Community Development Bankers Association
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April 16, 2020

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue N.W.
Washington, D.C. 20551

Dear Chairman Powell:

My organization, the Community Development Bankers Association (CDBA), is the national trade association for banks that are Community Development Financial Institutions (CDFIs). We are the voice and champion of banks with a mission of serving distressed and underserved communities. Our membership is comprised of banks that are mission focused and designated by the U.S. Treasury Department as CDFIs. Our members serve distressed and disenfranchised rural communities and high poverty urban neighborhoods. In total, the US Treasury has certified 138 CDFI banks and 96 CDFI bank holding companies throughout the United States that serve distressed urban, rural, and Native American communities.

We respectfully submit comments and recommendations on the liquidity facilities released by the Board of Governors on April 9, 2020. We sincerely appreciate and commend the agency's leadership in responding to the COVID-induced economic crisis faced by communities across our nation and beyond. We commend the agency for its willingness to step in to help financial institutions meet the credit needs of businesses, nonprofits, consumers and others during the crisis, as well as manage the resultant liquidity and credit risk that will undoubtedly emerge in the coming months.

We believe the current facilities are a good start, but refinement is needed. Below we have outlined comments and questions about the Federal Reserve's three liquidity facilities (PPP, Main Street New Loan and Main Street Expanded) that most directly address the liquidity of concerns of our banks. Above all, we believe these facilities must position Low- and Moderate-Income (LMI) communities that are part of America's "Main Street" for long-term recovery. In addition, we make recommendations on additional facilities needed to address the systemic economic challenges the economy will face, as well as gaps not addressed by the previously issued term sheets.

GENERAL RECOMMENDATIONS:

- Given the unique and acute needs of LMI communities, we believe the Federal Reserve should establish CDFI- and MDI-designated special purpose vehicles within the liquidity facilities. Media reports and early data on the health and economic impacts of the crisis find that LMI communities and communities of color are disproportionately affected – precisely those that CDFIs serve.

- The Federal Reserve's liquidity facilities should include a broad range of assets, including loans to businesses, nonprofits, churches, multifamily and single family housing, and others.
- We appreciate the timely April 16 release of documents essential to the operation of the PPP program. Yet, for future releases, CDFIs should have an opportunity to review processes, underwriting criteria, and loan documentation to ensure the initiatives fit their capabilities and the types of loans and borrowers they serve. This is vitally important for the success of the programs.

Paycheck Protection Program (PPP) Facility

Many CDBA members (est. 60+) are already Small Business Administration approved lenders and active participants in the Payroll Protection Program (PPP) authorized under the CARES Act. Liquidity has emerged as a key issue. We believe our members and their customers will benefit from the agency's proposed PPP facility, given simple, clear, and actionable guidelines for participation. We request that guidance specifically answer the following concerns:

- How will interest accrue (e.g. 365/365)?
- What is the form of collateral that will be required for submission? (e.g. is it a subtotal, a data format, or a submission of supporting documentation?)
- After a loan is sold back or forgiven, how quickly will the borrowing base be required to be updated?
- How will the facility address loans that have multiple disbursements? Will there be a mechanism to simply update the loan amount pledged?
- How will the facility ensure the eligibility of loans disbursed following the April 8 guidance stating the disbursement window is "no later than ten calendar days from the date of loan approval," rather than the previously published five days?

Main Street Facilities (Main Street New Loan Facility and Main Street Expanded Loan Facility)

Minimum Loan Amount: The Main Street facilities' term sheets include many helpful attributes. The current Main Street New Loan Facility (MSNLF) and Main Street Expanded Loan Facility (MSELF) establish a minimum loan size of $1 million. While some of our CDFI banks will be able to utilize MSNLF and MSELF for a subset of its largest borrowers, a solution is needed for borrowers with credit needs under $1 million.

The minimum loan amount of $1 million is simply too high. This amount is significantly higher than the most recently available average business loan amounts reported by Federal Reserve. In the Federal Reserve's now-discontinued (May 2017) *Survey of Terms of Business Lending*, the average loan amount for *all* Commercial and Industrial loans made by *all* commercial banks was only $663,000.[1] The average was even smaller when the population was narrowed to domestic banks ($491,000), and smaller yet when narrowed to small banks ($146,000).

CDBA strong urges the agency to develop a new Main Street Small Loan Facility (MSSLF) for loans under $1 million. Such an MSSLF should have either no minimum or a de minimus loan amount -- recognizing the unique needs of the smallest businesses. MSSLF should have special provisions for assets purchased from CDFIs to cover both pre-April 8 and post-April 8 originations, and offer to pool loans of

[1] https://www.federalreserve.gov/releases/e2/current/default.htm

diverse asset classes. Underwriting must be more flexible than proposed under MSNLF and MSELF and the required attestations need to be simplified and tailored to fit the smallest businesses.

