UPDATED: 5/7/2020

Comparing the Three Main Street Loan Facilities

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY
Type of Funding	New term loans originated after April 24, 2020	New term loans originated after April 24, 2020	Fund increases to previously existing term loans or revolving credit facilities originated on or before April 24, 2020, that have a remaining maturity of at least 18 months NOTE: Lender may extend the maturity of an existing loan or revolving credit facility at the time of upsizing for the underlying instrument to satisfy the 18-month remaining maturity requirement.
Eligible Lender	U.S. federally insured depository institutions (including banks, savings associations and credit unions), U.S. branches of foreign banks, U.S. bank holding companies, U.S. intermediate holding companies of foreign banking organizations, or U.S. subsidiaries of any of the foregoing		
Eligible Borrower	Borrowers are eligible if they satisfy the following conditions: 1. Are a for-profit partnership, limited liability company, corporation, association, trust, cooperative, joint venture with no more than 49 percent participation by foreign business entities, or tribal business concern as defined in 15 U.S.C. §657a(b)(2)(C); 2. Are created or organized in the U.S. or under the laws of the U.S. with significant operations in and a majority of their employees based in the U.S.; 3. Were established prior to March 13, 2020; 4. Are not an ineligible business listed in 13 CFR 120.110(b)-(j) and (m)-(s), as modified by the SBA regulations implementing the PPP on or before April 24, 2020, including 85 Fed. Reg. 20811, 85 Fed. Reg. 21747, and 85 Fed. Reg. 23450;[1] 5. Have 15,000 employees[2] or fewer OR had 2019 annual revenues of $5 billion or less[3]; and		

[1] This includes financial businesses primarily engaged in the business of lending, such as banks, finance companies and factors, passive businesses owned by developers or landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds, life insurance companies, businesses located in a foreign county (although businesses owned by foreign aliens or entities may qualify), government-owned entities, businesses primarily engaged in political or lobbying activities and speculative businesses. The Federal Reserve FAQs note that it may further modify the application of these restrictions.

[2] Businesses will need to count all full-time, part-time, seasonal or otherwise employed persons (excluding volunteers and independent contractors) employed by the borrower and all of its affiliates as employees (See 13 CFR 121.106). Businesses should use the average total number of persons employed by the borrower and its affiliates for each pay period over the 12 months prior to the origination or upsizing of the loan.

[3] A borrower (and its affiliates) may use either one of the following methods to calculate 2019 annual revenues for purposes of determining eligibility: (1) annual "revenue" per its 2019 GAAP-based audited financial statements; or (2 annual receipts (as defined by the SBA in 13 CFR 121.104(a)) for the fiscal year 2019, as reported to the IRS. If a potential borrower (or its affiliate) does not yet have audited financial statements or annual receipts for 2019, the borrower (or its affiliate) should use its most recent audited financial statements or annual receipts.

Frost Brown Todd LLC ATTORNEYS

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY
	6. Were in sound financial condition prior to the onset of the COVID-19 pandemic[4]. NOTE: Although the Main Street Lending Program is not a SBA program and will not be administered by the SBA certain SBA rules apply. Borrowers will need to calculate the number of employees and revenues of the borrower and the borrower's affiliates in accordance with the SBA's affiliation rules. NOTE: The requirements above are only the minimum eligibility requirements. Additional covenants, certifications and conditions are listed below. Lenders are also expected to assess each potential borrower's financial condition at the time of the potential borrower's application.		
Maximum Loan Amount	Lesser of: 1. $25 million; or 2. An amount that, when added to existing outstanding and undrawn available debts[5], does not exceed four times the borrower's 2019 EBITDA.[6]	Lesser of: 1. $25 million; or 2. An amount that, when added to existing outstanding and undrawn available debt, does not exceed six times the borrower's 2019 EBITDA.	Lesser of: 1. $200 million; or 2. 35% of the borrower's existing outstanding and undrawn available debt that is equal in priority and secured status (i.e., secured or unsecured) with the loan; or 3. An amount that, when added to existing outstanding and undrawn available debt, does not exceed six times the borrower's 2019 EBITDA.
Minimum Loan Amount	$500,000		$10,000,000
Interest Rate	Adjustable rate of LIBOR (1 or 3 month) + 300 basis points[7]		

