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Main Street Lending Program

Post-Termination Frequently Asked Questions

This document is intended to address frequently asked questions (**FAQs**) that borrowers and lenders may have about the Main Street Lending Program (**Main Street** or **Program**) facilities, which were terminated on January 8, 2021. The Main Street facilities included the Main Street New Loan Facility (**MSNLF**), the Main Street Priority Loan Facility (**MSPLF**), and the Main Street Expanded Loan Facility (**MSELF**), the Nonprofit Organization New Loan Facility (**NONLF**), and the Nonprofit Organization Expanded Loan Facility (**NOELF**).

This document contains only those previously issued FAQs that continue to be applicable to borrowers and lenders that are parties to Main Street loans. It will be updated should new FAQs be warranted to address issues faced by Main Street borrowers and lenders during the life of outstanding Main Street loans.

All other FAQs, including those relevant only at the time of origination of Main Street loans, have been archived as of January 8, 2021. Historic versions of the Main Street For-Profit FAQs and Nonprofit Organization FAQs are available on the [website](#) of the Federal Reserve Bank of Boston (**FRB Boston**). The FAQs issued on December 29, 2020, are the final set of FAQs published while the facilities were active, and are available as follows: [Main Street For-Profit FAQs](#) and [Nonprofit Organization FAQs](#).

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A. Purpose and Design

A.1. [Archived.]

A.2. [Archived.]

A.3. Are loans that are originated or upsized in connection with the Program forgivable?

No. Main Street loans are full-recourse loans and are not forgivable. Under section 4003(d)(3) of the CARES Act, the principal amount of a Main Street loan cannot be reduced through loan forgiveness.

A.4. [Archived.]

A.5. [Archived.]

A.6. [Archived.]

A.7. [Archived.]

A.8. What provisions of the CARES Act apply to the Program?

Section 4003(b)(4) of the CARES Act authorized the Secretary of the Treasury (**Secretary**) to make loans and loan guarantees to, and other investments in, programs or facilities established by the Board for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, states, or municipalities. The Secretary committed funds appropriated under Title IV of the CARES Act in the Main Street SPV in support of the Program. The following restrictions of the CARES Act have been incorporated into the design of the Program:

- **Eligible Business Definition**: Section 4002(4) of the CARES Act prevents a business from participating in the Program if it has “otherwise received adequate economic relief in the form of loans or loan guarantees provided under [the Coronavirus Economic Stabilization Act of 2020 (Subtitle A of Title IV of the CARES Act)].” Consistent with this restriction, businesses that received “specific support” pursuant to section 4003(b)(1)-(3) were not eligible for the Program.
- **Direct Loans**: Eligible Borrowers were required to commit to comply with the restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act, except that an S corporation or other tax pass-through entity that is an Eligible Borrower may make distributions to the extent reasonably required to cover its owners’ tax obligations in respect of the entity’s earnings.
- **U.S. Business Requirement**: Under section 4003(c)(3)(C) of the CARES Act, Eligible Borrowers were required to be “businesses that are created or organized in the United

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States or under the laws of the United States and that have significant operations in and a majority of its employees based in the United States.”

- **Loan Forgiveness Prohibition**: Under section 4003(d)(3), the principal amount of the portion of any MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche that is participated to the Main Street SPV cannot be reduced through loan forgiveness. See question [A.10](#) for more information about this requirement.
- **Conflicts of Interest**: Under section 4019 of the CARES Act, Eligible Lenders and Eligible Borrowers were required to certify that no “Covered Individual” owns, controls, or holds 20% or more (by vote or value) of any class of equity ownership interest in the business. “Covered Individuals” include the President, the Vice President, the head of any Executive Department, any Member of Congress, and certain immediate family members of the foregoing.

A.9. [Archived.]

A.10. Can the principal amount of loans extended under Main Street be reduced?

Main Street is not a grant program and is subject to the prohibition on loan forgiveness in section 4003(d)(3) of the CARES Act. In the event of restructurings or workouts, the Main Street SPV may agree to reductions in interest (including capitalized interest), extended amortization schedules and maturities, and higher priority “priming” loans.

B. MSNLF and NONLF Loans

B.1. [Archived.]

B.2. [Archived.]

B.3. [Archived.]

B.4. [Archived.]

C. MSPLF Loans

C.1. [Archived.]

C.2. [Archived.]

C.3. [Archived.]

C.4. [Archived.]

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C.5. [Archived.]

C.6. [Archived.]

D. MSELF and NOELF Upsized Tranches

D.1. [Archived.]

D.2. [Archived.]

D.3. [Archived.]

D.4. [Archived.]

D.5. [Archived.]

D.6. [Archived.]

D.7. [Archived.]

D.8. Can the Eligible Lender that sells a participation to the Main Street SPV share its 5% retention of the MSELF or NOELF Upsized Tranche with other members of a multi-lender facility?

No. The Eligible Lender must retain 5% of the MSELF or NOELF Upsized Tranche, even when the underlying loan is part of a multi-lender facility. The Eligible Lender must retain 5% of the MSELF or NOELF Upsized Tranche until (A) the MSELF or NOELF Upsized Tranche matures or (B) neither the Main Street SPV nor a Governmental Assignee holds an interest in the loan in any capacity, whichever occurs first.

D.9. [Archived.]

D.10. [Archived.]

D.11. [Archived.]

D.12. Is an Eligible Lender required to hold all of its position in the credit facility underlying an MSELF Upsized Tranche for the life of the loan?

After originating an MSELF or NOELF Upsized Tranche, the Eligible Lender must retain its interest in the credit facility underlying the MSELF or NOELF Upsized Tranche until (i) the underlying credit facility matures, (ii) the MSELF or NOELF Upsized Tranche matures, or (iii) neither the Main Street SPV nor a Governmental Assignee holds an interest in the MSELF or

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NOELF Upsized Tranche in any capacity, whichever comes first.¹ This requirement is intended to apply to position(s) that an Eligible Lender holds in the underlying credit facility for investment purposes, and is not intended to extend to the purchase or sale of short-term positions by an Eligible Lender's trading desk with unaffiliated parties for market-making purposes. In order to be treated as a market-making position under this exemption, the following conditions must be met:

- (i) the position *cannot* be the position the Eligible Lender relied upon in order to upsize the loan (*i.e.*, it cannot be an Eligible Lender's only position in the underlying credit facility);
- (ii) the position must be purchased or sold by a trading desk in a transaction with an unaffiliated party, and must be segregated from the position the lender relied upon to upsize the loan; and
- (iii) the position must be held in an available-for-sale capacity in anticipation of reasonably expected near term demand.

If an Eligible Lender comes into possession of additional positions in the underlying credit facility after the upsizing of such facility in connection with the MSELF or NOELF, it is not required to retain such new positions.

E. Borrower Eligibility

E.1. [Archived.]

E.2. [Archived.]

E.3. [Archived.]

E.4. [Archived.]

E.5. [Archived.]

E.6. [Archived.]

E.7. [Archived.]

E.8. [Archived.]

¹ For the avoidance of doubt, the Eligible Lender may sell down part of its interest in the underlying credit facility before originating the MSELF or NOELF Upsized Tranche.

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E.9. Can a U.S. company that is a subsidiary of a foreign company qualify as an Eligible Borrower?

An Eligible Borrower must be created or organized in the United States or under the laws of the United States. For the avoidance of doubt, an Eligible Borrower may be a subsidiary of a foreign company, provided that the borrower itself is created or organized in the United States or under the laws of the United States, and the borrower on a consolidated basis has significant operations in and a majority of its employees based in the United States. However, an Eligible Borrower that is a subsidiary of a foreign company must use the proceeds of a Main Street loan only for the benefit of the Eligible Borrower, its consolidated U.S. subsidiaries, and other affiliates of the Eligible Borrower that are U.S. businesses. The proceeds of a Main Street loan may not be used for the benefit of such Eligible Borrower's foreign parents, affiliates or subsidiaries.

E.10. [Archived.]

E.11. [Archived.]

E.12. [Archived.]

E.13. [Archived.]

E.14. [Archived.]

E.15. [Archived.]

E.16. [Archived.]

E.17. [Archived.]

E.18. [Archived.]

E.19. [Archived.]

F. Application Process

F.1. [Archived.]

F.2. [Archived.]

F.3. [Archived.]

F.4. [Archived.]

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G. Terms and Conditions

G.1. [Archived.]

G.2. [Archived.]

G.3. [Archived.]

G.4. [Archived.]

G.5. [Archived.]

G.6. [Archived.]

G.7. [Archived.]

G.8. What constitutes “commercially reasonable efforts” or “reasonable efforts” to maintain payroll and retain employees?

Eligible Borrowers should make commercially reasonable efforts (the standard stated in the MSNLF, MSPLF, and MSELF term sheets) or reasonable efforts (the standard stated in the NONLF and NOELF term sheets) to retain employees during the term of the Main Street loan.² Specifically, an Eligible Borrower should undertake good-faith efforts to maintain payroll and retain employees, in light of 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 eligible to apply for Main Street loans.

G.9. [Archived.]

G.10. [Archived.]

G.11. [Archived.]

G.12. [Archived.]

G.13. [Archived.]

G.14. [Archived.]

G.15. [Archived.]

G.16. [Archived.]

² While the for-profit and non-profit Main Street term sheets have used slightly different terminology, the expectations for maintenance of payroll and employee retention are consistent among all Main Street facilities.

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G.17. [Archived.]

G.18. [Archived.]

G.19. [Archived.]

G.20. [Archived.]

G.21. Are there any prohibitions on the use of proceeds of a Main Street loan?

The Program is intended to help small and medium-sized for-profit business and nonprofit organizations that were in sound financial condition prior to the onset of the COVID-19 pandemic maintain their operations and payroll until conditions normalize. However, Program loans may not be used:

- with respect to an Eligible Borrower that is a subsidiary of a foreign company, for the benefit of an Eligible Borrower’s foreign parents, affiliates, or subsidiaries (see question [E.9](#)); or
- to refinance or accelerate payment of existing debt, except (i) at the time of origination of an MSPLF Loan if the debt was owed to a different, unaffiliated lender (see question C.4), or (ii) under the limited exception for mandatory and due debt and interest payments after the origination of the Main Street loan (see question [H.3](#)).

In addition, under the Program an Eligible Borrower may not use any funds (including the proceeds of a Main Street loan) during the term of the loan (and, in some cases, for 12 months after the Main Street loan is repaid) for the following reasons:

- paying dividends, distributing capital, repurchasing equity, or paying compensation over specified thresholds, except as provided under section 2.D of the [MSNLF](#), [NONLF](#), [MSPLF](#), [MSELF](#), or [NOELF](#) Borrower Certifications and Covenants or these FAQs (see question [H.2](#)); or
- repaying other debt ahead of schedule (see section 5.A of the [MSNLF](#), [NONLF](#), [MSPLF](#), [MSELF](#), or [NOELF](#) Borrower Certifications and Covenants and question [H.3](#)).

G.22. [Archived.]

G.23. [Archived.]

G.24. [Archived.]

G.25. [Archived.]

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G.26. Can an Eligible Lender or Eligible Borrower hedge interest rate and credit risk in connection with Main Street loans?

Yes. Eligible Lenders and Eligible Borrowers may hedge interest rate risk associated with Main Street loans. Eligible Lenders may also hedge credit risk associated with a Main Street borrower's industry, but may not engage in borrower name specific hedging of a Main Street loan.

G.27. [Archived.]

H. Certifications and Covenants

H.1. Are the required certifications and covenants under the three Main Street facilities the same?

The certifications for Lenders and Borrowers vary by Main Street facility and are available below:

- [MSNLF Borrower Certifications and Covenants](#)
- [NONLF Borrower Certifications and Covenants](#)
- [MSPLF Borrower Certifications and Covenants](#)
- [MSELF Borrower Certifications and Covenants](#)
- [NOELF Borrower Certifications and Covenants](#)
- [MSNLF Lender Transaction Specific Certifications and Covenants](#)
- [NONLF Lender Transaction Specific Certifications and Covenants](#)
- [MSPLF Lender Transaction Specific Certifications and Covenants](#)
- [MSELF Lender Transaction Specific Certifications and Covenants](#)
- [NOELF Lender Transaction Specific Certifications and Covenants](#)

H.2. What compensation, stock repurchase and capital distributions restrictions apply?

The compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act apply under each of the Main Street facilities, except that, in each case, restrictions on dividends and other capital distributions will 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; or

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- distributions made by a tribal business to a tribal government owner (see question [H.15](#)).

Detailed instructions are provided in the [MSNLF](#), [NONLF](#), [MSPLF](#), [MSELF](#), and [NOELF](#) Borrower Certifications and Covenants.

H.3. What restrictions are placed on the Eligible Borrower's ability to repay existing debt?

The restrictions on repaying debt vary across the various Main Street loans:

- **[MSNLF, NONLF, MSELF, and NOELF](#)**: The Eligible Borrower was required to commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the MSNLF Loan, NONLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche is repaid in full, unless the debt or interest payment is mandatory and due. The Eligible Borrower was required to commit that it will not seek to cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender.
- **[MSPLF](#)**: The Eligible Borrower was required to commit to refrain from repaying the principal balance of, or paying any interest on, any debt until the MSPLF Loan is repaid in full, unless the debt or interest payment is mandatory and due; however, the Eligible Borrower was permitted, at the time of origination of the MSPLF Loan, to refinance existing debt owed by the Eligible Borrower to a lender that was not the Eligible Lender or one of its affiliates. The Eligible Borrower was required to commit that it will not seek to cancel or reduce any of its committed lines of credit with the Eligible Lender or any other lender.

These covenants would not prohibit an Eligible Borrower from undertaking any of the following actions during the term of the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche:

- repaying a line of credit (including a credit card) in accordance with the Eligible Borrower's normal course of business usage for such line of credit;
- taking on and paying additional debt obligations required in the normal course of business and on standard terms, including inventory and equipment financing, provided that such debt is secured only by the newly acquired property (e.g., inventory or equipment), and, apart from such security, is of equal or lower priority than the MSNLF Loan, the NONLF Loan, the MSPLF Loan, the MSELF Upsized Tranche, or the NOELF Upsized Tranche;
- taking on and paying, if mandatory and due, debt incurred as a result of participation in the Economic Injury Disaster Loan (EIDL) program or Paycheck Protection Program (PPP), including the extension of the PPP pursuant to the Consolidated Appropriations Act, 2021;

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- refinancing debt that is maturing no later than 90 days from the date of such refinancing;³ or
- refinancing debt that existed at the time the Main Street loan was originated (“existing debt”), regardless of the existing debt’s initial maturity date, provided that:
 - i. the replacement debt is of the same principal amount as the existing debt, and, at the time the Main Street loan was originated, such existing debt was properly included when calculating the maximum size of Main Street loan the Main Street borrower was eligible to receive;
 - ii. the replacement debt is of the same priority and is secured with the same collateral as the existing debt, and the Main Street loan was made in compliance with the relevant Main Street facility’s priority and security requirements; and
 - iii. the repayment schedule of the replacement debt does not include any payments that exceed the amount of, or are accelerated relative to, the repayment schedule of the existing debt.

