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UPDATED: New York Federal Reserve Expands Eligible Issuers and Provides Indicative Pricing and Sample Transaction Documents for Municipal Liquidity Facility - Ballard Spahr

The Federal Reserve Bank of New York (the New York Fed) has announced an expansion of its $500 billion Municipal Liquidity Facility to allow participation by designated cities and counties that do not meet the population thresholds required for direct participation (cities with populations in excess of 250,000 and counties with populations in excess of 500,000). In addition, up to two designated revenue bond issuers in each state may participate directly by issuing notes to the Facility.

What is a designated city or county?

Governors of states with fewer than two eligible cities and/or counties may designate up to two cities and/or counties (on a combined basis) to participate in the Facility. If a state has one city or county that is eligible to participate on the basis of its population, the governor of that state may designate one additional city or county, for a total of two eligible issuers. In that case a governor may choose either (i) the most populous city in his or her state that has fewer than 250,000 residents or (ii) the most populous county in his or her state that has fewer than 500,000 residents.

If a state has no cities or counties that meet the required population thresholds, the governor of that state may designate two cities and/or counties in any of the following combinations: the most populous city and most populous county; the most populous city and second-most populous city; or the most populous county and second-most populous county.

The New York Fed published a table showing the maximum number of cities and counties (on a combined basis) that each governor may designate. States that already have two cities and/or counties that are eligible to participate based on their population size may not designate additional cities or counties for participation.

What is a designated revenue bond issuer?

Each governor of a state may designate up to two revenue bond issuers (each a Designated RBI) in his or her state for participation in the Facility. The Mayor of Washington, D.C. may designate one revenue bond issuer. The New York Fed's guidance defines a revenue bond issuer as "a State or political subdivision thereof, or a public authority, agency, or instrumentality of a State or political subdivision thereof, that issues bonds that are secured by revenue from a specified source that is owned by a governmental entity." Notes issued by a Designated RBI will be expected to be parity obligations of existing debt secured by a senior lien on the gross or net revenues of the Designated RBI.

How does the designation occur?

When submitting a notice of interest to participate in the Facility, each designated city, county, and revenue bond issuer must provide evidence that it has verified with the governor of its state that it will be designated. At the time of closing, the designated entity must also provide a certification from the governor of its state reflecting the designation.

What are the sample rates for purchases of municipal securities?

The New York Fed published an index of sample interest rates for purchases of municipal securities by the Municipal Liquidity Facility (the Facility). The rates are provided as indicative rates as of June 1, 2020, and will be updated weekly. The New York Fed advised that the indicative rates are not intended to be a measure of market conditions and actual transactions will be priced individually and may differ from the published rates.

Are there sample transaction and application documents?

As described in prior guidance from the Federal Reserve, interested issuers will be required to complete a Notice of Interest (NOI) on a form published on the New York Fed's website. The Facility's Administrative Agent will send an email confirmation to the issuer when the NOI package has been approved, along with an invitation to complete an application. A sample application and certain form transaction documents have been posted on the New York Fed's website for informational purposes, to provide issuers with a better understanding of the process and requirements of the Facility. The sample documents include a Note Purchase Commitment (for use in competitive sales), a Note Purchase Agreement (for use in competitive sales and direct purchases), a Continuing Disclosure Undertaking, and forms of certificates to be provided by an issuer. To date, only Illinois, the state with the lowest credit rating, has borrowed through the Facility, with an issuance of $1.2 billion anticipated to close on June 5.

For our summary of the Federal Reserve Board's initial announcement of, and prior updates to, the Facility, see "The Fed Throws a Cash Flow Lifeline to State and Local Governments", "Updates to the Federal Reserve Board's New Municipal Liquidity Facility" and "Federal Reserve Provides Pricing and Other Updates to Municipal Liquidity Facility."

by the Public Finance Group

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