



The Municipal Liquidity Facility – Lending Lifeline or Last Resort in the Age of COVID-19?

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Part I

Qualifying for the Municipal Liquidity Facility

What is the Municipal Liquidity Facility?

1. The Municipal Liquidity Facility (the “MLF”) is a \$500 billion emergency lending program established under the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) for state and local governments affected by the COVID-19 pandemic.
2. The MLF is administered by the Board of Governors of the Federal Reserve System (the “Federal Reserve”) through the Federal Reserve Bank of New York (the “Reserve Bank”).
3. The COVID-19 pandemic has created cash flow timing challenges for state and local governments. The MLF is designed to bridge these cash flow challenges, as well as enhance the liquidity of the municipal securities market, through the purchase of certain short-term municipal securities issued by states and qualifying local governments.

4. Under the MLF, the Reserve Bank will make loans to a single special purpose vehicle, Municipal Liquidity Facility LLC, a Delaware limited liability company (“SPV”), in order to finance the SPV’s purchases of short-term municipal securities.
5. BLX Group LLC (“BLX”) will serve as administrative agent for the MLF, coordinating and reviewing MLF applications based on criteria established by the Reserve Bank.
6. The Federal Reserve has released a term sheet (the “Term Sheet”) and a list of frequently asked questions (the “FAQs”) for the MLF, which can be found at the Federal Reserve’s website, <https://www.federalreserve.gov/monetarypolicy/muni.htm> (the “Federal Reserve Website”).
7. The Reserve Bank has released a notice of interest (the “NOI”), application (the “Application”) and form documents and certifications (the “Form Documents”) for use with the MLF, which can be found at the Reserve Bank’s website: <https://www.newyorkfed.org/markets/municipal-liquidity-facility/municipal-liquidity-facility-application> (the “Reserve Bank Website”).

What entities are eligible to borrow funds under the MLF?

1. “Eligible Issuers” may borrow funds under the MLF. Eligible Issuers consist of any of the following entities, provided they are not insolvent:
 - a. States (including the District of Columbia);
 - b. Cities with a population exceeding 250,000 residents;
 - c. Counties with a population exceeding 500,000 residents;
 - d. “Designated Cities” and “Designated Counties,” which are cities and counties designated by a state’s governor for participation in the MLF, where the state in question has less than two cities and counties (on a combined basis) with populations exceeding 250,000 residents and 500,000 residents, respectively (i.e., the population thresholds for participation in the MLF);
 - e. Designated Revenue Bond Issuers (“RBIs”), consisting of up to two RBIs designated by a state’s governor for participation in the MLF;¹

¹The mayor of the District of Columbia may designate one Revenue Bond Issuer for participation in the MLF.

- f) “Multi-State Entities,” i.e., entities created by a compact between two or more states, which compact has been approved by the United States Congress, acting pursuant to its Compact Clause powers under the United States Constitution (“Multi-State Entities”); and
- g) Subject to Federal Reserve review and approval, “Designated Issuers,” which are entities (i.e., authorities, agencies, departments, divisions or other entities) that are statutorily authorized to issue securities on behalf of: (i) otherwise eligible states, cities, or counties and (ii) political subdivisions or other governmental entities of such eligible states, cities, or counties, for the purpose of managing their cash flows; provided, that such entities would only qualify as Eligible Issuers if:
 - The entities can commit the credit of, or pledge revenues of, the applicable state, city, or county, or
 - The state, city, or county guarantees the Eligible Notes issued by such entities.

2. If a state already has at least two cities and counties (on a combined basis) that meet the population thresholds for participation in the MLF, then the state's governor may not designate a Designated City or a Designated County as an Eligible Issuer.
3. Each eligible state, city, or county may only access the MLF through one issuer; provided, that the Federal Reserve reserves the right to approve one or more additional issuers in order to expedite the flow of funds under the MLF.

Which entities qualify as Eligible Issuers for the New England states?

1. A nationwide list of the states and the cities and counties that qualify as Eligible Issuers based on population is included as Appendix A to the FAQs.
2. Included on the list are the following Eligible Issuers for each of the New England states:
 - a. Rhode Island: the State of Rhode Island
 - b. Massachusetts: the Commonwealth of Massachusetts, City of Boston and Norfolk County
 - c. Connecticut: the State of Connecticut and Fairfield County
 - d. New Hampshire: the State of New Hampshire
 - e. Vermont: the State of Vermont
 - f. Maine: the State of Maine

3. Included with the FAQs is a table showing the maximum number of Designated Cities and Designated Counties that may be designated by the governor of each state. The numbers were selected to ensure that each state has at least two cities and counties (on a combined basis) that may participate in the MLF.

