PPP Liquidity Facility Details Released

On April 9, 2020, the U.S. Department of the Treasury released details of several new or expanded lending programs to provide relief for businesses and governments. One of these programs, the Paycheck Protection Program Liquidity Facility (PPPLF), is a $350 billion facility to provide additional liquidity and cash flow to U.S. Small Business Administration (SBA) PPP lenders. On April 20, 2020, additional program details were released. The Federal Reserve will continue to update the PPPLF FAQ as new questions arise.

For details on other lending programs, see BKD article $2.3 Trillion in New Lending Facilities Available for Larger Companies & Governments.

Eligibility

All **depository institutions** that originate PPP loans are eligible to borrow on a nonrecourse[1] basis from their regional Federal Reserve Bank using SBA PPP loans as collateral. An eligible depository institution must complete the necessary documentation before borrowing under the PPPLF. A depository institution that is a PPP lender does not have to have a master account at a Federal Reserve Bank to obtain a PPPLF loan. If a depository institution does not have a master account, it must have a correspondent relationship with an institution that does have a master account for the PPPLF proceeds to be credited and repaid. A nonaccount holder borrower (that has not already designated a correspondent for discount window purposes) and its correspondent will need to execute the relevant documentation required by the Reserve Bank for extending PPPLF credit to the borrower.

Details for eligibility on nondepository SBA PPP lenders are in progress. As of April 21, no further details have been released.

Loan Details

The PPPLF loan's principal amount will be equal to the PPP loans pledged as collateral, *i.e.*, no haircuts. There are no fees associated with these loans and the interest rate will be fixed at 35 basis points.

The PPPLF loan's maturity date will be the same as the maturity date of the PPP loans pledged as collateral. The PPPLF loan maturity date will be accelerated in any of the following circumstances:

- If the underlying PPP loan goes into default, the PPP loan is sold to the SBA to realize the SBA guarantee
- If the PPP lender receives reimbursement from the SBA for any loan forgiveness amounts
- If the PPP lender has misrepresented the underlying PPP loan or otherwise commits an event of default under the PPPLF documentation

Any payments on pledged PPP loans, *e.g.*, forgiveness or default payments from the SBA, or payments from the PPP borrower must be promptly reported to the lending Reserve Bank—specific reporting procedures will be posted soon.

Any voluntary PPP prepayments must be accompanied by withdrawals of the PPPLF pledged collateral. The prepayment amount must correspond to the total balance of the withdrawn PPP loans pledged. Accrued interest will be charged at prepayment based on the prepayment amount.

A borrower is prohibited from pledging PPP loans to the PPPLF and requesting an extension of credit at a later date.

There are no institution limits on the loan amount extended under the PPPLF.

There are no restrictions on what a depository institution does with the proceeds of a PPPLF advance.

[1] *The nonrecourse status of the PPPLF loans may change if the PPPLF borrower has breached any of the representations, warranties or covenants in the PPPLF documentation or has engaged in fraud or made a misrepresentation in connection with PPPLF participation.*

Collateral

A depository institution that uses its standard promissory note form for PPP loan documentation can pledge that loan as collateral for the PPPLF if the depository institution has executed SBA Form 2484 (the PPP lender application) and has received an SBA loan number for the PPP loan.

PPP loans pledged must be free of all claims; the PPP loan used for collateral cannot be pledged to another party without obtaining the lending Reserve Bank's consent. Only the depository institution that originated the PPP loan may pledge it to the PPPLF.

The Reserve Bank will make a **single** extension of credit to a PPPLF borrower secured by all PPP loans submitted for a single maturity date, *e.g.*, the Reserve Bank will make one extension of credit secured by the pool of PPP loans having an April 30, 2022, maturity date. **A PPPLF borrower should ensure that it simultaneously pledges all PPP loans with the same maturity date.** The maturity date of the PPPLF loan will be the maturity date of the PPP loans pledged to secure it. Proceeds of a PPPLF loan will generally be available on the business day following the submission request.

PPPLF loans must equal the aggregate principal amount of the PPP loans that have been pledged; they cannot be less. If a PPPLF borrower decides to sell a PPP loan in the secondary market, it must notify the lending Reserve Bank that it is requesting to prepay a PPPLF loan and must repay the full outstanding balance amount of the PPP loan to be sold.

Borrower Certifications

Not Insolvent:
The PPPLF participant must certify that it is not (1) 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 and that it is not (2) generally failing to pay undisputed debts as they become due during the 90 days preceding the PPPLF borrowing.

Lack of Adequate Credit Accommodations:
The PPPLF participant may rely on current economic or market conditions, including conditions related to the availability and price of credit available to small businesses in light of the COVID-19 pandemic. **A PPPLF participant is not required to certify that credit is unavailable.** The PPPLF participant can rely on the fact that credit is not available at prices or on conditions that are consistent with the purposes of the PPPLF or with normal market conditions. A PPPLF participant may rely on the fact that the Board of Governors authorized the establishment of the PPPLF to improve the ability of PPP lenders to obtain reasonably priced long-term financing for PPP loans.

Other Lending Source

In addition to receiving PPPLF advances, banks can pledge PPP loans to the discount window. PPPLF loans have a fixed interest rate of 35 basis points with a maturity matching the life of the pledged loans, while discount window advances made under the primary credit program have a variable interest rate—currently set at 25 basis points—and credit is extended for 90 days. PPP loans pledged to the PPPLF may be excluded from leverage ratio calculations, (see BKD article Banking Organizations Get Capital Relief on Paycheck Protection Loans). This relief does not extend to PPP loans pledged to the discount window.

Conclusion

BKD will continue to follow this developing situation. As with most topics related to COVID-19, changes are being made rapidly. Please note that this information is current as of the date of publication. Visit BKD's COVID-19 Resource Center to learn more. If you have questions, contact your **BKD Trusted Advisor**™ today.

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