is not a common measure of leverage.

While the absolute maximum loan sizes under the Program provide meaningful relief, the overall leverage limitations should be recalibrated in recognition that prudent debt management practices can vary across sectors. The commercial and multifamily real estate industry represents a good example as loan-to-value (LTV) ratios, debt yield, and debt service coverage ratios (DSCRs) are the core credit metrics to measure prudent lending and borrowing practices. Such measures govern commercial and multifamily lending in general and that is certainly true for commercial mortgage-backed securities (CMBS).

Below we provide two examples of why EBITDA is not the appropriate measure:

- **Example 1:** The Mall of America (MOA), an iconic super-regional mall located in Minneapolis, MN, with a 27-year operating history and solid pre-COVID stable cash flows, is financed via a CMBS loan (CSMC Trust 2014-USA) with a 65% LTV and 7% debt yield (based on 2019 data). If the owner of MOA was to borrow from the Program at the maximum \$150 million level for a MSELF loan, the LTV and debt yield readings would adjust only modestly to a 72% LTV and 6.3% debt yield. However, despite these conservative leverage metrics, MOA (and most, if not all, commercial real estate borrowers) would be ineligible for relief under the Program's current EBITDA limits given that the maximum total debt (including the CARES loan) cannot exceed six times EBITDA, which would be the equivalent of a 27% LTV and a 16.7% debt yield.
- **Example 2:** The EBITDA limitation also constrains a small property owner. For example, a low-rise multifamily property in Oakland, CA financed via a \$5.4 million CMBS loan (CSAIL 2020-C19) had an underwritten LTV of 58.7%, a debt yield of 8.4%, and a DSCR of 2.88x. With an underwritten net cash flow of around \$500,000, this property also would not qualify for any assistance under the current leverage limitations.

An EBITDA multiple is not a useful metric for measuring conservative leverage in the CRE market, where debt is backed by hard underlying assets. Please consider incorporating other appropriately tailored leverage metrics beyond EBITDA, such as LTV and DSCR, into MSNLF and MSEFL to ensure that commercial real estate businesses can obtain relief while maintaining an industry-appropriate prudent debt profile.

Any program restrictions should protect taxpayers and provide flexibility for businesses to pay workers and other essential obligations.

CREFC recognizes the importance of ensuring that taxpayer funds are used judiciously and within policy parameters set forth by Congress. To the extent Program rules ultimately restrict the manner in which loan proceeds may be spent, those rules and/or guidelines should allow for some flexibility in a company's structure so it can obtain a Program loan and use that loan for the intended purposes.

While payroll expenses are a clear priority, businesses also should be able to direct loan proceeds to other critical operating expenses, including rent and mortgage payments. Doing so ensures the ability of the property owner to continue to operate the property and, in turn, continue to employ its workers on a long-term basis. As we know, many property owners are not receiving rent payments from tenants, which leaves them with fewer and fewer resources to pay their own employees, other operating expenses, and debt service on their outstanding loans.

Again, CREFC applauds your efforts to implement the Program, and we stand ready to assist with data, research, and expertise on the Program's application and operation for the commercial real estate industry so that our members will be best positioned to contribute to our economic revival once the COVID-19 crisis has passed.

Sincerely

A handwritten signature in black ink that reads "Lisa A. Pendergast". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Lisa Pendergast
Executive Director
CRE Finance Council
(646) 884-7570
lpendergast@crefc.org



The Honorable Steven T. Mnuchin
Secretary
US Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Jerome H. Powell
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Secretary Mnuchin and Chairman Powell,

Cumulus Media is the second largest radio broadcaster in the US by number of stations and the third largest by revenue; as well, we operate the country's largest radio network, Westwood One, which represents 8,000 affiliate stations in addition to our own, and we own and manage a number of digital properties. We also employ over 4,500 full-time and part-time personnel who work tirelessly to deliver essential news and information and entertainment content across all our platforms to serve the public interest and reach over 250 million listeners every month who depend on us for that content.

As you are no doubt aware, the radio industry has been drastically impacted by the COVID-19 crisis given the crisis-induced reduction in advertising spend, which makes up more than 90% of our revenue, and, specific to radio, the dramatic suppression of commuter traffic which has decimated "drive-time-radio," a key component of radio's listenership base. As a leading radio broadcaster, we are suffering significantly from these effects.

We have reviewed the requirements published by the Treasury Department for both the Main Street New Loan Facility ("MSNLF") and the Main Street Expanded Loan Facility ("MSELF"). While we applaud the effort to extend relief to businesses – like our own – which are considering all available alternatives to meet the rising liquidity needs arising solely as a result of the COVID-19 crisis, we believe that, as drafted, there are significant issues with the programs that will limit their ability to provide the benefits intended. Indeed, the application of certain of the program's current requirements to the radio broadcast industry could further imperil jobs and businesses deemed "essential service providers" under the 2018 amendments to the Stafford Disaster

Relief and Emergency Assistance Act. (See §5189e, definition of “Essential Service Providers” which includes radio or television broadcasting, cable service, or direct broadcast satellite service). Moreover, as drafted, the programs could also further jeopardize access for millions of listeners who depend on radio for local information.

- Both programs have a leverage limit. For new loans under the MSNLF, a borrower would be limited to no more than four times leverage including the amount of the new loan and under the MSELF program, a borrower may be limited to up to six times leverage. In other words, the companies that may be in the most need are the ones unable to get the necessary funding. Indeed, by these measures, Cumulus would itself be precluded from accessing capital under the MSNLF and our capacity to do so would be limited, if it exists at all, under the MSELF. We believe these leverage ratios should be raised significantly, at least for essential service providers, allowing the programs to fulfill their intended missions. Additionally, we believe that the leverage calculations under the programs should be based on net leverage, allowing borrowers to reduce debt by cash on hand, as is consistent debt capital markets industry practice.
- Both programs use the term EBIDA in their leverage definition. There can be varying calculations and definitions of EBIDA, with each definition specific to a particular company. We recommend that EBIDA be based upon existing credit facility definitions specific to the particular program participant.
- The MSELF contains a limit on the maximum amount of borrowing that could be confusing in its interpretation. Under 5(ii), we believe the language should be clarified to read “30% of the Eligible Borrower’s existing total debt (outstanding plus committed but undrawn).” This change will make it clear that a borrower has the ability to upsize an existing facility by an amount equal to 30% of its total outstanding debt, including bond debt.
- Given that companies already have existing credit packages, it could be complicated if not impossible to grant security as collateral for these loans. We recommend that loans under both programs could be provided on an unsecured basis.
- We are concerned the limitation on compensation for the duration of the loan plus one year could cause us to be uncompetitive in the marketplace. As an example, we offer compensation in excess of \$425,000 to on-air talent and certain sales executives who would be disadvantaged and disinculturized by such caps. We could lose our popular hosts and skilled managers in a highly competitive marketplace if we are unable to offer increases consistent with those offered by direct and indirect competitors who do not face compensation restrictions. As a result, we propose limiting the duration of this measure to only the time when the loan is outstanding, with express carve-outs for talent and sales employees.

While this letter is focused on our concerns with the “Main Street Loan Program”, we believe it is beneficial to turn our attention to the assistance for mid-sized businesses as outlined in Section 4003(c)(3)(D) of the CARES Act (the “Act”), and we encourage

you to put forth a program under those guidelines as soon as is practical. We believe this could be an excellent source of capital for companies struggling due to the financial impact from COVID-19 with terms that could be more viable for essential businesses, such as ours. From what is outlined in the Act, the loans are to be at an annualized interest rate no higher than 2% and there would be no principal or interest payments required for the first six months.

We are very appreciative of the response from the Federal Government and the Treasury Department in supporting businesses in our time of need. We remain optimistic that we, as an industry, will be able to access the capital we need and continue being able to provide quality programming through our FCC licenses for the public interest.

Respectfully,



Mary Bemer
President & Chief Executive Officer
Cumulus Media Inc.

April 16, 2020

The Honorable Jerome H. Powell
Chair
Board of Governors of the Federal Reserve
Washington, DC 20551
Transmitted Electronically

Dear Chairman Powell:

On behalf of the nearly \$1 trillion equipment leasing and finance industry, I am writing to submit comments regarding the recently announced Main Street Lending program. A short background about the Equipment Leasing and Finance Association (ELFA) follows the signature block.

Small equipment finance companies provide a critical service to the U.S. economy. Whether it is a grocery store financing freezers, a restaurant financing ovens, a small business financing a copier, a fitness center financing treadmills, or a golf course financing golf carts, many times these leases or financings are carried out by small (well under 500 employees) equipment finance companies. These deals are made by small finance companies because oftentimes these transactions are of a size that is not attractive or economical for banks to pursue. Oftentimes, a small equipment finance company has developed an expertise in a specific equipment vertical; expertise in the asset class underlying the transaction allows them to underwrite transactions that a lender with a broader focus might not be comfortable pursuing. Lastly, small equipment finance companies can often process these transactions in a matter of hours whereas a larger institution might take several days.

Small equipment finance companies oftentimes sell portions of these portfolios to banks or larger equipment finance companies. Additionally, some small equipment finance companies securitize significant portions of the leases and loans they originate. It is indisputable that small equipment finance companies play a critical role in the U.S. economy, and will play a critical role in getting the economy running normally again as the health crisis begins to recede.

As you are aware, as of the time of this submission, most small finance companies are excluded from receiving funds under the Small Business Administration's Paycheck Protection Program. Additionally, the Paycheck Protection Program is already fully subscribed to its initial \$350 billion allocation, with a path for additional funding unclear.

We are concerned that the loan standards contained within the Main Street Lending program may dramatically limit the availability of loans under the program to small equipment finance companies that have relatively high debt to EBITDA ratios when compared to non-financial companies. As a measure, debt to EBITDA ratios for finance companies do not align with the market averages due to a majority of the cash flow received by finance companies being

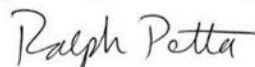
principal or capital returned from the transactions they invest in, which doesn't get picked up in the definition of EBITDA. Thus, EBITDA is understated vs the underlying debt causing higher debt to EBITDA ratios that may not comply with the program requirements. In general finance companies have debt to EBITDA ratios that align with the asset lives, which may be long in duration.

ELFA is concerned that the combination of these two factors may leave small equipment finance companies with no avenue for federal relief during these unprecedented times. It has been striking to hear from equipment finance companies repeatedly telling stories of the companies that are unable to make payments, and for which they are granting deferrals. The companies seeking deferrals are not their lowest credit customers, but the opposite, it is frequently the best customers who are seeking deferrals and cannot pay because their revenue went to zero due to a government-mandated closure. If equipment finance companies are left with no avenue for relief, they will be forced to reduce payroll, stop making new loans, and will not be ready to respond when the economy begins to reopen in the coming months.

We encourage the Federal Reserve to consider how to accommodate small finance companies into the Main Street Lending Program so that this critical portion of the U.S. capital formation system is not left out of the government's relief efforts. One way to accomplish this would be to exclude the debt to EBITDA ratio for finance companies. A second more complex method would be to include an adjusted EBITDA for finance companies that includes principal portion of direct finance leases or loans. However, finance companies that finance longer life assets will still have higher debt to EBITDA ratios as the term of their portfolio is longer.