4. The number of Designated Cities and Designated Counties that may be designated by the governor of each of the New England states is set forth below:
 - a. Rhode Island: 2
 - b. Massachusetts: 0
 - c. Connecticut: 2²
 - d. New Hampshire: 2
 - e. Vermont: 2
 - f. Maine: 2

²It is unclear why Connecticut, which already has one county (Fairfield County) designated as an Eligible Issuer, is being allocated two total Designated Cities and Designated Counties (on a combined basis).

How does a governor designate a Designated City or a Designated County based on these numbers?

1. In situations where a governor is able to designate only one Designated City or Designated County, the governor may choose either (i) the most populous city in the state with 250,000 residents or less, or (ii) the most populous county in the state with 500,000 residents or less.
2. In situations where a governor is able to designate two Designated Cities and Designated Counties (on a combined basis), the governor may choose: (i) the most populous city and most populous county; (ii) the most populous city and second-most populous city; or (iii) the most populous county and second-most populous county.

For purposes of designating a Designated RBI, what constitutes a “Revenue Bond Issuer?”

1. A “Revenue Bond Issuer” is a state or political subdivision of a state, or a public authority, agency, or instrumentality of such state or political subdivision, that issues bonds payable from revenues of a specified source that is owned by a governmental entity (i.e., public transit, airport, toll facility and utility revenues).

How do Eligible Issuers borrow funds under the MLF?

1. Eligible Issuers borrow funds under the MLF through a new issuance of tax-exempt or taxable “Eligible Notes” consisting of:
 - a. Tax anticipation notes (“TANs”);
 - b. Tax and revenue anticipation notes (“TRANs”);
 - c. Bond anticipation notes (“BANs”); and
 - d. Other short-term notes.
2. The Eligible Notes must mature no later than three years from the date of issuance.
3. At the end of the three-year period (or earlier maturity date of the Eligible Notes), the Eligible Issuer must either repay the Eligible Notes with available cash or refinance the Eligible Notes through the issuance of bonds or other obligations, using the proceeds of the refinancing to repay the MLF.

4. Subject to the approval of the Federal Reserve, Eligible Issuers may prepay Eligible Notes, in whole or in part, at any time prior to the maturity date at a prepayment price equal to par (or, in the case of Eligible Notes purchased at a premium, par plus unamortized premium) plus accrued interest to the prepayment date.
5. The Federal Reserve expects Eligible Issuers to obtain CUSIP numbers for the Eligible Notes and close the transactions through the Depository Trust Company.
6. In addition to the MLF's preconditions, an Eligible Issuer's state and local law requirements for issuing debt remain applicable to the issuance of Eligible Notes.

Is there a maximum principal amount of Eligible Notes that Eligible Issuers may issue under the MLF?

1. Eligible Issuers (other than Multi-State Entities and Designated RBIs) may issue Eligible Notes in one or more issuances of up to an aggregate principal amount equal to 20% of the general revenues (income, property and sales tax revenues, for example) and utility revenues of the eligible state, city or county for fiscal year 2017³. For an Eligible Issuer that is a governmental entity, the applicable revenues are those of the state, city, or county that formed the Eligible Issuer.
2. The Federal Reserve's calculation of the revenues and resulting note borrowing capacity for each eligible state, city, and county is provided in Appendix A to the FAQs. The allocated amount of note borrowing capacity for each of the New England state is set forth below:
 - a. Rhode Island: \$1,043.9 Billion
 - b. Massachusetts: \$7,859 Billion
 - i. City of Boston: \$601.2 Million
 - ii. Norfolk County: \$4.3 Million

³As provided by the United States Census Bureau, 2017 State & Local Government Historical Datasets and Tables, as of April 6, 2020. See <https://www.census.gov/data/datasets/2017/econ/local/public-use-datasets.html>

- c. Connecticut: \$4,131.2 Billion
 - i. Fairfield County: \$0⁴
 - d. New Hampshire: \$872.2 Million
 - e. Vermont: \$819.9 Million
 - f. Maine: \$1,113.7 Billion
3. To assist political subdivisions and instrumentalities that are not eligible to participate in the MLF, states may request that the SPV purchase Eligible Notes in excess of this limit.
 4. Multi-State Entities or Designated RBIs may issue Eligible Notes in one or more issuances of up to an aggregate amount of 20% of the Multi-State Entity's or Designated RBI's gross revenue as reported in its audited financial statements for fiscal year 2019.