[4] For MSNLF and MSPLF loans, if a borrower had other loans outstanding with the lender as of December 31, 2019, such loans must have had an internal risk rating equivalent to a "pass" in the Federal Financial Institutions Examination Council's (FFIEC) supervisory rating system on that date. For MSELF loans, the existing loan must have had an internal risk rating equivalent to a "pass" in the FFIEC's supervisory rating system as of December 31, 2019.

[5] Existing outstanding and undrawn available debt does not include (1) any undrawn commitment that serves as a backup line for commercial paper issuance, (2) any undrawn commitment that is used to finance receivables (including seasonal financing inventory), (3) any undrawn commitment that cannot be drawn without additional collateral, or (4) any undrawn commitment that is no longer available due to change in circumstance.

[6] The methodology used by the lender to calculate a borrower's 2019 earnings before interest, taxes, depreciation and amortization (EBITDA) must be a methodology previously used by the lender for adjusting EBITDA when extending credit to the borrower or to similarly situated borrowers on or before April 24, 2020 (or the methodology previously used by the lender to calculate adjusted EBITDA when originating or amending the underlying loan on or before April 24, 2020, for MSELF loans). The Federal Reserve recognized that the credit risk of asset-based borrowers is generally not evaluated based on EBITDA. The Federal Reserve and the Treasury Department will be evaluating the feasibility of adjusting the loan eligibility metrics of the Main Street Lending Program for such borrowers.

[7] The loan documents should include fallback contract language if London Inter-bank Offered Rate (LIBOR) becomes unavailable during the term of the loan consistent with the recommendations of the Alternative Reference Rates Committee (ARRC).

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY
Loan Term	4 years		
Use of Proceeds	No know restrictions on the use of proceeds other than the restrictions on the repayment of other debt and restrictions on executive compensation, stock repurchase and distributions, which are described below.[8]		
Amortization	Year 1: Principal and interest payments deferred (unpaid interest will be capitalized). Year 2: 1/3 of principal due at the end of the second year. Year 3: 1/3 of principal due at the end of the third year. End of Year 4: 1/3 of principal due at maturity.	Year 1: Principal and interest payments deferred (unpaid interest will be capitalized). Year 2: 15% of principal due at the end of the second year. Year 3: 15% of principal due at the end of the third year. Year 4: Balloon payment of 70% of principal due at maturity.	
Prepayment Penalty	None		
Collateral	Secured or Unsecured		Secured or Unsecured NOTE: Any collateral securing the existing loan (at the time of upsizing or on any subsequent date), must secure the upsized tranche on a pro rata basis.
Priority	At the time of origination or any time during the term of the loan, the loan may not be contractually subordinated in terms of priority to any of the borrower's other loans or debt instruments. A MSNLF loan may not be junior in priority in bankruptcy to the borrower's other unsecured loans or debt instruments. This restriction does not prevent:	At the time of origination and at all times thereafter the loan is outstanding, the loan must be senior to or equal with, in terms of priority and security, the borrower's other loans or debt instruments, other than mortgage debt.	At the time of upsizing and always the upsized tranche is outstanding, the upsized tranche must be senior to or equal with, in terms of priority and security, the borrower's other loans or debt instruments, other than mortgage debt.

[8] The initial term sheets for the MSNLF and the MSELF issued on April 9, 2020, expressly required the use of loan proceeds to maintain the borrower's payroll and retain its employees during the term of the loan. However, the revised term sheets for the MSNLF and the MSELF and the new term sheet for the MSPLF issued on April 30, 2020, removed this express requirement and replaced it with a covenant to use commercially reasonable efforts to maintain the borrower's payroll and retain its employees.

