Client Alert

April 2020

Federal Reserve Releases FAQ Page and Announces Updated Terms of the Primary Market Corporate Credit Facility

On Friday, April 17, the Federal Reserve Bank of New York (**Reserve Bank**) released Frequently Asked Questions addressing the Primary Market Corporate Credit Facility (**PMCCF**) and the Secondary Market Corporate Credit Facility (**SMCCF**) (together, the **CCFs**). The Federal Reserve established the CCFs on March 23, 2020, to support the flow of credit to large employers in the wake of the COVID-19 pandemic. The Federal Reserve updated the terms of the CCFs on April 9, 2020, to expand the CCFs to purchase more bonds and bonds of lower credit quality, i.e., noninvestment grade securities.

The Federal Reserve is guided by its mandate from Congress to promote maximum employment, stable prices and the overall stability of the financial system. The Federal Reserve established the CCFs under the authority of Section 13(3) of the Federal Reserve Act, with approval by the Treasury secretary. The CCFs will receive partial funding through Title IV of the Coronavirus Aid, Relief, and Economic Security Act (**CARES Act**). The Federal Reserve will publicly disclose information regarding the CCFs, including information regarding participants, transaction amounts, costs, revenues and other fees.

The PMCCF will provide companies access to credit by purchasing qualifying bonds as the sole investor in a bond issuance, or by purchasing portions of syndicated loans or bonds at issuance. The PMCCF along with the SMCCF[1] will operate through a special purpose vehicle **(SPV**) financed, on a recourse basis, by the Reserve Bank. The assets of the SPV serve as collateral for the Reserve Bank's loan to the SPV. Using $75 billion of funds appropriated under Title IV of the CARES Act from the Exchange Stabilization Fund, the US Department of Treasury (**Treasury**) will make an equity investment in the SPV to support the CCFs. The initial allocation of the equity investment will be $50 billion toward the PMCFF and $25 billion toward the SMCCF. The combined size of the CCFs will be up to $750 billion.

Eligible Assets for the PMCCF

- Eligible corporate bonds as sole investor. The PMCCF may purchase eligible corporate bonds as the sole investor in a bond issuance. Eligible corporate bonds must meet each of the following criteria at the time of bond purchase by the PMCCF:
  - issued by an Eligible Issuer (as defined below); and
  - have a maturity of 4 years or less.

- Eligible syndicated loans and bonds purchased at issuance. The PMCCF may also purchase portions of syndicated loans or bonds of Eligible Issuers at issuance. Eligible syndicated loans and bonds must meet each of the following criteria at the time of purchase by the PMCCF:
  - issued by an Eligible Issuer; and
  - have a maturity of 4 years or less.

[1] The SMCCF may purchase corporate bonds and US-listed exchange-traded funds in the secondary market. The updated term sheet for the SMCCF can be found here.

The PMCCF may purchase no more than 25 percent of any loan syndication or bond issuance. The PMCCF will leverage the Treasury equity at 10 to 1 when acquiring corporate bonds or syndicated loans from issuers that are investment grade at the time of purchase. The PMCCF will leverage its equity at 7 to 1 when acquiring any other type of eligible asset.

If the PMCCF is the sole participant in an offering, the PMCCF only will purchase fixed-rate bonds. The PMCCF generally will only purchase fixed-rate debt when participating in a syndicated issuance. To the extent that the PMCCF is approached to participate in a syndication of floating-rate debt, the PMCCF generally will expect any debt priced off LIBOR to include adequate fallback language.

Eligible Companies under the PMCCF

An issuer must satisfy each of the following criteria to qualify as an Eligible Issuer:

1. The issuer is a business that
    a. is created or organized in the United States or under the laws of the United States;
    b. has significant operations in the United States; and
    c. has a majority of its employees based in the United States.
2. The issuer received a rating of at least BBB-/Baa3 as of March 22, 2020, by a major nationally recognized statistical rating organization (**NRSRO**). If rated by multiple major NRSROs, the issuer received a rating of at least BBB-/Baa3 by two or more NRSROs as of March 22, 2020.
3. The issuer is not an insured depository institution or depository institution holding company (as defined in the Dodd-Frank Act).
4. The issuer has not received specific support pursuant to the CARES Act or any subsequent federal legislation.
5. The issuer must satisfy the conflicts-of-interest requirements of Section 4019 of the CARES Act, which, as previously discussed in our client alert regarding the Main Street Lending Program, relates to companies with more than 20 percent of their equity interests (as defined in the CARES Act) owned by certain government personnel, elected officials or their family members.

Issuers under the PMCCF will be required to certify compliance with the above eligibility criteria. The Federal Reserve is currently developing the requirements and processes for certification and will provide details on certification once available.

Given that the PMCCF relief is not structured to provide “direct loans” as defined in Section 4003(c)(3)(A)(i) of the CARES Act, Eligible Issuers are not obligated to comply with the stock repurchase, dividend and executive compensation restrictions contained in Section 4003(c)(3)(A)(ii) of the CARES Act.

Terms of the PMCCF

Issuers may approach the PMCCF to refinance outstanding debt, from the period of three months ahead of the maturity date of such outstanding debt. Issuers may also approach the PMCCF at any time to issue additional debt, provided their rating is reaffirmed at BB-/Ba3 or above with the additional debt by each major NRSRO with a rating of the issuer.

The maximum amount of outstanding bonds or loans of an Eligible Issuer that borrows from the PMCCF may not exceed 130 percent of the Eligible Issuer’s maximum outstanding bonds and loans on any day between March 22, 2019, and March 22, 2020. The maximum amount of instruments that the CCFs will purchase with respect to any Eligible Issuer is capped at 1.5 percent of the combined potential size of the CCFs.

Pricing will be issuer-specific for eligible corporate bonds, informed by market conditions, plus a 100 basis point facility fee. The PMCCF will receive the same pricing as other syndicate members for eligible syndicated loans and bonds, plus a 100 basis point facility fee on the PMCCF's share of the syndication. The facility fee will be applied to each issuance to, or borrowing from, the PMCCF.

The PMCCF will stop purchasing eligible assets after September 30, 2020, unless the Board of Governors of the Federal Reserve System (**Board**) and the Treasury extend the PMCCF. The Reserve Bank will continue to fund the SPV until the PMCCF's holdings either mature or are sold.

The Board and Secretary of the Treasury may adjust the terms and conditions described in the term sheet, and will announce any changes to the term sheet on the Board's website. Please reach out to any of the contacts below about the PMCCF, or you can direct your questions to the Federal Reserve at pmccf@ny.frb.org.

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