⁴Although Fairfield County meets the population threshold to qualify as an Eligible Issuer, the Federal Reserve has determined that the amount of applicable revenues generated by the County for fiscal year 2017 was \$0, resulting in the County having no borrowing capacity under the MLF.

What is the termination date for the MLF?

1. The SPV will cease purchasing Eligible Notes on December 31, 2020, subject to extension by the Federal Reserve and the U.S. Treasury Department.

By what method can an Eligible Issuer sell Eligible Notes to the MLF?

1. An Eligible Issuer may sell Eligible Notes either: (i) directly to the SPV or (ii) through a competitive offering, with the SPV providing a commitment to purchase Eligible Notes that are not awarded to bidders in the competitive sale.
2. Except as noted below, the SPV will not submit a bid in a competitive offering. Rather, the SPV will serve as a backstop, agreeing to purchase Eligible Notes following a competitive offering where: (i) no bids were received; (ii) all bids were rejected by the Eligible Issuer; or (iii) the Eligible Issuer has awarded only a portion of the Eligible Notes to a winning bidder(s).
3. The SPV will submit a bid in a competitive offering in cases where the Eligible Issuer: (i) is required by law to sell the Eligible Notes competitively and (ii) does not have the authority to sell them directly to the SPV, even following a competitive sale process where fewer than all of the Eligible Notes are sold.

Is there a fee to participate in the MLF?

- Yes, Eligible Issuers are required to pay an origination fee equal to 10 basis points (0.10%) of the principal amount of the Eligible Notes purchased by the SPV. The SPV will deduct the origination fee from the purchase price of the Eligible Notes.

What are the permitted uses of proceeds of the Eligible Notes?

1. An Eligible Issuer may use the proceeds of Eligible Notes purchased by the SPV to
 - a. Manage the cash flow impact of income tax deferrals resulting from the extension of the income tax filing deadline;
 - b. Manage potential reductions of tax and other revenues or increases in expenses related to or resulting from the COVID-19 pandemic;
 - c. Purchase similar notes issued by the Eligible Issuer's political subdivisions or other governmental entities (including counties, cities, municipalities, townships, villages, school districts, special districts, utilities, authorities, agencies or other units of government, as determined by the Eligible Issuer, provided, that such subdivisions/entities are not insolvent) for, or otherwise assist them with, any of the purposes permitted by the MLF,⁵

⁵This permitted use is limited to Eligible Issuers that are not Multi-State Entities or Designated RBIs.

- d. Make debt service payments on other obligations issued by the Eligible Issuer or its political subdivisions and other governmental entities; and
- e. Pay other costs of issuance in addition to the 10 basis point origination fee.

If an Eligible Issuer uses the proceeds of Eligible Notes to purchase notes issued by one of its political subdivisions or other governmental entities, who bears the risk of loss?

1. If the Eligible Issuer uses the proceeds to purchase notes issued by a political subdivision or other governmental entity, the Eligible Issuer, and not the MLF, would bear the credit risk associated with such purchase.

What is the security for the Eligible Notes?

1. As a general matter, the proposed security for the Eligible Notes should be consistent with the source of repayment and strongest security pledged to repay the Eligible Issuer's publicly-offered obligations. Ultimately, the security offered for the Eligible Notes must be reviewed and approved by the Federal Reserve.
2. Eligible Notes issued by Eligible Issuers that are not Multi-State Entities or Designated RBIs are generally expected to be: (1) general obligations of the Eligible Issuer or (2) backed by tax or other specified governmental revenues of the Eligible Issuer.
3. If the Eligible Issuer is a Multi-State Entity or Designated RBI, then the Eligible Notes are expected to be secured on a parity basis with the Multi-State Entity's or Designated RBI's other obligations by a senior lien on its gross or net revenues.

Is there a rating requirement for Eligible Issuers to participate in the MLF?

1. Yes, to qualify for the MLF, Eligible Issuers must satisfy the following ratings requirements:

Eligible Issuer's Ratings

- a. Eligible Issuers that are not Multi-State Entities or Designated RBIs must have general obligation or issuer credit ratings of at least BBB-/Baa3 as of April 8, 2020 by two or more major nationally-recognized statistical rating organizations ("NRSROs"); provided, that, if such Eligible Issuer's rating was subsequently downgraded, such Eligible Issuer must be rated at least BB-/Ba3 by two or more NRSROs at the time of purchase of the Eligible Notes.
- b. An Eligible Issuer that is a Multi-State Entity or Designated RBI must have been rated at least A-/A3 as of April 8, 2020 by two or more NRSROs; provided, that, if such Eligible Issuer's rating was subsequently downgraded, such Eligible Issuer must be rated at least BBB-/Baa3 by two or more NRSROs at the time of purchase of the Eligible Notes.

