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Federal Reserve Seeks to Further Expand Access to the Main Street Lending Program

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The Board of Governors of the Federal Reserve System (the "[Federal Reserve](#)") adjusted once again the terms of the Main Street Lending Program (the "[Program](#)") to better target support towards small and mid-sized businesses that continue to face revenue shortfalls as a result of the ongoing COVID-19 pandemic. In particular, the minimum loan size for three of the five Program facilities available to for-profit and non-profit borrowers has been reduced from \$250,000 to \$100,000 and the fees associated with such loans have been adjusted to encourage the provision of these smaller Program loans. Moreover, the Federal Reserve along with the U.S. Department of the Treasury also issued a new [FAQ](#) (FAQ G.16) clarifying when and how Paycheck Protection Program ("[PPP](#)") loans, in particular those totaling less than \$2 million, may be excluded for purposes of determining the maximum allowable loan size under the Program.

To date, the \$600 billion Program has been underutilized with only approximately \$3.7 billion in Program loans that have been purchased (or accepted for purchase) by the Federal Reserve (representing approximately 0.6% of the Program's total capacity). Our earlier *Stay Currents* on the Program can be found [here](#), [here](#), [here](#), [here](#), and [here](#).

Minimum Loan Size Reduced

The minimum loan size was reduced from \$250,000 to \$100,000 for each of the [Main Street New Loan Facility](#), [Main Street Priority Loan Facility](#), and [Nonprofit Organization New Loan Facility](#). The minimum loan size for the [Main Street Expanded Loan Facility](#) and [Nonprofit Organization Expanded Loan Facility](#) remains \$10 million. All other general Program eligibility requirements remain the same and the Program still faces a December 31, 2020 expiration date, although given the status of the pandemic, it is likely that the various federal programs scheduled to sunset on December 31, 2020 will be extended, especially if further stimulus legislation is adopted in the upcoming lame duck session of Congress.

Changes Fee Structure for Smaller Program Loans

To help small and mid-sized businesses that the Federal Reserve seeks to have participate in the Program, the Federal Reserve will waive the 100 basis points, or 1%, transaction fee it collects, and lenders are allowed to double to 200 basis points, or 2%, the loan origination fees it charges borrowers to make smaller Program loans (*i.e.*, less than \$250,000). Finally, the Main Street SPV loan-servicing fee paid to lenders would be doubled to 50 basis points for these smaller Program loans.

Clarifies Treatment of PPP Loans in the Calculation of “Existing Outstanding and Undrawn Available Debt”

The Program FAQs were updated to clarify when and how lenders and borrowers may exclude PPP debt when computing “existing outstanding and undrawn available debt” for purposes of determining the maximum allowable loan amount under the Program.

If the borrower, together with its affiliates, received PPP loans with original principal amounts totaling less than \$2 million, the FAQ clarifies that the following amounts may be excluded from “existing outstanding and undrawn available debt”:

1. if the borrower has applied for forgiveness of its PPP loan, the “forgiveness amount” as reported by the borrower on its loan forgiveness application, may be excluded, except to the extent the borrower’s PPP lender or U.S. Small Business Administration (the “SBA”) has determined that such amount is ineligible for forgiveness; or
2. if the borrower has not yet applied for forgiveness of its PPP loan, the amount of its PPP loan that its principal executive officer has a reasonable, good faith basis to believe will be forgiven in accordance with applicable PPP requirements, may be excluded.

For borrowers that obtained PPP loans with original principal amounts totaling \$2 million or more, such borrowers may not exclude any of the outstanding portion of such loans from “existing outstanding and undrawn available debt” except to the extent that the SBA has actually determined that such loans are eligible for forgiveness.

For all borrowers, regardless of PPP loan size, the portion of a PPP loan that the lender or SBA has determined is not forgivable must be included in the “existing outstanding and undrawn available debt” calculation.

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Paul Hastings is actively counseling clients on the Program and other emergency lending programs and stimulus programs adopted to date by Congress, the Federal Reserve, the U.S. Department of the Treasury, the U.S. Small Business Administration, and federal and state banking agencies. This information remains fluid and subject to change as these emergency lending programs and other stimulus programs are finalized and implemented.

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