For more information, or if we can be of assistance as you further develop this program or others, please contact Andy Fishburn, ELFA's Vice President of Federal Government Relations at afishburn@elfaonline.org. We stand ready to assist the Federal Reserve as you undertake these monumental tasks to provide critical relief to U.S. businesses.

Respectfully submitted,



Ralph Petta
President and CEO

BACKGROUND ON ELFA

ELFA is the trade association representing financial services companies and manufacturers in the nearly \$1 trillion U.S. equipment finance sector. Equipment finance not only contributes to businesses' success, but to U.S. economic growth, manufacturing and jobs. Seventy-nine percent of U.S. companies use some form of financing when acquiring equipment, including loans, leases, and lines of credit (excluding credit cards). In 2019, a projected \$1.8 trillion will be invested by U.S. businesses, nonprofits, and government agencies in plant, equipment, and software. Approximately 50%, or \$900 billion of that investment, will be

financed through loans, leases and lines of credit. America's equipment finance companies are the source of such financing, providing access to capital.

ELFA represents more than 575 member companies, including many of the nation's largest financial services companies and manufacturers and their associated service providers, as well as regional and community banks and independent, medium, and small finance companies throughout the country. ELFA member companies finance the acquisition of all types of capital equipment and software, including agricultural equipment; IT equipment and software; aircraft; manufacturing and mining machinery; rail cars and rolling stock; vessels and containers; trucks and transportation equipment; construction and off-road equipment; business, retail, and office equipment; and medical technology and equipment. The customers of ELFA members range from Fortune 100 companies to small and medium sized enterprises to governments and nonprofits.

ELFA represents virtually all sectors of the equipment finance market and its members see virtually every type of equipment financing transaction conducted in the United States and every type of funding available to providers of equipment finance. ELFA members who are service providers to the equipment finance industry (such as lawyers, accountants, trustees and vendors) have a unique vantage point of seeing scores of financial transactions from initial concept to final payout and from the perspective of both the borrower/issuer and lender/investor/funding source. ELFA truly is at the heart of equipment finance in the United States and our member companies provide lease, debt, and equity funding to companies of all sizes.



April 16, 2020

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th and Constitution Avenue, NW
Washington, D.C. 20551
Email: regs.comments@federalreserve.gov

Re: Comments on Main Street Lending Program

Dear Chairman Powell:

Employee-Owned S Corporations of America (“ESCA”) appreciates the opportunity to submit comments on the Main Street Lending Program authorized by Congress in the CARES Act.

ESCA is the national voice for employee-owned S corporations, and its exclusive mission is to preserve and protect employee-owned S corporations and the benefits provided to their employee-owners. Most S corporation employee stock ownership plans (“S ESOPs”) are 100-percent owned by their employees. Our S ESOP companies engage in a broad spectrum of business activities, many on the front lines of the response to the pandemic, ranging from health care to manufacturing tubing for ventilators to playing critical supporting roles such as retail grocery stores and other essential functions to America’s infrastructure.

We ask that the guidance under the Main Street Lending Program clarify that ESOPs, including S ESOPs, are eligible borrowers under the program and will not be denied loans as a result of the program’s stock repurchase and capital distribution restrictions. In particular, we are concerned that without clarity from the Federal Reserve and Treasury, private, employee-owned companies that are otherwise eligible for Main Street Lending Program loans could be denied loans based on the language in Sections 4003(c)(2) and 4003(c)(3)(A)(ii) of the CARES Act.

Section 4003(c)(2)(F) of the CARES Act establishes restrictions on eligible borrowers paying dividends or making other capital distributions with respect to the eligible borrower’s common stock. Section 4003(c)(3)(A)(ii)(II) requires an eligible borrower to attest that “until the date 12 months after the date the loan or loan guarantee is no longer outstanding, the eligible business shall not pay dividends or make other capital distributions with respect to the common stock of the eligible business.” **We respectfully ask for clarification that S ESOPs with mandatory share repurchase obligations are not in violation of the restriction on making *“other capital distributions with respect to the common stock of the eligible business.”***



EMPLOYEE-OWNED S CORPORATIONS OF AMERICA

S corporation ESOPs were created almost 24 years ago with significant bipartisan support from Congress. S ESOPs are qualified retirement savings plans that are subject to ERISA and Treasury regulations that ensure that S ESOPs hold true to their original purpose of encouraging broad employee ownership. As a result of the qualified retirement savings plan rules, S corporation ESOP companies have ongoing stock repurchase obligations when employee-owners retire. Excluding stock repurchases by private S ESOP companies from the eligible borrower capital distribution restrictions and attestations will provide employee-owned companies the same opportunity to utilize the economic recovery loans as other companies.

We believe that when we come out on the other side of this economic downturn that S ESOP companies will again prove to be a bright spot with their resilience and commitment to job preservation and creation. In a 2010 Georgetown University/McDonough School of Business study, two leading tax economists reviewed the performance of a cross-section of S corporation ESOP companies during the 2008-2009 recession and found that these companies performed better than other companies in job creation, revenue growth, and providing for workers' retirement security. Specifically, the study found that:

- **Companies that are S corporation ESOPs are proven job creators, even during tough times.** While overall U.S. private employment in 2008 fell by 2.8%, employment in surveyed S ESOP companies rose by 1.9%. Meanwhile, 2008 wages per worker in surveyed S ESOP companies rose by 5.9%, while overall U.S. earnings per worker grew only half that much.
- **S corporation ESOP companies provided substantial and diversified retirement savings for their employee-owners at a time when most other, comparable companies did not.** Despite the difficult economic climate, surveyed S ESOP companies increased contributions to retirement benefits for employees by 18.6%, while other U.S. companies increased their contributions to employee retirement accounts by only 2.8%, or one-sixth that amount.

Thank you for your efforts and for your consideration of these important clarifications that will help private, employee-owned companies continue their contributions to our country's economic stability while providing their workers with the American Dream at work.

Sincerely,

A handwritten signature in blue ink that reads 'Stephanie Silverman' with a long horizontal flourish extending to the right.

Stephanie Silverman
President and CEO



April 16, 2020

The Honorable Steven T. Mnuchin
Secretary
US Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Jerome H. Powell
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: ETS Comments on the Main Street Lending Program

To Whom It May Concern:

I am writing on behalf of Educational Testing Service ("ETS") to provide comments on the Main Street Lending Program that are currently being solicited. We specifically request that the Treasury Department and the Federal Reserve establish and update the guidance with respect to the Main Street Lending Program to clarify that private, nonprofit institutions are eligible businesses that may access the Main Street Lending Program. ETS has been as severely impacted as many other entities, both for-profit and nonprofit. Access to these programs is critical to our continued operations and our workforce.

By the way of background, ETS is a nonprofit organization that employs approximately 3,200 people, mostly in the U.S., providing world-class educational assessments and related services. ETS is involved in work spanning all levels of the education system. Domestically, we are best known for our K-12, teacher licensure and higher education assessments, as well as for developing and administering the SAT and AP exams for the College Board. ETS also owns the GRE exam which is accepted by most graduate schools and business schools, as well as English language assessments such as TOEFL and TOEIC. In addition, ETS provides critical support to the U.S. Department of Education on the National Assessment of Educational Progress (NAEP) and leads work on PISA and PIAAC assessments for the Organization for Economic Cooperation and Development (OECD).

Through our TOEFL and GRE assessments, ETS plays a critical role in bringing tuition-paying international students to U.S. educational institutions. U.S. education service exports ranked fifth among service exports in 2018. International students studying in the U.S. supported over 450,000 jobs and contributed over \$45.3 billion to the U.S. economy in tuition and living expenses in 2018, producing a trade surplus of \$35.2 billion. These export numbers are very important for supporting the health of the U.S. economy.



At present, educational testing has come to a virtual standstill in the United States and globally. So far, ETS has suffered a significant net loss since the onset of the pandemic, and projects that net loss growing fourfold should the crisis persist through June 2020, and as much as tenfold if the crisis continues through September.

As a nonprofit, ETS reinvests its surplus back into educational research and development aimed at improving education globally. These activities require a highly specialized workforce including some of the world's most distinguished scientists in the fields of psychometrics and statistics, which our workforce is at risk of losing as a result of our dramatic loss of revenue.

While we highly appreciate the efforts of the Administration to mitigate the impact of the COVID-19 pandemic, there has been very little relief available to organizations such as ETS. We are too large to borrow through the Paycheck Protection Program, and the tax benefits available to us as a tax-exempt organization do not adequately address our needs for liquidity. ETS is impacted as severely as airlines and hotels; however, we cannot access the industry specific relief assistance packages. The relief allocated to states to help K-12 schools and institutions of higher education does not presently extend to education service providers like ETS. In sum, we have not otherwise received adequate relief in the form of loans or loan guarantees provided under the CARES Act.

For these reasons, loan access for mid-sized nonprofits such as ETS to the Main Street Lending Program is crucial. Confirming that U.S. nonprofits are eligible businesses able to borrow through the MSNLF and the MSELF facilities will help prevent major disruptions to operations critical to primary, secondary, and higher education in the United States, and also help protect U.S. jobs and the economy.

We are grateful that the Federal Reserve and the Administration have made this type of lending a priority for the existing and any future programs that may be considered, and that you are focused on U.S.-owned and operated entities, both nonprofit and for-profit, that have suffered from the COVID-19 crisis.

We will be happy to provide any additional information that may be required.

Sincerely,



Nancy Segal
Executive Director
ETS

1800 M St. NW # 425 South | Washington, DC 20003 | Email: NSegal@ets.org | Phone: 202-659-0616





April 14, 2020

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Chairman Powell,

On behalf of the membership of Financial Executives International (FEI), I write to urge you to include all 501(c) organizations, including 501(c)(6) trade and professional associations, in the Main Street Lending program that was created by the CARES Act. While the CARES Act did include funds for 501(c)(3) nonprofit organizations through expanded Small Business Administration loans, it did not provide relief for all other 501(c) organizations, including 501(c)(6) trade and professional associations.

FEI is a professional association representing the interests of more than 10,000 chief financial officers, treasurers, controllers, chief tax officers and other senior financial executives from over 8,000 companies throughout the United States. Like many businesses including 501(c) organizations, FEI has been impacted by the COVID-19 pandemic. Associations – large and small – face severe layoffs and the threat of bankruptcy during this crisis. Without any fault of their own, associations lose their ability to provide for constituents and employees due to lost production and lost revenues on account of massive event cancellations.

Associations of all sizes, varied functions and disparate industries comprise Section 501(c)(6). More than 62,000 associations across the country play an important role to train America's workforce, create industry and professional standards, and disseminate essential information and resources to people in need – particularly during times of crisis. These organizations are already relied upon to help coordinate federal resources to combat the coronavirus pandemic, and they require staff to fulfill this duty. Associations now face, however, unprecedented financial losses from event cancellations. Most associations also anticipate further losses in dues revenues, as members address their own economically precarious circumstances by cutting expenses, including association membership. Without support, Section 501(c)(6) organizations will be unable to continue to provide the services on which so many rely. Meeting cancellations alone have dealt a staggering blow to associations. According to the Professional Convention Management Association, conferences and events account for roughly 35 percent of total annual revenue for associations. And according to a recent survey conducted by the American Society of Association Executives (ASAE) Research Foundation:

- 29% of respondents face \$100,001-\$500,000 in current and projected losses due to cancellations;
- 16% face \$501,000-\$1,000,000 in current and projected losses;
- 10% face more than \$1,000,000 in current and projected losses;
- 12% have partial insurance coverage for cancellations; and
- 52% have zero insurance coverage for cancellations.