- c. Notwithstanding the foregoing, an Eligible Issuer that was rated by only one NRSRO as of April 8, 2020 may still qualify for the MLF if: (i) such rating was at least BBB-/Baa3 (for states, cities and counties) or A-/A3 (for a Multi-State Entity or Designated RBI); (ii) the Eligible Issuer is rated by at least two NRSROs as of the purchase date of the Eligible Notes; and (iii) such ratings are at least BB-/Ba3 (for states, cities and counties) or BBB-/Baa3 (for a Multi-State Entity or Designated RBI).
- d. Subject to the exceptions noted above, Eligible Issuers must provide evidence of such ratings at the time they submit a NOI.

Ratings on Eligible Issuer's Other Obligations

- a. An Eligible Issuer must provide: (1) confirmation from each NRSRO of any outstanding long-term rating of the Eligible Issuer's obligations of the same credit/source of repayment and security as the Eligible Notes and (2) evidence that the Eligible Issuer has notified such NRSROs of the issuance of the Eligible Notes.
- b. If the Eligible Issuer does not have any such outstanding long-term ratings, then it must obtain them from at least two NRSROs.
- c. Eligible Issuers must provide evidence of such long-term ratings at least two (2) business days prior to the pricing date (for direct purchase transactions) or the date the Eligible Issuer conducts the competitive bid process (for competitive offerings).

Ratings on Eligible Notes sold through a Competitive Offering

- a. Consistent with existing municipal market practices, Eligible Issuers will be required to obtain ratings for Eligible Notes offered through a competitive offering. In contrast, the Federal Reserve will not require such ratings when Eligible Notes are sold directly to the SPV outside of a competitive offering.
 - b. Eligible Issuers must provide evidence of the ratings on the Eligible Notes at least two (2) business days prior to the date the Eligible Issuer conducts the competitive bid process.
2. At or prior to the closing date, the Eligible Issuer must provide confirmation letters of such ratings from the NRSROs.

Who are the NRSROs?

1. The NRSROs are currently S&P Global Ratings, Moody's Investors Service, Fitch Ratings and Kroll Bond Rating Agency.

How will the MLF price the Eligible Notes?

1. The MLF is designed to operate as a liquidity backstop and lender of last resort for Eligible Issuers that are unable to obtain adequate credit under current market conditions. As such, the MLF will provide funding to Eligible Issuers, but at a “penalty rate,” i.e., a premium to the market rate that otherwise would be available to Eligible Issuers in normal circumstances.
2. Specifically, tax-exempt Eligible Notes will bear interest at a fixed rate determined by the SPV based on a comparable maturity overnight indexed swap (“OIS”) rate plus a spread, without regard to the method of sale (i.e., competitive offering versus direct purchase by the SPV).
3. For a taxable issuance of Eligible Notes, the SPV will determine the interest rate by dividing the tax-exempt interest rate by 0.65.

What is the OIS?

1. The OIS is an interest rate derivative contract whereby parties will exchange a payment priced at a fixed rate against a payment priced at an average overnight published reference rate, e.g., the effective federal funds rate.
2. In pricing Eligible Notes, the MLF will use the fixed OIS rate based on the effective federal funds rate for the maturity that corresponds to the maturity date of the Eligible Notes.
3. OIS rate quotes are available from bond market service providers and vendors. Additionally, the Reserve Bank publishes a weekly table of MLF purchase rates on its website: <https://www.newyorkfed.org/markets/municipal-liquidity-facility/municipal-liquidity-facility-sample-rates>
4. If the Eligible Issuer selects a maturity (up to 36 months) for which no direct OIS quote is available, the OIS rate will be calculated using a straight line interpolation of the direct OIS quotes for: (i) the nearest maturity that is shorter than the maturity date of the Eligible Notes and (ii) the nearest maturity that is longer than the maturity date of the Eligible Notes.

How is the interest rate spread determined?

