



TFA

Monthly Newsletter

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IN THE NEWS

Main Street Lending Program... Will It Work For Your Tribe?

By Braxton Sato

As part of the CARES Act, the Federal Reserve allocated \$75 billion to the Main Street Lending Program ("the Program") to support lending to small and medium-sized businesses. Simply, the Fed, through the Main Street Lending Program, will purchase 95% of a new loan from an eligible lender. All banks that are currently active in lending to Tribes would qualify as eligible lenders.

Until recently, we did not think this program would be a good fit for most Tribal businesses because initial guidelines deemed Tribal gaming businesses as ineligible borrowers and prevented borrowers from making any distributions during the life of the loan. Fortunately, the July 15 revised guidance issued by the Federal Reserve provided clarification on these two issues in the favor of Tribes.

The updated guidance incorporates gaming businesses as eligible borrowers by reference to their eligibility for the Paycheck Protection Program ("PPP"). We were pleasantly surprised to see an explicit recognition of the importance of distributions to Tribal sovereignty in the updated guidance: "...distributions paid by Tribal businesses provide a vital

source of revenue for Tribal governments and thereby support the self-sufficiency of the Tribe and the provision of social services."

Loans purchased by the Program are subject to the following terms, which include (but are not limited to):

- Pricing of LIBOR plus 3%, with deferred interest for 1 year (no debt service required during the first year of the loan)
- Interest only in year 2
- 15% amortization in years 3 and 4 (balance due at end of year 5)
- No prepayment penalty
- Must meet eligible bank's existing underwriting standards
- Funds primarily for new loans (not refinancing)
- Borrowers must make reasonable efforts to retain employees during the life of the loan

Low Interest - Supply or Demand?

The Program began purchasing loan participations on July 6, however, interest in the program has not been as robust as with the PPP. Per a Congressional hearing on July 17, ten days after launch, only a single \$12.3 million loan

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COVID-19 Casino Tracker

7/1/20 – [AmericanGaming.org](https://www.americangaming.org)

Re-Opening Our Economic Engine While Protecting Our Communities And Visitors

7/1/20 – [IndianGaming.com](https://www.indiangaming.com)

Projecting How COVID-19 Will Shape The Casino And Hotel Industries Of Tomorrow

7/1/20 – [IndianGaming.com](https://www.indiangaming.com)

California Tribes Garner Extension On Sports Betting 2020 Ballot Proposal

7/7/20 – [NativeBusinessMag.com](https://www.nativebusinessmag.com)

Hoping For A Silver Lining: Tribes Take On The Digital Divide In The COVID-19 Era

7/10/20 – [NativeBusinessMag.com](https://www.nativebusinessmag.com)

Main Street Lending Program Made More Accessible For Tribal Businesses

7/16/20 – [NAFOA.org](https://www.nafoa.org)

2020 Survey Of American Sports Bettors

7/21/20 – [AmericanGaming.org](https://www.americangaming.org)

Non-Gaming: 7 Back-To-Basic Tips

7/26/20 – [GGBMagazine.com](https://www.ggbmagazine.com)

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had been purchased by the Facilities. The Facilities have been funded with \$75 billion with the authority to purchase up to \$600 billion in participations. This low usage is a stark contrast from the PPP – which flushed \$349 billion of liquidity into the economy in the program's first 2 weeks. Is this due to low demand from borrowers or low supply from banks? Clearly, the PPP offered forgivable loans under certain conditions, whereas these Program loans must be fully repaid explaining some of the slow usage.

From the lender's perspective, the Program seems like a good way for banks to support clients who need "new money" without having to syndicate a market clearing transaction or carry most of the loan on their balance sheet. Our July Newsletter highlighted the impact of Dodd Frank stress testing on commercial lenders and their ability to lend new money. Looking at a bank's return on committed capital, we think there is an economic argument for participating in the program: the 1% underwriting fee earned by the bank represents a 20% return on the 5% of the loan kept on the bank's books.

However, digging deeper, banks may have concerns about intercreditor issues and refinancing risk. There is a large (70%) bullet payment due in year 5, and the Fed has not indicated willingness to work out loans that cannot be refinanced at maturity. The Fed and commercial lending institutions would have to resolve any workout situations together, which presents a unique deal risk since we do not yet know if the Fed would act in a commercially reasonable matter. The new Main Street Loan must be repaid prior to the bank's existing loan. Banks may not feel comfortable being in that position.



Another potential issue for banks is that the terms of the Program are inflexible and may not line up with terms that would fit a borrower's credit profile. For example, we have heard from commercial lenders that 3-year tenors might become the standard until we establish a post-COVID "new normal", compared to the previous standard of 5-year tenors we have seen in Indian Country and in the Program term sheets. Additionally, the fixed 3% LIBOR margin required by the Program may or may not adequately compensate banks for the risk.

Lastly, from the Tribal perspective, especially after the misuse of information during the determination of CARES Act Relief Funds, there could be significant concerns from Tribes regarding access to confidential financial information.

Deadline

The Facilities will stop purchasing loan participations on December 31, 2020, recently extended by the Federal Reserve and Treasury from the original deadline of September 30, 2020.

Tribes cannot go directly to the Fed and access the Main Street Lending Program, loans must be underwritten and extended by the Tribe's existing bank. As noted above, not all banks were keen on the Program. However, we think there may be unique situational uses for the Program in Indian Country and conversations with your relationship bank need to start immediately. Please contact us to discuss if this program is a good fit for your Tribe's capital needs.

Sources:

[Advisory: Main Street Lending Program](#)

[Federal Reserve Clarifies That Distributions to Tribal Governments are Permitted Under the Main Street Lending Program](#)

[Main Street Lending Program](#)

['Main Street' Program is Too Stingy to Banks and Borrowers](#)

[Statement of Secretary Steven T. Mnuchin Department of the Treasury Before the Committee on Small Business United States House of Representatives July 17, 2020](#)

[The Fed Expanded a Key Lending Program to Include Nonprofits](#)

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