

Bond Case Briefs

Municipal Finance Law Since 1971

Federal Reserve Board Expands the Scope and Duration of the Municipal Liquidity Facility: McGuireWoods

This alert updates and replaces an April 10, 2020, alert based on an April 27 Federal Reserve Board announcement that expanded the scope and duration of the Municipal Liquidity Facility (MLF). Any capitalized terms used in this alert and not otherwise defined herein have the meaning provided under the previous alert.

On April 27, the Federal Reserve Board announced an expansion of the scope and duration of the new Municipal Liquidity Facility (MLF) announced on April 9. The MLF provides up to \$500 billion in lending to states and municipalities to help manage cash flow stresses caused by the COVID-19 pandemic. In addition to its announcement, the Federal Reserve also released a revised [MLF term sheet](#) and updated [Frequently Asked Questions \(FAQs\)](#) in response to ongoing inquiries relating to the MLF from potential Eligible Issuers and their representatives. The following is a summary of the pertinent changes to the MLF.

- The population thresholds for cities and counties to qualify as Eligible Issuers has decreased to (i) U.S. counties with a population of at least 500,000 residents and (ii) U.S. cities with a population of at least 250,000 residents. The decrease in the population thresholds for cities and counties enables substantially more cities and counties to borrow directly from the MLF than did the initial plan announced on April 9.
- The definition of Eligible Issuer has expanded to include Multi-State Entities. A Multi-State Entity is an entity created by a compact between two or more U.S. states, which compact has been approved by the U.S. Congress, acting pursuant to its power under the Compact Clause of the U.S. Constitution.
- Eligible Notes are permitted to have a term up to 36 months rather than the term of 24 months in the initial release.
The termination date of the MLF was extended to Dec. 31, 2020, from Sept. 30, 2020, to provide Eligible Issuers more time and flexibility.
- Eligible Issuers that are states, cities or counties must have been rated at least BBB-/Baa3 as of April 8, 2020, by two or more nationally recognized statistical rating organizations (NRSROs). States, cities or counties rated at least BBB-/Baa3 as of April 8, 2020, but subsequently downgraded, must be rated at least BB-/Ba3 by two or more major NRSROs at the time the MLF makes a purchase.
- Eligible Issuers that are Multi-State Entities must have been rated at least A-/A3 as of April 8, 2020, by two or more major NRSROs. Multi-State Entities rated at least A-/A3 as of April 8, 2020, but subsequently downgraded, must be rated at least BBB-/Baa3 by two or more major NRSROs at the time the MLF makes a purchase.
- Security for Eligible Notes will be subject to review and approval by the Federal Reserve. Specifically, Eligible Notes issued by states, cities or counties will generally be expected to represent general obligations of the Eligible Issuer, or be backed by tax or other specified government revenues of the applicable Eligible Issuer. If the Eligible Issuer is an authority, agency or other entity of a state, city or county, such Eligible Issuer must either commit the credit of, or pledge revenues of, the state, city or county, or the state, city or county must guarantee the

Eligible Note issued by such Eligible Issuer. If the Eligible Issuer is a Multi-State Entity, the Eligible Notes will be expected to be parity obligations of the existing debt secured by a senior lien on the Multi-State Entity's gross or net revenues.

- As provided in the FAQs, each Eligible Issuer must also provide a written certification that it is unable to secure adequate credit accommodations from other banking institutions and that it is not insolvent. Further information on required legal opinions and certificates will be determined and publicly announced prior to commencement of the MLF.

In addition to the above modifications, the Federal Reserve is considering further expansion of the definition of Eligible Issuers to include a limited number of other governmental entities that provide essential public services on behalf of states, cities or counties that issue bonds backed by their own revenue. Any decision to include such additional Eligible Issuers would be publicly announced at a future date.

More guidance regarding the MLF is expected in the near future. McGuireWoods continues to monitor all new information released by the Department of Treasury and Federal Reserve.

McGuireWoods LLP - Lisa Medina Williams, Kay McNab, Arthur E. Anderson II, Douglas E. Lamb and David N. Gustin

April 29 2020