1. The interest rate spread corresponds to the long-term ratings on the applicable credit to be used for the Eligible Notes as of the pricing date. The spread ranges from 150 basis points for AAA/Aaa-rated issuers to 590 basis points for below-investment-grade-rated issuers:

Rating	Spread (bps)
AAA/Aaa	150
AA+/Aa1	170
AA/Aa2	175
AA-/Aa3	190
A+/A1	240
A/A2	250
A-/A3	265
BBB+/Baa1	325
BBB/Baa2	340
BBB-/Baa3	380
Below Investment Grade	590

2. In the case of a split rating (i.e., where a particular credit has received different ratings from the NRSROs), an average rating will be determined by: (i) assigning a numerical value to each outstanding rating and (ii) rounding the average of such numerical values to the nearest numerical value that corresponds to a rating.
3. If the resulting numerical value is equidistant between the numerical value corresponding to one rating and the numerical value corresponding to the other rating, then the Eligible Issuer will be treated as having the lower of the two ratings.
4. To facilitate this determination, the FAQs include a table of numerical values that will be assigned to the ratings and a hypothetical for demonstration purposes:

RATING MAPPING TABLE

Rating	Aaa	AAA				
Value	0	0				
Rating	Aa1	AA+	Aa2	AA	Aa3	AA-
Value	0.66	0.66	1	1	1.33	1.33
Rating	A1	A+	A2	A	A3	A-
Value	1.66	1.66	2	2	2.33	2.33
Rating	Baa1	BBB+	Baa2	BBB	Baa3	BBB-
Value	2.66	2.66	3	3	3.33	3.33
Rating	Ba1	BB+	Ba2	BB	Ba3	BB-
Value	3.66	3.66	4	4	4.33	4.33

HYPOTHETICAL

Ratings of Security for Eligible Notes	Numerical Value
A1	1.66
A+	1.66
A	2
Average Numerical Value	1.77
Average Rating	A+/A1

5. In cases where a particular credit has received only two ratings and one such rating is two or more gradations higher than the other, the Eligible Issuer may either: (i) obtain a third rating and price the Eligible Notes based on the average of the three ratings or (ii) price the Eligible Notes based on the lower of the two existing ratings.

Part II

Applying for the Municipal Liquidity Facility

How does an Eligible Issuer apply for the MLF?

1. Eligible Issuers apply for the MLF by completing a NOI package for each requested issuance of Eligible Notes.
2. The NOI package consists of the following documents:
 - a. The completed NOI form, which contains a list of detailed questions about the Eligible Issuer and the Eligible Notes. ⁶
 - b. The following attachments referenced in the NOI form:
 - i. copies of the most recent ratings reports of each NRSRO rating the Eligible Issuer;
 - ii. copies of the most recent ratings reports of each NRSRO providing long-term ratings on the proposed credit for the Eligible Notes;
 - iii. memorandum/memoranda of counsel (as further described below), if applicable;

⁶If a Designated Issuer is issuing the Eligible Notes, the Eligible Issuer that is pledging its credit or revenues to secure, or is otherwise guaranteeing, the Eligible Notes must complete the NOI. In contrast, the Designated City, Designated County or Designated RBI, as opposed to the state that is designating the Designated City, Designated County or Designated RBI, must complete the NOI.

- iv. any other source documents cited by the Eligible Issuer in its responses to the questions presented in the NOI; and
 - v. a certification from the Eligible Issuer that: (1) it has reviewed the Term Sheet and FAQs, (2) it has determined that it meets the eligibility requirements to participate in the MLF; (3) the proposed transaction meets the requirements of the MLF; and (4) the information provided in the NOI is true and correct.
1. In the following situations, Eligible Issuers must include memoranda of counsel addressing the following questions:
- a. If the Eligible Notes will be issued as a general obligation of an Eligible Issuer and the Eligible Issuer has any other credit that is rated higher than its general obligation credit:
 - i. Why is the higher-rated credit not otherwise available to secure the Eligible Notes?

- b. If the Eligible Notes will not be issued as a general obligation of an Eligible Issuer:
 - i. How is the proposed security for the Eligible Notes consistent with the source of repayment and strongest security typically pledged to repay the Eligible Issuer's publicly-offered obligations?
- c. If the Eligible Issuer is a Multi-State Entity or Designated RBI:
 - i. How are the Eligible Notes secured on a parity basis with the Multi-State Entity's or Designated RBI's other obligations by a senior lien on its gross or net revenues?
- d. If an Eligible Issuer is planning to issue Eligible Notes through a Designated Issuer:
 - i. Is (i) the Designated Issuer legally authorized to commit the credit of, or pledge the revenues of, the applicable state, city or county; or (ii) the applicable state, city or county legally authorized to guarantee the Eligible Notes?

- e. For competitive offerings where the Eligible Issuer does not have legal authority to sell the Eligible Notes directly to the SPV following the competitive sale process:
 - i. What is the legal authority prohibiting such direct sale?

