

**MAIN STREET LENDING PROGRAM
LENDER REGISTRATION CERTIFICATIONS AND COVENANTS
INSTRUCTIONS AND GUIDANCE**

Reference is made to the Main Street Lending Program (the “Program”), which has been authorized under section 13(3) of the Federal Reserve Act (the “FRA”). Under the Program, the Federal Reserve Bank of Boston (the “Reserve Bank”), acting under the direction of the Board of Governors of the Federal Reserve System (the “Board” and, together with the twelve Federal Reserve Banks, the “Federal Reserve”), has committed to lend to a special purpose vehicle, MS Facilities LLC, a Delaware limited liability company (the “SPV”), on a recourse basis. The SPV will purchase participations in certain eligible loans made by eligible lenders to eligible borrowers. Eligible lenders will retain a portion of each such eligible loan. The Secretary of the Treasury (“Secretary”) has committed funds appropriated to the Exchange Stabilization Fund under section 4027 of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) to the SPV in connection with the Program, which includes the Main Street New Loan Facility, the Main Street Priority Loan Facility, the Main Street Expanded Loan Facility, the Nonprofit Organization New Loan Facility, and the Nonprofit Organization Expanded Loan Facility (each, a “Main Street Facility”).

INSTRUCTIONS: To participate in the Program, the lender and seller of a participation interest to the SPV (the “Lender”) must make the following certifications and covenants (the “Lender Certifications and Instructions”) in a writing executed, on behalf of the Lender, by its principal executive officer *and* principal financial officer (or individuals performing similar functions) in connection with the Lender’s participation in the Program. For purposes of these certifications and covenants, the Federal Reserve’s current [Frequently Asked Questions](#) (“FAQs”) on the Main Street Facilities, as posted on the website of the Board or the Reserve Bank as of the date hereof, are incorporated by reference. The Lender may rely on the clarifications and interpretations provided in the FAQs, to the extent applicable.

1. **Eligible Lender.** The Lender must certify that it is an Eligible Lender. For purposes of such certification, an “Eligible Lender” means a U.S. federally insured depository institution (including a bank, savings association, or credit union), a U.S. branch or agency of a foreign bank, a U.S. bank holding company, a U.S. savings and loan holding company, a U.S. intermediate holding company of a foreign banking organization, or a U.S. subsidiary of any of the foregoing. The Lender must also commit to notify the SPV and the Reserve Bank promptly, and to cease engaging in new transactions with the Main Street Facilities, if, at any time prior to September 30, 2020, or such later date to which any of the Main Street Facilities is extended by the Board and the Secretary, as applicable, the Lender is no longer an Eligible Lender.
2. **Eligible under Conflicts of Interest Prohibition.** Section 4019(c) of the CARES Act requires the principal executive officer and principal financial officer (or individuals performing similar functions) of a Lender to certify that the entity is not a Covered Entity. The Lender must also commit to notify the SPV and the Reserve Bank promptly, and to cease engaging in new transactions with the Main Street Facilities, if, at any time prior to September 30, 2020, or such later date to which any of the Main Street Facilities is extended by the Board and the Secretary, as applicable, the Lender becomes a Covered Entity.
 - Covered Entity. For purposes of the Lender Certifications and Covenants, “Covered Entity” means an entity in which a Covered Individual directly or indirectly holds a Controlling Interest.
 - Covered Individual. For purposes of the Lender Certifications and Covenants, “Covered Individual” means the President, the Vice President, the head of an Executive department as defined in 5 U.S.C. § 101, or a member of Congress (each a “Government Official” and collectively

“Government Officials”), and the spouse, child, son-in-law, or daughter-in-law, as determined under applicable common law, of the Government Official (each a “Family Member” and any group of which are “Family Members”). The term “child” includes a step-child, but the term “spouse” does not include an ex-spouse. To determine a Covered Individual’s equity interest in an entity, the Government Official’s and Family Members’ equity interests shall be aggregated.