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY
	▪ the issuance of a MSNLF loan that is a secured loan (including in a second lien or other capacity), ▪ the issuance of a MSNLF loan that is an unsecured loan, or ▪ new secured or unsecured debt after receiving an MSNLF loan (provided the new debt would not have higher contractual priority in bankruptcy than the MSNLF loan).		
Participation Amount Retained by Lender	5%	15%	5%
Termination Date of the Loan Program	September 30, 2020, unless otherwise extended. NOTE: The Federal Reserve Bank will continue to fund the operation of the Special Purpose Vehicle (SPV) after September 30, 2020 until the SPV's underlying assets mature or are sold.		
Restrictions on Repayment of Other Debt	The borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the new loan is repaid in full, unless the debt or interest payment is mandatory and due. NOTE: Borrowers will still be able to (i) repay a line of credit (including a credit card) in the normal course, (ii) incur equipment financing or similar debt in the ordinary course (as long as it is secured by newly acquired property and is otherwise lower priority), and (iii) refinance maturing debt.	Borrowers may refinance existing debt owed to a lender that is not the lender making the MSPLF loan at the time the MSPLF loan is originated. Otherwise, the borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the new loan is repaid in full, unless the debt or interest payment is mandatory and due. NOTE: Borrowers will still be able to (i) repay a line of credit (including a credit card) in the normal course, (ii) incur equipment	The borrower must commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the upsized tranche is repaid in full, unless the debt or interest payment is mandatory and due. NOTE: Borrowers will still be able to (i) repay a line of credit (including a credit card) in the normal course, (ii) incur equipment financing or similar debt in the ordinary course (as long as it is secured by newly acquired property and is otherwise lower priority), and (iii) refinance maturing debt.

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY
		financing or similar debt in the ordinary course (as long as it is secured by newly acquired property and is otherwise lower priority), and (iii) refinance maturing debt.	
Restrictions on Existing LOCs	The borrower must commit that it will not seek to cancel or reduce any of its committed lines of credit with the lender or any other lender. <u>NOTE</u>: Borrowers will still be able to (i) reduce or terminate uncommitted lines of credit, (ii) let existing lines of credit expire in accordance with their terms, (iii) reduce availability under existing lines of credit in accordance with their terms due to changes in borrowing bases or reserves in asset-based or similar structures.		
Solvency Certification	The borrower must certify that it has a reasonable basis to believe that, as of the date of origination of the new loan (or the date of the upsizing in the case of a MSELF loan), it has the ability to meet its financial obligations for at least the next 90 days and does not expect to file for bankruptcy during that time period.		

Restrictions on Executive Compensation, Stock Repurchase and Distributions	Until 12 months after the date the loan has been repaid in full the borrower must commit that it will not:
	▪ Repurchase equities securities listed on a national securities exchange of the borrower or its parent company (except if required under contractual obligations entered into prior to March 27, 2020).
	▪ Pay dividend payments or capital distributions on common stock of the borrower.
	▪ Pay any officer of employee whose compensation exceeded $425,000 in calendar year 2019 (other than an employee whose compensation is determined through an existing collective bargaining agreement entered prior to March 1, 2020):
	  ○ more than such person's 2019 total compensation during any 12 consecutive month period
	  ○ more than twice such person's 2019 total compensation in severance pay.
	▪ Pay any officer or employee whose compensation exceeded $3 million in calendar year 2019 more than $3 million plus 50% of the amount above $3 million that such person received in calendar year 2019 during any 12 consecutive month period.
	<u>NOTE</u>: The restriction on distributions does not apply to distributions made by an S corporation or other tax pass-through entity to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings.		

Conflict of Interest Certification	The borrower must certify that it is eligible to participate in the program, including in light of the conflicts of interest prohibition in Section 4019(b) of the CARES Act. [9]		
COVID-19 Need	Borrowers must make *commercially reasonable efforts* to maintain their payroll and retain their employees during the term of the loan (or the upsized tranche in the case of a MSELF loan).		