When should an Eligible Issuer submit a NOI?

1. The Federal Reserve cautions Eligible Issuers to only submit a NOI once they have determined their financial needs and schedule.

What happens after an Eligible Issuer submits an NOI?

1. After submitting a NOI, the Eligible Issuer will receive an email confirming receipt and, if the NOI is approved, a confirmation email confirming approval of the NOI and inviting the Eligible Issuer or its Designated Issuer to submit an Application.

What constitutes the Application?

1. The Application consists of: (i) the completed application form (the “Application Form”), including an attached Supporting Document Checklist (the “Checklist”); (ii) all attachments requested and referenced in the Application Form and Checklist; and (iii) a signed certification from the Eligible Issuer confirming: (x) the truth and accuracy of the information provided in the Application and NOI and the completeness of the form transaction documents submitted with the Application; (y) the Eligible Issuer’s readiness to close the transaction and continued eligibility to participate in the MLF and (z) that the issuance of the Eligible Notes satisfies the requirements of the MLF.

2. Similar in format to the NOI, the Application Form contains a list of confirmatory and supplemental questions pertaining to the Eligible Issuer and the Eligible Notes which are generally standard for public finance transactions, including:
 - a) identifying information for the Eligible Issuer and other working group members;
 - b) a bring-down confirmation that the information submitted in the NOI remains unchanged;
 - c) details of the Eligible Notes (including the applicable series designation, maturity date, principal amount, interest payment date(s) and tax status);
 - d) confirmation of the proposed closing date; and
 - e) a description of the required authorizing actions and approvals obtained and to be obtained by the Eligible Issuer (including any appeal periods).

3. In addition to these general questions, the Application Form requires Eligible Issuers to provide the following specific information relative to the MLF:
 - a. For Eligible Notes consisting of: (i) TRANs, TANs or similar notes to be repaid from revenues, a description of any statutorily-required or policy-determined revenue set-asides to be used for repaying the Eligible Notes, including the plan for repayment in situations where the set-asides are not required; and (ii) BANs, a description of the repayment plan, including the governmental authorizations for issuing the bonds that will repay the BANs;
 - b. A bring-down of the Eligible Issuer's efforts to obtain the required ratings actions from the NRSROs with respect to the Eligible Issuer and the proposed credit for the Eligible Notes, as described in the NOI;
 - c. Confirmation of the Eligible Issuer's compliance with its existing continuing disclosure undertakings under Rule 15c2-12 of the Securities Exchange Act of 1934 ("Rule 15c2-12");⁷ and
 - d. For transactions using a Designated Issuer, confirmation that either the Eligible Issuer or the Designated Issuer, or both, will be responsible for providing continuing disclosure to the MLF, and if both, a description of the information to be provided by each entity.

⁷Under the MLF, Eligible Issuers must enter into a continuing disclosure undertaking at closing consistent with the requirements of Rule 15c2-12, even if the sale of the Eligible Notes would not otherwise be subject to Rule 15c2-12.

4. The Checklist consists of a list of documents that must be included with the Application Form, including the following final form documents for the Eligible Notes:
 - a. authorizing resolution;
 - b. form of Eligible Notes;
 - c. a form of authorization, incumbency and signature certificate for the Eligible Issuer or Designated Issuer;
 - d. other Eligible Note documents (e.g., general/series resolution, indenture or other note agreement; bond ordinance, statute or other authorization documents; documentation evidencing the security for the Eligible Notes; and any other transaction documents);
 - e. a timeline for any pending authorizing actions or approvals;
 - f. for Eligible Notes that are BANs, documentation providing for the authorization and issuance of the bonds to be issued to repay the BANs;

- g) for transactions involving a Designated Issuer, either: (i) the form of agreement whereby the Designated Issuer commits the credit of, or pledge the revenues of, the applicable state, city or county; or (ii) the form of guarantee of the Eligible Notes by the applicable state, city or county (each a “Designated Issuer Document”); and
- h) drafts of the following opinions, each in final form:
 - i. an opinion of bond counsel as to the validity, enforceability and binding nature of the Eligible Notes;
 - ii. an opinion as to the exemption of the Eligible Notes from the registration requirements of the federal securities laws;
 - iii. for a competitive offering, a Rule 10b-5 opinion of bond counsel (the “Rule 10b-5 Opinion”);⁸
 - iv. a tax opinion of bond counsel or special tax counsel, if the Eligible Notes are to be issued as tax-exempt securities; and
 - v. an opinion as to the validity, enforceability and binding nature of the applicable Designated Issuer Document, if the Eligible Notes are to be issued by a Designated Issuer.

