Municipal Liquidity Facility: A New Short-Term Financing Resource for State and Local Governments Facing COVID-19 Impacts

The Coronavirus Aid, Relief, and Economic Security Act (the ''CARES Act'') was signed into law on March 27, 2020. The CARES Act provides emergency assistance for individuals, families and businesses affected by the novel coronavirus pandemic ("COVID-19"). The CARES Act also includes provisions that provide financial assistance to State and local governments. An overview of CARES Act resources available to state and local government is here.

Financial Market Liquidity Support (Sec. 4003, the Coronavirus Economic Stabilization Act)

The CARES Act authorizes the Treasury Secretary to make up to $500 billion in loans, loan guarantees, and other investments in support of eligible businesses, states, and municipalities[1] to provide liquidity to eligible businesses, states, and municipalities related to losses incurred as a result of COVID-19. The CARES Act also directs the Treasury Secretary to endeavor to implement a program or facility that provides liquidity to the financial system that supports lending to states and municipalities.

Municipal Liquidity Facility

$500 Billion Lending Facility. On April 9, 2020, the Treasury Secretary announced the launch of the Municipal Liquidity Facility ("MLF") to provide up to $500 billion in direct financing to states, counties, and cities "to help ensure they have the funds necessary to provide essential services to citizens and respond to the coronavirus pandemic."[2] The MLF is intended to provide funds to help offset the delay in state and local tax receipts caused by the deferral of the income tax filing deadline, and "to help offset any short term losses in tax revenues resulting from reduced business and consumer activity due to the coronavirus pandemic."

Through the MLF, the Federal Reserve ("Fed") commits to lend to a special purpose vehicle ("SPV") on a recourse basis. The Fed is secured by all of the assets of the SPV. The SPV will purchase up to $500 billion of "Eligible Notes" directly from "Eligible Issuers." Treasury provided $35 billion as an equity investment to support up to $500 billion in lending through the MLF.

The State is an Eligible Issuer on Behalf of Political Subdivisions. An Eligible Issuer is a state, city with a population over 1 million, or county with a population over 2 million (or an instrumentality thereof that

[1] The term municipality includes (A) a political subdivision of a state, and (B) an instrumentality of a municipality, a State, or a political subdivision of a state.
[2] https://home.treasury.gov/news/press-releases/sm968.

issues on behalf of the state, city, or county for the purpose of managing its cash flows). Eligibility is subject to review and approval by the Fed. In Washington, both the State and King County should be eligible for direct lending based on the population criteria. The Fed has noted that state-level issuers can use MLF proceeds to support additional counties and cities. In Washington, counties (other than King County), cities and other political subdivisions or instrumentalities of the State would be eligible to borrow through the State if and when the State accesses the MLF.

Program Purposes. An Eligible Issuer such as the State may use the proceeds of Eligible Notes purchased by the SPV to help manage the cash flow impact of potential reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-19 pandemic (e.g. potential reductions in sales and other taxes related to the COVID-19 pandemic) and debt service requirements on obligations of the relevant Eligible Issuer. An Eligible Issuer may use the proceeds of the notes purchased by the SPV to purchase similar notes issued by, or otherwise to assist, political subdivisions and instrumentalities of the relevant Eligible Issuer for these purposes.

The program intends that eligible states, counties, and cities "be able to sell new municipal notes directly to the MLF to obtain the funds they need quickly and efficiently." Eligible Notes are short-term notes such as notes issued in anticipation of taxes ("TANs"), taxes and revenues ("TRANs"), or bonds ("BANs") issued by Eligible Issuers. Notes must mature no later than 24 months from the date of issuance.

Program Size and Terms. The SPV may purchase Eligible Notes issued by or on behalf of the State or County in one or more issuances. The SPV may purchase Eligible Notes up to an aggregate amount of 20% of the "general revenue from own sources and utility revenue" of the State or county government, as applicable, for fiscal year 2017.[3] The State may request that the SPV purchase Eligible Notes in excess of the applicable limit in order to assist political subdivisions and instrumentalities that are not eligible for the MLF. In other words, the State may request additional borrowing amounts to assist cities, counties (other than King County), and other taxing districts that are political subdivisions or instrumentalities.

Pricing will be based on the Eligible Issuer's rating at the time of purchase. Further details are to be provided. The MLF will charge a 10 basis point origination fee. Eligible Notes purchased by the SPV are callable by the Eligible Issuer at any time at par.

[3] The MLF term sheet references the following source for this data: U.S. Census Bureau, 2017 State & Local Government Historical Datasets and Tables, as of April 6, 2020 (https://www.census.gov/data/datasets/2017/econ/local/public-use-datasets.html).

The program was announced[4] on April 9, 2020. The SPV will cease purchasing Eligible Notes on September 30, 2020, unless the Fed and Treasury extend the MLF.

Next Steps

We expect to provide updated information as additional guidance is provided regarding the MLF and its terms. Cities, counties and other political subdivisions should be aware of this potential short-term liquidity financing tool that may become available through the State.

If you have any questions regarding this information, please contact us. Additional COVID-19 resources are available on our website at https://www.pacificalawgroup.com/covid-19-resources/.

Alison Benge	Alison.Benge@pacificalawgroup.com	206.602.1210
Deanna Gregory	Deanna.Gregory@pacificalawgroup.com	206.245.1716
Stacey Lewis	Stacey.Lewis@pacificalawgroup.com	206.245.1714
Jon Jurich	Jon.Jurich@pacificalawgroup.com	206.245.1717
Faith Li Pettis	Faith.Pettis@pacificalawgroup.com	206.245.1715
Will Singer	Will.Singer@pacificalawgroup.com	206.602.1216

Dated: April 9, 2020

A Note: This publication is for informational purposes and does not provide legal advice. It is not intended to be used or relied upon as legal advice in connection with any particular situation or facts. The information herein is provided as of the date it is written.

To subscribe to our mailing list, please contact Mia Wiltse at Mia.Wiltse@pacificalawgroup.com.

[4] https://www.federalreserve.gov/newsevents/pressreleases/files/monetary20200409a3.pdf