H.4. Is an Eligible Lender permitted to accept partial repayment of an Eligible Borrower’s existing line of credit with the Eligible Lender?

The Eligible Lender would not be prevented from accepting repayments on a line of credit from an Eligible Borrower in accordance with the Eligible Borrower’s normal course of business usage for such line of credit.

H.5. What restrictions are placed on an Eligible Lender’s ability to cancel or reduce any existing committed lines of credit outstanding?

An Eligible Lender was required to commit that it will not cancel or reduce any existing committed lines of credit outstanding to the Eligible Borrower, except in an event of default. 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 in accordance with their terms due to changes in borrowing bases or reserves in asset-based or similar structures.

H.6. What is the Eligible Lender’s role in verifying certifications and covenants?

An Eligible Lender was required to collect the required certifications and covenants from each Eligible Borrower at the time of origination or upsizing. Eligible Lenders may rely on an Eligible Borrower’s certifications and covenants, as well as any subsequent self-reporting by the Eligible

³ Eligible Lenders and Eligible Borrowers are expected to act in good faith with respect to this requirement and in light of the goals of Main Street. In particular, Eligible Borrowers and Eligible Lenders are discouraged from originating Main Street loans for the purpose of funding debt payments that are, or are presently expected to become, mandatory by operation of a debt covenant or mandatory prepayment provision.

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Borrower. The Eligible Lender is not expected to independently verify the Eligible Borrower's certifications or actively monitor ongoing compliance with covenants required for Eligible Borrowers under the Main Street term sheets. If an Eligible Lender becomes aware that an Eligible Borrower made a material misstatement or otherwise breached a covenant during the term of a Main Street loan, the Eligible Lender should notify the FRB Boston. For more detail, please see the [MSNLF](#), [NONLF](#), [MSPLF](#), [MSELF](#), and [NOELF](#) Lender Transaction-Specific Certifications and Covenants.

H.7. What debt and interest payments are considered "mandatory and due"?

The debt repayment covenants generally prohibit an Eligible Borrower from repaying the principal balance of, or paying any interest on, any debt until the Main Street loan is repaid in full, unless the principal or interest payment is "mandatory and due." With respect to debt that predates the Main Street loan, principal and interest payments are "mandatory and due":

- on the future date upon which they were scheduled to be paid as of the date of origination of the Main Street loan, or
- upon the occurrence of an event that automatically triggers mandatory prepayments under a contract for indebtedness that the Eligible Borrower executed prior to the date of origination of a Main Street loan, except that any such prepayments triggered by the incurrence of new debt can only be paid:
 - if such prepayments are de minimis, or
 - under the MSPLF at the time of origination of an MSPLF Loan.

For the avoidance of doubt, under the Program, Eligible Borrowers may continue to pay, and Eligible Lenders may request that Eligible Borrowers pay, interest or principal payments on outstanding debt on (or after) the payment due date, provided that the payment due date was scheduled prior to the date of origination of a Main Street loan. Eligible Borrowers may not pay, and Eligible Lenders may not request that Eligible Borrowers pay, interest or principal payments on such debt ahead of schedule during the life of the Program loan, unless required by a mandatory prepayment clause as specifically permitted above.

For future debt incurred by the Borrower in compliance with the terms and conditions of the Program loan, principal and interest payments are "mandatory and due" on their scheduled dates or upon the occurrence of an event that automatically triggers mandatory prepayments.

See question [H.3](#) above for more information about the debt payment covenants generally, including with respect to treatment of lines of credit.

H.8. [Archived.]

H.9. [Archived.]

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H.10. [Archived.]

H.11. [Archived.]

H.12. How should Eligible Borrowers calculate “total compensation” for purposes of complying with limits on compensation under the direct loan restrictions?

Total compensation includes salary, bonuses, awards of stock, and other financial benefits provided by the Eligible Borrower and its affiliates to an officer or employee of the Eligible Borrower, but does not include the value of severance pay or other benefits paid in connection with a termination of employment. The following framework, which is represented in [this flowchart](#), should be used by the Eligible Borrower to calculate total compensation:

- (1) **Eligible Borrowers that are public companies**. An Eligible Borrower that is, or is a consolidated subsidiary of, an entity that is required to disclose information in accordance with the Securities and Exchange Commission’s Regulation S-K ([17 CFR part 229](#)) (a **public company**) must calculate total compensation according to the methodology set out in item 402(c) of Regulation S-K (**item 402(c)**) ([17 CFR 229.402\(c\)\(2\)](#)).
- (2) **Eligible Borrowers that are not public companies**. An Eligible Borrower that is not a public company may choose to calculate compensation in a manner consistent with the federal tax rules if the Eligible Borrower meets the criteria described in (a) or (b) below. An Eligible Borrower that is not a public company and does not choose to calculate compensation in a manner consistent with the federal tax rules must use item 402(c) to calculate total compensation. An Eligible Borrower must choose which approach to use upon disbursement of the Main Street loan and apply it for as long as the Main Street loan is outstanding and for 12 months thereafter. However, as described in Questions [H.13](#) and [H.14](#) below, an Eligible Borrower that has chosen to use the federal tax rules may later be required to switch to using item 402(c).
 - (a) **Small Eligible Borrowers that are not public companies**. An Eligible Borrower that is not a public company and that had gross revenues for its financial year ending in 2019 of less than or equal to \$10,000,000, may calculate total compensation in a manner consistent with the federal tax rules.
 - (b) **Officers and Employees that receive limited deferred compensation**. An Eligible Borrower that is not a public company and that had gross revenues for its financial year ending in 2019 of greater than \$10,000,000, may calculate compensation in a manner consistent with the federal tax rules for all officers or employees who are not Significant Deferred Compensation Recipients. A **Significant Deferred Compensation Recipient** means an officer or employee who, during any 12-month period beginning January 2019 and until 12 months after the date on which the Main Street loan is no longer outstanding, has total

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compensation that exceeds \$425,000, out of which the fair value of deferred compensation granted to such officer or employee exceeds 30%. Eligible Borrowers should use U.S. GAAP to determine which of its officers and employees are Significant Deferred Compensation Recipients.

Deferred compensation is a legally binding right to receive compensation awarded to an officer or employee in one taxable year but not payable until a later taxable year, and includes stock-based compensation the fair value of which is determined according to FASB ASC topic 718.

Eligible Borrowers that choose to calculate total compensation according to the federal tax rules must use the timing and valuation methodology, including the valuation of fringe benefits and bonuses, that apply for purposes of determining when amounts are treated as wages under [Internal Revenue Code section 3401\(a\)](#) for income tax withholding, or net earnings from self-employment under [Internal Revenue Code section 1402\(a\)](#). In addition, total compensation as calculated under the federal tax rules includes elements of compensation paid to an officer or employee who is either:

- an individual for whom the Eligible Borrower would be responsible for reporting compensation on Form W-2, and includes commissions, educational assistance, and benefits or wages that are paid in kind (such as meals or lodging) if they would be treated as taxable compensation subject to federal income tax withholding under [Internal Revenue Code section 3401\(a\)](#) applicable to U.S. citizen employees in a state or the District of Columbia (regardless of whether the compensation paid to the individual is actually subject to federal income tax withholding, and whether or not tax is actually withheld);⁴ or
- an individual who is a partner in a partnership or a member of a limited liability company or other similar structure, and includes “net earnings from self-employment” and “guaranteed payments for services” that are subject to self-employment tax under [Internal Revenue Code 1401\(a\)](#) as payments in connection with the performance of services.

H.13. What if an Eligible Borrower chooses, at the time of disbursement of the Main Street loan, to calculate total compensation using the federal tax rules for all officers or employees that were not Significant Deferred Compensation Recipients (as defined in question H.12), and the Eligible Borrower later increases the amount of deferred compensation so that one

⁴ See e.g., Internal Revenue Service Publication [15](#) and Publication [15-B](#), which provide a summary of the rules applicable to employers for reporting wages, including fringe benefits.

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or more of these individuals become Significant Deferred Compensation Recipients?

An Eligible Borrower described in (2)(b) of question [H.12](#) must begin calculating total compensation according to item 402(c) immediately with respect to any officer or employee that becomes a Significant Deferred Compensation Recipient based on U.S. GAAP, and continue doing so for the remaining period that the Main Street loan is outstanding and for 12 months thereafter. In such cases, the Eligible Borrower must include in any such officer's or employee's total compensation calculated according to item 402(c) any deferred compensation that was granted but not paid in the preceding 90-day period. An Eligible Borrower that meets the criteria under (2)(a) of question [H.12](#) (i.e., had gross revenues for its financial year ending in 2019 of less than or equal to \$10,000,000) at the time of loan disbursement and chooses to use the federal tax rules to calculate total compensation is not required to use item 402(c) for any employee or officer that is or becomes a Significant Deferred Compensation Recipient at any time, unless it becomes a public company.

H.14. What if an Eligible Borrower that has chosen to calculate total compensation using the federal tax rules (as permitted by question H.12) later becomes a public company?

Any Eligible Borrower that becomes a public company must calculate total compensation according to item 402(c). With respect to any officer or employee whose total compensation had been calculated in a manner consistent with the federal tax rules, the Eligible Borrower must begin calculating such individual's total compensation under item 402(c) immediately upon becoming a public company, and must include in their total compensation any deferred compensation granted but not paid in the 90-day period ending when the Eligible Borrower became a public company.

H.15. Is a tribal business prohibited from paying dividends or making other capital distributions to a tribal government owner under the covenant in section 2.D of the Borrower Certifications and Covenants?

Dividends or other capital distributions paid by tribal businesses provide a vital source of revenue for tribal governments and thereby support the self-sufficiency of the tribe and the provision of social services. The Secretary exercised his authority under section 4003(c)(3)(A)(iii) of the CARES Act to grant a waiver from the dividend prohibition in section 4003(c)(3)(A)(ii)(II) of the CARES Act to permit a tribal business, the ownership interests of which are wholly or majority owned by one or more tribal governments, to pay dividends or make equivalent capital distributions to its tribal government owners. The term "tribal government" as used in this FAQ refers to a federally or state recognized Indian tribe and does not include Alaska Native corporations.

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A tribal business with ownership interests that are held by individuals or investors other than the tribal government may pay dividends or make equivalent capital distributions to its tribal government owner(s), but remains subject to the prohibition on payment of dividends and other capital distributions with respect to ownership interests held by individuals or investors other than a tribal government. However, a tribal business that is organized as an S corporation or other tax pass-through entity is permitted to pay dividends or make other capital distributions to non-tribal government owners, to the extent reasonably required to cover the owners' tax obligations in respect of the company's earnings, as described in question [H.2](#).

A tribal business, the ownership interests of which are wholly or majority owned by one or more tribal governments, should consider this FAQ incorporated by reference into the MSNLF, MSPLF, or MSELF Borrower Certifications and Covenants and may rely on this FAQ in relation to covenants required by section 2.D of each Borrower Certifications and Covenants document.

For the avoidance of doubt, transfers from tribal economic enterprises that do not have a distinct legal personality to the related tribal government are not considered dividends and are permitted, subject to the terms of the loan agreement.

H.16. How should an Eligible Borrower that is organized as a partnership, limited liability company, S corporation, or similar tax pass-through entity comply with restrictions on compensation and capital distributions under the direct loan restrictions with respect to payments made to owners of the Eligible Borrower?

All Eligible Borrowers were required to commit to comply with the repurchase, capital distribution, and compensation restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act. As described in the Borrower Certifications and Covenants, the restrictions on capital distributions apply to payments made with respect to common stock or equivalent interests in a partnership, limited liability company, business organized as a trust, or other legal entity. In addition, an Eligible Borrower is subject to limitations on compensation of any officer or employee whose total compensation exceeds \$425,000 (see question [H.12](#)).

In some cases, an employee or officer that is covered by the limitations on compensation may also be a shareholder, partner, or member of the Eligible Borrower. In complying with both sets of restrictions, the Eligible Borrower must distinguish between (i) compensation of the employee or officer and (ii) dividends and other capital distributions paid to owners, including the employee or officer. The discussion below provides guidance on distinguishing between stock- or equity-based compensation and capital distributions paid with respect to common stock or common stock equivalents.

Corporations: As described in question [H.12](#), Eligible Borrowers must calculate total compensation according to item 402(c) unless the Eligible Borrower meets the criteria and

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chooses to calculate total compensation according to the federal tax rules. Stock-based compensation, such as stock options, is included in total compensation according to methodology described in item 402(c) or the federal tax rules. The award of stock-based compensation would not be considered a capital distribution and, accordingly, would not be subject to restrictions on capital distributions. However, dividend payments made on such stock of the Eligible Borrower owned by the officer or employee would be prohibited under the restrictions on capital distributions, except in the case of dividend distributions made to the owner of an S corporation that are reasonably required to cover its owners' tax obligations in respect of the Eligible Borrower's earnings.⁵

Partnerships and Limited Liability Companies: As described in question [H.12](#), Eligible Borrowers must calculate total compensation according to item 402(c) unless the Eligible Borrower meets the criteria and chooses to calculate total compensation according to the federal tax rules. An officer or employee may receive awards in connection with the performance of services in the form of an interest in the partnership or limited liability company, including a capital or profits interest.⁶ With respect to an award of a capital or profits interest in connection with services, the value of the award, if any, would be included in total compensation according to the methodology described in item 402(c) or the federal tax rules, as applicable. The award of an interest in a partnership or limited liability company would not be considered a capital distribution and, accordingly, would not be subject to restrictions on capital distributions. However, the Eligible Borrower would be prohibited from making a distribution with respect to a partnership or limited liability company interest, including a capital or profits interest, except to the extent reasonably required to cover its owners' tax obligations in respect of the Eligible Borrower's earnings.⁷

H.17. How do the capital distribution and repurchase restrictions apply to ownership interests held by Employee Stock Ownership Plans (ESOPs)?

Eligible Borrowers were required to commit to comply with the repurchase, capital distribution, and compensation restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act. In some cases, shares of common stock of the Eligible Borrower may be held by an employee stock ownership plan (**ESOP**). The bullets below discuss how the restrictions on

⁵ Permitted dividends and other distributions by an Eligible Borrower to cover its owners' tax obligations shall be subject to an annual reconciliation, with any surplus or deficiency to be deducted from or added to distributions, as applicable, in the following year. In addition, equity interests in an Eligible Borrower that provide for mandatory or preferential payment of dividends or other distributions shall be subject to these restrictions unless both the equity interest and the obligation to pay dividends or distributions existed as of March 27, 2020.

⁶ The term "officer or employee" is defined in Section 2.D of the Certifications and Covenants and includes an individual that provides compensated services to a partnership or limited liability company that is taxed as a partnership.

⁷ See footnote 5.

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stock repurchases and capital distributions would apply to ownership interests held by the ESOP.

