K&L GATES

Federal Reserve Board
Main Street Lending Program

As of April 10, 2020
Summary of Indicative Terms

This "Term Sheet" provides some of the primary terms and conditions regarding the Federal Reserve System's (i) Main Street New Loan Facility (the "MSNLF") and (ii) Main Street Expanded Loan Facility ("MSELF"), which collectively appear to constitute the "main street lending program" referenced in Section 4003 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The same terms apply to both facilities unless otherwise noted.

Eligible Borrowers; Size Limitations:	An eligible borrower is a business which: • is created or organized in the U.S. or under the laws of the U.S.; • has "significant operations" in the U.S.; • has a majority of its employees based in the U.S.; **and** • has no more than 10,000 employees **or** $2.5 billion in 2019 revenues. **Notes**: • Borrower must certify that it requires financing due to the exigent circumstances presented by the COVID-19 pandemic. • We expect that the facilities will not be available to borrowers in bankruptcy proceedings and may not be available to those who are otherwise insolvent. • We expect further guidance from the FRB on affiliation rules and timing of employee counts, etc. for determining size compliance. In light of the relatively large upper limits on these facilities, the affiliation issue should not be a critical issue for most borrowers.
Lenders:	U.S. insured depository institutions, and U.S. holding companies of banks and S&Ls. There is no current or contemplated eligibility for "non-bank" lenders.
Timing:	Both facilities are available for loans originated on or after April 8 and will run through September 30, 2020, unless extended by the FRB and Treasury. • **MSNLF**: is available for **new loans**. • **MSELF**: is available to **add an "upsized tranche"** to an existing loan that was originated **before** April 8, 2020 (*e.g.* similar to an accordion facility).

Loan Amount:	All loans must be at least $1 million and may be up to a maximum of:
	• **MSNLF**: The lesser of:
	  o $25 million or
	  o **4X 2019 EBITDA**, when added to existing outstanding debt and committed but undrawn debt.
	• **MSELF**: The least of:
	  o $150 million,
	  o 30% of existing outstanding and committed but undrawn **bank** debt; or
	  o **6X 2019 EBITDA**, when added to existing outstanding debt and committed but undrawn debt.

Interest:	SOFR + 250 - 400 bps. Interest deferred for one year.
Forgiveness:	**None**.
Fees:	**Origination Fee:** Borrower will pay lender an origination fee of 100 bps. **Servicing Fee:** The Fed SPV (described below) will pay lender a servicing fee of 25 bps per annum on the principal amount of its participation in the loan. **MSNLF:** no facility fee is contemplated in its term sheet. **MSELF Facility Fee**: Lender will pay the SPV a facility fee of 100 bps of the total loan participation purchased by the SPV (presumably by selling at 99% of par). ***Lender may require borrower to pay such fee.***
Collateral, Guarantors:	**MSNLF**: None. Unclear if parent or subsidiary guarantees will be required. **MSELF**: Shares pro rata in same the collateral and guarantors (if any) as the existing loan which it is upsizing.
Maturity; Amortization	4 years. No amortization during the first year.
Prepayment Premium:	None.
Use of Proceeds:	Borrower must use "***reasonable efforts***" to use the proceeds of the loan to maintain its payroll and retain its employees during the term of the loan. **Note:** We expect the FRB and Treasury to deliver future guidance clarifying the permissible uses of the proceeds, in addition to those set forth below.
Other Debt; Intercreditor Arrangements:	Borrowers may obtain loans under: • **Only one of** MSNLF, MSELF or the Primary Market Corporate Credit Facility (PMCC) (i.e., borrowers who borrow under any of these facilities may not borrow under either of the others); and • Both the SBA Paycheck Protection Program (PPP) **and** either MSELF **or** MSNLF, per the Fed press release. Proceeds of MSNLF and MSELF loans may **not** be used to: • repay or refinance lender's pre-existing loans or lines of credit; or • repay other debt to third parties. During the term of the loan, borrower is prohibited from: • repaying *pari passu* or junior debt (except mandatory principal payments); • cancelling or reducing any existing lines of credit with **any lender**. In addition, in order for the lender to utilize either facility, **the lender** must also agree not to cancel or reduce any of its lines of credit to the borrower. **MSNLF:** Because existing debt cannot be repaid, Borrowers with existing debt should review those debt documents to determine whether modifications and/or consents from existing lenders are required to allow the MSNLF loan. **MSELF:** Borrowers with existing accordion capacity may be able to use such capacity for MSELF loans; but careful review of such provisions is required.

Compensation and Equity Restrictions:	Both facilities incorporate the restrictions applicable to the FRB direct lending facilities under Title IV of the CARES Act, such that the borrower may not do any of the following **until 12 months after[1] the loan is repaid**:
	• Purchase its own or parent company's equity securities that are listed on a national securities exchange (absent a pre-existing contractual obligation);
	• Pay dividends on common stock or make other **capital[2]** distributions;
	• Pay employees whose 2019 compensation **exceeded $425,000**,
	  o more than that amount during any 12 consecutive months; or
	  o an amount in severance that is twice the total compensation the employee received in 2019.
	• Pay employees whose 2019 compensation **exceeded $3 million** more than $3 million plus 50% of their 2019 compensation.[3]

Conflict of Interest Exclusions:	Borrowers may not participate if more than 20% of their equity is held by the President, Vice President, a member of congress or a cabinet member and certain of their family members.
Program Structure and Amount:	Lenders will originate the MSNLF and MSELF loans to eligible borrowers and sell a 95% participation (*at 99% of par as noted above*) in each such loan to an SPV formed by the Fed. The lender will thus retain 5% of such loan and service the loan for the SPV as the borrower's lender counterparty. The facility term sheets do not mention whether or to what extent such participation will be "silent" or what, if any rights the SPV will have regarding credit decisions and amendments to the facility loans. The SPV will have capacity to purchase up to $600 billion of participations in the aggregate across both facilities.

[1] It is not entirely clear how a post-payoff covenant will be enforced, or what the remedy would be, but if borrower is subject to post-repayment remedies, ***this could impact borrower's ability to incur refinancing debt.***

[2] By limiting the restriction to capital distributions it appears that the intent is to allow "guaranteed payments" and other distributions of income by LLCs, partnerships and other flow-through entities.

[3] As an example, this means an employee who made $4 million in 2019 could only make $3.5 million per year during the life of the loan and for one year thereafter