Section 501(c) organizations play an important role in training America's workforce, creating industry and professional standards, and disseminating essential information and resources to people in need, particularly during times of crisis. Associations and Section 501(c) organizations are already needed to help coordinate federal resources, and they require staff to fulfill this duty. Without support, however, and due to unprecedented financial loss from event cancellations, associations will be unable to meet this critical obligation.

To ensure all Section 501(c) organizations are included in crucial stimulus funding to combat COVID-19, we request that you include them in the Main Street Lending Program. Without this financial support, innumerable associations and other Section 501(c) organizations will fail.

Thank you for your consideration and continued support of our country during this challenging time. If you have questions regarding this urgent request for critically needed support for the association sector, please contact me at andrej@financialexecutives.org or (973) 765-1001.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrej Suskavcevic". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrej Suskavcevic
President & CEO



April 16, 2020

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Chairman Powell,

On behalf of the membership of Financial Executives International (FEI), I write to urge you to establish loan forgiveness provisions for the Main Street Lending Program that was created by the CARES Act. While the CARES Act did stipulate that loans offered through the Small Business Administration's Paycheck Protection Program for businesses with fewer than 500 employees would see their loans forgiven if they retained certain amounts of staff and met other criteria, forgiveness was not included for larger businesses eligible for the Main Street Lending Program.

Large businesses are facing the same challenges as smaller companies in the economic crisis caused by the COVID-19 pandemic and should receive the same incentives to retain staff as smaller companies have been offered through the PPP. With unemployment claims totaling more than 22 million in the U.S. over the past four weeks, every effort should be made to ensure that as many American workers as possible should be kept on payrolls. Adding a loan forgiveness provision to the Main Street Lending Program would be a critical tool for the Fed to preserve jobs and support U.S. businesses.

FEI is a professional association representing the interests of more than 10,000 chief financial officers, treasurers, controllers, chief tax officers and other senior financial executives from over 8,000 companies throughout the United States. Many of our members' companies have been adversely affected by the COVID-19 crisis and we applaud the Fed for taking action to provide relief and support for American companies.

Thank you for your consideration. If you have questions regarding this urgent request for critically needed support for American companies, please contact me at andrej@financialexecutives.org or (973) 765-1001.

Sincerely,

Andrej Suskavcevic
President & CEO

April 16, 2020

The Honorable Jerome H. Powell, Chairman
Board of Governors of the Federal Reserve System
regs.comments@federalreserve.gov

Dear Chairman Powell:

We appreciate the Federal Reserve's announcement of the Main Street (new and expanded) Loan Programs ("Programs"). We are submitting this letter in response to your call for comments. Our goal is to ensure that companies that need the assistance to stabilize and be poised for post-COVID growth can access the Programs while also ensuring that there are safeguards in place to guard against imprudent lending or misuse of taxpayer funds.

Getaround is a peer-to-peer carsharing platform that provides access to cars by the hour or day. We use a tech-enabled solution that does not require in-person interaction to hand off keys. As reflected in the CISA/DHS guidelines characterizing carsharing as essential to critical infrastructure, Getaround is providing an essential transportation service during this critical time to health care workers and others procuring or providing essential goods and services. We currently employ hundreds of workers across the country.

As it currently stands, Getaround is not eligible to apply for either of the Programs because they require borrowers to have positive EBITDA. Indeed, EBITDA-based eligibility requirements and loan size limits on the Programs will disqualify many promising growth stage startups that are also providing essential services from participating, as many have negative EBITDA.

We recommend that you modify the terms so that companies with negative EBITDA are not excluded by calculating the maximum loan amount as either:

- (1) the greater of an amount certain (e.g., \$25 million for new loans) or a multiple of EBITDA, or
- (2) a function of other metrics besides EBITDA such as (i) a percentage of enterprise valuation, (ii) determined by commonly accepted debt/equity metrics on a per industry basis, and/or (iii) as determined by the lending bank (which retains 5% risk) in applying reasonable underwriting criteria relevant to growth-stage companies, such as gross revenue, cash on hand, existing debt, operating costs, gross margins, etc.

We appreciate the opportunity to provide feedback on the Programs, and are thankful for the Federal Reserve's efforts to support firms such as Getaround during this economic crisis.

Sincerely,



Andrew Byrnes
Deputy General Counsel & Global Head of Public Policy

Cc: Senator Kamala Harris (senator@harris.senate.gov)
Senator Dianne Feinstein (senator@feinstein.senate.gov)
Speaker Nancy Pelosi (nancy.pelosi@mail.house.gov)



701 8th Street, NW, Suite 450, Washington, D.C. 20001

PHONE 202.545.4000 FAX 202.545.4001

GrowthEnergy.org

April 16, 2020

Federal Reserve System
Board of Governors
RE: Chairman Jerome Powell
1925 Constitution Avenue NW
Washington, DC 20006

Dear Chairman Powell:

Growth Energy appreciates the efforts being made at the Department of Treasury, Federal Reserve, and Congress in establishing the Main Street New Loan Facility (MSNLF) and the Main Street Expanded Loan Facility (Facility), programs intended to facilitate lending to small- and medium-sized businesses in response to the Coronavirus' impact on the economy. These programs could inject much-needed financial assistance to U.S. ethanol companies on the verge of collapse. But the earnings before interest, taxes, depreciation, and amortization (EBITDA) condition on loan size would make some ethanol businesses ineligible, leaving them without any financial support.

Growth Energy is the world's largest association of biofuel producers, representing over 100 U.S. plants that annually produce more than 8-billion gallons of renewable fuel and nearly as many innovative businesses associated in the ethanol supply chain. Together, we work to bring American consumers better choices at the fuel pump, grow America's economy, and improve the environment for future generations. In 2019, the industry supported 350,000 U.S. jobs and contributed 43 billion dollars to the nation's Gross Domestic Product.

However, shelter-in-place orders due to the Coronavirus pandemic has caused demand shocks in the biofuels industry, forcing plants to significantly cut production. According to the U.S. Energy Information Administration, gasoline demand for the months of April and May fell by 50 percent. Ethanol production also dropped 7.3 billion gallons (nearly half of the production capacity) over the last four weeks alone. Plentiful supply with low demand is pushing prices to historic lows, devastating both ethanol plants and the rural communities they support.

Provide Flexibility to Loan Minimums

The Facility and MSNLF programs provide a measure of relief to some small- and medium-sized businesses, but several of our companies would not be able to access this support. Most companies with more than 500 employees are not eligible for the Small Business Administration's Paycheck Protection Program, so larger businesses are looking towards the Federal Reserve for assistance.

However, the MSNLF sets the following restrictions on loan amounts:

“Maximum loan size that is the lesser of (i) \$25 million or (ii) an amount that, when added to the Eligible Borrower’s existing outstanding and committed but undrawn debt, does not exceed four times the Eligible Borrower’s 2019 EBITDA.”

The Facility sets similar limits:

“Maximum loan size that is the lesser of (i) \$150 million, (ii) 30% of the Eligible Borrower’s existing outstanding and committed but undrawn bank debt, or (iii) an amount that, when added to the Eligible Borrower’s existing outstanding and committed but undrawn debt, does not exceed six times the Eligible Borrower’s 2019 EBITDA.”

Due to various factors over the past few years, including administrative decisions by the Environmental Protection Agency and the ongoing trade dispute with China, ethanol companies were not profitable in 2019. However, this does not accurately reflect the financial health of these companies. As written, the EBITDA provisions would prevent several ethanol companies from accessing this critical financial support.

We ask that the Federal Reserve and Treasury Department amend the guidance and strike the provision establishing the borrower’s 2019 EBITDA as one of the lesser amounts in determining the maximum size of the loan. Instead, include alternative financial assessments that provide a more accurate valuation of a company’s past performance. We are willing to work with you in establishing this alternative financial assessment and hope you will reach out with any questions.

Clarification on Annual Revenues

We also seek clarification as to whether the Facility and MSNLF requirement that eligible borrowers remain below \$2.5 billion in 2019 annual revenues refers to net receipts or gross receipts. Due to the commodity nature of the ethanol business as high volume with low margins, these companies should not be precluded from accessing the lending programs if gross revenues exceed \$2.5 billion.

During these unprecedented times, we hope you take into account the critical need for supporting America’s heartland. Thank you for considering our request.

Sincerely,



Emily Skor
CEO, Growth Energy

Holland & Knight

800 17th Street N.W., Suite 1100 | Washington, DC 20006 | T | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

April 16, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Treasury Department
1500 Pennsylvania Avenue, NW
Washington D.C., 20220

The Honorable Jerome Powell
Chairman
Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Secretary Mnuchin and Chairman Powell:

Thank you for the work the Treasury Department and Federal Reserve are doing on behalf of the American people and the U.S. economy. As you work to implement Title IV of the Coronavirus Aid, Relief, and Economic Security Act, including the Main Street Lending Program, we appreciate the opportunity to provide comments and questions related to the term sheets released on April 9, 2020. On behalf of clients across a wide range of industries and of diverse sizes, we are submitting the following comments and questions regarding the Main Street Lending Program in response to the Federal Reserve's request for comment.

- **Expand eligibility for (b)(4) programs** by relaxing limits on employee count and revenue:
 - While small- and medium-sized businesses, defined in current guidelines as businesses with up to 10,000 employees and no more than \$2.5 billion in revenue, are employers critical to the U.S. economy, larger firms are also a segment of employers in dire need during this crisis. Given many of the issues described in greater detail below, these larger firms may also not have access to the other programs under the CARES Act. Additionally, many of these larger firms provide critical support and supplies to small- and medium-sized firms. The Main Street Lending facilities should also be available to these larger firms who are critical to U.S. employment, and to smaller firms across the country.
- **“US business” clarification:** clarify that a U.S. business employing a majority of its employees in the U.S. can qualify for programs regardless of whether it is owned by a

non-U.S. parent, with restrictions to require that funds are only used to support the U.S. business and its employees in the U.S.