- **Restrictions on repurchases and redemptions.** In general, and as discussed in the Borrower Certifications and Covenants, an Eligible Borrower is restricted from repurchasing or redeeming an equity security issued by the Eligible Borrower or its parent company if such equity security is listed on a national securities exchange. Restrictions would therefore not apply to a repurchase or redemption of an equity security not listed on a national exchange. For example, an ESOP that holds shares of a non-public company that has an obligation to repurchase any shares allocated to the employee's ESOP account upon the employee's retirement or termination of employment would not be prohibited under these restrictions from making such repurchases. In addition, the restrictions on repurchases and redemptions do not apply to repurchases or redemptions required under a contractual obligation that was in effect as of March 27, 2020.
- **Restrictions on capital distributions.** Eligible Borrowers are also subject to restrictions on dividends and other capital distributions made with respect to common stock or equivalent interests in a partnership, limited liability company, business organized as a trust, or other legal entity. The rules regarding restrictions on capital distributions would apply to a corporation that maintains an ESOP that holds shares of the company stock. The restrictions on dividends and other capital distributions do not apply to repurchases or redemptions, which are governed by the separate restriction in CARES Act section 4003(c)(3)(A)(ii)(I), discussed immediately above. A dividend or other capital distribution with respect to an Eligible Borrower's common stock or an equivalent interest held by an ESOP would be subject to restrictions on capital distributions, unless both the equity interest and the obligation to pay dividends or distributions existed as of March 27, 2020.

H.18. If an Eligible Borrower is sold, will the certifications and covenants apply to its successors?

An Eligible Borrower was required to commit to comply with the certifications and covenants included in the Borrower Certifications and Covenants, including the repurchase, capital distribution, and compensation restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act (collectively, "Direct Loan Restrictions"). If an Eligible Borrower is acquired or otherwise merged into another business, the acquiring or resulting entity would generally assume all rights and obligations of the Eligible Borrower, including the rights and obligations of the predecessor entity under a Main Street loan. In all cases, an Eligible Borrower should first ensure that any proposed sale complies with the terms of the Main Street loan agreement so long as that Main Street loan remains outstanding, and that all required consents or waivers are obtained.

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Below are examples of how Direct Loan Restrictions would apply to an Eligible Borrower, or a purchasing entity, after an acquisition or merger.

- **Scenario 1:** *Company A, an Eligible Borrower, sells all or substantially all of its assets to Company B.*

A sale of substantially all of Company A's assets in any transaction or series of transactions would be a Core Rights Act as defined in the [Loan Participation Agreement](#) if it results in a release of all or substantially all of the collateral pledged under the Main Street loan, and would require the Main Street SPV's prior approval.

As a condition of its approval, the Main Street SPV will require that Company B assume all rights and obligations under the Main Street loan, including any Direct Loan Restrictions, unless the exception immediately below applies. Therefore, Company B will be required to execute the required Borrower Certifications and Covenants.

To the extent the Main Street loan is repaid in full as the result of the sale to a *bona fide* third party buyer, Company A would remain subject to any Direct Loan Restrictions, including without limitation any restrictions on capital distribution, that survive for 12 months after the loan is repaid. In this scenario, Company B would not be required to execute the required Borrower Certifications and Covenants. A *bona fide* third-party buyer is a party who had no previous direct or indirect ownership interests in, affiliation with, or immediate family connection to individuals with direct or indirect ownership interests in Company A.

- **Scenario 2:** *Company A, an Eligible Borrower, sells some, but not substantially all, of its assets to Company B.*

In this scenario, Company A would likely retain its rights and obligations under the Main Street loan, including any Direct Loan Restrictions, and Company B would not assume any rights or obligations under the Main Street loan, unless so provided as part of the commercial transaction, including if required by the Main Street lender under the credit agreement. To the extent the Main Street loan is repaid, Company A would remain subject to any Direct Loan Restrictions, including without limitation any restrictions on capital distribution, that survive for 12 months after the loan is repaid.

Note that, to the extent that the assets in question are pledged as collateral to the Main Street loan, the collateral release could be considered a Core Rights Act as defined in the [Loan Participation Agreement](#) if it constitutes, in any transaction or series of transactions, a release of all or substantially all of the value of the collateral under the Main Street loan and would require the Main Street SPV's prior approval.

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- **Scenario 3:** *Shareholder X (the current owner of Company A, an Eligible Borrower) sells all or some of their shares in Company A to Shareholder Y.*

In this scenario, Company A continues to exist as a company but is under different ownership. Company A would retain its rights and obligations under the Main Street loan, including its obligations under the Direct Loan Restrictions. To the extent the Main Street loan is repaid, Company A would remain subject to any Direct Loan Restrictions, including without limitation any restrictions on capital distribution, that survive for 12 months after the loan is repaid.

Note that to the extent that Shareholder X is a guarantor of the Main Street loan, a release of Shareholder X as a guarantor could be considered a Core Rights Act as defined in the [Loan Participation Agreement](#) if it constitutes a release of all or substantially all of the value of the guaranties under the Main Street loan and would require the Main Street SPV's prior approval.

- **Scenario 4:** *Company A merges into Company B. Company A ceases to have a separate corporate existence.*

In this scenario, Company A would no longer exist and Company B would assume all rights and obligations under the Main Street loan, including the Direct Loan Restrictions. Company B would be subject to the Borrower Certifications and Covenants, whether by operation of law or as a condition of the transaction. To the extent the Main Street loan is repaid, Company B would remain subject to any Direct Loan Restrictions, including without limitation any restrictions on capital distribution, that survive for 12 months after the loan is repaid.

- **Scenario 5:** *All shares of Company A are purchased by Company B. Company A becomes a subsidiary of Company B.*

Like in Scenario 3, Company A continues to exist as a company but is under different ownership. Company A would retain its rights and obligations under the Main Street loan, including its obligations under the Direct Loan Restrictions. Company B would not be subject to any rights or obligations under the Main Street loan, except to the limited extent they apply to affiliates of the Eligible Borrower under the Direct Loan Restrictions (see section 2.D of the Instructions to the Borrower Certifications and Covenants and these FAQs), or if required by the Main Street lender. To the extent the Main Street loan is repaid, Company A would remain subject to any Direct Loan Restrictions, including without limitation any restrictions on capital distribution, that survive for 12 months after the loan is repaid.

For any other fact pattern involving the sale or transfer of shares or assets of a Main Street borrower, the lender may contact the Main Street SPV to determine the application of Program requirements.

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H.19. How do the compensation, capital distribution, and stock repurchase restrictions apply to an organization in which more than one entity borrows from the Main Street Lending Program?

The restrictions on compensation, stock repurchase, and capital distributions apply to the Eligible Borrower. Accordingly, if two affiliates borrow from the Main Street Lending Program each would be subject to the restrictions on compensation, capital distributions, and stock repurchases. Note that some restrictions also affect affiliates that are not borrowers. For example, the calculation of total compensation includes salary, bonuses, awards of stock, and other financial benefits received by an officer or employee from the Eligible Borrower and its affiliates. In addition, the Eligible Borrower may be restricted from repurchasing shares of its parent(s) if those shares are traded on a national exchange, as explained further in the Borrower Certifications and Covenants.

H.20. Do restrictions on dividend payments and capital distributions apply to loans made by an Eligible Borrower to an individual that is an owner of such Eligible Borrower?

A loan made by an Eligible Borrower after origination of a Main Street loan to an individual who is an owner of the Eligible Borrower is presumed to be a capital distribution unless the loan is (i) bona fide and (ii) either repaid according to its terms, or the lender (in this case the Eligible Borrower) exercises its rights as a creditor upon default.⁸ A loan will be considered bona fide if (i) it is a written instrument with a stated interest rate and a stated maturity date; (ii) it has terms that are at least as favorable to the Eligible Borrower as market terms for similar loans at the time of origination;⁹ (iii) the lender (in this case the Eligible Borrower) has a reasonable expectation of repayment, including that payments on the loan are not deferred; (iv) the debt is enforceable under state law; and (v) the lender (in this case the Eligible Borrower) has remedies upon default (e.g., a security interest or position with respect to other creditors).

A loan made before origination of the Main Street loan to an individual who is an owner will be presumed to be a capital distribution if it is forgiven or discharged, in whole or in part, or if the Eligible Borrower does not exercise its rights as a creditor.

Eligible Borrowers are subject to compensation, stock repurchase, dividend payment, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act. In determining whether a transaction is a capital distribution or dividend payment, and therefore subject to the restrictions under section 4003(c)(3)(A)(ii) of the CARES Act, the Eligible Borrower is required to review and

⁸ Includes draws on existing lines of credit, renewals of existing loans, or amendments to an existing loan that results in the terms of the loan becoming more favorable to the owner.

⁹ Market terms means the prevailing terms at the time of origination. Market terms should be demonstrated, preferably by receipt of one or more written offers from an unaffiliated lender for a similar loan.

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consider the instructions to the Borrower Certifications and Covenants, the FAQs, and the purpose of and economic result of the transaction. Transactions that circumvent or evade the restrictions that apply under section 4003(c)(3)(A)(ii) will be viewed as a violation of these restrictions.

H.21. What restrictions apply to an Eligible Borrower's repayment of a loan made to the Eligible Borrower by an owner of the Eligible Borrower?

The Eligible Borrower's repayment of a loan made to it by an owner would not be considered a capital distribution provided that the loan is a bona fide loan and repayment is made when mandatory and due (see question [H.20](#)). A loan will be considered bona fide if (i) it is a written instrument with a stated interest rate, a stated maturity date, and terms that are at least as favorable to the Eligible Borrower (in this case the borrower) as market terms for similar loans at the time of origination; (ii) the lender (in this case the owner) has a reasonable expectation of repayment, including that payments on the loan are not deferred; (iii) the debt is enforceable under state law; and (iv) the lender (in this case the owner) has remedies upon default (e.g., a security interest or position with respect to other creditors).

In addition, as described in question C.4, an Eligible Borrower may, at the time of origination of an MSPLF Loan, use the proceeds of such loan to prepay existing debt that is outstanding and owed to lenders other than the Eligible Lender.¹⁰

Finally, as indicated in question [H.20](#), transactions that circumvent or evade the restrictions that apply under section 4003(c)(3)(A)(ii) of the CARES Act will be viewed as a violation of these restrictions.

H.22. Do restrictions on compensation apply to loans made by an Eligible Borrower to an employee or officer of such Eligible Borrower?

In determining whether a loan by an Eligible Borrower to its employee or officer is compensation and therefore subject to the restrictions on compensation under section 4003(c)(A)(ii) of the CARES Act, the Borrower is required to review and consider the instructions to the Borrower Certifications and Covenants, these FAQs (including the definition of total compensation in question [H.12](#)), as well as the purpose of and economic result of the transaction. As described in question [H.12](#), Eligible Borrowers must calculate total compensation according to item 402(c) unless the Eligible Borrower meets the criteria and chooses to calculate total compensation according to the federal tax rules. An Eligible Borrower is required to determine whether a loan, or whole or partial forgiveness or discharge of a loan, would be considered compensation to an officer or employee according to these

¹⁰ An owner also may make a new loan to the Eligible Borrower while a Main Street loan is outstanding, provided that all Program requirements are observed (including the requirement that the Main Street loan does not become contractually subordinated to the new loan extended by the owner). See [Appendix B](#), Section I.

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rules.¹¹ Under the federal tax rules, for example, the whole or partial forgiveness or discharge of a loan may be included in total compensation. Similarly, the amount of the canceled debt, interest or principal, generally is considered income and reported for the year the cancellation occurs. In addition, an individual who receives a loan with a below market interest rate may have imputed compensation determined in accordance with the federal tax rules.

Transactions that circumvent or evade the restrictions that apply under section 4003(c)(3)(A)(ii) of the CARES Act will be viewed as a violation of these restrictions.

H.23. How should an Eligible Borrower that is an S Corporation comply with the requirement to conduct an annual reconciliation with respect to distributions paid to cover its owners' tax obligations?

A Borrower that is an S corporation or other tax pass-through entity may make distributions in respect of its common stock equivalents to the extent reasonably required to cover its owners' tax obligations in respect of the entity's earnings. Such distributions shall be subject to an annual reconciliation, with any surplus or deficiency to be deducted from or added to distributions, as applicable, in the following year. This provision applies based on an owners' tax obligations and, accordingly, is based on the owners' tax year. For the same reason, the payment should be reconciled to the owner's tax liability.

H.24. How should I read the term "Borrower" in the Borrower Certifications and Covenants for multi-borrower loans?

Each co-borrower in a multi-borrower loan was required to deliver to the Eligible Lender a set of Borrower Certifications and Covenants for the appropriate Main Street facility, which must be completed and signed by such co-borrower's principal executive officer and principal financial officer. If, for example, there are three co-borrowers, each with the same principal executive officer and principal financial officer, three sets of Borrower Certifications and Covenants must be executed by the same officers in respect of the three different co-borrowers.

Each set of certifications should accurately identify the relevant co-borrower in the "Name of the Borrower" field. References to "Borrower" throughout the [MSNLF](#), [MSPLF](#), [MSELF](#), [NONLF](#), and [NOELF](#) Borrower Certifications and Covenants mean *only* the co-borrower identified in the "Name of the Borrower" field in such document, except that:

- i. For the [MSNLF](#), [MSPLF](#), and [MSELF](#) Borrower Certifications and Covenants:
 - a. co-borrowers may elect to supply aggregated financial information and an aggregated EBITDA calculation in relation to section 4.A of the [MSNLF](#), [MSPLF](#),

¹¹ See section 2.D of the [MSNLF](#), [NONLF](#), [MSPLF](#), [MSELF](#), and [NOELF](#) Borrower Certifications and Covenants for a definition of "officer or employee."

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- and [MSELF](#) Borrower Certifications and Covenants, where permitted by the Eligible Lender;¹² and
- b. for the MSPLF, co-borrowers may elect to submit aggregated Lien and Collateral Valuation Reporting in relation to section 4.C of the [MSPLF](#) Borrower Certifications and Covenants, where permitted by the Eligible Lender.
- ii. For the [NONLF](#) and [NOELF](#) Borrower Certifications and Covenants:
- a. a co-borrower that is a wholly owned subsidiary of a parent Nonprofit Organization:
 - i. may elect, with its parent Nonprofit Organization, to supply consolidated, parent-level financial records related to the borrower eligibility criteria described in Borrower eligibility criteria (7)-(9) of the NONLF and NOELF term sheets, where permitted by the Eligible Lender, and such consolidated eligibility criteria will be deemed the eligibility criteria for each co-borrower subsidiary and its parent Nonprofit Organization;
 - ii. must, if it is not recognized as tax-exempt under section 501(c)(3) independently from its parent, reasonably determine, in a written record maintained by the organization, that it is an organization described in section 501(c)(3) of the IRC; and
 - iii. must ascertain its eligibility under Borrower eligibility criteria (1)-(2) of the NONLF and NOELF term sheets on a standalone basis, and under criteria (5)-(6) on a consolidated basis with its parent Nonprofit Organization.
 - b. a co-borrower that is not a wholly owned subsidiary of a parent Nonprofit Organization, or that has not elected to supply consolidated, parent-level financial records related to the borrower eligibility criteria in (7)-(9) of the [NONLF](#) and [NOELF](#) term sheets, must supply standalone financial records related to such borrower eligibility criteria.