⁸The Rule 10b-5 opinion is actually a statement of fact that, based on the counsel’s due diligence efforts, nothing has come to their attention indicating that the preliminary official statement or the final official statement contains any misstatements of material facts or any material omissions.

Is different information required if the Eligible Notes are sold in a competitive offering versus a direct purchase by the SPV?

1. For competitive offerings, the Eligible Issuer must provide the SPV with the same level of disclosure normally prepared for a public offering of notes, specifically:
 - a. form of notice of sale;
 - b. preliminary official statement;⁹ and
 - c. Rule 10b-5 Opinion in final form.
2. For a direct purchase transaction (where no preliminary official statement or other offering document is prepared), the Eligible Issuer must provide the SPV with:
 - a. financial information and operating data posted on the MSRB's EMMA system and on its website, with a direct link to such information;
 - b. copies of the Eligible Issuer's financial information and operating data provided to the NRSROs in connection with obtaining the required ratings;
 - c. the most recent audited financial statements for the past two years;
 - d. unaudited fiscal year-to-date financial statements;

⁹For competitive offerings, the Eligible Issuer is responsible for producing both a preliminary official statement and a final official statement, even if the SPV ends up as the sole purchaser of the Eligible Notes. The final official statement must be delivered to the SPV no later than two (2) business days prior to the closing date.

- e. the Eligible Issuer's budget for the current and next succeeding fiscal year;
- f. the Eligible Issuer's most recent official statement (or other offering document) for obligations that are secured on a parity basis with the Eligible Notes; and
- g. for Eligible Notes that are TANs, TRANs or similar notes, cash-flow statements prepared during the last 60 days (including prior-year actuals and 12-month projections).

What happens after the Eligible Issuer submits the Application?

1. Once submitted, Eligible Issuers will receive an email confirming receipt of the Application and, if the Application is approved, a further email: (i) confirming approval of the Application; (ii) providing the anticipated pricing and closing dates (in consultation with the Eligible Issuer); (iii) designating a primary contact at BLX to facilitate pricing and closing; and (iv) setting forth any additional requirements and conditions.

What are the Form Documents?

1. The Form Documents consist of: (i) the Note Purchase Agreement (the “NPA”) between the Eligible Issuer and the SPV (for use in direct purchase transactions and competitive offerings where the SPV is the fallback purchaser); (ii) the Note Purchase Commitment (the “NPC”) between the Eligible Issuer and the SPV (for use in competitive offerings where the SPV submits a bid); (iii) the Continuing Disclosure Undertaking of the Eligible Issuer (the “CDU”);¹⁰ and (iv) a packet of certificates to be delivered by the Eligible Issuer at closing (the “Issuer Certification Packet”).

¹⁰The CDU is consistent with the requirements of Rule 15c2-12 and is required even if the sale of the Eligible Notes would not otherwise be subject to Rule 15c2-12.

What are the requirements of the NPA and NPC?

1. Both the NPA and NPC: (i) are similar in form and substance to bond or note purchase agreements used in other public finance transactions generally; (ii) memorialize the terms and conditions for the MLF that were described in the Term Sheet and the FAQs; and (iii) contain substantially the same requirements for closing; representations, warranties and covenants of the Eligible Issuer; conditions for the SPV to submit a bid and/or purchase the Eligible Notes; and termination rights.

2. For the most part, the Eligible Issuer's required representations and warranties included in the NPA and NPC are substantially similar to the ones generally found in other bond or note purchase agreements. However, Eligible Issuers should pay particular attention to the following unique representations:
 - a. In addition to the typical "no materially adverse litigation" representation, there is no litigation that would in any other manner adversely affect the source of repayment of the Eligible Notes (regardless of the materiality of such litigation).
 - b. The Eligible Issuer is not aware of any material adverse change in its financial position, results of operations or condition, financial or otherwise, from what is set forth in the audited and unaudited financial statements provided to the SPV.
 - c. All information provided to the SPV, including the information provided in the Application and NOI (unless revised in the Application), remains true, correct and accurate (no materiality qualifier).