- **Eligible Lenders:** the current guidance requires that lenders be certain U.S. financial institutions. This could create issues for Eligible Borrowers seeking an expansion of an existing syndicated facility where none of, or not all of, the lenders are approved U.S. financial institutions. For example, many facilities now include various private direct lenders or U.S. branches of foreign banks which could otherwise result in a disqualification of a lender group. It also limits the available lenders that might be available to lend, particularly in instances where a working capital line is in place to a company but no existing term loan is in place, as the best option for most companies will be to access either term loan through their working capital lender or factor.
 - Solution: Allow expansion of term loans for Eligible Borrowers if the administrative agent is an approved U.S. financial institution or a majority of the existing and expanded term loans are held by approved U.S. financial institutions, or an eligible institution otherwise agrees to provide the expanded term loan. Allow non-bank providers of working capital lines or factoring arrangements.
 - Clarifying Question: Where existing loan facilities are in place how will voting and consent right issues work given the extended 95% hold of the new term loan by Treasury? Will Treasury allow the lender to drive consent, amendment, waiver and enforcement issues, particularly if the lender will retain a majority of the overall credit risk to the company?
- **Eligible Loans under the MSELF:** the current guidance only allows for term loans originated before April 8, 2020 to serve as eligible loans. Many borrowers utilize revolving lines of credit to finance working capital needs and often these revolving lines of credit are made in conjunction with or under a facility that also has a term loan.
 - Clarifying question: Can revolving lenders and borrowers agree to convert all or a portion of outstanding revolving loans into a term loan (or add to an existing term loan) that would otherwise be eligible to allow for participation in the MSELF?
- **SOFR as Rate of Interest on Eligible Loans:** the current guidance only allows for loans with adjustable rates based on SOFR plus an applicable spread. Many lenders have not transitioned from LIBOR to SOFR and the spread (250+400 bps) may exclude a large pool of “main street” businesses.
 - Solution: allow for LIBOR to control interest rate until LIBOR succession event occurs. In addition, allow spread to be set by the Eligible Borrower and Lender, with a floor of LIBOR + 250.
 - Clarifying question: if SOFR must control, can Eligible Lenders use LIBOR succession language to impose SOFR to create an Eligible Loan.

- Clarifying question: Many lenders use LIBOR floors in their calculations. Can these sorts of floors continue to be used (whether for LIBOR or SOFR)?
- **Increase maximum loan size:** it is hard to overstate the severe conditions U.S. employers are facing given the current economic crisis and the COVID-19 pandemic. To remain on or regain solid economic footing, U.S. businesses are going to need substantial loan support. The current Main Street Lending program loan sizes are currently limited (1) for loans under the Main Street New Loan Facility, to the lesser of (a) \$25 million and (b) the amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed 4X EBITDA, and (2) for loans under the Main Street Expanded Loan Facility, to the lesser of (a) \$150 million, (b) 30% of the Eligible Borrower's existing outstanding and committed but undrawn bank debt, and (c) an amount that, when added to the Eligible Borrower's existing outstanding and committed but undrawn debt, does not exceed 6X EBITDA.
 - Solution: allow lenders to approve larger loans as they judge an application, allow for larger loan amounts by replacing lesser with greater, and increasing the EBITDA threshold, for example, to a multiple of 6 for new loans and a multiple of 8 for expanded loans based on what the lender and borrower negotiate.
 - Solution: many employers have revolving amounts levels of debt and credit throughout the year. To avoid unfairly penalizing borrowers based on an arbitrary point in time, allow for a 12-month average of outstanding and committed but undrawn debt.
 - Solution: Eliminate the "committed but undrawn" component of "existing outstanding and committed but undrawn bank debt" calculation or change it to permit a historical lookback on actual available amounts under asset-backed liquidity facilities.
 - Solution: allow netting of cash against "existing outstanding and committed but undrawn bank debt" in calculation of maximum loan size.
- **EBITDA definition:** EBITDA, if interpreted as its classical definition, will exclude several adjustments that lenders and borrowers have agreed are appropriate to the specific circumstances of a particular credit if not industry-standard altogether. This, in turn, will lower the maximum loan size or make many borrowers ineligible to participate. Moreover, whether intended or not, any company with negative EBITDA over a relevant measurement period will not be able to participate even if it has de minimis currently outstanding debt. Additionally, metrics other than EBITDA are often employed in commercial credits in early stage businesses whose innovations are important to the economy; under a pure EBITDA based approach many of these businesses will not qualify.

- Solution: For the MSELF program, utilize the definition of Adjusted EBITDA defined under the borrower's existing credit agreement. For the MSNLF program, allow banks to agree with lenders on the definition of Adjusted EBITDA consistent with market practices. For businesses where EBITDA is an inappropriate or limiting metric, allow lenders and borrowers to agree on alternative metrics such as a multiple of recurring revenue.
- **Clarify availability to nonprofits:** while Section 4003 of the CARES Act suggests that eligible businesses should include, "to the extent practicable," nonprofit organizations, the initial guidance is silent on whether they are able to participate in the program. Treasury should clarify whether nonprofit organizations, including entities organized under Section 501(c)(3) of the Internal Revenue Code, are eligible. If nonprofit organizations are able to participate, some guidance may need to be modified (for example, the cap on loan size based on EBITDA would likely not be appropriate).
- **Amortization not defined:** If the intent is to have this loan pari with an existing term loan, the lender should be able to mirror amortization to the extent practical, subject to the maturity date of four years.
- **Interest:** How will interest accrue and be paid? Can it be added to principal, then paid at maturity?
- **Prohibition on use of proceeds:** While it is reasonable to disallow use of proceeds of loans under the Main Street facilities simply to pay down existing debt generally, the guidelines should make clear that like the Small Business Administration Paycheck Protection Program (the "PPP"), proceeds can be used to pay outstanding interest on existing debt.
 - Clarifying question: Further definition of debt is needed – i.e. how do the guidelines define "debt" and "bank debt" (used once)? The definition should be limited to something like "funded debt" not "debt" as typically defined in existing lending arrangements.
 - Solution: Tightly define "capital distribution" to permit intercompany distributions and only prohibit cash distributions to ultimate beneficial owners.
- **Prohibition on prepaying other debt:** While it is reasonable to disallow prepayment of existing funded debt until the loans until the Main Street facilities are repaid, the guidelines should carve out repayment of (a) revolving lines and other short term liquidity facilities that do not represent long term debt, (b) repayment of term debt that in a current liability (i.e. maturing debt), and (c) any SBA loans (whether under the CARES Act or otherwise). Many companies have had to use these short term facilities while waiting on CARES Act programs to stand up and should not be penalized for doing so, or have facilities that cannot be refinanced in the current market.

- Clarifying question: further definition of debt is needed (as noted above).
- Solution: change repayment/refinancing restriction to focus solely on term loan debt and expressly carve out revolving and capital lease debt and trade credit.
- **Modify prohibitions on capital distributions:** The CARES Act restricts capital distributions and dividends for employers that take advantage of Main Street facilities, and appropriately so. Congress clearly intended to prevent capital distributions to shareholders with this provision. Treasury should make clear that this restriction does not apply to certain payments where Congress did not intend to apply those restrictions. Without clear direction from Treasury, many lenders are likely to exclude employers with this structure from participating in the program.
 - Solutions: Permit limited distributions (a) for employers with a corporate structure where, to service existing debt, taxes or other obligations, dividends are paid up from an operating company to a parent company, (b) to shareholders/members/partners to pay related income tax obligations (as would typically be permitted by a senior lender where the borrower is a pass-through entity for tax purposes); and (c) relating to existing compensation and benefit plans (i.e. such as for ESOPs to pay plan participants to related benefits) [perhaps other than for highly compensated employees covered by Section 4004]. Additionally, provide clarity that the foregoing restrictions are not intended to prevent change of control transactions that may necessitate a dividend or distribution during the one year period after repayment.
- **Four year maturity:** the Main Street Expanded Loan Facility guidelines include a limitation to loans that have a 4 year maturity. To conform to the existing loans that were originated before the release of this guidance, and to ensure more flexibility to borrowers and lenders, the expanded loans should match the maturity of the existing loan being expanded, where the maturity is in excess of 4 years.
- **Reasonable efforts to make payroll:** to increase certainty in Main Street loans, further guidance is needed on what “reasonable efforts to maintain” payroll and employees during the term of the loan means.
 - Solution: Alternative/suggestion: Provide explicit immunity for lending/borrowing under the loan programs except in the case of fraud. Alternatively, add concrete details around what constitutes “exigent” (i.e., a particular amount of cash runway based on good faith projections), and what “reasonable efforts” must be made.
- **Assignability:** The current guidance requires that lenders retain 5% of each eligible loan, to ensure adequate due diligence by lenders. Once the eligible loan is made, and to promote lender involvement and market liquidity in the eligible loan, consider providing

additional guidance that would clarify that eligible lenders would be permitted to assign and/or participate in its 5% share to other eligible lenders, on terms consistent with, and in an otherwise customary manner for, the commercial loan market, generally.

- **Credit ratings:** Many critical businesses and employers who have been affected by the COVID-19 pandemic are over the 10,000 employee threshold, and thus are currently unable to access the Main Street Lending programs. We understand that other programs, such as the Primary and Secondary Corporate Credit Facilities (PMCCF and SMCCF), are available to many of these employers. However, these programs are limited only to those who have an investment grade rating from a nationally recognized rating agency that the Federal Reserve considers “major.” Also, under the current guidelines participation in these programs requires a BBB-/Baa3 credit rating from a Nationally Recognized Securities Ratings Organization (NRSRO). Solutions:
 - Employers who would otherwise qualify for the PMCCF and SMCCF programs should be allowed to participate if they have sufficient ratings from one NRSRO, even if ratings from other ratings organizations are below the required rating.
 - Ratings from any Federal Reserve designated “eligible” ratings agency should also be recognized for purposes of the PMCCF and SMCCF.
 - Reduce the required credit rating standards to allow greater access to capital for employers in need.

Thank you for your consideration of these comments and questions and for your continued work on behalf of the American people.

Sincerely yours,

HOLLAND & KNIGHT



April 16, 2020

To: Federal Reserve Chairman Powell
From: International Association of Amusement Parks and Attractions
Subject: Main Street Lending Program Comment

IAAPA is the global association for the attractions industry, representing over 6,000 members including major theme parks, local and destination fixed-site attractions, water parks, family entertainment centers, museums, zoos and aquariums, and manufacturers and suppliers. Our U.S. members employ over 700,000 people.

We appreciate the expediency with which the Department is working to develop programs to assist severely impacted businesses such as those in the parks and attractions industry.

IAAPA members include the world's largest premier global attractions companies, small family-run businesses and everything in between. Our members have been closed for over six weeks in what is the beginning of their peak seasons. It is unclear at this juncture exactly how long closures will last into the summer and how they will be ultimately lifted. It is quite possible that much of the industry's business for the year will be lost or at least severely impacted. We are currently facing very steep job losses industry-wide, and nearly a 100% revenue loss. The situation will only worsen if more of the season is lost and we are unable to get back to full capacity.

Main Street Lending Program: The program is for companies with 500-10,000 employees, but the CARES Act provides no detail on what constitutes an "employee," how one is counted, or when an employee is counted. For businesses in the parks and attractions industry which have seasonal and/or peak load periods, answers to both of these questions are critical to member company eligibility.

IAAPA urges the Federal Reserve and Treasury to define "employee" for purposes of eligibility in the Main Street Lending programs as full-time and salaried employees as of date of loan application. The size of a park or attractions company is best reflected by the size of their full-time and salaried staff. These are the employees that are part of ongoing business operations. While seasonal, temporary and part-time employees are critical to the operation of the enterprise, their hiring fluctuates based on unique annual circumstances. In a typical business in this industry, full-time and salaried staff is between 10-20% of the overall workforce. A high percentage of the non-permanent staff are first-time workers and have a high turn-over once hired. A significant number of these workers even fail to stay with the company beyond orientation. We estimate that close to 10% of new hires fail to complete even a single two-week payroll cycle. For purposes of eligibility into the Main Street Lending program, full-time and salaried staff is the relevant factor determining size of a business with seasonal or peak load such as those in the parks and attractions industry.