¹² If an Eligible Lender permits co-borrowers to submit aggregated financial information and EBITDA calculations, the Eligible Lender should instruct the co-borrowers to use the Eligible Lender's typical practices to aggregate such information in a manner that accounts for transactions between the co-borrowers and accurately reflects the financial position of the co-borrowers and their ability to repay the loan (e.g., in a manner that avoids double counting of revenues, assets, or liabilities). Each co-borrower should reference section 4.A of the [MSNLF](#), [MSPLF](#), and [MSELF](#) Borrower Certifications and Covenants, as well as question H.10, to determine if they are able to submit consolidated financial statements, which may then be aggregated with other co-borrowers, if relevant and permitted by the Eligible Lender.

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H.25. How should I read the term “Borrower” in the Lender Transaction Specific Certifications and Covenants for multi-borrower loans?

In the [MSNLF](#), [MSPLF](#), [MSELF](#), [NONLF](#), and [NOELF](#) Lender Transaction Specific Certifications and Covenants, “Name of the Borrower” will be populated by the Portal to include the name of *each and every* co-borrower identified in the Portal. References to the “Borrower” throughout the document will be understood to mean “collectively, the co-borrowers named in the Lender Transaction Specific Certifications and Covenants,” with the following exceptions:

- i. For the [MSNLF](#), [MSPLF](#), and [MSELF](#) Lender Transaction Specific Certifications and Covenants:
 - a. **Section 1.A – Due Inquiry with Respect to Formation:** Each co-borrower must be a “Business” that was established prior to March 13, 2020. Therefore, the Eligible Lender must receive documentation from each co-borrower evidencing that co-borrower’s legal formation certified by the appropriate governmental authority, and take those steps to verify such formation as are required under the Eligible Lender’s ordinary underwriting policies and procedures.
 - b. **Section 1.B – Delivery of Borrower Certifications and Covenants:** Each co-borrower must submit its own Borrower Certifications and Covenants. References to the Borrower Certifications and Covenants throughout the Lender Transaction Specific Certifications and Covenants should be read to include each co-borrower’s Borrower Certifications and Covenants.
 - c. **Sections 2.H, 2.I, and 2.J – EBITDA Requirements:** Each co-borrower must submit financial information and a calculated 2019 adjusted EBITDA for such co-borrower, except that co-borrowers may elect to aggregate their financials and 2019 adjusted EBITDA, if permitted by the Eligible Lender.¹³

¹³ While co-borrowers may individually submit financial information and EBITDA calculations, the maximum loan size must be determined in reference to the adjusted 2019 EBITDA and existing outstanding and undrawn available debt of “the Borrower” (i.e., collectively, all of the co-borrowers). The Eligible Lender should use (or should require the co-borrowers to use, as applicable) its typical practices in order to aggregate financial information in a manner that accounts for transactions between the co-borrowers and accurately reflects the financial position of the co-borrowers and their ability to repay the loan (e.g., in a manner that avoids double counting of revenues, assets, or liabilities).

Therefore, to calculate maximum loan size, the aggregate adjusted 2019 EBITDA and aggregate existing outstanding and undrawn available debt of “the Borrower” should be used for section 2.H of the [MSNLF](#), [MSPLF](#), and [MSELF](#) Lender Transaction Specific Certifications and Covenants; the aggregate adjusted 2019 EBITDA and aggregate existing outstanding and undrawn available debt of “the Borrower” and its affiliates should be used for section 2.I of the [MSNLF](#), [MSPLF](#), and [MSELF](#) Lender Transaction Specific Certifications and Covenants; and, if, on an aggregated basis, all or substantially all of the assets of the Borrower comprise equity interests in other entities, then the Borrower must identify Selected Subsidiaries and the maximum loan size would be constrained by such Selected Subsidiaries’ aggregate adjusted 2019 EBITDA and aggregate existing outstanding and undrawn available debt.

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- d. **Section 3.B of the MSPLF Lender Transaction-Specific Certifications and Covenants:** Each MSPLF co-borrower must submit its own Lien and Collateral Value Reporting, except that the co-borrowers may elect to aggregate such reporting if permitted by the Eligible Lender.
- ii. For the [NONLF](#) and [NOELF](#) Borrower Certifications and Covenants:
 - a. **Section 1.A – Nonprofit Status and Due Inquiry with Respect to Formation:** Each co-borrower must be a Nonprofit Organization that has been in continuous operation since January 1, 2015. The Eligible Lender must receive documentation from each co-borrower evidencing that co-borrower’s legal formation certified by the appropriate governmental authority, and take those steps to verify such formation as are required under the Eligible Lender’s ordinary underwriting policies and procedures.
 - b. **Section 1.B – Delivery of Borrower Certifications and Covenants:** Each co-borrower must submit its own Borrower Certifications and Covenants. References to the Borrower Certifications and Covenants throughout the Lender Transaction Specific Certifications and Covenants should be read to include each co-borrower’s Borrower Certifications and Covenants.
 - c. **Sections 2.G, 2.I, and 2.J – Maximum Loan Size:** Each co-borrower must submit financial information and a calculated 2019 revenue for such co-borrower, except that co-borrowers may elect to aggregate their financials and 2019 revenue, if permitted by the Eligible Lender.¹⁴
 - d. **Section 2.H:** Each co-borrower must submit financial information and records to determine compliance with the borrower financial eligibility criteria in (7)-(9) of the [NONLF](#) and [NOELF](#) term sheets, except that a co-borrower that is a wholly owned subsidiary of a parent Nonprofit Organization may elect to provide consolidated, parent-level financial records related to the borrower eligibility criteria in (7)-(9) of the [NONLF](#) and [NOELF](#) term sheets.

¹⁴ While co-borrowers may individually submit financial information and 2019 revenue calculations, the maximum loan size must be determined in reference to the average 2019 quarterly revenue of “the Borrower” (i.e., collectively, all of the co-borrowers). The Eligible Lender should use (or should require the co-borrowers to use, as applicable) its typical practices in order to aggregate financial information in a manner that accounts for transactions between the co-borrowers and accurately reflects the financial position of the co-borrowers and their ability to repay the loan (e.g., in a manner that avoids double counting of revenues, assets, or liabilities).

Therefore, to calculate maximum loan size, the aggregate average 2019 quarterly revenue of “the Borrower” should be used for section 2.G of the [NONLF](#) and [NOELF](#) Lender Transaction Specific Certifications and Covenants; the aggregate average 2019 quarterly revenue of “the Borrower” and its affiliates should be used for section 2.I of the [NONLF](#) and [NOELF](#) Lender Transaction Specific Certifications and Covenants; and, if, on an aggregated basis, all or substantially all of the assets of the Borrower comprise equity interests in other entities, then the Borrower must identify Selected Subsidiaries and the maximum loan size would be constrained by such Selected Subsidiaries’ aggregate average 2019 quarterly revenue.

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For the avoidance of doubt, a notice or report made to an Eligible Lender by any co-borrower is a notice or report made by “the Borrower.”¹⁵ Further, requirements referencing the other loans, obligations, or “Loans or Debt Instruments” of “the Borrower” include the other loans, obligations, or Loans or Debt Instruments, of all co-borrowers in any capacity, and not solely the other loans, obligations, or Loans or Debt Instruments, jointly shared by the co-borrowers.¹⁶ In addition, in the case of the MSELF and NOELF, all co-borrowers must be borrowers on the underlying credit facility being upsized. Finally, acceleration of a loan made to any of the co-borrowers should trigger the cross-acceleration clause required under section 2.N of the Lender Transaction Specific Certifications and Covenants.

H.26. May Eligible Borrowers enter into arrangements with independent contractors, vendors, or other third-party service providers, without violating the compensation or distribution restrictions in section 4003(c)(3)(A)(ii)?

In general, Eligible Borrowers may enter into arrangements with independent contractors, vendors, or third-party service providers without violating the compensation or distribution restrictions under section 4003(c)(3)(A)(ii) of the CARES Act to the extent such arrangements are bona fide and are not undertaken to circumvent or evade such restrictions. As of April 9, 2021, certain arrangements would be presumed to be an evasion of 4003(c)(3)(A)(ii):

- **Officers or Employees.** Any compensation received by an officer or employee of the Eligible Borrower from the Eligible Borrower or its affiliates indirectly through an independent contractor, vendor, or other third-party contractual arrangement, would be presumed to be part of the “total compensation” received by such officer or employee for purposes of the compensation restrictions. For example, compensation from a third-party vendor of the Eligible Borrower would be considered to be provided indirectly by the Eligible Borrower if the officer or employee’s labor for the vendor benefits the Eligible Borrower or is conducted for its account.
- **Former Officers or Employees.** In the case of a former officer or employee of the Eligible Borrower whose employment terminated during the term of the Main Street loan (or in the six months preceding the origination of the Main Street loan), an independent contractor, vendor, or third-party service provider arrangement would be

¹⁵ See, e.g., sections 2.G, or 2.I of the [MSNLF](#), [MSPLF](#), [MSELF](#), [NONLF](#), and [NOELF](#) Lender Transaction Specific Certifications and Covenants, section 5.B of the [MSNLF](#) and [NONLF](#) Lender Transaction Specific Certifications and Covenants, and section 6.B of the [MSPLF](#), [MSELF](#), and [NOELF](#) Lender Transaction Specific Certifications and Covenants.

¹⁶ See section 2.K of the [MSNLF](#), [MSPLF](#), [MSELF](#), [NONLF](#), and [NOELF](#) Lender Transaction Specific Certifications and Covenants, section 3 of the [MSPLF](#), [MSELF](#) and [NOELF](#) Lender Transaction Specific Certifications and Covenants, section 4.A. of the [MSNLF](#) and [NONLF](#) Lender Transaction Specific Certifications and Covenants, and section 5.A. of the [MSPLF](#) Lender Transaction Specific Certifications and Covenants.

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presumed to be an evasion of the compensation restrictions if any of the following conditions are met: (i) there is not a material change in the responsibilities of the former officer or employee that reflects the difference between an employer/employee and a contractual relationship; (ii) the only client(s) of the independent contractor, vendor, or third-party service provider are the Eligible Borrower and/or its affiliates; or (iii) the Eligible Borrower cannot demonstrate that the former officer or employee is providing bona fide services to the Eligible Borrower or its affiliates on terms that are at least as favorable to the Eligible Borrower or its affiliates as market terms for similar arrangements.

- **Holders of Equity Interests in the Borrower.** Any payments received by the holder of an equity interest in an Eligible Borrower as a result of an independent contractor, vendor, or third-party contractual arrangement would be presumed to be a capital distribution, unless the recipient provides bona fide services for the Eligible Borrower and the contract is on terms that are at least as favorable to the Eligible Borrower as market terms for similar arrangements.

Any evasion analysis would focus on the substance of the payments, as opposed to the technicalities of the legal structure.

I. Lender Information

I.1. [Archived.]

I.2. [Archived.]

I.3. [Archived.]

I.4. [Archived.]

I.5. **How should an Eligible Lender account for the transfer of an undivided participation interest in the loan to the Main Street SPV?**

The transfer of an undivided participation interest in an MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche is structured with the intent to (a) meet the accounting definition of a participating interest; (b) qualify as a true sale under the Bankruptcy Code; and (c) meet the criteria for sale accounting outlined in ASC 860, Transfers and Servicing.

The Federal Reserve expects that an Eligible Lender would generally be able to support the conclusion that the transfer of a participation interest in an MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche made in accordance with the Program requirements qualifies for sale accounting under ASC 860. However, an Eligible Lender will need to evaluate any entity-specific considerations in determining the appropriate conclusion.

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For the MSELF and NOELF, the accounting considerations described above relate to situations where an Eligible Lender has appropriately concluded that the MSELF or NOELF Upsized Tranche is a separate and distinct unit of account for accounting purposes. This conclusion will vary depending on transaction-specific considerations as an Eligible Lender has the ability to customize certain details that may be pertinent to the unit of account analysis. Factors that an Eligible Lender should consider in evaluating whether the MSELF or NOELF Upsized Tranche can be considered a separate and distinct unit of account, apart from the existing term loan or revolving credit facility, for accounting purposes include, but are not limited to:

- the characteristics of the MSELF or NOELF Upsized Tranche compared to the characteristics of the existing term loan or revolving credit facility (e.g., maturity date, amortization schedule, collateral requirement, payment date, and interest rate); and
- how an Eligible Lender operationalizes the MSELF or NOELF Upsized Tranche, including whether scheduled principal and interest payments are commingled with payments on the existing term loan or revolving credit facility, whether the payments made by the Eligible Borrower clearly indicate which loan the payment is intended to settle, and whether the Eligible Lender separately maintains detailed record-keeping.

Federal Reserve staff has discussed the broad terms and intent of the Program with staff of the SEC's Office of the Chief Accountant (**OCA**). OCA staff have indicated they are available for consultation on an entity's specific facts and circumstances as needed.

I.6. Do the participation interests purchased by the Main Street SPV under the Program constitute "true participations"?

The Federal Reserve has designed the legal forms and agreements to facilitate a determination that the participation interests purchased by the Main Street SPV in MSNLF Loans, NONLF Loans, MSPLF Loans, MSELF Upsized Tranches, or NOELF Upsized Tranches are "true participations." As such, the participation interests by the Main Street SPV have characteristics of true participations under the Bankruptcy Code, including the following:

- Sections 2.1(c) and 4.3 of the [Participation Agreement](#) explicitly reflect the intention of the parties to effect a true sale. Section 2.1(b) of the Participation Agreement provides that it is the parties' intent to sell an undivided participation interest in 95% of an MSNLF Loan, an NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche. Further, sections 4.3 and 5.3 of the Participation Agreement state that there is a complete and irrevocable transfer by the Eligible Lender of the rewards and risks of ownership of the participation interest. Further, section 2.1(d) makes clear that the participation interest cannot be put-back, voided, or rescinded. While the Eligible Lender will retain bare legal title to the portion of the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche underlying the participation interest, retention of title in this manner is not inconsistent with the sale of a participation interest in a loan.