- Controlling Interest. For purposes of the Lender Certifications and Covenants, a “Controlling Interest” means owning, controlling, or holding not less than 20 percent, by vote or value, of the outstanding amount of any class of equity interest in an entity. An “equity interest” means (a) shares, (b) capital or profit interest in a limited liability company or partnership, or (c) a warrant or right (other than a right to convert) to purchase, sell, or subscribe to any such equity interest. The determination of whether a Covered Individual directly or indirectly holds a Controlling Interest in an entity must take into account a Covered Individual’s direct interest in the entity as well as a Covered Individual’s interest in any entity that directly or indirectly has an interest in such entity (e.g., the entity’s parent companies).
 - Direct Interests. If a Covered Individual directly owns, controls, or holds 20 percent or more, by vote or value, of the outstanding amount of any class of equity interest in an entity that is seeking to enter into a transaction with a Main Street Facility, that entity is a Covered Entity.
 - Indirect Interests. For the purpose of determining the amount of an equity interest indirectly owned or held by a Covered Individual in an entity:
 - A Covered Individual’s indirect equity interest by value (i.e., economic interest that may or may not include voting rights) shall be calculated on a proportional basis, taking into account any partial ownership of the relevant entity’s parents.
 - For example, if a Government Official owns 25 percent of the economic interest in Company A, and Company A owns 40 percent of the outstanding amount of a class of voting securities of Company B, the Government Official is deemed to own 10 percent of the class of voting securities of Company B.
 - For the purpose of determining the amount of an equity interest indirectly controlled by a Covered Individual in an entity:
 - A Covered Individual shall be deemed to indirectly control an equity interest in an entity if he or she controls, directly or indirectly, the entity that owns or holds the equity interest.
 - An individual or entity shall be deemed to control another entity only when the individual or entity owns or holds a majority of the voting interest in such entity, or is, or holds a majority of the voting interest in, the general partner of such entity.
 - For example, if a Government Official owns a 51 percent voting interest in Company A, which owns a 51 percent voting interest in Company B, which owns 20 percent of the equity interests of Company C, the Government Official shall be deemed to control 20 percent of the equity interests of Company C.
 - Shares. A share is considered an ownership interest without regard to whether the share is transferrable or classified as stock or anything similar and without regard to whether the share is a voting security. For example, a nonvoting preferred share would be considered a share.

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Issued on July 31, 2020

- *Warrants or Rights.* If the Covered Individual has warrants or other rights (other than a right to convert), calculate the Covered Individual's interest in the underlying equity interest on a fully diluted basis assuming that both the individual and other holders of such warrants or rights have exercised such interests. Warrants, options, and similar rights must be counted even if they are unexercised or "out of the money." For example, when calculating an individual's percentage in an equity interest, use the following formula:

$$\frac{(\text{Individual's shares in a class}) + (\text{Individual's options and warrants in that class})}{(\text{Total outstanding shares in that class, assuming all warrants or rights are exercised})}$$

- *Basis for Certification: Reasonable Diligence.* In light of limited public information on ownership interests of Government Officials, and that the identities of Government Officials' Family Members are not disclosed or reported in any routine or comprehensive manner, it is necessary to prescribe the level of diligence required to make a conflict of interest certification in good faith. To determine whether any Covered Individual holds a Controlling Interest in an entity, it is necessary and sufficient for the entity to undertake the following reasonable diligence:
 - Entities must take into account the ownership, control, and holding of any equity interest of any size if the entity has actual knowledge that a Covered Individual, directly or indirectly, owns, controls, or holds the interest.
 - Entities must determine the beneficial owner of any 5 percent or greater equity interest of the entity and determine whether such beneficial owner is a Covered Individual (i) by checking the name of each such beneficial owner against a list of all Government Officials ([link here](#)) and (ii) if the entity has not otherwise been able to confirm whether such beneficial owner is a Family Member, by asking each such beneficial owner whether the owner is a Family Member. If the aggregate amount of equity interests owned by the identified beneficial owners, together with the aggregate percentage ownership determined from actual knowledge in (i) above, is less than 20 percent, an entity need not determine if the identified beneficial owners are Family Members.
 - To determine the identity of beneficial owners of publicly traded securities, Lenders may rely on information disclosed by such persons in reporting under sections 13(d) and 13(g) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(d), 78m(g)).