Given the extraordinary impact the Coronavirus has had on the parks and attractions industry; we would urge you to develop guidelines which will help companies weather the impact of the disaster. Our members, whose businesses are based on gatherings, must plan for a scenario in which they may be prevented from fully opening or opening at all this year. Therefore, we would urge guidelines that enable businesses with varying financial term sheets from the most conservative, to those that have been more aggressive to access the Main Street Lending Program. Our members are the economic generators in their communities. They need assistance to ensure they can withstand this devastating event.



April 16, 2020

Federal Reserve Board
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Dear Board Members:

I am writing to urge the modification of provisions in the Main Street New and Expanded Loan Facility term sheets. First we are concerned regarding the requirement that a borrower deduct from the maximum loan amount, the amount of its "committed but undrawn debt." Second, we believe the limitation on total debt to 4 or 6 times EBITDA can impose too strict a limitation for a capital intensive low margin industry such as foodservice distribution. We recommend increasing that limitation to 8 times EBITDA.

Foodservice distributors supply food and related products to restaurants, colleges and universities, the U.S. military, and other foodservice operations. It is a \$303 billion industry, employing 350,000 Americans in all 50 states. While many foodservice distributor customers such as hospitals and other care facilities are still functioning, the shutdown has resulted in revenue reduction in excess of 70% or more for many companies. Yet distributors must still continue to purchase product, as well as operate their warehouses and transportation networks in order to service their remaining customers.

Access to loans is crucial at this time. The loans must also be sufficient to provide the resources needed to allow these capital intensive businesses to continue to operate. Further, as we look to reopen the economy, they will need to be able to provide additional capital to help their customers reopen. The size of the loans should be increased to allow a debt limit of up to 8 time EBITDA.

Many foodservice distributors use asset-based lending as a form of secured borrowing to fund their inventory needs. In many cases a large portion of the revolving credit – often 20-30 percent – is considered to be cushion by the banks and is only accessible to the company with the addition of fees, penalties, restrictions or limitations on its operations. Dominion control of bank accounts by the lenders is not uncommon when the company draws debt below the bank-mandated cushion.

The amount of "committed but undrawn debt" used to calculate the amount of the requested loan under the MSLP should not include debt that is only available to the borrower with untenable restrictions from lenders. Please modify the language of the term sheets to substitute "available" for "committed" in item 5. Absent that, Loan Facility Term sheets should be modified to allow borrowers to calculate their loan amounts using only the amount of "committed but undrawn debt" that is available to them without punitive bank responses.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Allen", written in a cursive style.

Mark S. Allen
President and CEO



April 16, 2020

The Honorable Jerome H. Powell
Chair, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Dear Chair Powell:

We are writing you to urge the Federal Reserve to provide financial support and clear guidance for the nonprofit sector to access and participate in the lending facilities authorized under the CARES Act, including opening the Federal Reserve's Main Street lending facilities or other facilities to the charitable sector. Lending terms must recognize the unique value of the nonprofit sector as well as the unique circumstances it faces. Doing so will provide an important form of relief to nonprofits currently fighting on the front lines of the global pandemic as a result of COVID-19.

Independent Sector is a national membership organization representing a diverse set of nonprofits, foundations, and corporate giving programs working to ensure all people in the United States thrive. The charitable sector is a bedrock of the U.S. economy, both in terms of the number of Americans it employs as well as the resources it provides in place of the private sector. With 12.3 million paid workers (comprising 10% of the private workforce), nonprofits employ more workers than many major U.S. industries. In particular, their employment rivals manufacturing and is twice that of the nation's transportation, wholesale trade, and finance and insurance industries. Even more important than this impact as a major U.S. employer and economic driver, nonprofits serve on the frontlines meeting the exponential growth in healthcare, food, housing, employment and education needs during the crisis.

The charitable nonprofit community appreciates that several key relief programs in the CARES Act were modified to include nonprofit eligibility, including the Economic Stabilization Fund from which the Main Street lending facilities originate. This approach recognizes the critical role that charitable nonprofits play in our nation's economy and as valued problem solvers in communities. However, efforts that undermine congressional intent to provide economic relief for nonprofit organizations are cause for grave concern to the charitable sector. As a result, we strongly urge the Federal Reserve to provide additional guidance that allows the sector to receive relief that recognizes its unique value and circumstances.

On behalf of the sector we represent, we want to thank you and all Federal Reserve employees working tirelessly to help the nation in a time of unprecedented need. We trust you share our commitment to making certain that those whose mission it is to serve the most vulnerable across our nation have equitable access to these vital resources.

Sincerely,

Daniel J. Cardinali
President and CEO
Independent Sector

April 16, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal
Reserve System
20th St. and Constitution Ave. NW
Washington, DC 20551

Re: Main Street Lending Program

Dear Secretary Mnuchin and Chairman Powell:

The Institute for Portfolio Alternatives (IPA) writes regarding important and critical amendments, described below, to the Main Street Lending Program (MSLP), which consists of the Main Street New Loan Facility (MSNLF) and Main Street Expanded Loan Facility (MSELF).

The IPA¹ represents funds that provide portfolio diversifying investment products for main street investors that have low correlation to the traded markets and were historically available only to institutional investors. Those investment products include Business Development Companies, regulated under the Investment Company Act of 1940 (BDCs), that are a vital source of capital for America's small and middle-market businesses. BDCs were designed by Congress to invest in loans to small and mid-size private U.S. companies, and non-listed BDCs have managed up to \$32 billion of investments for those companies.

The IPA appreciates the work of the Federal Reserve and Treasury Department in addressing the immediate needs and concerns of businesses and individuals during this unprecedented COVID-19 crisis. We strongly support the MSLP as a source of financing for middle-market businesses, many of which are ineligible for the Paycheck Protection Program (PPP) and are weeks away from running out of operating capital. The MSLP is necessary for many of the portfolio companies of BDCs that are the drivers of our American economy. Because many of those businesses were not able to receive conventional bank capital, however, certain amendments to the MSLP are necessary to allow those businesses to access the MSLP and continue operating during this uncertain time. We urge the following changes:

¹ For over 30 years the IPA has raised awareness of portfolio diversifying investment (PDI) products among stakeholders and market participants, including investment professionals, policymakers and the investing public. We support increased access to investment strategies with low correlation to the equity markets: lifecycle real estate investment trusts (Lifecycle REITs), net asset value REITs (NAV REITs), business development companies (BDCs), interval funds and direct participation programs including DST investments (DPPs). With over \$135 billion in capital investments, they remain a critical component of an effectively balanced investment portfolio and serve an essential capital formation function for national, state and local economies. Through advocacy and industry-leading education, the IPA is committed to ensuring that all investors have access to real assets and the opportunity to effectively diversify their investment portfolios.

- The current leverage limits for MSNLF (4x EBITDA) and MSELF (6x EBITDA) are too low and will shut out many lower and middle market businesses from accessing the facility. We believe these levels should be raised to 6x EBITDA for the MSNLF and 8x EBITDA for the MSELF to more accurately reflect the balance sheets of these businesses.
- Since most non-bank lenders and smaller companies do not typically use unadjusted EBITDA, the MSLP should allow for use of “adjusted” EBITDA, which permits customary add-backs and non-cash items.
- Earlier stage businesses that are unable to access the PPP because of the SBA affiliate aggregation rule may not have generated sufficient EBITDA to access MSLP capital to save their business and protect their employees. Business that were told they were too large for the PPP should not now be told that they are too small for the MSLP. We can’t allow these critical Main Street business to fall through the cracks.
- The existing terms leave out many middle market businesses that rely on nonbank lenders for credit. The MSLP should recognize non-bank lenders, including BDCs electing Regulated Investment Company status under Internal Revenue Code Sec. 851(a)(1)(B) as “eligible lenders” under both the MSNLF and MSELF.
- The definition of an “eligible loan” in both the MSNLF and MSELF should be expanded to include loans made by entities electing Regulated Investment Company status under Internal Revenue Code Sec. 851(a)(1)(B).
- Restrictions on dividends and stock repurchases under section 4003(c)(3)(A)(ii)(I) of the CARES Act should not be automatically applied, given the need for middle market businesses to attract and retain investors, and that both retail and institutional investors rely on the income generated from dividend payments.
- At a minimum, the terms related to dividend restrictions should reflect the uniqueness of certain investment structures and pass-through entities which are required to make tax-related distributions to shareholders. Among other requirements, the Internal Revenue Code requires a BDC to pay out at least 90 percent of its taxable income each year as investor dividends. BDCs should not be disqualified from programs or facilities providing direct loans as a result of compliance with other legal obligations.

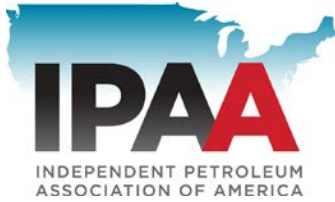
We respectfully urge the Federal Reserve and Treasury to issue updated terms that reflect these changes so that the portfolio companies of our members can weather this crisis. We appreciate your consideration of this request during this challenging time.

If the IPA may be of any assistance, please do not hesitate to contact me or Anya Coverman, IPA's Senior Vice President, Government Affairs and General Counsel, at (202) 548-7190.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Chereso', with a stylized flourish at the end.

Anthony Chereso
President & CEO, Institute for Portfolio Alternatives



April 15, 2020

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Dear Chairman Powell,

The Independent Petroleum Association of America (IPAA) writes to recognize and appreciate the aggressive steps that have been taken to respond to the threats of the COVID-19 pandemic. As federal, state and local governments continue to work on relief measures, such as the CARES Act, we respectfully request that their implementation consistently supports the American energy industry and protects its workforce.

IPAA represents the thousands of independent oil and natural gas producers and service companies across the United States. America's independent producers develop 91 percent of the nation's oil and natural gas wells. These companies account for 83 percent of America's oil production, 90 percent of its natural gas and natural gas liquids (NGL) production, and support over 4.5 million American jobs. A recent analysis has shown that independent producers are investing 150 percent of their U.S. cash flow back into American oil and natural gas development to enhance their already aggressive efforts to find and produce more energy.

As the Federal Reserve is guided in its mandate from Congress to promote maximum employment and stable prices, we are pleased to see your efforts to provide assistance to our nation's small- and mid-sized businesses, including many of our members, through the Main Street Lending Program.

IPAA hopes that you are able to implement this program in a manner that recognizes the critical importance of the energy exploration and production businesses and the variance within the industry regarding financing needs. To that end, IPAA would like to provide input to ensure the program is effective in its support for the economy.

As you are aware, America's global energy dominance is owed to independent energy producers. Any economic recovery package must acknowledge that these producers account for an astounding 90 percent of all U.S. natural gas and oil production, and that abundant, affordable energy will be a key component to our economic revitalization.

As currently drafted, the Main Street New Loan Facility contains a key provision that may prevent independent natural gas and oil producers from using these facilities to meet their critical economic needs:

The Eligible Borrower must commit to refrain from using the proceeds of the Eligible Loan to repay other loan balances. The Eligible Borrower must commit to refrain from repaying other debt of equal or lower priority, with the exception of mandatory principal payments, unless the Eligible Borrower has first repaid the Eligible Loan in full.