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- The Eligible Lender does not guarantee repayment of the participation interest or the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche underlying the participation interest, nor is there any other recourse inconsistent with a sale of the participation interest.
- Sections 2.1(b) and 8 of the Participation Agreement provide for a pure pass-through to the Main Street SPV of amounts paid by the Eligible Borrower under an MSNLF Loan, a NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche, excluding the Eligible Lender's retained beneficial interest (a 5% beneficial interest in each MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche). The proceeds of the participation interest will not be commingled with the Eligible Lender's funds for any significant period of time. Pursuant to Section 8.1 of the Participation Agreement, (i) the Eligible Lender will accept and hold any distributions that the Eligible Lender receives in respect of the participation interest for the account and sole benefit of the Main Street SPV, (ii) the Eligible Lender has no equitable or beneficial interest in such distributions, which are property of the Main Street SPV, and (iii) the Eligible Lender is required to deliver any distribution to the Main Street SPV promptly.
- The participation interest will also have the same duration as the underlying MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche.
- Pursuant to the [Servicing Agreement](#), the Eligible Lender will provide Enhanced Reporting Services (as defined in the Servicing Agreement) to the Main Street SPV with respect to the participation interest. As compensation for the Enhanced Reporting Services, the Main Street SPV will pay the Eligible Lender a servicing fee in the amount of 0.25% or 0.5% per annum of the total principal amount of the participation interest. The Federal Reserve believes that the terms of the Servicing Agreement are commercially reasonable and comparable to terms that unaffiliated third parties would accept to provide Enhanced Reporting Services, under the terms and conditions set out in the Servicing Agreement, with respect to the participation interest.
- By agreeing to borrow in connection with the Program, each Eligible Borrower must consent to the Eligible Lender's sale of the participation interest in the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche, as applicable, to the Main Street SPV.
- The Eligible Lender has agreed to act on behalf of the Main Street SPV with respect to the Main Street SPV's participation interest in the MSNLF Loan, the NONLF Loan, the MSPLF Loan, the MSELF Upsized Tranche, and the NOELF Upsized Tranche. With respect to Core Rights Acts, Section 11.1 of the Participation Agreement provides that the Eligible Lender shall only take (or refrain from taking) Core Rights Acts in accordance with the prior instructions of the Main Street SPV. Pursuant to Section 12.1 of the Participation Agreement, the Eligible Lender will not be held to the standard of care of a

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fiduciary, but will exercise the same duty of care with respect to the administration and enforcement of the participation interest as it would exercise if it held the participation interest solely for its own account.

- Sections 11.1(c), 15.1 and 15.2 of the Participation Agreement provide elevation rights for the Main Street SPV, which establish circumstances under which the Main Street SPV can request the Eligible Lender to use best efforts or commercially reasonable efforts, as applicable, to effectuate a full assignment of the legal title to the portion of the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche underlying the participation interest.

I.7. Does the sale of participation interests to the Main Street SPV meet the criteria for a true sale under the Bankruptcy Code?

The sale of a participation interest in an MSNLF Loan, an NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche is structured to be a true sale, and the Program transaction terms are consistent with a true sale, including:

- The express language in section 2.1(b) of the [Participation Agreement](#) reflecting the intent of the parties to sell an undivided participation interest in 95% of an MSNLF Loan, an NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche.
- The economic substance of the transfer of the participation interest from the Eligible Lender to the Main Street SPV under the Participation Agreement is a sale.
- The language in sections 4.3 and 5.3 of the Participation Agreement providing for a complete and irrevocable transfer by each Eligible Lender of the rewards and risks of ownership of the participation interest, as well as the language in section 2.1(d) making clear that the participation interest cannot be put-back, voided, or rescinded.
- Any change in the value of the participation interest will not be for the benefit or loss of the Eligible Lender.
- The Eligible Lender will receive the entire consideration for the participation interest representing at least the fair market value for the participation interest on the applicable closing date. There will not be any post-closing adjustment of the purchase price, and the Eligible Lender does not have any right or obligation to transfer additional property to the Main Street SPV.
- The Participation Agreement makes explicit the parties' intention for the Eligible Lender to relinquish the benefits and risks associated with ownership of the participation interest.

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In addition to the above, the Federal Reserve Bank of Boston agrees that it will not assert in any proceeding that the sales of the participation interests are other than true sales constituting true participations.

While not inconsistent with a true sale of participation interests, the Program does have certain unique features including the following:

- Each Eligible Lender under the Program must retain its 5% of the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, or NOELF Upsized Tranche until (A) the underlying MSNLF Loan, MSPLF Loan, or MSELF Upsized Tranche matures or (B) neither the Main Street SPV nor a Governmental Assignee holds an interest in the loan in any capacity, whichever occurs first.
- Under the MSELF and NOELF, each Eligible Lender must also retain its interest in the underlying loan until (A) such underlying loan matures, (B) the MSELF or NOELF Upsized Tranche matures or (C) neither the Main Street SPV nor a Governmental Assignee holds an interest in the loan in any capacity, whichever occurs first.

It is important to note, however, that the Eligible Lender's retained interest in the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, NOELF Upsized Tranche, or MSELF/NOELF underlying loan will be pari passu with the Main Street SPV's participation interest. Thus, the Eligible Lender's retained interest in the MSNLF Loan, NONLF Loan, MSPLF Loan, MSELF Upsized Tranche, NOELF Upsized Tranche, or MSELF/NOELF underlying loan does not provide credit support for the related participation interest(s). As noted above, the material terms of the MSNLF, NONLF, MSPLF, MSELF, and NOELF are consistent with a true sale determination.

I.8. Does the Main Street SPV have the right to put back the participation interests to the Eligible Lender?

Neither the Eligible Lender nor any of its affiliates will have any right or obligation to purchase, repurchase, acquire, or reacquire the participation interest or to substitute other assets for the participation interest subsequent to sale to the Main Street SPV, or any right of first refusal, last look, or other similar right with respect to a purchase of the participation interest, or any obligation to pay any amount in connection with a loss of value with respect to the participation interest once it has been sold to the Main Street SPV. Further, under section 2.1(d) of the Participation Agreement, the Main Street SPV has no right to put the participation interest back to the Eligible Lender.

I.9. Do the participation interests purchased by the Main Street SPV potentially qualify for a "safe harbor" in relation to FDIC resolution proceedings?

The Federal Reserve has structured the transfer of the interests in financial assets under the Participation Agreement from the Eligible Lender to the Main Street SPV with the intent that it would qualify for the safe harbor regulations adopted by the Federal Deposit Insurance

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Corporation, under [12 CFR 360.6\(d\)\(1\)](#), regarding the treatment of financial assets transferred in connection with a participation. This safe harbor provides protection to the transfer of financial assets by an insured depository institution under a properly structured participation without recourse that satisfies the safe harbor's requirements by providing, in general, that the Federal Deposit Insurance Corporation (as conservator or receiver of the institution) will not reclaim or recover any such transferred financial assets, provided that such transfer satisfies the conditions for sale accounting treatment under U.S. GAAP, other than the legal isolation condition that is addressed by the safe harbor. The Federal Reserve has structured the Program with the intent that participations purchased by the Main Street SPV should qualify as "participations" within the meaning of [12 CFR 360.6\(a\)\(7\)](#), as they are sales of an undivided interest in an MSNLF Loan, an NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche, without recourse to the Eligible Lender. Staff of the Federal Deposit Insurance Corporation were consulted in preparing this response.

I.10. Do the participation interests purchased by the Main Street SPV potentially qualify for a "safe harbor" in relation to NCUA resolution proceedings?

The Federal Reserve has structured the transfer of the interests in financial assets under the Participation Agreement from the Eligible Lender to the Main Street SPV with the intent that it would qualify for the safe harbor regulations adopted by the Board of the National Credit Union Administration regarding the treatment of financial assets transferred in connection with a participation, under [12 CFR 709.9\(d\)\(1\)](#). This safe harbor provides protection to the transfer of financial assets by a federally insured credit union under a properly structured participation without recourse that satisfies the safe harbor's requirements by providing, in general, that the Board of the National Credit Union Administration (as conservator or receiver of the institution) will not reclaim or recover any such transferred financial assets, provided that such transfer satisfies the conditions for sale accounting treatment under U.S. GAAP, other than the legal isolation condition that is addressed by the safe harbor. The Federal Reserve has structured the Program with the intent that participations purchased by the Main Street SPV should qualify as "participations" within the meaning of [12 CFR 709.9\(a\)](#), as they are sales of an undivided interest in an MSNLF Loan, an NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche, without recourse to the Eligible Lender. Staff of the National Credit Union Administration were consulted in preparing this response.

I.11. Does the Servicing Agreement contemplated between the Eligible Lender and the Main Street SPV impact whether the sale of participation interests can be considered a "true sale"?

No, the Federal Reserve believes that the terms of the [Servicing Agreement](#) are commercially reasonable and comparable to terms to which unaffiliated third parties would agree to provide Enhanced Reporting Services (under the terms and conditions set out in the Servicing Agreement) with respect to the participation interest. The Servicing Fee does not represent

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any type of recourse or credit support for the participation interest, given that the fee is being paid by the Main Street SPV to the Eligible Lender. The Main Street SPV may also terminate the Servicing Agreement and remove the Eligible Lender as servicer at any time for “Cause,” as such term is defined in the Servicing Agreement.”

I.12. Will payment-in-kind (“PIK”) interest that has accrued (but has not yet been capitalized to principal) during the period of time starting on the date when the loan agreement is funded to the date when the loan participation purchase is funded be allocated to the Seller (i.e., the Eligible Lender)?

No. Under the [Participation Agreement](#), all accrued, but uncapitalized PIK Interest on the Purchase Amount of the loan that is participated is for the account of the Main Street SPV (as the Buyer), regardless of when such interest accrued. Further, the Purchase Price is determined based upon the Purchase Amount of the participation interest as of the effective date of the Participation Agreement. Therefore, the Participation Agreement does not require the Main Street SPV to pay for the accrued, but uncapitalized interest, if the interest has not yet been added to the principal amount as of the effective date of the Participation Agreement.

I.13. Can an Eligible Lender that is a depository institution pledge its 5% of a Main Street loan to a Federal Reserve Bank as collateral?

An Eligible Lender that is a depository institution may pledge its 5% of a Main Street loan, provided that the loan meets the collateral eligibility requirements of its local Federal Reserve Bank. General acceptance criteria for loans can be found in the Federal Reserve Collateral Guidelines. A depository institution should contact its local Reserve Bank to discuss specific questions regarding collateral eligibility or pledging procedures. The “Federal Reserve Collateral Guidelines” and toll-free phone numbers and other contact information of each Reserve Bank can be found on www.frbdiscountwindow.org.

I.14. [Archived.]

I.15. [Archived.]

J. Loan Participation

J.1. [Archived.]

J.2. What loan-level information will the SPV collect for credit monitoring purposes?

See [Appendix C](#).

J.3. [Archived.]

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J.4. Under the Loan Participation Agreement, when can the Main Street SPV sell its loan participation or elevate its loan participation into an assignment?

Under the Loan Participation Agreement, the Main Street SPV is generally permitted to sell its participation (without elevating) only with the contemporaneous consent of the Eligible Lender. In addition, it is generally permitted to elevate its participation into an assignment only with the contemporaneous consent of the Eligible Borrower, the Eligible Lender, and other necessary parties (i.e., the administrative agent in a multi-lender facility). However, the SPV may do the following without such contemporaneous consent:

- It may sell or transfer its loan participation in full, but not in part, without elevating, at any time to any Federal Reserve Bank, any vehicle authorized to be established by the Board or any Federal Reserve Bank, any entity created by an act of Congress, or any vehicle established or acquired by the Department of the Treasury or any other department or agency of the federal government. These transfers cannot be undertaken to effect a securitization.
- It may sell or transfer its loan participation, or elevate its participation to an assignment (to itself or a third-party), upon the following events:
 - at the option of the Main Street SPV, if the Eligible Borrower has failed to make any payment due under its loan contract with the Eligible Lender and the applicable grace period has elapsed;
 - at the option of the Main Street SPV, if the Eligible Borrower or the Eligible Lender has become the subject of bankruptcy or other insolvency proceedings;
 - automatically, if the Eligible Lender would take, or refrain from taking, an action that would result in impermissible forgiveness of principal of the portion of the Program loan beneficially owned by the Main Street SPV (to prevent a violation of section 4003(d)(3) of the CARES Act); and
 - if required to do so by a statute or court.

Please see the form [Loan Participation Agreement Standard Terms and Conditions](#) for more detail regarding the above.

J.5. What role will the Main Street SPV play in the event an Eligible Borrower enters distress?

Prior to an Eligible Borrower entering distress, the Main Street SPV will rely on the Eligible Lender to service each Main Street loan in accordance with the standard of care set out in the Loan Participation Agreement and in light of the duties of the Eligible Lender under the Servicing Agreement. Except as set out in question [J.4](#), the Main Street SPV cannot elevate its interest during this time without the contemporaneous consent of the Eligible Borrower and the Eligible Lender, and typically would not seek to do so.

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Once an Eligible Borrower misses a mandatory and due payment on the Program loan (beyond the applicable grace period), or the Eligible Borrower or Eligible Lender enters into bankruptcy or other insolvency proceedings, the Main Street SPV will have the option to elevate its participation to an assignment to be in privity with the Eligible Borrower. However, the Federal Reserve does not expect the Main Street SPV to use this right as a matter of course. Rather, the Federal Reserve would expect Eligible Lenders to follow market-standard workout processes and to exercise the standard of care set out in the Loan Participation Agreement (i.e., to exercise the same duty of care in approaching such proceedings as it would exercise if it retained a beneficial interest in the entire loan). In general, the Federal Reserve expects that the Main Street SPV generally would not expect to elevate and assign except in situations where (i) the economic interests of the Eligible Lender and the Main Street SPV are misaligned, or (ii) the loan amount is relatively large in comparison to other loans in the Main Street SPV's portfolio of participations.

J.6. How will the Main Street SPV approach decision-making with respect to its voting rights under the Loan Participation Agreement or Co-Lender Agreement?

Main Street is an emergency lending program, not a grant program. Consistent with Section 13(3) of the Federal Reserve Act and the Federal Reserve's obligations under the CARES Act, the Main Street SPV will make commercially reasonable decisions to protect taxpayers from losses on Main Street loans and will not be influenced by non-economic factors when exercising its voting rights under the [Loan Participation Agreement](#) or the [Co-Lender Agreement](#), including with respect to a borrower that is the subject of a workout or restructuring.

J.7. Will the Main Street SPV assert special administrative priority under Section 507(a)(2) of the Bankruptcy Code for its claims against an Eligible Borrower in bankruptcy proceedings?

No. Under the [Loan Participation Agreement](#) and [Co-Lender Agreement](#), the Main Street SPV (and any other entity that steps into its shoes) has waived and disclaimed its right to assert special administrative priority under Section 507(a)(2) of the Bankruptcy Code. The Federal Reserve believes that waiving and disclaiming its right to such priority will enhance the efficacy of the Program and provide certainty to Eligible Lenders and Eligible Borrowers, without compromising taxpayer protection.

- **Taxpayer Recovery.** The Federal Reserve has determined that failing to waive and disclaim its right to assert this special priority may trigger technical cross-defaults related to an Eligible Borrower's other existing debt obligations, and could prevent Eligible Borrowers from securing new debt, including potential Debtor-in-Possession financing. Such consequences would undermine the Main Street SPV's efforts to

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maximize recovery for taxpayers, including in the case of an Eligible Borrower’s restructuring or workout. Further, the assertion of this special priority could require costly litigation in the case of any Eligible Borrower bankruptcy, which would limit net recovery.

