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Comment Letters May Have Helped Shape Federal Reserve's Municipal Liquidity Facility (MLF) and Main Street Lending Program (MSLP)

| By Steven Kelly

In support of the Yale Program on Financial Stability's (YPFS) efforts to archive primary and secondary materials that shed light on financial crises, Cezary Podkul¹ of the Wall Street Journal has shared documents with us resulting from a Freedom of Information Act (FOIA) request. The request, initiated on April 23, 2020, was for:

... all comment letters received by the Fed since March 1 regarding any of the emergency loan facilities established by the Fed in March and April 2020 under its 13(3) emergency lending powers . . . [and] also include letters send [sic] directly to Chairman Powell regarding these facilities, including any Congressional correspondence related to the facilities.

In response to the request, the Federal Reserve released all letters regarding the Municipal Liquidity Facility (MLF) and the Main Street Lending Program (MSLP) sent to the central bank during the requested period.² The Fed stated that it was releasing letters regarding these two facilities as they were the only two for which it had invited public comment.

Requesting public comment with respect to a proposed rule, or a lending facility, is one of the customary ways that an agency or the Fed can solicit input to evaluate responses to a rule or program before it becomes final. Such comments can be particularly helpful in controversial matters or, as in this case, in areas of first impression; the MLF and MSLP were new types of lending facilities for the Fed. The released correspondence reflects a wide array of congressional and stakeholder concerns: some recurring, others specific to individual officials. The Fed ultimately incorporated some of the changes and additions requested in these comment letters into the respective facilities.

Municipal Liquidity Facility

The Fed [designed](#)³ the MLF to “help state and local governments manage cash flow stresses caused by the coronavirus pandemic” by purchasing short-term notes directly from states

¹ The Yale Program on Financial Stability (YPFS) thanks Mr. Podkul for sharing these documents with us.

² The FOIA request was received by the Fed on April 24 and granted on November 23, 2020. Letters released date from March 1 to approximately the date of the request; several of the released MLF comments are dated to late April and early May.

³ Board of Governors of the Federal Reserve System (BdofGov), “Federal Reserve takes additional actions to provide up to \$2.3 trillion in loans to support the economy” (April 9, 2020). Unless otherwise specified, all resources mentioned in the footnotes, are available by searching the YPFS Resource Library at: <https://ypfs.som.yale.edu/>.

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(as well as the District of Columbia), counties, and cities. The MLF had a stated lending capacity of \$500 billion, and the Treasury supported the MLF with \$35 billion of equity funding allocated by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

The MLF release includes letters and comments from both congressional sources and non-congressional ones, such as trade groups, state/territory officials, and other individuals. Among the many issues raised in the letters, the commenters nearly unanimously called for the Fed to lower the population thresholds needed for a municipality's notes to be eligible for the facility to purchase. The Fed's [first iteration](#)⁴ of the MLF's terms, released on April 9, 2020, limited eligibility to "U.S. states (including the District of Columbia), U.S. counties with a population of at least two million residents, and U.S. cities with a population of at least one million residents." Several of the commenters noted that this would only cover 10 cities and 15 counties in the nation and would disproportionately exclude Black communities. On April 27, the Fed [revised](#)⁵ the terms of the MLF to allow for "U.S. counties with a population of at least 500,000 residents, and U.S. cities with a population of at least 250,000 residents." Later, the Fed further [eased](#)⁶ population thresholds by allowing state governors with less than two total eligible cities and counties to designate additional municipalities for eligibility—until the state had at least two eligible jurisdictions.

Many of the MLF comment letters called for the Fed to lengthen the maturity of the notes eligible for purchase—with one letter noting the discrepancy between the MLF's maturity limits and those in the Fed's corporate credit facilities. As part of the April 27, 2020 modifications, the Fed extended the maturity limit of eligible notes from 24 to 36 months. However, the facility never received maturity parity with the corporate facilities, which extended to four and five years.

Several letters called for lower interest rates on the facility. On August 11, 2020, the Fed [lowered](#)⁷ the MLF's rates across all credit ratings by a uniform 50 basis points (and slightly eased the adjusted rate for taxable notes).

Numerous letters also called for the Fed to expand MLF eligibility to U.S. territories and Tribes, with several commenters noting that Section 4002(10) of the CARES Act—the legislation that provided for the Treasury funds allocated to the MLF and encouraged the creation of such a facility—specifically includes territories and Tribes in its definition of "State." The Fed never expanded eligibility to these jurisdictions.

⁴ BdofGov, "Federal Reserve takes additional actions to provide up to \$2.3 trillion in loans to support the economy" (April 9, 2020).

⁵ BdofGov, "Federal Reserve Board announces an expansion of the scope and duration of the Municipal Liquidity Facility" (April 27, 2020).