[9] Section 4019(b) prohibits any entity "controlled" by the President, Vice President, head of an Executive Department, or Member of Congress or by any of their immediate family (including son or daughter-in-law) from being eligible as a borrower or lender under the Main Street Lending Program.

Frost Brown Todd LLC ATTORNEYS

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY
	NOTE: What constitutes as "commercially reasonable efforts?" Borrowers will need to use good-faith efforts to maintain payroll and retain employees considering its capacities, the economic environment, its available resources, and the business need for labor. Borrowers that have already laid-off or furloughed workers as a result of the disruptions from COVID-19 are still eligible to apply for Main Street Lending Program loans.		
Lender Certifications and Covenants	▪ Repayment of Other Debt: The lender will not require that the borrower use the loan proceeds to repay debt owed to the lender, or pay interest on such outstanding obligations, until the new loan (or the upsized tranche of an existing loan in the case of a MSELF loan) is repaid in full, unless the debt or interest payment is mandatory and due, or in the case of default and acceleration. ▪ Existing LOCs: The lender will not cancel or reduce any existing committed lines of credit to the borrower, except in an event of default. NOTE: This requirement does not prohibit the reduction or termination of uncommitted lines of credit, the expiration of existing lines of credit in accordance with their terms, or the reduction of availability under existing lines of credit due to changes in borrowing bases or reserves in asset-based or similar structures. ▪ Calculation of 2019 EBITDA: The lender must certify that the methodology used for calculating the borrower's 2019 EBITDA is the methodology it had previously used for adjusting EBITDA when extending credit to the borrower or similarly situated borrowers on or before April 24, 2020 (or when originating or amending the existing loan on or before April 24, 2020, in the case of a MSELF loan). ▪ Eligibility: The lender must certify that it is eligible to participate in the program, including considering the conflicts of interest prohibition in Section 4019(b) of the CARES Act.		
Fees	▪ Transaction Fee: The lender will pay the SPV a transaction fee of 100 basis points of the principal amount of the new loan at the time of origination. It may be passed through to the borrower. ▪ Origination Fee: The borrower will pay the lender an origination fee of up to 100 basis points of the principal amount of the new loan at the time of origination. ▪ Servicing Fee: The SPV will pay he lender 25 basis points of the principal amount of its participation in the new loan per year for loan servicing.		▪ Transaction Fee: The lender will pay the SPV a transaction fee of 75 basis points of the principal amount of the upsized tranche at the time of upsizing. It may be passed through to the borrower. ▪ Origination Fee: The borrower will pay the lender an origination fee of up to 75 basis points of the principal amount of the upsized tranche at the time of upsizing.

	MAIN STREET NEW LOAN FACILITY	MAIN STREET PRIORITY LOAN FACILITY	MAIN STREET EXPANDED LOAN FACILITY
			▪ Servicing Fee: The SPV will pay the lender 25 basis points of the principal amount of its participation in the upsized tranche per year for loan servicing.
Loan Forgiveness	No.		
Participation in Other CARES Act Programs	Borrowers may only participate in one of the following loan programs: MSNLF, MSELF, MSPLF or the Primary Market Corporate Credit Facility.[10] Borrowers may receive more than one loan under a single Main Street facility so long as the loans taken together do not exceed the maximum loan amount applicable to such facility. Borrowers may not participate in the Main Street Lending Program if they have received specific support pursuant to the CARES Act designated for passenger air carriers, cargo air carriers or businesses critical to maintaining national security. Borrowers may have both a PPP Loan and a Main Street Loan facility.		

10 The Primary Market Corporate Credit Facility (PMCCF) is a lending program released by the Federal Reserve, which is open to investment grade companies and will provide bridge financing of four years. The facility supports large companies through the purchase of eligible corporate bonds from, and lending through syndicated loans to, large companies. PMCCF loans are not forgivable. The term sheet detailing the features of that program can be found here.