- **Limited Scope of the Special Priority.** Special priority is likely to improve taxpayer recoveries only in limited situations. In general, special priority would enhance the Federal Reserve’s recoveries only in some situations where the Main Street SPV is one of multiple unsubordinated unsecured creditors of the Eligible Borrower at the time of its bankruptcy, and only to the extent the SPV would not have to share its special recoveries with other creditors due to underlying inter-creditor agreements.
- **Efficacy of Main Street.** The Federal Reserve also believes that failing to waive or disclaim its rights to assert special priority may limit the efficacy of the Program, because Eligible Lenders likely would be hesitant to use a Program that would effectively subordinate the credit they have already extended to an Eligible Borrower.
- **Other Taxpayer Protections.** The Main Street facilities include features that are intended to mitigate risk to the Federal Reserve and taxpayers. For example, Eligible Lenders are required to retain a portion of each loan’s risk, the maximum loan size for each facility is limited by an Eligible Borrower’s existing leverage, and Eligible Borrowers are constrained in their ability to prepay other existing debts. Further, an Eligible Borrower’s loans outstanding with the Eligible Lender must have received an internal FFIEC “pass” rating, as of December 31, 2019. Together, the Federal Reserve believes that these and other design features are sufficient to protect taxpayers from losses.

J.8. How can an Eligible Lender obtain instructions from the Main Street SPV in relation to a “Core Rights Act” under the Participation Agreement?

Under Section 11.1 of the [Participation Agreement](#), the “Seller” (i.e., the Eligible Lender) must seek instructions from the “Buyer” (i.e., the Main Street SPV) before taking (or refraining from taking) action that constitutes any of the 15 enumerated “Core Rights Acts” (as defined in the [Participation Agreement](#)) with respect to a Main Street loan.¹⁷ To obtain instructions regarding a Core Rights Act, an Eligible Lender should complete the [Eligible Lender Request for Loan Modification or Waiver Form](#) (**Core Rights Request Form**) and submit the form to the Main Street SPV in accordance with its instructions.¹⁸

¹⁷ Under the Participation Agreement, there are 15 enumerated categories of Core Rights Acts for which instruction from the Buyer (i.e., the Main Street SPV) is required. If the matter does not trigger an enumerated Core Rights Act, Eligible Lenders can make the decision without seeking instruction from the Main Street SPV, although certain such acts may trigger after-the-fact notification requirements under the Participation Agreement.

¹⁸ Please note that these instructions may change over time as processes evolve.

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The Main Street SPV will seek to provide a substantive response to each [Core Rights Request Form](#) in a timely manner. Eligible Lenders are encouraged to submit the [Core Rights Request Form](#) as early as possible in order to provide adequate time for the Main Street SPV to review the request and, if necessary, to permit the Eligible Lender to respond to any requests for additional information that the Main Street SPV may have. Requests for additional information will be made to better enable the Main Street SPV to make commercially reasonable decisions to protect taxpayers from losses, under the standard set out in question [J.6](#).

If an Eligible Lender is uncertain as to whether a particular action or inaction constitutes a Core Rights Act, it can complete and submit the [Core Rights Request Form](#) to the Main Street SPV and indicate such uncertainty. The Main Street SPV expects to revert to the Eligible Lender on whether the action constitutes a Core Rights Act by the Main Street SPV within three business days of the receipt of the [Core Rights Request Form](#), although a substantive response regarding any Core Rights Act may require further time for consideration.

J.9. Does an Eligible Lender need the SPV's approval before agreeing to any amendments, waivers, or other modifications to the Main Street loan documents?

Unless the Main Street SPV has elevated its participation interest into an assignment (see FAQ [J.4](#)), the Main Street SPV's prior approval would be required only if a proposed amendment, waiver, or other modification constitutes any of the enumerated "Core Rights Acts" set out in the [Loan Participation Agreement](#). An Eligible Lender should review the definition of "Core Rights Act" in the [Loan Participation Agreement](#) to determine whether the proposed amendment, waiver, or other modification constitutes a "Core Rights Act". FAQ [J.8](#) also contains instructions on what an Eligible Lender can do if it is uncertain whether a particular action or inaction constitutes a Core Rights Act.

Under the [Loan Participation Agreement](#), amendments, waivers, or other modifications concerning non-Core Rights Acts are within the discretion of the Eligible Lender. An Eligible Lender should act under the standard of care set out in section 12.1 of the Participation Agreement—i.e., the lender "will exercise the same duty in the administration and enforcement of the Participation and the Transferred Rights it would exercise if it held the Transferred Rights solely for its own account." Under Section 9.2 of the [Loan Participation Agreement](#), an Eligible Lender is required to use commercially reasonable efforts to convey any written information and documents that they receive to the SPV as soon as practicable (but in any event within three business days), if such information or documents relate to a matter in respect of which a non-Core Rights Act is to be taken. An Eligible Lender can send such information and documents to the Main Street SPV by email to lenderinquiry@mainstreetlendingadmin.org.

In addition, under the [Loan Participation Agreement](#), an Eligible Lender is required to share any payments or other distributions it receives on a Main Street loan ratably with the Main Street

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SPV. These payments or distributions would include any fees that an Eligible Lender receives from a borrower in connection with an amendment, waiver, or other modifications of loan documents. These payments and distributions generally do not include any out of pocket expenses (e.g., external counsel fees, appraisal fees, etc.) for which a borrower is required to reimburse the Eligible Lender in connection with an amendment, waiver or other modifications. Inquiries about this should be sent to lenderinquiry@mainstreetlendingadmin.org.

J.10. Can a Main Street loan be amended to add a new borrower or guarantor or release an existing borrower or guarantor?

An Eligible Lender should consider its ordinary underwriting policies and procedures when determining whether it is appropriate to add a borrower or guarantor to a Main Street loan or release an existing borrower or guarantor from a Main Street loan. As set forth in Section 12.1 of the [Loan Participation Agreement](#), an Eligible Lender is expected to “exercise the same duty in the administration and enforcement of the Participation and the Transferred Rights it would exercise if it held the Transferred Rights solely for its own account.”

Each new borrower is required to execute the Borrower Certifications and Covenants that correspond with the Main Street loan type (available [here](#)), which should be submitted to the Main Street SPV promptly after such new borrower is added. To the extent that a new borrower cannot make any particular certifications in the Borrower Certifications and Covenants (e.g., it was established on or after March 13, 2020), the Eligible Lender should contact the Main Street SPV at lenderinquiry@mainstreetlendingadmin.org and state specifically which certifications the new borrower cannot make and explain why the new borrower cannot make such certifications. In addition, in the case of bilateral (non-syndicated) loans, each new borrower and guarantor must sign a joinder to the [Co-Lender Agreement](#) and each new borrower must sign a joinder to the [Assignment Executed in Blank](#). A [model joinder for bilateral loans is available](#) for the convenience of Eligible Lenders. For syndicated loans, lenders should use the appropriate form for the lending facility to join new borrowers to the assignment and assumption agreement specified in the credit agreement.

An Eligible Lender should also refer to FAQs [J.8](#) and [J.9](#) to determine whether the Main Street SPV’s prior approval is required in the event of a release of a borrower or guarantor from a Main Street loan, and if so, the process of obtaining such approval.

Lastly, an Eligible Lender is required to convey to the Main Street SPV any written information and documents that they receive in connection with an addition of a borrower or guarantor to a Main Street loan or a release of an existing borrower or guarantor from a Main Street loan.

J.11. Does an Eligible Lender need the Main Street SPV’s approval before agreeing to any modification to the interest rate benchmark?

Yes. The Main Street SPV views the following modifications to a Main Street loan as “Core Rights Acts”: (i) a change to the interest rate benchmark from LIBOR to a different reference

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rate or (ii) the insertion of a “hardwired” fallback provision that would transition the Main Street loan’s benchmark replacement to a clearly defined alternative reference rate without future discretion by the Eligible Lender. The Eligible Lender (“Seller”) must seek approval from the Main Street SPV (“Buyer”) for any Core Rights Act by completing the [Eligible Lender Request for Loan Modification or Waiver Form](#) (Core Rights Request Form) and submit the form to the Main Street SPV in accordance with its instructions.

Once the appropriate form is received, the Main Street SPV will approve any Core Rights Act request for transitions to the following reference rates and credit spreads:

- **1-month Term SOFR + 311.448 basis points**, provided the current loan interest rate is 1-month LIBOR + 300 basis points; or
- **3-month Term SOFR + 326.161 basis points**, provided the current loan interest rate is 3-month LIBOR + 300 basis points.

Additionally, the Main Street SPV will consider on a case-by-case basis any requests to change a Main Street loan’s interest rate benchmark and spread to, or to insert fallback provisions that reference, other rates not listed above, provided such rates are economically comparable to the rate in the current loan agreement. Lenders interested in using other reference rates should submit a “Core Rights Act” request and should include analysis regarding the economic comparability of the proposed reference rate and spread to the current interest rate used in the Main Street loan.

K. Regulatory Treatment

K.1. What is the regulatory capital treatment for the interest in a Main Street loan retained by an Eligible Lender?

The interest in the portion of a Main Street loan that is retained by an Eligible Lender should be assigned the risk weight applicable to the counterparty for the loan—generally a 100% risk weight for a corporate exposure under the standardized approach. For purposes of risk-based capital rules and leverage rules, the exposure amount for MSNLF Loans, NONLF Loans, MSPLF Loans, MSELF Upsized Tranches, and NOELF Upsized Tranches is 5% of the MSNLF Loan balance, NONLF Loan balance, MSPLF Loan balance, MSELF Upsized Tranche balance, or NOELF Upsized Tranche balance, respectively. With respect to the MSELF and NOELF, this treatment applies only to the outstanding MSELF or NOELF Upsized Tranche balance; the underlying loan or line of credit would be subject to the capital treatment that applied prior to the sale of the participation to the Main Street SPV.

Secured Main Street loans are eligible for the credit risk mitigation treatment in the standardized approach provided that any collateral securing the loan is eligible financial collateral. Eligible Lenders are not permitted to recognize collateral attributable to the Main Street SPV’s interest for purposes of the credit risk mitigation treatment under the capital rule.

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The treatment described above applies only to Eligible Lenders that are subject to the federal banking agencies' capital rule. Credit unions that participate in the Program are subject to any capital requirements implemented by the National Credit Union Administration.

K.2. How will Program loans be treated for supervised firms subject to stress testing?

The capital planning guidance issued by the Federal Reserve in 2015 ([SR 15-18](#) and [SR 15-19](#)) includes supervisory expectations for capital planning and stress testing for certain supervised firms. Such firms should continue to reference that guidance when evaluating Program loans for capital planning and stress testing purposes. Eligible Lenders subject to capital planning guidance should evaluate only the retained portion of Program loans for capital planning and stress testing purposes, as the sale of participations to the SPV will be structured as "true sales."

The supervisory stress test methodology to assign losses to and revenues stemming from different types of exposures is publicly available and described in "[Dodd-Frank Act Stress Test 2020: Supervisory Stress Test Methodology](#)."

K.3. [Archived.]

K.4. How will federal supervisors treat loans extended through the Main Street program?

Given the severe economic dislocations caused by the COVID-19 pandemic, many Main Street loan applicants may be experiencing temporary cash flow disruptions. Supervisors acknowledge the high degree of uncertainty in predicting COVID-19's economic impact and effect on individual borrowers. Eligible Lenders are encouraged to work with borrowers affected by COVID-19 and may originate or expand loans to such borrowers under the Main Street Program.

Supervisors will not criticize Eligible Lenders for originating Main Street loans in accordance with the Program's requirements, including cases when such loans are considered non-pass at the time of origination, provided these weaknesses stem from the pandemic and are expected to be temporary or if such loans are part of a bank's prudent risk mitigation strategy for an existing borrower.

The supervisory approach for assessing the safety and soundness of institutions given the ongoing impact of the COVID-19 pandemic is outlined in [SR 20-15](#).

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K.5. For an Eligible Lender that is a national bank or savings association, do lending limits apply to the entire size of a Main Street loan, or only the percentage of a loan that is retained by the Eligible Lender?

Loans made under the Program apply towards an Eligible Lender’s lending limit.

From the OCC: For Eligible Lenders that are national banks, federal savings associations, and state savings associations, the Main Street loan should be treated as follows:

1. **Funded Loan:** If the Eligible Lender funded an MSNLF Loan, an NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche to an Eligible Borrower before seeking to sell a participation to the Main Street SPV (under the “Funded Loan” method described in question L.4), the full amount of the loan would be treated as a loan by the Eligible Lender to the relevant Eligible Borrower and would count towards the Eligible Lender’s lending limit. The full amount of the loan will count towards the Eligible Lender’s lending limit until such time as the Main Street SPV has purchased the participation (i.e., once the Eligible Lender has received full payment by the Main Street SPV for the participation). After the purchase of the participation by the Main Street SPV, the portion of the loan that has been sold as a participation to the Main Street SPV would no longer be treated as a loan to the relevant Eligible Borrower for purposes of the OCC’s lending limit regulations.
2. **Condition of Funding:** Under the Program, the Eligible Lender has the option of entering into a loan agreement to extend an MSNLF Loan, an NONLF Loan, an MSPLF Loan, an MSELF Upsized Tranche, or an NOELF Upsized Tranche to an Eligible Borrower, for which the funding of such loan is contingent on the Eligible Lender receiving a binding commitment from the Main Street SPV to purchase a participation in the loan (as discussed under the “Condition of Funding” method described in question L.4). If the Eligible Lender chooses this option and provides a Funding Notice to the Main Street SPV by the specified deadline, the Eligible Lender need only include the retained percentage of the loan when calculating its lending limit to the Eligible Borrower. Loans extended in this manner are structured to be exempt loan participations under the OCC’s regulation ([12 CFR 32.2\(q\)\(2\)\(vi\)\(A\)-\(B\)](#)). The Main Street SPV will generally be able to advance funds to purchase the participation within one business day of receiving notice from the Eligible Lender that it has funded the loan, if such notice is received before 7 p.m. ET. In instances where funding from the Main Street SPV occurs more than one business day after the loan is funded by the Eligible Lender, provided such delays were outside of the Eligible Lender’s control, the entirety of the loan will be treated as a loan to the relevant Eligible Borrower and count towards the Eligible Lender’s lending limit, but any amount of the loan exceeding the Eligible Lender’s lending limit will not be considered a violation and will instead be treated as nonconforming for the interim period under [12 CFR 32.2\(q\)\(2\)\(vi\)\(B\)](#). Once the Eligible Borrower receives full payment from Main Street SPV for the portion of the loan that

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has been sold as a participation to the Main Street SPV, that portion of the loan will no longer be treated as a loan to the relevant Eligible Borrower for purposes of the OCC's lending limit regulations.

Federal Reserve staff have consulted with staff of the OCC and the FDIC in providing this response. OCC staff have indicated they are available for consultation on a national bank's or federal savings association's specific facts and circumstances, as needed. FDIC staff have indicated they are available for consultation on a state savings association's specific facts and circumstances, as needed.

Eligible Lenders that are state-chartered banks should review applicable state law to determine to what extent a Main Street loan applies to its lending limit. State member and nonmember banks should consult with their state banking supervisor.

