US Treasury and Federal Reserve Announce Two New Corporate Credit Facilities for Large Employers

On Monday, March 23, 2020, in response to the evolving economic crisis created by the COVID-19 pandemic, U.S. Treasury and the Federal Reserve authorized the establishment of two new facilities to support credit for large employers:

- The Primary Market Corporate Credit Facility (PMCCF) will provide credit for new bond and loan issuance by directly purchasing eligible corporate bonds from investment grade issuers.
- The Secondary Market Corporate Credit Facility (SMCCF) will provide liquidity for outstanding corporate bonds and eligible exchange-traded funds (ETFs) by buying corporate bonds and ETFs in the secondary market

The Federal Reserve will use authority granted by Section 13(3) of the Federal Reserve Act to lend to the SPV to support the vehicle's purchases. The programs were approved by the U.S. Treasury in initial amounts of $10 billion, with funds provided from Treasury's Exchange Stabilization Fund (ESF). SMCCF and PMCCF were not used during the 2008 financial crisis.

Primary Market Corporate Credit Facility (PMCCF)

Under the PMCCF, the Federal Reserve Bank of New York ("FRBNY") will establish a special purpose vehicle (SPV) to make investments. Treasury, using the ESF, will make an equity investment in the SPV. PMCCF will allow investment grade companies access to credit and will provide bridge financing of up to four years. Borrowers may elect to defer interest and principal payments during the first six months of the loan, extendable at the Federal Reserve's discretion, in order to have additional cash on hand that can be used to pay employees and suppliers. Any company that elects to defer interest and principal payments may not pay dividends or make stock buybacks during the deferral period.

The PMCCF will purchase corporate bonds that meet the following criteria:

- Issued by an eligible issuer, meaning a U.S. business with material operations in the United States that is not expected to receive direct financial assistance under pending federal legislation (i.e., the CARES Act);

- Issuer is rated at least BBB-/Baa3 by a major nationally recognized statistical rating organization ("NRSRO") and, if rated by multiple major NRSROs, rated at least BBB-/Baa3 by two or more NRSROs, in each case subject to review by the Federal Reserve; and
- Have a maturity of four years or less.

The limits for each issuer are based on the issuer's rating. The maximum amount of outstanding bonds or loans of an eligible issuer that borrows from the PMCCF may not exceed the applicable percentage of the issuer's maximum outstanding bonds and loans on any day between March 22, 2019 and March 22, 2020:

- 140 percent for AAA/Aaa;
- 130 percent for AA/Aa;
- 120 percent for A/A; or
- 110 percent for BBB/Baa (investment criteria above includes BBB-/Baa3).

The interest rates will be "informed by market conditions," but interest may be deferred for up to six months (or longer, if the period is extended by the Federal Reserve). Borrowers may elect to defer all or a portion of the interest due and payable on each interest payment date for 6 months, with the interest added to, and made part of, the outstanding principal amount of the bond or loan.

A borrower that elects to defer interest may not pay dividends or make stock buybacks during the period it is not paying interest. The commitment fee will be set at 100 bps. Bonds and loans under the PMCCF are callable by the eligible issuer at any time at par.

The program will terminate September 30, 2020, unless the facility is otherwise extended by the Federal Reserve.

Secondary Market Corporate Credit Facility (SMCCF)

Under the PMCCF, the FRBNY will establish an SPV to make investments. Treasury, using the ESF, will make an equity investment in the SPV. The SMCCF will purchase in the secondary market corporate bonds issued by investment grade U.S. companies and U.S.-listed ETFs whose investment objective is to provide broad exposure to the market for U.S. investment grade corporate bonds.

The SMCCF may purchase corporate bonds that meet the following criteria:

- Issued by an eligible issuer, meaning a U.S. business with material operations in the United States that is not expected to receive direct financial assistance under pending federal legislation (i.e., the CARES Act)
- Rated at least BBB-/Baa3 by a major NRSRO and, if rated by multiple major NRSROs, rated at least BBB-/Baa3 by two or more NRSROs, in each case subject to review by the Federal Reserve; and
- Have a remaining maturity of five years or less.

The SMCCF will purchase eligible corporate bonds at fair market value in the secondary market. The maximum amount of bonds that the SMCCF will purchase from any eligible issuer will be capped at 10 percent of the issuer's maximum bonds outstanding on any day between March 22, 2019 and March 22, 2020.

The SMCCF also may purchase U.S.-listed ETFs whose "investment objective is to provide broad exposure to the market for U.S. investment grade corporate bonds." It will avoid purchasing shares of eligible ETFs when they trade at prices that "materially exceed" the estimated net asset value of the underlying portfolio. The SMCCF will not purchase more than 20 percent of the assets of any particular ETF as of March 22, 2020.