IPAA asks that you consider providing flexibility on this provision to otherwise Eligible Borrowers, such as independent producers. Just as the American independent producer has revitalized the country after previous economic hardships, the industry will be essential to restarting our economy after the COVID-19 pandemic has passed.

IPAA would also suggest that this flexibility can be a force multiplier throughout the economy, limiting the number of defaults that debt holders experience on those debts coming due. This can only be helpful in containing the negative economic impact of the COVID-19 crisis.

Oil and natural gas producers are not looking for a government handout; they are seeking a bridge to help survive this economic disruption. Allowing the use of loans provided by the Main Street New Loan Facility to pay off outstanding debts coming due before this crisis subsides will be the bridge to recovery for businesses that would have otherwise been able to meet their debt obligations, were it not for the virus.

Thank you for the leadership during these difficult times. IPAA members are proud to support the ongoing national response to COVID-19, and they will continue to operate responsibly to ensure our nation emerges from this situation stronger than ever.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Russell". The signature is fluid and cursive, with a large initial "B" and "R".

Barry Russell
President & CEO
Independent Petroleum Association of America



April 13, 2020

Lindblad Expeditions, LLC
96 Morton Street, 9th Floor
New York, NY 10014

Chair Jerome H. Powell
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Dear Chair Powell,

Lindblad Expeditions was founded in New York in 1958 to offer travel focused on nature, culture and history around the world. We invented the expedition cruise category and, in 1969, we built the first purpose-designed expedition ship in the world. In 2017 and 2018, we completed the first two purpose-designed expedition ships ever built in the United States. Since 2004, we have partnered with National Geographic to deliver high quality, curated experiences in unique destinations around the world. We are also a carbon neutral company with a 50+ year legacy of sustainability and conservation.

We take approximately 32,000 guests annually on small ship-based and land-based expeditions together with our sister company, Natural Habitat Adventures. Our guests are 90% from the United States. Our U.S. employee base is approximately 457 people, which includes 264 employees working in our offices in New York, Seattle and Denver and 193 employees working on our four U.S. flagged ships (two of which were recently built in the state of Washington for a total cost of \$130 million). We went public on the NASDAQ exchange in 2015.

Lindblad is being crippled by the global spread of the Coronavirus. We have, of course, stopped all of our trips and currently are not generating any revenue. Like the airline and hotel sectors, we are encumbered by a high, fixed cost structure. The high cost items (crew, staff, fuel, port costs, ship maintenance, insurance, financing costs) of operating a ship are almost the same whether we have occupancy of 0% or 100%. While the airline and hotel sectors have rightly been targeted for specific assistance, we are concerned that we may get lost in the shuffle.

It is important to note that we are a very conservatively managed company and were a very well-capitalized and profitable company with ample liquidity before this unimaginable crisis that has eliminated all of our revenues for a prolonged period of time.

The Main Street Expanded Loan Facility is a program that is perfectly suited to assist us as we were a very strong, well positioned American company, and will be again after the crisis passes. We also are the very rare travel company that has made no lay-offs, furloughs or even salary cuts to date, Confidential Business Information

At our size, this kind of financing will not be easy to secure in the regular capital markets.

One issue we have noted is that the current definition of Maximum Loan Amount will prevent us from participating in this program. Confidential Business Information

The usual convention for our industry is to adjust either the Debt or to the pro forma EBITDA for ship investments not fully in service. It is important to add that the ship was largely sold out for 2020 prior to the cancellations, more than supporting the investment and its business plan.

Requested Assistance

We request that the Fed assist us, and potentially other growth companies in our position, through amendments to the following terms in the released guidance:

- 1) One of the following amendments or adjustments to the 6x total leverage requirement:
 - a) Exclude from the calculation of total debt, any construction debt associated with assets that are still in the process of being constructed or are not yet generating revenue; or
 - b) As the capital markets have provided for us in our current credit facility, allow borrowers to add an estimated EBITDA for any asset that is either not yet in service or still being constructed when calculating total debt / EBITDA (we can show that our new ship was already 90%+ booked for 2020 before the Coronavirus crisis took hold); or
 - c) View the 6x total leverage requirement in the context of relative priority. For example, our construction loans are held at lower subsidiaries and are technically second priority to our main corporate facility. The Fed could take the view that a 6x total debt ratio applies solely to the first priority level.
- 2) Remove the following clause from the Maximum Loan Amount formula “(ii) 30% of the Eligible Borrower’s existing outstanding and committed but undrawn bank debt.” Practically all companies in our position with access to revolving credit facilities would have drawn down on those available funds by now. Including this clause in the definition of Maximum Loan Amount effectively blocks many companies that most need additional liquidity from participating in the Main Street Expanded Loan Facility Program.

We are, of course, open to any other solutions or mechanisms you can use to enable the Main Street Program to provide us with the needed liquidity in this situation and would be happy to talk through this with your team.

Thank you for your interest in assisting great American companies like ours during this challenging time.

Sincerely,



Sven-Olof Lindblad
Founder & CEO
+1-347-277-5177
svenl@expeditions.com

cc: Mark D. Ein, Chairman, Lindblad Expeditions, LLC



April 16, 2020

VIA ELECTRONIC SUBMISSION

Jerome H. Powell, Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Steven T. Mnuchin, Secretary
U.S. Department of Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Re: Main Street New Loan Facility and Main Street Expanded Loan Facility

Dear Chairman Powell and Secretary Mnuchin:

The Loan Syndications and Trading Association (“LSTA”)¹ appreciates the opportunity to comment on the April 9, 2020 term sheets for the Main Street New Loan Facility (“MSNLF”) and the Main Street Expanded Loan Facility (“MSELF”) (collectively, the “Main Street Program”). We strongly support the efforts of the Federal Reserve and the Treasury to provide relief and stability to small and medium-sized businesses and their employees by establishing these facilities. While we believe that the Main Street Program will need to be supplemented with additional programs under Section 4003 of the Coronavirus Aid, Relief, and Economic Security Act², we also

¹ The LSTA is a not-for-profit trade association that is made up of a broad and diverse membership involved in the origination, syndication, and trading of commercial loans. The over 500 members of the LSTA include commercial banks, investment banks, broker-dealers, hedge funds, mutual funds, insurance companies, fund managers, and other institutional lenders, as well as service providers and vendors. The LSTA undertakes a wide variety of activities to foster the development of policies and market practices designed to promote just and equitable marketplace principles and to encourage cooperation and coordination with firms facilitating transactions in loans. Since 1995, the LSTA has developed standardized practices, procedures, and documentation to enhance market efficiency, transparency, and certainty.

² Because of size and rating constraints, there are a significant number of companies that do not fit either in the Main Street Lending Program or in the Primary Market Corporate Credit Facility (PMCCF). These are companies with i) no ratings or non-investment grade ratings and ii) annual 2019 revenues over \$2.5 billion or more than 10,000 employees. As a result, they fall out of all programs that have been released thus far. Upon an initial review of its loan index and related pricing service, the LSTA tracked more than 230 non-investment grade companies with more than 10,000 employees. In total, this sample of companies had more than nine million employees. The LSTA believes there also are a significant number of non-investment grade companies that utilize high-yield bonds that are not included in our data. We believe that it is important that either this program or another program created under Section 4003(b)(4) address the companies that fall into the cracks between the Main Street Lending Program and the PMCCF. We believe

believe that loans from the Main Street Program, if properly tailored, will be a critical source of liquidity for a large number of companies until the coronavirus crisis stabilizes and markets return to a more normalized state.

In order for the Main Street Program to achieve its goal, we believe it is essential that the parameters and criteria for the MSNLF and MSELF reflect current circumstances and market standards so that this program will be accessible as a practical matter to as many of the intended recipients as possible. In that regard, we discuss below certain key changes that we believe will make the Main Street Program more effective, followed by more detailed comments on the term sheets.

I. Key Measures to Increase Accessibility to the Main Street Program

It is clear that the Federal Reserve and the Treasury are committed to providing liquidity and stability to the many companies that need assistance, and we appreciate the challenge of designing a program that addresses the different financing needs across those companies. In order to ensure that the Main Street Program is accessible to as many qualifying small and medium-sized companies as possible, our core recommendations are to: (i) incorporate more flexible terms to recognize that most eligible borrowers are constrained by existing debt agreements, whether the borrower seeks a loan under the MSNLF or MSELF; (ii) reconsider the proposed EBITDA and leverage-based test which may exclude many otherwise qualifying borrowers from the Main Street Program, (iii) give lenders more discretion to use their judgment and expertise to determine appropriate terms and conditions for these loans, recognizing that lenders will retain exposure to these loans; and (iv) broaden the base of eligible lenders to include non-U.S. and non-bank institutions either directly or as part of a syndicate with other eligible lenders.

A. The Main Street Program should accommodate the constraints that existing debt agreements place on borrowers.

Most borrowers have existing indebtedness that prohibit the incurrence of additional debt and/or liens, subject to specified exceptions. Unless there is an available exception, a consent or amendment from existing lenders or bondholders may be necessary. Such consent may be difficult to obtain, or prohibitively expensive, particularly for broadly syndicated credit facilities or bonds. This issue may be particularly acute where the new indebtedness is secured, as contemplated by the MSELF. Even where a new loan is not secured, such as would be available under the MSNLF, companies may be unable to enter into new loans, for example, with a shorter maturity without consents and amendments.

Accordingly, we believe affording eligible lenders and borrowers maximum flexibility to negotiate the terms of the Main Street Program will be critical to their success. For example, where a small or medium-sized operating company cannot access new loans because of restrictions in their existing debt documents, the Main Street Program could allow the loan to be made to a direct or indirect holding company.³ We would welcome

these companies also need and should receive support from Section 4003(b)(4) programs, and we urge the Federal Reserve and the Treasury to continue to develop such programs.

³ This approach is fully described in the “LSTA Proposal for Loans to Businesses under Section 4003(b) of the CARES Act,” a copy of which was provided to the Federal Reserve and the Treasury on April 8, 2020. Under this structure,

the opportunity to discuss this structure with you in more detail and provide any assistance by way of supporting materials, such as a term sheet describing this structure.

B. Access to the Main Street Program should not rely on an EBITDA-based leverage test.

For the reasons we describe in more detail below, requiring all borrowers to comply with an EBITDA-based leverage test could exclude many from the Main Street Program. Some borrowers, such as nonprofits and early-stage growth companies, simply do not have positive EBITDA. For many others, a standardized EBITDA test which is not tailored to the particular business and its industry could give a distorted view of true cash flow and therefore leverage.

We propose relying on the lender and the borrower to agree upon appropriate metrics consistent with a borrower's existing debt agreements and market convention in the borrower's industry in order to determine whether to make a loan under the MSNLF or MSELF. We believe the lender should retain discretion to make prudent credit decisions regarding the maximum size of the loan based on their judgment and expertise, subject to the dollar limit set out in the term sheet for the relevant facility.

C. The Main Street Program should give lenders more discretion to determine appropriate terms and conditions for the loans they originate.