K.6. For Eligible Lenders that are federally insured credit unions, does the member business loan limit apply to the entire size of a Main Street loan, or only the percentage of a loan that is retained by the Eligible Lender?

Under the Federal Credit Union Act, federally insured credit unions (whether federally or state chartered) that are not exempt by statute are subject to an aggregate limit on "member business loans" set forth in [12 U.S.C. § 1757a\(a\)](#). The aggregate limit applies to all member business loans made by a federally insured credit union under the Program, irrespective of any advance commitment to purchase a participation interest prior to funding the loan. However, when a participation interest in the Program loan is actually purchased and transferred to the SPV, without recourse and qualifying for true sale accounting under U.S. GAAP, the portion of the loan that has been sold as a participation shall no longer count toward the aforementioned aggregate limit on member business loans. Other exceptions to and exclusions from the member business loan limit are set forth in [12 U.S.C. § 1757a](#) and [12 CFR 723.8](#).

Federal Reserve staff have consulted with staff of the NCUA in drafting this response. NCUA staff have indicated they are available for consultation on a federally insured credit union's specific facts and circumstances as needed.

K.7. For Eligible Lenders that are federally insured credit unions, does the limit on commercial loans to one member apply to the entire size of a Main Street loan, or only the percentage of a loan that is retained by the Eligible Lender?

Under the NCUA's regulations, the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed the greater of 15% of the federally insured credit union's net worth or \$100,000, plus an additional 10% of the credit union's net worth if the amount that exceeds the credit union's 15% general limit is fully secured at all times with a perfected security interest by readily marketable collateral as defined in

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[12 CFR 723.2](#). Such limitation applies to all commercial loans made by a federally insured credit union under this Program, irrespective of any advance commitment to purchase a participation interest in the funded loan. Provided, however, that when the participation interest in the Program loan is actually purchased and transferred to the SPV, the portion of the loan that has been sold as a participation shall no longer count toward the aforementioned limit on commercial loans to one borrower.

Federal Reserve staff have consulted with staff of the NCUA in drafting this response. NCUA staff have indicated they are available for consultation on a federally insured credit union's specific facts and circumstances as needed.

Eligible Lenders that are state chartered credit unions should also review applicable state law to determine to what extent a Main Street loan applies to any lending limit under state law.

K.8. Do the terms of the for-profit Main Street facilities raise concerns under the Indian Gaming Regulatory Act (IGRA)?

The Federal Reserve does not have authority to interpret the IGRA. The General Counsel of the National Indian Gaming Commission (**NIGC**) has provided the Federal Reserve with [a letter](#) opining that Main Street requirements would not cause a loan facility to be a management contract requiring the NIGC's approval, and that the Main Street requirements themselves would not cause a loan facility to violate IGRA's sole proprietary interest requirement. Additional questions should be referred to the NIGC General Counsel.

L. Operational Details

L.1. [Archived.]

L.2. What information will the Federal Reserve disclose regarding the Main Street facilities?

The Federal Reserve will disclose information regarding the Program during the operation of the facilities, including information regarding names of lenders and borrowers, amounts borrowed and interest rates charged, and overall costs, revenues and other fees.

Loans made under the Program will affect the size and composition of the Federal Reserve's balance sheet. Balance sheet items related to the Program will be reported weekly, on an aggregated basis, on the H.4.1 statistical release titled "Factors Affecting Reserve Balances of Depository Institutions and Condition Statement of Federal Reserve Banks," published by the Federal Reserve. In addition, the Federal Reserve will disclose to Congress information pursuant to Section 13(3) of the Federal Reserve Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, and the Board's Regulation A. These disclosures are available [here](#).

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Under section 11(s) of the Federal Reserve Act, the Federal Reserve also will disclose information concerning the facilities one year after the effective date of the termination by the Board of the authorization of the facilities. This disclosure will include names and identifying details of each participant in the facilities, the amount borrowed, the interest rate or discount paid, and information concerning the types and amounts of collateral pledged or assets transferred in connection with participation in the facilities.

L.3. [Archived.]

L.4. [Archived.]

L.5. [Archived.]

L.6. [Archived.]

L.7. [Archived.]

L.8. [Archived.]

L.9. [Archived.]

L.10. What type of Lender Portal security is in place, such that lenders and borrowers can be assured that their data will be maintained securely?

Information security is central to the design, implementation, and ongoing operation of the Main Street Portal. This starts with the hosting environment; the Main Street Portal is hosted on a platform that maintains a [FedRAMP Moderate](#) Authority to Operate (ATO). During the Main Street Portal design and implementation, control requirements defined in the National Institute of Standards and Technology (NIST) Special Publication [800-53](#) (Rev. 4) were adhered to closely.

Detailed secure coding standards specific to the underlying platform informed the development process. Robust application security testing was used to identify code quality issues and prior to each major release, the Main Street Portal was subject to in depth penetration testing.

Secure operation and risk minimization were guiding principles throughout the process of establishing the Main Street Portal.

L.11. [Archived.]

L.12. [Archived.]

L.13. [Archived.]

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M. Other Information

M.1. Where should questions regarding the Program be directed?

Given the termination of the Program, the previous general inquiry mailbox (mslp@bos.frb.org) will be deactivated by the end of January 2021. Registered lenders with outstanding Main Street loans can reach Program management through the inquiry email and phone number provided in the Main Street Portal. Main Street borrowers will be provided contact information for their inquiries regarding the Borrower Certifications and Covenants. Other inquiries, such as media inquiries, should use normal FRB Boston and Board contact channels as specified on their websites. To make a report regarding fraud, waste, abuse, misrepresentations, illegal activity, or unethical behavior associated with the Program, please call 844-978-1252.

M.2. How can I receive updates regarding changes to the Program?

Further communications about the Program that may be relevant to existing Main Street borrowers and lenders will be made available on the FRB Boston's website [here](#).

M.3. Will the Federal Reserve provide further guidance on how to apply the terms of the Program to individual borrowers?

The Federal Reserve and Treasury Department have designed Main Street to facilitate the provision of credit to Eligible Borrowers of varying sizes, across a broad range of industries, in every state and territory of the United States. While the Federal Reserve will continue its efforts to provide answers to questions of broad applicability, we are unable to provide guidance with respect to an individual business's financial, credit, or legal analysis or decisions, which may be fact-specific or contingent on the applicable state's or territory's laws. In cases where the Program term sheets, legal forms and agreements, and these FAQs do not explicitly address a specific set of facts and circumstances, Eligible Borrowers should work with Eligible Lenders and legal counsel to make informed, reasonable, good-faith applications of the Program's terms and conditions to their individual facts and circumstances.

We recommend that, in addition to these FAQs and the Program's [legal forms and agreements](#), potential borrowers and lenders consult the recorded [Main Street webinars](#), each of which may provide further clarity and detail on the requirements of the Program.

M.4. [Archived.]

M.5. [Archived.]

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Appendix A: [Archived.]

Effective: January 8, 2021

Appendix B: [Archived.]

Appendix C: Required Financial Reporting

Each Main Street loan should contain a financial reporting covenant requiring the regular delivery of certain financial information and calculations. The items listed in Table I (for-profit borrowers) or Table III (nonprofit borrowers) below must be provided by each Main Street borrower to their Eligible Lender at least annually. The items listed in Table II (for-profit borrowers) or Table IV (nonprofit borrowers) must be provided by each Main Street borrower to their Eligible Lender at least quarterly; the quarterly requirements vary based on the Main Street facility in which the borrower is participating. Eligible Lenders will specify the required reporting standards and forms for each Eligible Borrower.¹⁹

Table I: Data Required <u>Annually</u> from All Main Street For-Profit Borrowers	
Required Data	Definition
Total Assets	The sum of current assets, fixed assets, and other non-current assets (including, but not limited to, intangible assets, deferred items, investments, and advances).
Current Assets	Cash, accounts receivable, inventory, and other short-term assets that are likely to be converted into cash, used, sold, exchanged, or otherwise expensed in the normal course of business within one year.
Cash & Marketable Securities	Cash, depository accounts, and marketable securities that can be easily sold and readily converted into cash.
Tangible Assets	Assets having a physical existence, measured as total assets less intangible assets. Tangible assets are distinguished from intangible assets, such as trademarks, copyrights, and goodwill.
Total Liabilities	The total amount of all outstanding obligations, both current and noncurrent.
Current Liabilities	Short term debt, accounts payable, and other current liabilities that are due within one year.
Total Debt (Incl. Undrawn Available Lines of Credit)	Existing outstanding and committed debt (including any undrawn available amounts).
Total Equity	Measured as total assets minus total liabilities.
Total Revenue	Total income generated by the sale of goods or services from ongoing operations. Total Revenue excludes any non-recurring sales or gains.
Net Income	The income (or loss) after expenses and losses have been subtracted from all revenues and gains for the fiscal period, including discontinued operations.
Unadjusted EBITDA	Earnings before interest expense, income tax expense, depreciation expense, and amortization expense. The starting point is net income.
Adjusted EBITDA	Unadjusted EBITDA adjusted for any non-recurring, one-time, or irregular items. The Adjusted EBITDA measurement should align with the relevant facility's term sheet.

¹⁹ Under the Servicing Agreement, in the case of multi-borrower loans, this information must be entered into the Portal "on a consolidated basis" (otherwise referred to in this document as on an "aggregated basis"). Eligible Lenders may elect to require reporting from the co-borrowers on an aggregated basis, or may aggregate such information after requiring individual co-borrower financial statements. If an Eligible Lender permits co-borrowers to submit aggregated financial statements, the Eligible Lender should instruct the co-borrowers to use the Eligible Lender's typical practices to aggregate such information in a manner that accounts for transactions between the co-borrowers and accurately reflects the financial position of the co-borrowers and their ability to repay the loan (e.g., in a manner that avoids double counting of revenues, assets, or liabilities).

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Table I: Data Required Annually from All Main Street For-Profit Borrowers	
Required Data	Definition
Depreciation Expense	Non-cash expense measured based on the use of fixed assets, recognized over the useful life of the fixed assets.
Amortization Expense	Non-cash expense measured based on the use of intangible assets, recognized over the life of the intangible asset.
Interest Expense	The periodic finance expense of short term and long term debt.
Tax Expense	Federal, state and local income tax expenses.
Rent Expense	The contractual costs of occupying leased real estate.
Dividends / Equity Distributions	Distributions to equity owners.
Accounts Receivable (net of allowances)	Amounts owed to the borrower resulting from providing goods and/or services. Accounts receivable will be net of any allowances for uncollectible amounts.
Inventory (net of reserves)	Value of the raw materials, work in process, supplies used in operations, finished goods, and merchandise bought which are intended to be sold in the ordinary course of business. Inventory should be net of reserves.
Fixed Assets, Gross	Tangible property used in the business and not for resale, including buildings, furniture, fixtures, equipment, and land. Report fixed assets gross of depreciation.
Accumulated Depreciation	Cumulative depreciation of all fixed assets up to the Date of Financial Information.
Accounts Payable (A/P)	The obligations owed to the borrower's creditors arising from the entity's ongoing operations, including the purchase of goods, materials, supplies, and services. Accounts payable excludes short term and long term debt.
Short Term Debt	Debt obligations of the borrower due with a term of less than one year, including the current portion of any Long Term Debt.
Long Term Debt	Debt obligations of the borrower that are due in one year or more, excluding the current portion that is otherwise captured in Short Term Debt.
Description of EBITDA Adjustments	Description of items that are added to Unadjusted EBITDA to determine Adjusted EBITDA.
Total Expenses	All money spent and costs incurred, both recurring and non-recurring, to generate revenue. Expenses exclude items capital in nature (i.e., expenses that are allowed to be capitalized and included in the cost basis of a fixed asset).
Operating Expenses	Money spent and costs incurred related to normal business operations including selling, general & administrative expenses, depreciation, and amortization (i.e., total expenses less non-recurring expenses). Exclude capital expenditures.
Operating Income	Profit (or loss) realized from continuing operations (i.e., revenue less operating expenses).
Fixed Charges	Expenses that recur on a regular basis, regardless of the volume of business (i.e., lease payments, rental payments, loan interest payments, or insurance payments).
Capitalized Expenditures	Non-operating expenditures capitalized to fixed assets.
Guarantor Net Assets	Total assets less total liabilities of the guarantor (also referred to as net worth).
Sr. Debt Balance	Debt amount ranking senior to the Main Street loan.
Additional Pari Passu Debt Balance	Debt amount ranking pari passu to the Main Street loan.
Collateral Type (Non-Real Estate)	If the loan is secured by collateral that is not predominantly real estate, including if the collateral provided is different types, report the predominant type of collateral (e.g., inventory, receivables, securities, etc.) by aggregate value.

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Table I: Data Required Annually from All Main Street For-Profit Borrowers	
Required Data	Definition
Collateral Type (Real Estate)	If the loan is secured by real estate collateral, indicate the property type (e.g., hotel, multifamily, residential, industrial, etc.). If the loan is secured by multiple real estate property types, report the predominant property type by aggregate value.
Collateral Value Reporting	For loans that require ongoing or periodic valuation of the collateral, report the market value of the collateral as of the reporting date.
Collateral Value Date	Define the as-of date that corresponds with the Collateral Value Reporting field.
Covenant Status (Pass / Fail)	Yes/no, indicating if the facility has satisfied covenant tests.
Date of Covenant Default	If applicable, report the date when borrower defaulted covenants.
Nature of Covenant Default	If applicable, describe the covenant default (i.e., missing financial statements, ratio trigger).
Date of Covenant Cure	If applicable, report the date when borrower cured previous defaults.

Table II: Data Required Quarterly from Main Street For-Profit Borrowers by Main Street Facility				
Required Data	MSELF	MSNLF	MSPLF	Definition
Total Assets	Yes	Yes	Yes	The sum of current assets, fixed assets, and other non-current assets (including, but not limited to, intangible assets, deferred items, investments, and advances).
Current Assets	Yes	Yes	Yes	Cash, accounts receivable, inventory, and other short term assets that are likely to be converted into cash, used, sold, exchanged, or otherwise expensed in the normal course of business within one year.
Cash & Marketable Securities	Yes	Yes	Yes	Cash, depository accounts, and marketable securities that can be easily sold and readily converted into cash.
Tangible Assets	Yes	No	No	Assets having a physical existence measured as total assets less intangible assets. Tangible assets are distinguished from intangible assets, such as trademarks, copyrights, and goodwill.
Total Liabilities	Yes	Yes	Yes	The total amount of all outstanding obligations, both current and noncurrent.
Current Liabilities	Yes	Yes	Yes	Short term debt, accounts payable, and other current liabilities that are due within one year.
Total Debt (Incl. Undrawn Available Lines of Credit)	Yes	Yes	Yes	Existing outstanding and committed debt (including any undrawn available amounts).
Total Equity	Yes	Yes	Yes	Measured as total assets minus total liabilities.
Total Revenue	Yes	Yes	Yes	Total income generated by the sale of goods or services from ongoing operations. Total Revenue excludes any non-recurring sales or gains.
Net Income	Yes	Yes	Yes	The income (or loss) after expenses and losses have been subtracted from all revenues and gains for the fiscal period, including discontinued operations.
Unadjusted EBITDA	Yes	Yes	Yes	Earnings before interest expense, income tax expense, depreciation expense and amortization expense. The starting point is net income.