The SMCCF will terminate at the end of September 2020, unless the facility is otherwise extended by the Federal Reserve. The FRBNY will continue to fund the SMCCF after termination of the program until the SMCCF's holdings either mature or are sold.

Appendix: Term Sheets of Primary and Secondary Market Corporate Credit Facilities

	Primary Market Corporate Credit Facility	Secondary Market Corporate Credit Facility
Eligible Assets	**Corporate Bonds and Loans**: Corporate bonds and loans that meet each of the following criteria at the time of bond purchase or loan origination by the Facility: • Issued by an eligible issuer; • Issuer is rated at least BBB-/Baa3 by a major nationally recognized statistical rating organization ("NRSRO") and, if rated by multiple major NRSROs, rated at least BBB-/Baa3 by two or more NRSROs, in each case subject to review by the Federal Reserve; and • Have a maturity of four years or less.	**Corporate Bonds**: Corporate bonds that meet each of the following criteria at the time of purchase by the Facility: • Issued by an eligible issuer; • Rated at least BBB-/Baa3 by a major nationally recognized statistical rating organization ("NRSRO") and, if rated by multiple major NRSROs, rated at least BBB-/Baa3 by two or more NRSROs, in each case subject to review by the Federal Reserve; and • Have a remaining maturity of five years or less. **ETFs**: U.S.-listed ETFs whose investment objective is to provide broad exposure to the market for U.S. investment grade corporate bonds.
Eligible Issuers	**Eligible**: U.S. companies headquartered in the United States and with material operations in the United States. The scope of eligible issuers may be expanded in the future. **Not Eligible**: Companies that are expected to receive direct financial assistance under pending federal legislation.	**Eligible**: Eligible issuers for direct purchases of individual corporate bonds on the secondary market are U.S. businesses with material operations in the United States. **Not Eligible**: Companies that are expected to receive direct financial assistance under pending federal legislation.
Limits per Issuer	**Corporate Bonds and Loans**: The maximum amount of outstanding bonds or loans of an eligible issuer that	**Corporate Bonds**: The maximum amount of bonds that the Facility will purchase from any eligible issuer will be

	borrows from the Facility may not exceed the applicable percentage of the issuer's maximum outstanding bonds and loans on any day between March 22, 2019 and March 22, 2020: • 140 percent for eligible assets/eligible issuers with a AAA/Aaa rating from a major NRSRO; • 130 percent for eligible assets/eligible issuers with a AA/Aa rating from a major NRSRO; • 120 percent for eligible assets/eligible issuers with a A/A rating from a major NRSRO; or • 110 percent for eligible assets/eligible issuers with a BBB/Baa rating from a major NRSRO.	capped at 10 percent of the issuer's maximum bonds outstanding on any day between March 22, 2019 and March 22, 2020. **ETFs**: The facility will not purchase more than 20 percent of the assets of any particular ETF as of March 22, 2020.
Terms	**Interest Rate***:* The Facility will purchase bonds and make loans that have interest rates informed by market conditions. • At the borrower's election, all or a portion of the interest due and payable on each interest payment date may be payable in kind for 6 months, extendable at the discretion of the Board of Governors of the Federal Reserve System. • Such interest amount will be added to, and made part of, the outstanding principal amount of the bond or loan. • A borrower that makes this election may not pay dividends or make stock buybacks during the period it is not paying interest. **Commitment Fee**: 100 bps. **Call Right**: Bonds and loans under the Facility are callable by the eligible issuer at any time at par.	**Pricing**: The Facility will purchase eligible corporate bonds at fair market value in the secondary market. The Facility will avoid purchasing shares of eligible ETFs when they trade at prices that materially exceed the estimated net asset value of the underlying portfolio.
Program Termination	September 30, 2020, unless the Facility is extended by the Board of Governors of the Federal Reserve System.	No later than September 30, 2020, unless the Facility is extended by the

	The Reserve Bank will continue to fund the Facility after such date until the Facility's underlying assets mature.	Board of Governors of the Federal Reserve System. The Reserve Bank will continue to fund the Facility after such date until the Facility's holdings either mature or are sold.

For more information about the topics raised in this Legal Update, please contact any of the following lawyers.

Jeffrey P. Taft
+1 202 263 3293
jtaft@mayerbrown.com

Carol A. Hitselberger
+1 704 444 3522
chitselberger@mayerbrown.com

J. Bradley Keck
+1 312 701 7240
jkeck@mayerbrown.com

Massimo Capretta
+1 312 701 8152
mcapretta@mayerbrown.com

Carol A. Hitselberger
+1 704 444 3522
chitselberger@mayerbrown.com

Anna T. Pinedo
+1 212 506 2275
apinedo@mayerbrown.com

Logan S. Payne
+1 202 263 3268
lpayne@mayerbrown.com