More generally, since lenders will retain a 5% interest in the loan and are in any case bound by "safety and soundness" requirements, we propose they be given more discretion to make prudent decisions based on their credit expertise and knowledge of the borrower and its capital structure. For example, interest rates, whether interest should PIK after the one year deferral period, amortization after the one year deferral period, and collateral are all matters that the lender will be best positioned to tailor to a borrower's particular circumstances. This flexibility will also increase the chance that the Main Street Program loans can be structured to fit with the borrower's existing debt structure.

D. The Main Street Program should broaden the base of eligible lenders.

The current term sheets for the MSNLF and MSELF limits the universe of eligible lenders to "U.S. insured depository institutions, U.S. bank holding companies, and U.S. saving and loan holding companies." However, a significant amount of credit for small and medium-sized U.S. companies is provided by foreign banks and their U.S. branches and by non-bank lenders, such as private debt funds. Foreign banks are often the agent or arranger on syndicated term loans, and both foreign banks and non-bank lenders, such as CLOs and other institutional investors, participate in bank syndicates.

Given the urgent need to provide liquidity to eligible U.S. companies dealing with losses incurred as a result of the coronavirus crisis, we encourage the Federal Reserve and the

the holding company would be required to invest the proceeds from such loan in the operating company, and the loan could be secured by the assets of the holding company, including intercompany loans and loan receivables, net cash proceeds received from distributions on equity interests in the operating company, accounts into which such loan receivables and distributions are deposited and any proceeds of the foregoing. Such a structure would generally not require consents, waivers and/or inter-creditor arrangements from the operating company's existing lenders.

Treasury to include a broader range of lenders as eligible lenders. But even if they are not included more broadly as eligible lenders in the Main Street Program, we strongly believe at a minimum that the MSELF program should be expanded to allow eligible lenders to lend alongside existing indebtedness even if that existing indebtedness is not itself provided by eligible lenders.

II. Detailed Comments on Term Sheets

A. Existing Financings Under MSELF

MSELF requires a loan to be structured as an increase to a term loan provided by an eligible lender. This excludes borrowers that do not currently have term loans in their capital structure, such as companies with only a revolving credit facility. It also excludes borrowers that have term loans provided by foreign banks, direct lenders, and other non-bank institutions that are not eligible lenders as currently defined, and borrowers whose financing has been syndicated to non-bank term loan B lenders. This exclusion will have a particularly significant impact on the many small to mid-sized companies that rely on direct lenders as a critical source of funding.

We propose making MSELF available to borrowers who have any existing indebtedness⁴ so long as the MSELF loan itself is provided by eligible lenders. In that regard, where there are multiple lenders in an existing loan facility, MSELF should permit expansions of such facility by eligible lenders, including where eligible lenders extend credit alongside other lenders that do not themselves qualify as eligible lenders.

We also request clarification that MSELF is not limited to “upsizing” an existing tranche of a term loan but can be provided as incremental expansions of existing facilities by eligible lenders. Because of the differing terms between those of the existing debt and those of the “upsized”, the existing credit agreements will not allow for the expansion to be an increase of the existing loan tranche, rather it will need to be structured as a separate tranche.

B. Maximum Loan Size and Leverage Attestations

The proposed criteria for determining the maximum loan size in the MSNLF and MSELF will significantly limit borrowers’ ability to access needed funds. In particular, the requirement that each borrower must attest that it satisfies proposed EBITDA leverage tests may disqualify many companies without inclusion of the proposals described below.

1. EBITDA: Although both the MSNLF and MSELF propose to use an EBITDA construct as the basis for a cap on the size of eligible loans and a leverage test for borrowers, the term sheets do not define EBITDA. If the intention is to define and use EBITDA uniformly and narrowly, we believe it would preclude many borrowers from satisfying the leverage tests and accessing loans. It would also be inconsistent with market standards which

⁴ Existing indebtedness could relate to term loans or non-term loans, whether provided by an eligible lender or non-eligible lender.

do not use a uniform EBITDA metric to measure risk. Instead, customary debt agreements typically tailor the definition of EBITDA to eliminate non-cash and other items to establish a more accurate picture of cash flow available to service debt for each particular borrower's business. Furthermore, as noted above, some borrowers, such as nonprofits and early-stage growth companies, simply do not have positive EBITDA. For these companies, an EBITDA-based leverage metric is typically not used to measure creditworthiness. Application of such a metric as a requirement to access the Main Street Program will likely exclude these companies from receiving liquidity that they need.

We believe the Main Street Program should permit lenders to use an EBITDA definition that is consistent with that used in the borrower's existing credit agreements or commonly used in the borrower's industry for purposes of calculating the maximum loan amount of an eligible loan and the leverage test. Furthermore, for companies for whom an EBITDA-based metric is not appropriate, we propose permitting lenders to use alternative creditworthiness metrics that are customary in that company's industry.

2. Debt: For purposes of the leverage calculations used to establish a cap on the size of an eligible loan and the leverage test for borrowers, "debt" includes undrawn commitments, but the term sheets do not otherwise explain how such debt will be calculated. For example, it is not clear whether "debt" would include financing leases, guarantees of parent company debt, intercompany indebtedness or contingent obligations, and whether it would be calculated on a net or gross basis. Furthermore, inclusion of undrawn commitments as debt in a leverage test is atypical and would likely result in an eligible borrower's inability to access these loans.

To ensure that the broadest swath of eligible borrowers is able to benefit from the Main Street Program, we believe undrawn commitments should not be included as "debt" for purposes of determining the maximum loan amount or in the leverage calculation. More generally, lenders should be permitted to use debt definitions that are consistent with those set forth in individual company's existing debt agreements for ratio calculation purposes.

3. Leverage: Even with the proposed modifications to the EBITDA metric noted above, the leverage tests (i.e., four times for MSNLF and six times for MSELF) are likely too restrictive for many otherwise eligible borrowers. In some instances, as highlighted above, any EBITDA-based leverage test would simply disqualify certain companies (e.g., growth companies with negative EBITDA, not for profits, real estate companies, etc.).

Accordingly, we propose permitting lenders to extend loans to such companies that exceed those levels if the lender, based on its judgment and expertise, is otherwise comfortable doing so. For companies for which EBITDA-based leverage is not an appropriate metric, as noted above, we further propose relying on the lender to identify metrics other than EBITDA

and leverage consistent with the borrower's existing debt agreements or market standard for the borrower's industry when deciding whether to extend a loan to the borrower. This approach would make Main Street Program loans available to a broad set of companies for which an EBITDA-based leverage ratio is not an appropriate or accurate metric.

4. Maximum Dollar Amount in the MSELF – 30% Cap: The determination of the maximum loan size relies on a calculation of undrawn commitments of “bank debt.” The inclusion of undrawn commitments in this calculation is problematic for the reasons described above. Furthermore, the term sheet does not define “bank debt” or explain whether or how “committed but undrawn bank debt” differs from “committed but undrawn debt” referenced in the leverage calculations. We propose that the 30% calculation be aligned with the leverage test to refer to “debt” broadly. To the extent a distinction is intended, however, we propose that “bank debt” be clarified to include loans made by non-banks and syndicated term loans held by non-bank institutional and other lenders.

C. Loan Features

1. Structure and Security: Most companies will have limited debt and lien capacity under their existing debt agreements, so they may not be able to borrow under the Main Street Programs without a waiver or consent from their existing lenders or bondholders. As discussed in Section I.A above, obtaining a waiver or amendment to permit the incurrence of additional loans may be challenging in many situations, especially for companies with debt held by a large syndicate of lenders, even if the new loan is unsecured such as contemplated by the MSNLF.

To address these challenges, we request that where a company's existing debt agreements do not permit them to incur additional secured debt, the MSELF permit an upsized tranche to be unsecured even if the existing loan is secured, as long as the eligible lenders extending the loan are willing to make the loan on an unsecured basis.

In addition, we further propose permitting companies to incur Main Street Program loans at a holding company level on a secured basis if their existing debt documents do not permit them to incur any additional debt at the operating company. We believe that structure would be consistent with the goals of the program, i.e. providing much needed liquidity while safeguarding taxpayer funds.

2. Tenor and Amortization: For borrowers that have existing loans, many credit agreements require new debt to have a maturity outside the maturity of the existing debt so the four-year maturity term may violate the weighted average life and maturity requirements in their existing credit agreements. Since a typical term loan will have a maturity of five to seven years, some qualified borrowers may be precluded from borrowing new debt with a four-year maturity. For some otherwise eligible borrowers, lenders may not be willing to make a loan with a four-year tenor, but would be willing to extend

a loan with a shorter maturity. We also note that there is a potential market risk in having all Main Street Program loans maturing at the same time.

We propose relying on eligible lenders' judgment and expertise and permitting eligible loans to have tenors of up to seven years. This would provide borrowers and lenders with flexibility to address different scenarios and allow for staggered maturities for the Main Street program loans.

In addition, the current term sheets do not specify the amount of amortization following the one year deferral period. We would similarly propose relying on the borrower and lender to determine the appropriate amortization following the one year deferral period.

3. Benchmark: The MSELF requirement that eligible loans, which are "upsized tranches of existing loans," must use a SOFR rate is problematic given that the existing loan references a different benchmark. The MSELF should permit the eligible loan to reference the same benchmark as the existing loan.
4. Interest: The 400 basis points cap on margin may not provide sufficient incentive for lenders to make loans to certain higher leveraged creditworthy companies, even if they retain only 5% of the loan exposure. It also is unclear whether deferred interest will be paid-in-kind and itself accrue interest during the deferral period, or whether interest can continue to be paid-in-kind following the deferral period.

We propose permitting lenders and borrowers to negotiate a rate that appropriately reflects the credit risk, possibly up to an increased cap. Furthermore, because we believe Main Street Program loan proceeds are better used to continue to support and stabilize existing businesses rather than to pay interest, we also propose that the loans require interest to be paid in cash only to the extent there would be sufficient cash to continue operating the company and avoid triggering a violation of a financial covenant or operating covenant under the company's existing debt structure. When there is insufficient cash under the foregoing construct, in lieu of making such payment, the borrower should have the option to elect that such accrued and unpaid interest be paid-in-kind and added to the principal amount of the loan.

D. Attestations and Certifications

1. Prepayment/Repayment of Other Debt: Both the MSNLF and MSELF would limit prepayment of equal or lower priority debt, with the exception of mandatory principal payments, until the Main Street Program loans are repaid. We request clarification that this restriction does not prohibit the repayment of existing debt (of whatever priority) at maturity. We also request clarification that this restriction does not apply to a company's ability to repay draws and reborrow from revolving credit facilities in the normal course as long as the size of the facility is not reduced.

2. CARES Act Provisions: Both the MSNLF and MSELF require borrowers to comply with certain provisions of the CARES Act (e.g., limitations on stock buybacks, dividend/capital distributions, increases in salary) for 12 months after a Main Street Program loan is repaid.