Maturity Cap: **To facilitate long-term recovery, CDBA urges the Federal Reserve to create liquidity facilities with varying maturities up to ten (10) years to meet the needs of different borrowers.** Both MSNLF and MSELF have a four-year maturity. We believe economic recovery will take significantly more time. Over the coming months, anticipated revenue losses for businesses, nonprofits, consumer and others will be significant and may take many years to recover. Offering longer term and more varied maturities will enable lenders to structure payments that are affordable, more feasible to manage, and will promote rebuilding and recovery. Prior recessions and natural disasters have taught us that economic recovery will be slowest in LMI communities. Even in 2017, a decade after the onset of the Great Recession, the LMI communities that rely on businesses served by CDFIs had not fully recovered: 37 percent of those earning less than $30,000 per year said they would not be able to pay their bills within one month of being unemployed.[2] **We urge such facilitates accommodate the unique needs of LMI borrowers for those loans purchased from CDFIs, cover both pre-April 8 and post-April 8 originations, and allow loans from diverse asset classes.**

Underwriting: As proposed, MSNLF and MSELF will require a full credit underwriting, loan loss provision, and dedicated problem loan resolution resources. Given this complexity, we anticipate that new loans will not be deployed quickly. Furthermore, at the end of the term, it will require significant work for assets to exit the facilities. CDBA urges caution. The agency should not to design facilities, criteria and processes that are so complex and rigid that they cannot quickly and effectively serve borrowers. Borrowers served by CDFIs are unlikely meet to the same underwriting criteria as borrowers of traditional banks. Yet, these are the borrowers most affected by the recession. The coming months will be difficult for sectors across the economy. Flexibility will be important for promoting economic recovery.

Attestations: The proposed attestations are complex and will be cumbersome for lenders to maintain compliance. As currently outlined, we believe the requirements will reduce demand for MSNLF and MSELF. **We urge the Federal Reserve to simplify the attestations requirements as much as possible.**

> Example 1: The requirement that the lenders not reduce credit line amounts could be problematic, such as excluding loans that reduce revolving lines of credit. Similarly, if the demand for the line of credit goes down -- or the borrower defaults -- lenders will be keeping too much credit open to the borrower during the entire term of the junior loan.
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> Example 2: The requirement that borrowers not repay other loans of equal or lower priority first may be problematic for operations in the case businesses with complex, capital stacks.

Loan Size Limitations: The rigid calculations of loan maximums could inadvertently disqualify some businesses that would otherwise be a good fit for the MSNLF and MSELF facilities – or the proposed MSSLF. For example, in the case of unsecured loans, the loan maximum is four-times the trailing 2019 EBITDA. If a business is already leveraged with some debt, it might not be able to access much from the unsecured program. Yet, such a borrower may not be in a position to pledge collateral that is already

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[2] https://www.cnbc.com/2017/07/13/a-decade-after-great-recession-1-in-3-americans-still-havent-recovered.html

committed to existing senior lenders. New borrowers may be able to benefit – but may qualify for much more than they need.

Risk Sharing: Greater clarity is needed on risk sharing. In the first paragraph of the MSNLF and MSELF term sheets, it states that a Reserve Bank will commit on a "recourse basis." Yet, under "Loan Participations" it states that risk is shared on a pari passu basis. The former suggests that lenders will retain full recourse on any loan losses, whereas the latter outlines a risk sharing arrangement. Without a risk share arrangement, few lenders will be able to effectively utilize such facilities.

Clarifying Questions: Prior to launching the facilities, we request guidance on the following technical aspects of the program:

- How will interest accrue (e.g. 365/365)?
- How will loans amortize (e.g. bullet, straight line or mortgage)?
- What constitutes "reasonable efforts" by the borrower to maintain payroll? What is the penalty to the lender if a borrower fails to maintain its payroll?
- Must MSNLF loans be unsecured? Must MSELF loans be collateralized?

Small Borrower Rescue Fund

We urge the agency to design facilities to buy or guarantee pools of performing and pools of troubled loans originated by CDFIs. We propose the loans include both pre- *and* post-April 8 loans (rather than restricting post-April 8 liquidity to upsized tranches as with MSELF). The rationale is that these lenders are serving communities most severely impacted by the COVID health and economic crisis.

Under Section 4003 (b)(4) of the CARES Act and the emergency authority of Section 13(3) of the Federal Reserve Act, the agency has the authority to make loans, loan guarantees, or other investments including purchasing obligations or other interests originated by others to facilitate liquidity. Eligible loans should include a broad range of assets, including business loans, nonprofits, churches, multifamily, and others.

In the case of performing loans, such a facility can provide a new liquidity tool for lenders. In the case of troubled loans, we propose the agency buy pools of small loans at par from lenders whose borrowers are faced with immediate repayment difficulties because of COVID-19 crisis. Borrowers should be forgiven from paying interest and principle during the COVID-19 crisis or for at least six months thereafter, or a longer period of time if the Federal Reserve believes that a longer recovery period is appropriate given the severity of the crisis with respect to the economic sector of the borrower. CDFIs can collaborate with the Federal Reserve and continue to service the loans and workout troubled loans at a modest fee set by the agency. Regulated lenders should have no capital impairment from such sales. This treatment will provide lenders with cash to re-lend to new borrowers without pressure from regulatory agencies to foreclose or impair the lenders' capital.

We thank you for the opportunity to comment. We sincerely appreciate the agency's leadership in providing tools to the financial services sector to respond to the economic crisis and to stabilize our local communities.

If you have any questions or comments about this letter, please contact me directly on my cell at (202) 207-8728, or jacokesj@pcgloanfund.org. If I am temporarily unavailable, you may also contact Brian Blake at (646) 283-7929 or blakeb@pcgloanfund.org.

Sincerely,

Jeannine Jacokes
Chief Executive Officer