⁶ BdofGov, "Federal Reserve Board announces an expansion in the number and type of entities eligible to directly use its Municipal Liquidity Facility" (June 3, 2020).

⁷ BdofGov, "Federal Reserve Board announces revised pricing for its Municipal Liquidity Facility" (August 11, 2020).

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Several letters, including one signed by over 40 members of Congress, requested the Fed intervene directly in the secondary market for municipal securities. Despite these requests, the Fed never expanded the MLF or created an additional facility for such a purpose. The MLF [extended](#)⁸ approximately \$6.5 billion of credit before Congress [closed](#)⁹ the facility.

Main Street Lending Program

The Fed [designed](#)¹⁰ the MSLP to “ensure credit flows to small and mid-sized businesses with the purchase of up to \$600 billion in loans.” Treasury supported the MSLP with \$75 billion of equity from the CARES Act funds.

While commenters similarly raised many topics of interest regarding the MSLP, almost all the congressional letters called on the Fed to expand the facility to include nonprofits as eligible borrowers, which were not eligible per the original, April 9, 2020 announcement of the MSLP. On April 30, the Fed [said](#),¹¹ “The Board recognizes the critical role that nonprofit organizations play throughout the economy and is evaluating a separate approach to meet their unique needs.” On June 15, the Fed [released](#)¹² a proposal for public comment, and on July 17, the Fed [expanded](#)¹³ the MSLP to include two new nonprofit lending facilities.

Many of the comment letters called for the Fed to grant flexibility with respect to EBITDA-based eligibility requirements. The April 9, 2020, term sheets limited the size of MSLP loans based on, among other factors, the borrower's 2019 earnings before interest, taxes, depreciation, and amortization (EBITDA). Many members of Congress suggested that such a standard would undesirably exclude certain firms, such as growth or startup firms that have yet to show material earnings, or firms that, for idiosyncratic reasons, had weak earnings in 2019 but were otherwise strong earners. However, as the Fed modified and expanded the MSLP facilities, eligible loan sizes for for-profit firms continued to be based on the borrower's 2019 EBITDA. The MSLP [extended](#)¹⁴ approximately \$17.5 billion in credit before Congress [closed](#)¹⁵ the facility.

⁸ BdofGov, “Municipal Liquidity Facility transaction-specific disclosures - 5/10/21” (May 10, 2020).

⁹ Kelly, Steven. “Redux: Outlook for 13(3) and Fed Crisis Response.” Yale Program on Financial Stability Systemic Risk Blog.

¹⁰ BdofGov, “Federal Reserve takes additional actions to provide up to \$2.3 trillion in loans to support the economy” (April 9, 2020).

¹¹ BdofGov, “Federal Reserve Board announces it is expanding the scope and eligibility for the Main Street Lending Program” (April 30, 2020).

¹² BdofGov, “Federal Reserve Board announces it will be seeking public feedback on proposal to expand its Main Street Lending Program to provide access to credit for nonprofit organizations” (June 15, 2020).

¹³ BdofGov, “Federal Reserve Board modifies Main Street Lending Program to provide greater access to credit for nonprofit organizations such as educational institutions, hospitals, and social service organizations” (July 17, 2020).

¹⁴ Saraiva, Catarina, “Fed's Aid Program for Midsize Businesses Spent Only 3% of Its Total.”

¹⁵ Kelly, Steven. “Redux: Outlook for 13(3) and Fed Crisis Response.” Yale Program on Financial Stability.

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As the above discussion illustrates, public comment can be a source of valuable information that assists the Fed (and government agencies in general) in calibrating rules, processes, and facilities in order to better implement mission goals. The comment letters discussed above can be accessed through the YPFS Resource Library:

- Cover letter of Federal Reserve FOIA response:
<https://ypfs.som.yale.edu/library/wall-street-journal-federal-reserve-foia-2020-fed-cover-letter>
- Municipal Liquidity Facility letters:
<https://ypfs.som.yale.edu/library/municipal-liquidity-facility-comment-letters-fed>
- Main Street Lending Program letters:
<https://ypfs.som.yale.edu/library/main-street-lending-program-congressional-comments-fed-march-1>

In response to the FOIA request, the Fed released only congressional comment letters relating to the MSLP. However, it indicated that non-congressional comments received by the Board regarding the MSLP are accessible at the following website:

<https://www.federalreserve.gov/monetarypolicy/mainstreetlending.htm>.

The [YPFS Resource Library](#) collects primary and secondary sources that YPFS consulted in creating case studies and other sources relating to our research on financial crises. While at this time the majority of our Resource Library materials relate to the Global Financial Crisis (2007-09), an increasing number concern other crises. YPFS Archive Notes highlight noteworthy content or additions to the library.