



CENTER FOR CAPITAL MARKETS

C O M P E T I T I V E N E S S

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June 22, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal
Reserve System
20th Street & Constitution Ave., NW
Washington, DC 20551

Re: Federal Reserve Board request for public feedback proposal to expand its Main Street Lending Program to provide access to credit for nonprofit organizations

Dear Secretary Mnuchin and Chairman Powell:

The U.S. Chamber of Commerce (“the Chamber”) appreciates your continued leadership in addressing the economic fallout caused by the coronavirus pandemic. The Chamber supports the Main Street Lending Program (MSLP) and is pleased to see it will be expanded to certain 501(c) nonprofit organizations through the MSLP Nonprofit Organization Expanded Loan Facility and the MSLP Nonprofit Organization New Loan Facility (jointly, the “nonprofit organization MSLP facilities”).

The Chamber agrees with the sentiment expressed by Chairman Powell when announcing the nonprofit organization MSLP facilities:

"Nonprofit organizations are critical parts of our economy, employing millions of people, providing essential services to communities, and supporting innovation and the development of a highly skilled workforce . . . Nonprofits

provide vital services across the country and we are working to help them through this difficult time."¹

This sentiment has been broadly recognized by Congress as well as by stakeholders who have been interested in expanding the Small Business Administration's (SBA) Paycheck Protection Program (PPP) to include all nonprofit organizations. The PPP was the first major credit program authorized under the CARES Act to provide assistance to main street, thus was the initial focus of stakeholders in need of financial support. Now that the Main Street Lending Program is operational, and the minimum loan size has been decreased from \$1 million to \$250,000, it is viewed as a new lifeline for many organizations ineligible for the PPP.

The Chamber strongly recommends expanding the nonprofit organization MSLP facilities to include all 501(c) organizations, including 501(c)(6)s and expanding eligibility to smaller nonprofits by lowering the threshold for the minimum number of employees to 10. These changes will assist the Treasury Department ("Treasury") and Federal Reserve Board ("Federal Reserve") comply with Congressional intent and provide much needed financial assistance to organizations like state and local chambers of commerce that are on the forefront of economic recovery on main street.

U.S. Chamber of Commerce Record

The Chamber was joined by hundreds of associations in a letter to Congress on March 26, 2020, at the onset of the economic crisis, requesting they include all nonprofit organizations within emergency assistance legislation considered by Congress to combat the coronavirus pandemic, noting that thousands of nonprofit organizations are left out of the relief bills and will be hard hit by the coronavirus pandemic.² The Chamber was later joined by several thousand nonprofit organizations in a second letter on May 7, 2020, reinforcing the pressing need for the inclusion of nonprofits in emergency assistance legislation.

Nonprofit organizations, including chambers of commerce and trade associations, are important resources for their communities. They provide workforce

¹ Federal Reserve Board Press Release, "Federal Reserve Board announces it will be seeking public feedback on proposal to expand its Main Street Lending Program to provide access to credit for nonprofit organizations," (June 15, 2020), available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200615b.htm>

² Letter to U.S. Congress on nonprofit access to emergency assistance (March 26, 2020), available at https://www.uschamber.com/sites/default/files/200326_coalition_nonprofitorganizations_congress.pdf

development, education, civic events, and community support. Many of these organizations have begun to suffer major financial losses in order to comply with CDC guidelines regarding gatherings and events. Ultimately, many will have to close their doors, leaving their communities without their support, and their employees without jobs.