3. **Solvency.** Under section 13(3) of the FRA, the Lender must certify that it is not Insolvent, as that term is used in 12 CFR 201.4(d)(5)(iii). For purposes of this certification, a Lender is "Insolvent" if it is in bankruptcy, resolution under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding (as defined in paragraph B(ii) of section 13(3) of the Federal Reserve Act), or if it was "generally failing to pay undisputed debts as they become due" during the 90 days preceding the date of borrowing. The Lender must also commit to notify the SPV and the Reserve Bank promptly, and to cease engaging in new transactions with the Main Street Facilities, if, at any time prior to September 30, 2020, or such later date to which any of the Main Street Facilities is extended by the Board and the Secretary, as applicable, the Lender becomes Insolvent.

FORM CERTIFICATIONS AND COVENANTS: The form certifications and covenants are provided on the next page.

**MAIN STREET LENDING PROGRAM
FORM OF LENDER REGISTRATION CERTIFICATIONS AND COVENANTS**

Reference is made to the Main Street Lending Program (the “Program”), which has been authorized under section 13(3) of the Federal Reserve Act (the “FRA”). Under the Program, the Federal Reserve Bank of Boston (the “Reserve Bank”), acting under the direction of the Board of Governors of the Federal Reserve System (the “Board” and, together with the twelve Federal Reserve Banks, the “Federal Reserve”), has committed to lend to a special purpose vehicle, MS Facilities LLC, a Delaware limited liability company (the “SPV”), on a recourse basis. The SPV will purchase participations in certain eligible loans made by eligible lenders to eligible borrowers. Eligible lenders will retain a portion of each such eligible loan. The Secretary of the Treasury (“Secretary”) has committed funds appropriated to the Exchange Stabilization Fund under section 4027 of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) to the SPV in connection with the Program, which includes the Main Street New Loan Facility, the Main Street Priority Loan Facility, the Main Street Expanded Loan Facility, the Nonprofit Organization New Loan Facility, and the Nonprofit Organization Expanded Loan Facility (each, a “Main Street Facility”).

Reference is further made to the Main Street Lending Program Lender Registration Certifications and Covenants Instructions and Guidance (the “Instructions”) immediately preceding these Main Street Lending Program Lender Registration Certifications and Covenants.

I, the undersigned principal executive officer or principal financial officer, or other authorized officer performing similar functions of the Lender named below (the “Lender”), in such capacity, make these certifications and covenants (these “Lender Certifications and Covenants”) to the SPV, the Reserve Bank, the Board, and Secretary (each a “Beneficiary” and, collectively, the “Beneficiaries”) in connection with the Lender’s participation in the Main Street Lending Program.

I hereby confirm that I have the full power and authority to make the following certifications and covenants on behalf of the Lender and that the Lender has the full power and authority to enter into, deliver, and perform the following covenants, agreements, and undertakings, and that such covenants, agreements, and undertakings (i) have been duly and validly authorized, executed, and delivered by the Lender and (ii) are the legal, valid, and binding obligations of the Lender, enforceable against the Lender in accordance with their respective terms, except that such enforceability against the Lender may be limited by bankruptcy, insolvency, or other similar laws of general applicability affecting the enforcement of creditors’ rights generally and by a court’s discretion in relation to equitable remedies. I also hereby confirm that I have consulted with such other officers, employees, and advisors of the Lender as I have deemed appropriate and made such other investigations and inquiries as I have deemed appropriate in order to make the following certifications, covenants, and agreements.

1. **Eligible Lender.** In connection with the Lender’s proposed participation in the Program, I hereby:
 - 1.A. certify that, as of the date hereof, the Lender is an Eligible Lender (as defined in the Instructions); and
 - 1.B. covenant and agree that the Lender will promptly notify the SPV and the Reserve Bank and cease engaging in new transactions with the Main Street Facilities if, at any time prior to September 30, 2020, or such later date to which any of the Main Street Facilities is extended by the Board and the Secretary, as applicable, the Lender is no longer an Eligible Lender.
2. **Eligible under Conflicts of Interest Prohibition.** In connection with the Lender’s proposed participation in the Program, I hereby:

- 2.A. certify that, as of the date hereof, to the best of my knowledge and based on reasonable diligence (as explained in the Instructions), the Lender is not a Covered Entity (as defined in the Instructions); and
- 2.B. covenant and agree that the Lender will promptly notify the SPV and Reserve Bank and cease engaging in new transactions with the Main Street Facilities if, at any time prior to September 30, 2020, or such later date to which any of the Main Street Facilities is extended by the Board and the Secretary, as applicable, the Lender becomes a Covered Entity.
3. **Solvency.** In connection with Lender's proposed participation in the Program, I hereby:
- 3.A. certify that, as of the date hereof, the Lender is not Insolvent (as defined in the Instructions); and
- 3.B. covenant and agree that the Lender will promptly notify the SPV and Reserve Bank and cease engaging in new transactions with the Main Street Facilities if at any time prior to September 30, 2020, or such later date to which any of the Main Street Facilities is extended by the Board and the Secretary, as applicable, the Lender becomes Insolvent.
4. **Miscellaneous.**
- 4.A. I acknowledge that, if this certification includes a knowing material misrepresentation or if the Lender materially breaches a covenant contained herein, in addition to all remedies available at law, in equity or otherwise, the SPV, the Reserve Bank, the Board, or the Secretary may refer the matter to the relevant law enforcement authorities for investigation and possible action in accordance with applicable criminal and civil law. *See, e.g.*, 18 U.S.C. § 1001; 31 U.S.C. § 3729.
- 4.B. I further acknowledge that the Reserve Bank, the Board, the Department of the Treasury, and any Governmental Assignee or agency of the Federal government associated with such Governmental Assignee may make public and nonpublic disclosures with respect to the Main Street Facilities, including without limitation, those required under applicable law. These disclosures may include the identity of the Lender, and the date, amount, form, and material terms of any transactions with the Lender through the Main Street Facilities, and other information. On behalf of the Lender, I consent to such disclosure.
- For purposes of this acknowledgement, "Governmental Assignee" means any of the following entities, if the SPV's interest in a Main Street Facility loan is transferred or assigned to such entity: 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 the United States Congress, or any vehicle established or acquired by the Department of the Treasury or any other department or agency of the Federal government of the United States.
- 4.C. I covenant and agree that the Lender will retain records (the "File") containing the basis for the certification in Section 2 (Eligible under Conflicts of Interest Prohibition) and compliance with the related covenant therein, and will make such information available to the Reserve Bank as promptly as practicable upon request of the Reserve Bank, either as (i) a copy of the File for the Reserve Bank's own inspection or review or (ii) an attestation by an external auditor that the auditor has examined the File and has found it sufficient to support the certification and compliance with the related covenant. If the Lender submits an attestation by an external auditor, the Reserve Bank reserves the right to request a copy of the File for its own inspection or review. The Lender will retain the File for a period of 10 years following the termination of all of the Main Street Facilities, or for the period of time required by the Lender's document retention policies, whichever is longer.

The illegality, invalidity, or unenforceability of any provision of these Lender Certifications and Covenants under the law of any jurisdiction shall not affect its legality, validity, or enforceability under the law of any other

jurisdiction or the legality, validity, or enforceability of any other provision.

THESE LENDER CERTIFICATIONS AND COVENANTS, THE RIGHTS AND OBLIGATIONS OF THE LENDER AND BENEFICIARIES UNDER THESE LENDER CERTIFICATIONS AND COVENANTS AND ANY CLAIM OR CONTROVERSY DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THESE LENDER CERTIFICATIONS AND COVENANTS OR THE TRANSACTION (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, SHALL IN ALL RESPECTS BE GOVERNED BY AND INTERPRETED, CONSTRUED AND DETERMINED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO ANY CONFLICTS OF LAW PROVISION THEREOF THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION).

The Lender irrevocably and unconditionally submits to and accepts the non-exclusive jurisdiction of the United States District Court for the District of Massachusetts located in the City of Boston or the courts of the Commonwealth of Massachusetts located in the County of Suffolk for any action, suit, or proceeding arising out of or based upon these Lender Certifications and Covenants or any matter relating to them and waives any objection that it may have to the laying of venue in any such court or that any such court is an inconvenient forum or does not have personal jurisdiction over it.

These Lender Certifications and Covenants may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. These Lender Certifications and Covenants shall become effective when it shall have been duly executed and delivered by the undersigned officers of the Lender. The words "executed," "signed," "signature," and words of like import as used above and elsewhere in these Lender Certifications and Covenants may include, in addition to manually executed signatures, images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf", "tif", or "jpg") and other electronic signatures (including, without limitation, any electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

Name of the Lender: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____