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Table II: Data Required Quarterly from Main Street For-Profit Borrowers by Main Street Facility				
Required Data	MSELF	MSNLF	MSPLF	Definition
Adjusted EBITDA	Yes	Yes	Yes	Unadjusted EBITDA adjusted for any non-recurring, one-time or irregular items. The Adjusted EBITDA measurement should align with the relevant facility's term sheet.
Depreciation Expense	Yes	No	No	Non-cash expense measured based on the use of fixed assets, recognized over the useful life of the fixed assets.
Amortization Expense	Yes	No	No	Non-cash expense measured based on the use of intangible assets, recognized over the life of the intangible asset.
Interest Expense	Yes	Yes	Yes	The periodic finance expense of short term and long term debt.
Tax Expense	Yes	No	No	Federal, state and local income tax expenses.
Rent Expense	Yes	No	No	The contractual costs of occupying leased real estate.
Dividends / Equity Distributions	Yes	Yes	Yes	Distributions to equity owners.
Accounts Receivable (net of allowances)	Yes	No	No	Amounts owed to the borrower resulting from providing goods and/or services. Accounts receivable will be net of any allowances for uncollectible amounts.
Inventory (net of reserves)	Yes	No	No	Value of the raw materials, work in process, supplies used in operations, finished goods, and merchandise bought which are intended to be sold in the ordinary course of business. Inventory should be net of reserves.
Fixed Assets, Gross	Yes	No	No	Tangible property used in the business and not for resale, including buildings, furniture, fixtures, equipment, and land. Report fixed assets gross of depreciation.
Accumulated Depreciation	Yes	No	No	Cumulative depreciation of all fixed assets up to the Date of Financial Information.
Accounts Payable (A/P)	Yes	No	No	The obligations owed to the borrower's creditors arising from the entity's ongoing operations, including the purchase of goods, materials, supplies, and services. Accounts payable excludes short term and long term debt.
Short Term Debt	Yes	No	No	Debt obligations of the borrower due with a term of less than one year, including the current portion of any Long Term Debt.
Long Term Debt	Yes	No	No	Debt obligations of the borrower that are due in one year or more, excluding the current portion that is otherwise captured in Short Term Debt.
Description of EBITDA Adjustments	Yes	No	No	Description of items that are added to Unadjusted EBITDA to determine Adjusted EBITDA.
Total Expenses	Yes	No	No	All money spent and costs incurred, both recurring and non-recurring, to generate revenue. Expenses exclude items capital in nature (i.e., expenses that are allowed to be capitalized and included in the cost basis of a fixed asset).
Operating Expenses	Yes	Yes	Yes	Money spent and costs incurred related to normal business operations, including selling, general & administrative expenses, depreciation, and amortization (i.e. total expenses less non-recurring expenses). Exclude capital expenditures.

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Table II: Data Required Quarterly from Main Street For-Profit Borrowers by Main Street Facility				
Required Data	MSELF	MSNLF	MSPLF	Definition
Operating Income	Yes	Yes	Yes	Profit (or loss) realized from continuing operations (i.e., revenue less operating expenses).
Fixed Charges	Yes	No	No	Expenses that recur on a regular basis, regardless of the volume of business (i.e., lease payments, rental payments, loan interest payments, or insurance payments).
Capitalized Expenditures	Yes	Yes	Yes	Non-operating expenditures capitalized to fixed assets.
Guarantor Net Assets	Yes	No	No	Total assets less total liabilities of the guarantor (also referred to as net worth).
Sr. Debt Balance	Yes	Yes	Yes	Debt amount ranking senior to the Main Street loan.
Additional Pari Passu Debt Balance	Yes	Yes	Yes	Debt amount ranking pari passu to the Main Street loan.
Collateral Type (Non-Real Estate)	Yes	No	No	If the loan is secured by collateral that is not predominantly real estate, including if the collateral provided is different types, report the predominant type of collateral (e.g., inventory, receivables, securities, etc.) by aggregate value.
Collateral Type (Real Estate)	Yes	No	No	If the loan is secured by real estate collateral, indicate the property type (e.g., hotel, multifamily, residential, industrial, etc.). If the loan is secured by multiple real estate property types, report the predominant property type by aggregate value.
Collateral Value Reporting	Yes	No	No	For loans that require ongoing or periodic valuation of the collateral, report the market value of the collateral as of the reporting date.
Collateral Value Date	Yes	No	No	Define the as-of date that corresponds with the Collateral Value Reporting field.
Covenant Status (Pass / Fail)	Yes	Yes	Yes	Yes/no, indicating if the facility has satisfied covenant tests.
Date of Covenant Default	Yes	Yes	Yes	If applicable, report the date when borrower defaulted covenants.
Nature of Covenant Default	Yes	Yes	Yes	If applicable, describe the covenant default (i.e., missing financial statements, ratio trigger).
Date of Covenant Cure	Yes	Yes	Yes	If applicable, report the date when borrower cured previous defaults.

Table III: Data Required Annually from All Nonprofit Organization Borrowers	
Required Data and Information	Definition
Total Assets	The sum of current assets, fixed assets, and other non-current assets (including, but not limited to, intangible assets, deferred items, investments, and advances).
Current Assets	Cash, accounts receivable, inventory, and other short-term assets that are likely to be converted into cash, used, sold, exchanged, or otherwise expensed in the normal course of business within one year.
Total Cash & Investments	All cash & investments - both restricted and unrestricted
Unrestricted Cash & Investments	The portion of cash and investments that are not restricted for any reason including by donor-imposed stipulations. If applicable, this includes Cash and investments (at

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Table III: Data Required Annually from All Nonprofit Organization Borrowers	
Required Data and Information	Definition
	the borrower and affiliated foundations) plus funds held in trust by others plus pledges receivable reported in permanently restricted net assets, less permanently restricted net assets.
Total Liabilities	The total amount of all outstanding obligations, both current and noncurrent.
Current Liabilities	Short term debt, accounts payable, and other current liabilities that are due within one year.
Net Assets	Total Assets less Total Liabilities - including both restricted and unrestricted assets and fund balances.
Unrestricted Net Assets	Total Assets less Total Liabilities - adjusted to exclude restricted assets & fund balances and associated liabilities.
Total Debt (Incl. Undrawn Available Lines of Credit)	Existing outstanding and committed debt (including any undrawn available amounts, unfunded pension liabilities, operating leases and guaranteed portions of off-balance sheet debt).
Total Revenue	Total income generated excluding any non-recurring items.
Operating Revenue	All unrestricted revenue (including gifts for operations and government operating appropriations), excludes funds to be spent on capital (grants, appropriations, or net assets released), and replaces unrestricted investment gains or losses with a proxy for endowment spending.
Gross Revenue from Medicare & Medicaid	Total income generated from Medicare and Medicaid, including Medicare and Medicaid managed care plans (if applicable).
Net Income	The income (or loss) after expenses and losses have been subtracted from all revenues and gains for the fiscal period, including discontinued operations.
Unadjusted EBIDA	Earnings before interest expense, depreciation expense and amortization expense. The starting point is net income.
Adjusted EBIDA	Unadjusted EBIDA adjusted for any non-recurring, one-time or irregular items. The Adjusted EBIDA measurement should align with the relevant facility term sheet.
Description of EBIDA Adjustments	Description of items that are added to Unadjusted EBIDA to determine Adjusted EBIDA.
Operating Cash Flow	Operating income before non-cash expenses (operating income plus depreciation and amortization).
Depreciation Expense	Non-cash expense measured based on the use of fixed assets, recognized over the useful life of the fixed assets.
Amortization Expense	Non-cash expense measured based on the use of intangible assets, recognized over the life of the intangible asset.
Interest Expense	The periodic finance expense of short term and long term debt.
Total Expenses	All money spent and costs incurred, both recurring and non-recurring, to generate revenue. Expenses exclude items capital in nature (i.e., expenses that are allowed to be capitalized and included in the cost basis of a fixed asset).
Operating Expenses	Money spent and costs incurred related to normal business operations include selling, general & administrative expenses, depreciation, and amortization (i.e. total expenses less non-recurring expenses) - excludes capital expenditures and interest expense.

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Table III: Data Required Annually from All Nonprofit Organization Borrowers	
Required Data and Information	Definition
Operating Income	Profit (or loss) realized from continuing operations (i.e. unrestricted revenue less operating expenses).
Capitalized Expenditures	Non-operating expenditures capitalized to fixed assets.
Guarantor Net Assets	Total assets less total liabilities of the guarantor (also referred to as net worth).
Sr. Debt Balance	Debt amount ranking senior to the Main Street loan.
Additional Pari Passu Debt Balance	Debt amount ranking pari passu to the Main Street loan.
Collateral Type (Non-Real Estate)	If the loan is secured by collateral that is not predominantly real estate, including if the collateral provided is different types, report the predominant type of collateral (e.g., inventory, receivables, securities, etc.) by aggregate value.
Collateral Type (Real Estate)	If the loan is secured by real estate collateral, indicate the property type (e.g., hotel, multifamily, residential, industrial, etc.). If the loan is secured by multiple real estate property types, report the predominant property type by aggregate value.
Collateral Value Reporting	For loans that require ongoing or periodic valuation of the collateral, report the market value of the collateral as of the reporting date.
Collateral Value Date	Define the as-of date that corresponds with the Collateral Value Reporting field.
Covenant Status (Pass / Fail)	Yes/no, indicating if the facility has satisfied covenant tests.
Date of Covenant Default	If applicable, report the date when borrower defaulted covenants.
Nature of Covenant Default	If applicable, describe the covenant default (i.e., missing financial statements, ratio trigger).
Date of Covenant Cure	If applicable, report the date when borrower cured previous defaults.

Table IV: Data Required Quarterly from Nonprofit Organization Borrowers by Nonprofit Facility			
Required Data and Information	NOELF	NONLF	Definition
Total Assets	Yes	No	The sum of current assets, fixed assets, and other non-current assets (including, but not limited to, intangible assets, deferred items, investments, and advances).
Current Assets	Yes	No	Cash, accounts receivable, inventory, and other short term assets that are likely to be converted into cash, used, sold, exchanged, or otherwise expensed in the normal course of business within one year.
Total Cash & Investments	Yes	Yes	All cash & investments - both restricted and unrestricted.
Unrestricted Cash & Investments	Yes	Yes	The portion of cash and investments that are not restricted for any reason including by donor-imposed stipulations. If applicable, this includes Cash and investments (at the borrower and affiliated foundations) plus funds held in trust by others plus pledges receivable reported in permanently restricted net assets, less permanently restricted net assets.
Gross Revenue from Medicare & Medicaid	Yes	Yes	Total income generated from Medicare and Medicaid, including Medicare and Medicaid managed care plans (if applicable).

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Table IV: Data Required Quarterly from Nonprofit Organization Borrowers by Nonprofit Facility			
Required Data and Information	NOELF	NONLF	Definition
Total Liabilities	Yes	No	The total amount of all outstanding obligations, both current and noncurrent.
Current Liabilities	Yes	No	Short term debt, accounts payable, and other current liabilities that are due within one year.
Total Debt (Incl. Undrawn Available Lines of Credit)	Yes	Yes	Existing outstanding and committed debt (including any undrawn available amounts, unfunded pension liabilities, operating leases and guaranteed portions of off-balance sheet debt).
Total Revenue	Yes	Yes	Total income generated excluding any non-recurring items.
Net Income	Yes	No	The income (or loss) after expenses and losses have been subtracted from all revenues and gains for the fiscal period, including discontinued operations.
Unadjusted EBIDA	Yes	No	Earnings before interest expense, depreciation expense and amortization expense. The starting point is net income.
Adjusted EBIDA	Yes	Yes	Unadjusted EBIDA adjusted for any non-recurring, one-time or irregular items. The Adjusted EBIDA measurement should align with the relevant facility term sheet.
Description of EBIDA Adjustments	Yes	No	Description of items that are added to Unadjusted EBIDA to determine Adjusted EBIDA.
Operating Cash Flow	Yes	Yes	Operating income before non-cash expenses (operating income plus depreciation and amortization).
Depreciation Expense	Yes	No	Non-cash expense measured based on the use of fixed assets, recognized over the useful life of the fixed assets.
Amortization Expense	Yes	No	Non-cash expense measured based on the use of intangible assets, recognized over the life of the intangible asset.
Interest Expense	Yes	Yes	The periodic finance expense of short term and long term debt.
Description of EBITDA Adjustments	Yes	No	Description of items that are added to Unadjusted EBITDA to determine Adjusted EBITDA.
Total Expenses	Yes	No	All money spent and costs incurred, both recurring and non-recurring, to generate revenue. Expenses exclude items capital in nature (i.e., expenses that are allowed to be capitalized and included in the cost basis of a fixed asset).
Operating Expenses	Yes	Yes	Money spent and costs incurred related to normal business operations include selling, general & administrative expenses, depreciation, and amortization (i.e. total expenses less non-recurring expenses) - excludes capital expenditures and interest expense.
Operating Income	Yes	Yes	Profit (or loss) realized from continuing operations (i.e. unrestricted revenue less operating expenses).
Capitalized Expenditures	Yes	Yes	Non-operating expenditures capitalized to fixed assets.
Guarantor Net Assets	Yes	No	Total assets less total liabilities of the guarantor (also referred to as net worth).

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Table IV: Data Required Quarterly from Nonprofit Organization Borrowers by Nonprofit Facility			
Required Data and Information	NOELF	NONLF	Definition
Sr. Debt Balance	Yes	Yes	Debt amount ranking senior to the Main Street loan.
Additional Pari Passu Debt Balance	Yes	Yes	Debt amount ranking pari passu to the Main Street loan.
Collateral Type (Non-Real Estate)	Yes	No	If the loan is secured by collateral that is not predominantly real estate, including if the collateral provided is different types, report the predominant type of collateral (e.g., inventory, receivables, securities, etc.) by aggregate value.
Collateral Type (Real Estate)	Yes	No	If the loan is secured by real estate collateral, indicate the property type (e.g., hotel, multifamily, residential, industrial, etc.). If the loan is secured by multiple real estate property types, report the predominant property type by aggregate value.
Collateral Value Reporting	Yes	No	For loans that require ongoing or periodic valuation of the collateral, report the market value of the collateral as of the reporting date.
Collateral Value Date	Yes	No	Define the as-of date that corresponds with the Collateral Value Reporting field.
Covenant Status (Pass / Fail)	Yes	Yes	Yes/no, indicating if the facility has satisfied covenant tests.
Date of Covenant Default	Yes	Yes	If applicable, report the date when borrower defaulted covenants.
Nature of Covenant Default	Yes	Yes	If applicable, describe the covenant default (i.e., missing financial statements, ratio trigger).
Date of Covenant Cure	Yes	Yes	If applicable, report the date when borrower cured previous defaults.