For borrowers that are structured as limited liability pass-through entities, we request clarification that the prohibition on dividends/capital distributions is intended only to limit extraordinary payments and not the payments necessary for paying tax obligations, and other similar ordinary course day-to-day operations of the business. It is customary for such entities to make regular distributions to the direct or indirect parents of the borrower in order to permit such equity holders to maintain their existence, pay customary ordinary course operating expenses, and pay taxes and tax distributions in accordance with the terms of the borrower's organizational documents.⁵

We also request that if a loan is repaid in full as a result of a sale, conveyance, transfer or other disposition of all of the property or assets or equity interests of the borrower or the entire business is merged into another company or otherwise sold or otherwise disposed of in its entirety (a "disposition"), then upon giving effect to the change of control to a new unaffiliated third party and the repayment of the Main Street Program loans, all restrictive covenants imposed on the business will fall away. We believe that allowing such restrictions to fall away in these circumstances would result in earlier repayments of Main Street Program loans by making such transactions more attractive to prospective lenders and investors.

E. Loan Participations

Special Purpose Vehicle ("SPV") Participation Rights: If the Federal Reserve and the Treasury determine that they want to acquire their interests in the Main Street Program loans via participations, many lenders would like to understand certain operational aspects of the SPV's participation interest, and in that respect, a form of participation agreement would be helpful.

The LSTA has promulgated a Form of Participation Agreement which is used by loan market participants to document the settlement of certain loan acquisitions where, for example, the lender is denied borrower's consent and is unable to join the syndicate as a lender. As the creator of that market standard, LSTA would be happy to engage further with the Federal Reserve and the Treasury to assist with the tailoring of a standard participation agreement for the Main Street Program. The LSTA's Form could be modified to suit such loan acquisition by the Federal Reserve and the Treasury. For example the

⁵ Where businesses are structured as limited liability companies rather than corporations, such pass-through entities do not pay income taxes at the operating company level, but rather typically pass through payments in an amount equal to their taxes to their equity holders because their equity holders are responsible for reporting and paying their share of profits and losses on their tax returns. In the absence of guidance clarifying that the prohibition on dividends does not limit dividends necessary for paying tax obligations, this prohibition could prevent such businesses from accessing liquidity under the Main Street Program.

typical buyer's representations could be streamlined to suit the SPV and the standard buyer indemnities could also be revised. We would be happy to explore these types of modifications with you and assist in the creation of a form for these purposes if you decide to proceed with the participation structure as opposed to the traditional method of acquiring a loan via an assignment.

* * * * *

The LSTA appreciates the opportunity to comment on the Main Street Program and would be pleased to answer any questions that you might have concerning our comments or provide any additional information. Please do not hesitate to contact me at lshaiman@lsta.org or (212) 880-3002.

Respectfully submitted,



Lee Shaiman
Executive Director



3800 Centerpoint Drive, Suite 1100
Anchorage, AK 99503

April 16, 2020

Via Website and Email

Board of Governors & Main Street Lending Staff Group
The Federal Reserve System
20th Street and Constitution Avenue N.W.
Washington, DC 20551

Dear Governors and Main Street Lending Staff Group,

The private sector economy of much of the rural Western United States is dominated by seasonal industries like tourism, fishing, and natural resource extraction including oil and gas to minerals. Short summer seasons and limited infrastructure require complex logistics, front loading of resources, and allow a limited window to earn revenue. For example, over just a six-week period starting in mid-to-late June, more than 40 million salmon are caught and processed in a handful of remote communities along Bristol Bay in southwestern Alaska. Similar short seasons occur in rural counties throughout the vast expanse of the Western U.S. The state of Alaska is larger than the entire east coast of the United States from Maine to Florida plus California.

Doing business in rural states across the west is challenging, but in Alaska, the obstacles are dramatically higher. More than one hundred Alaska communities (nearly 80% of the state's acreage) are not connected by road. In addition, Alaska has a limited financial system of just 7 banks and 11 credit unions, and only a handful of publicly traded companies headquartered in the state.

Current federal response efforts designed to work through commercial lenders or to support capital markets therefore have little to no utility for the majority of businesses in Alaska.

For example, the Main Street Lending Program limits application of the program to small and medium businesses in the state and the oversight provisions created for small and medium



enterprises discriminate against the unique statutory structure of the Alaska Native Claims Settlement Act (ANCSA) corporations.¹

Key provisions accorded by the CARES Act terminate June 30th. Given the extreme seasonality of the job market in many States, the timeframe works against the very people they are supposed to be helping. Local businesses find it almost impossible to focus on securing adequate capitalization when they are contending with whether or not to recruit, hire and provision for what would usually be a greatly expanded workforce. They need their own facility, better attuned to the specifics of their industries. While Alaska is an outlier, the extremity of the challenges it faces illustrates the need for a targeted mechanism that exists throughout the rural West.

Case Study: Alaska

Like many Western States, Alaska's employment picture is bleak. In February, 20,000 Alaskans were unemployed, 5.9% of a total labor force of 340,000. That rate is typical for winter in Alaska. In March (when employment is usually ramping up) unemployment has more than doubled, with nearly 50,000 Alaskans filing for unemployment in the last four weeks as a result of COVID-19. And this is before many of the self-employed individuals in the tourism and fishing sectors have even been allowed to file. Weekly unemployment claims in mid-March were 1453% above weekly claims in the same period of 2019 (14 times higher).

Non-resident workers are not included in Alaska unemployment data but play a critical role in meeting the state's labor needs - particularly in the tourism and seafood industries. The loss of jobs typically held by non-residents means that 70,000 Alaska workers could be out of a job within two to three months.

Simultaneous supply and demand shocks have put enormous pressure on Alaska employment in three critical sectors

¹ In 1971 Congress established 13 regional and over 200 village corporations. These "ANCSA Corporations" were established as for-profit enterprises with limits on enrollment, the sale or transfer of shares, grants of land and initial capital from the federal government. However, they were also given an explicit social mission and are recognized as "tribes" for the purposes of many federal programs. However, as businesses exposed to the broader economy they are also under severe duress. Their unique structure as for-profit corporations with a statutorily established social mission means they can bring both capacity and expertise to any partnership focused on responding to the economic crisis in the state.



Tourism/Travel: 43,300 jobs, \$1.5 billion in Labor Income

In 2020, the tourism industry will experience a nearly total loss in visitor spending (vs. \$2.2 billion in 2019). As of yesterday, more than half of all 2020 cruise ship sailings to Alaska have been cancelled including all but 2 ships of the largest lines. Earlier this week, Holland America Princess announced they are not opening all five of their seasonal wilderness hotels this summer. All land excursions were canceled as well. The direct revenue loss is estimated to be ~\$400 million, with the indirect cost being at least a 5x multiple of that number.

Seafood Harvesting and Processing: 37,700 jobs, \$2.1 billion in Labor Income

The 2020 season for fishermen and processing plants is in jeopardy as communities grapple with appropriate COVID-19 containment measures and depressed global demand for high-value products. More than 60,000 workers earn income in Alaska's seafood industry. Seafood processors in Alaska are facing the same risks as the national meat processing industry due to COVID-19 related closures. The Southwest community of Dillingham, the hub of commercial fishing in Alaska, has asked the governor to close the season due to the risk of fisherman and processing staff infecting local communities who are ill equipped to manage treatment. Dillingham has 1 hospital with 18 beds, and no ICU or ventilator capability, yet 16,000 fisherman typically come through the community in the summer. Closing this fishery could wipe out the entire 2020 salmon season which is by most accounts ~58% of wild salmon caught in North America and a huge contributor to the state's economy.

Energy: 77,600 jobs, \$4.8 billion in Labor Income

While major producers such as ConocoPhillips and (formerly) BP are important sources of employment, the producers and oil field services firms account for only 9,000 out the 77,600 jobs in Alaska attributed to oil and gas industry spending. The other jobs are mainly with small Alaska firms, including professional services providers, construction companies, transportation firms, and a wide range of other goods and services providers.

Finance/Banking

Alaska is home to just a few public companies; of which none are listed in the S&P500. The most notable Alaska public companies are Northrim Bank (NRIM), Alaska Communications Systems (ALSK) and First National Bank of Alaska (FBAK). Total market cap < \$1 billion.



Banks, credit unions and state agencies typically issue short-term lending (over 60%) to commercial real estate, not businesses. Alaska's largest publicly listed local banks (First National Bank of Alaska and Northrim Bank) have less than \$5bn in assets between them. As the MSNLF and the MSELF utilize the banking channel to distribute crisis funding, this will present a severe limitation in Alaska. If Alaska banks provide financing, it will most likely be to those large companies that are less levered (<4x). Banks can lend to <4x leveraged companies at SOFR + 250-400bps and retain 5% as well as receive a 25bps commitment fee. This will be a high return on equity for the banks, but little benefit to Alaska businesses. 80% of all credit union assets in the state are in one entity and its loans are mostly to consumer purchases and residential mortgages.

Alaska has one of the smallest municipal finance markets in the country. Employers benefiting from these issuances do not account for a large percentage of jobs in terms of retention issues and growth potential.

The solution is a professionally managed Special Purpose Vehicle (SPV)

We propose a two-pronged, capital markets driven answer for deploying Federal Reserve and in-state capital.

Region 10 (or another appropriate Regional) should authorize the creation of a Special Investments Management Group (SIMG) with purview for the creation of an SPV for the purpose of taking control positions in businesses in certain States that need a variety of types of investment to survive at this time. The SIMG will then hire a professional investment firm located in the local community to originate and structure investments. The Manager should have analytical capacity, business leadership, best-in-class experience and ability to leverage in-state pools of capital for debt financing and equity co-investment. The selection of the Manager is critical to retaining jobs, as being in-market will mean greatest knowledge of microeconomic risks and best available business operators.

Proposal: The Western States Investment Recovery Fund (WSAIRF)

The Federal Reserve (the "Investor") will allocate capital to an SPV designed to commit equity capital for small-to-medium businesses in the affected States. It will be diverse on a geographic and industry basis. The focus will be on financial performance, community impact, economic leverage, jobs creation and retention. Investments structured to provide a return of capital to the Federal Reserve. Any positive net IRR or ROIC can be used to incentivize the Manager. Due





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diligence, structuring and deployment will be performed at speed commensurate with the highest standards of global money public and private investors. The Manager may coordinate with local banks, ANC, tribal and philanthropic entities for additional debt and/or credit enhancement. The entire operation will be based in an appropriate city in an affected State. The investors will get their money back in 3-5 years. This would be invested in by monies from the SPV in the form of senior loans, preferred equity, convertible bonds, mezzanine debt, common equity and almost all other facets of capital structure. The relationship between the Investor and the Manager are subject to a final term sheet that can be shared via an open RFP process. Like the Maiden Lane SPV, the goal is for the SPV, under the guidance of the Manager, to sunset after an orderly and successful sale of all the assets.

The new SPV will be a value-added vehicle to ensure businesses can hire and retain employees in industries that have geographical and/or seasonal challenges due to COVID-19. These businesses need committed, certain, professionally-led investment to generate the revenue required for payroll and other business costs. Restructuring and equity investments will safeguard competitiveness, and we suggest are the only ways to make this massive deployment of taxpayer dollars pay off with a suitable return for the United States.

Thank you for your prodigious efforts on behalf of the people and economy and the United States. We appreciate the opportunity to offer our financial industry and resident perspective. We would be happy to answer any questions or further discuss capital sources and structure with your team.

Sincerely,

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