Congressional Intent for 501(c)(6) Access to Credit

Congress intentionally provided significant flexibility to the Treasury and Federal Reserve in the CARES Act for implementing the Main Street Lending Program and other facilities under 13(3) of the Federal Reserve Act. Title IV of the CARES Act includes some restrictions about the use of funds (including, for example, executive compensation limits and prohibitions on dividends), but provides significant flexibility for the types of companies that will be eligible. Title IV states nonprofit organizations (to the extent practicable) should be eligible but is silent on the type of nonprofits. It is unclear how the Federal Reserve reached the conclusion that some nonprofits should be eligible, but others – such as 501(c)(6) organizations – should not. It is possible this determination was reached by the Federal Reserve given the PPP excludes 501(c)(6) organizations (to which we object), but this undermines the intention of the MSLP complementing the PPP, not replicating restrictions.³

The PPP is not accessible by 501(c)(6) organizations at this time, but Congress has expressed its desire to resolve what many members have deemed an oversight. In a letter on April 10, 2020, before the MSLP initial term sheet was published, sixty-three Members wrote:

“Chambers of commerce are non-profit, tax-exempt organizations that bring together business leaders in our communities, helping them to negotiate shared challenges and promote local economic development. At this exceptionally difficult time for our Main Street economy, local chambers are providing critical guidance and resources to help small businesses weather the current

³ As noted in testimony to the Senate Banking Committee on June 2, 2020, “The latest FAQ’s for the MSLP (May 27, 2020) cite ineligible businesses as those that include those ‘listed in 13 CFR 120.110(b)-(j), (m)-(s), as modified and clarified by STA regulations for purposes of the PPP...,’ which replicates certain eligibility restrictions found in SBA regulations for the SBA’s 7(a) program modified for the PPP, available at http://www.centerforcapitalmarkets.com/wp-content/uploads/2020/06/200601_Testimony_CARESActTitleIVImplementation_SenateBanking.pdf?#

economic downturn, including urgently-needed assistance in obtaining loans and grant funding from the federal government.”⁴

The Local Chamber, Tourism, and 501(c)(6) Protection Act (H.R. 6697), sponsored by representatives Pappas (D-NH), Fitzpatrick (R-PA), Cisneros (D-CA) and Steube (R-FL) would expand the PPP to include 501(c)(6) organizations with 300 or fewer employees.⁵ Most recently, “The Heroes Act” (H.R. 6800), which passed the House of Representatives on May 15, 2020, would include all 501(c) employers as eligible borrowers in the PPP.⁶

Finally, the Federal Reserve should consider whether excluding 501(c)(6) organizations is consistent with 13(3) of the Federal Reserve Act. The statute requires “broad-based eligibility” for credit programs administered by the Federal Reserve under its 13(3) authority. Excluding 501(c)(6) organizations, but including all other 501(c) organizations, would appear to, at minimum, violate the spirit of Section 13(3) of the Federal Reserve Act.”⁷

Decrease Minimum Number of Employees

Finally, the Chamber recommends decreasing the eligibility threshold for the minimum number of employees in the organization from 50 to 10 or simply eliminate it. It is unclear why there would be any eligibility restrictions based on the minimum number of employees (such as underwriting purposes, for example) other than to intentionally limit the number of possible borrowers. The current threshold would exclude most state chambers of commerce and the vast majority of local chambers who are on the forefront of supporting small businesses on main street.

⁴ Letter to Leadership of U.S. House of Representatives regarding 501(c)(6) access to emergency assistance programs (April 10, 2020), available at

https://pappas.house.gov/sites/pappas.house.gov/files/Pappas_Fitzpatrick_Chambers_501c6_Signed.pdf

⁵ Representative Chris Pappas (D-NH) Press Release, “Pappas Introduces Bipartisan Legislation to Protect Local Chambers and Other Non-Profits” (May 6, 2020), available at <https://pappas.house.gov/media/press-releases/pappas-introduces-bipartisan-legislation-protect-local-chambers-and-other-non>

⁶ See HEROES Act (H.R. 6800) Sec. 90001(d) Modification to Eligible Entities.

Conclusion

Thank you for considering our views and your ongoing work to provide access to credit via the Main Street Lending Program. Please do not hesitate to reach out with any questions.

Very Respectfully,

A handwritten signature in black ink, appearing to be 'TK' followed by a long horizontal flourish.

Tom Quadman