3. The NPA and NPC will terminate and be of no further force and effect if: (i) the Eligible Issuer is unable to satisfy the conditions set forth in the NPA and NPC; (ii) the Eligible Issuer's general obligation or issuer credit ratings are downgraded below the lowest rating level required for Eligible Issuers participating in the MLF or are otherwise withdrawn; or (iii) all of the Eligible Notes are sold to other purchasers through a competitive offering
4. The NPA and NPC will be governed by the laws of the State of New York.
5. Schedule I to the NPA and the NPC (in each case, "Schedule I") will set forth certain information regarding the Eligible Issuer and the Eligible Notes, including, but not limited to: (i) the principal amount of the Eligible Notes; (ii) the purchase price; (iii) the interest rate; (iv) the closing date; (v) the maturity date; (vi) tax status; (vii) ratings information; (viii) use of proceeds; and (ix) interest rate.

6. For direct purchase transactions, the SPV will include the actual interest rate for the Eligible Notes on Schedule I. In contrast, for competitive offerings, the SPV will include a description of the formula for determining the interest rate on Schedule I. The SPV will determine the interest rate on the morning of the competitive offering and communicate it to the Eligible Issuer either through its bid submission (for competitive offerings where the SPV submits a bid) or directly to the Eligible Issuer prior to the competitive bid process (for competitive offerings where the SPV is the fallback purchaser).
7. Significantly, the SPV will not deliver any certifications, receipts, agreements, instruments or other closing documents (including issue price certificates) beyond the NPA and the NPC (and the Notice of Results of Competitive Bid discussed below, which is countersigned by the SPV).

What are the logistics for executing the NPA or NPC?

1. The SPV will send: (i) a completed and executed NPA to the Eligible Issuer on the agreed-upon pricing date for a direct purchase transaction or (ii) a completed and executed NPA (for competitive offerings where the SPV is the fallback purchaser) or NPC (for competitive offerings where the SPV submits a bid) within three (3) business days after the SPV approves the Application.
2. For competitive offerings, the NPA or the NPC, as applicable, requires the Eligible Issuer to notify the SPV in writing of the results of the competitive bid process immediately following its completion, in the form of Exhibit A to the NPA or the NPC (the “Notice of Results of Competitive Bid”), which notice will be countersigned by the SPV. In addition, for competitive offerings where the SPV is submitting a bid, the Eligible Issuer must deliver to the SPV the final notice of sale, in a form acceptable to the SPV, not later than three (3) business days prior to the competitive sale date.
3. The Eligible Issuer must execute and return the NPA or NPC within one (1) business day of its receipt.

What are the requirements of the CDU?

1. Consistent with the requirements of Rule 15c2-12, the CDU requires Eligible Issuers to provide to the MSRB through its EMMA system: (i) annual financial reports, consisting of the Eligible Issuer's audited financial statements (the "Annual Report"), and (ii) notices of the occurrence of certain enumerated events, which are listed in Section 5(i)(C) of Rule 15c2-12.
2. The CDU requires the filing of the Annual Report not later than six months after the end of each fiscal year, commencing with the report for fiscal year 2020.

3. Beyond the Annual Report and notices of the listed events, the CDU requires Eligible Issuers to provide the following additional disclosures:
 - a. Not later than forty-five (45) days after the end of each calendar quarter, (a) quarterly reports: (i) of cash flows, showing actual results compared to projections included in the prior report and the projected results for the succeeding twelve-month period (or to the maturity of the Eligible Notes, if shorter) and (ii) of the implementation status and funding of planned set asides, with an explanation of any negative variances; and (b) quarterly financial reports/information in a format provided to governing bodies or otherwise to the public;
 - b. Not later than ten (10) business days after the occurrence thereof, any changes in the long-term ratings applicable to the security for the Eligible Notes; and
 - c. Not less than six months prior to, and again at three months prior to, the maturity of the Eligible Notes, a written report explaining the Eligible Issuer's plan to repay the Eligible Notes at maturity; provided, that, in the case of BANs, such report must identify any material credit or other matters relating to the issuance of the bonds expected to repay the BANs.

4. The Eligible Issuer is required to: (i) post the quarterly reports on its website, notify the SPV that the information is available and provide a link to the website and (ii) submit the notices of changes in the long-term ratings and the repayment reports for the Eligible Notes directly to the SPV.

What are the requirements of the Issuer Certification Packet?

1. The Issuer Certification Packet consists of the following certificates to be delivered by the Eligible Issuer at closing: (i) a certificate as to the Eligible Issuer's solvency and the lack of adequate credit (the "Solvency and Adequate Credit Certificate"), as required by of Section 13(3) of the Federal Reserve Act and the Federal Reserve's Regulation A ("Regulation A"); (ii) a certificate regarding the conflict of interest requirements of Section 4019 of the CARES Act (the "Conflict of Interest Certificate"); (iii) a certificate regarding the U.S. business requirement of Section 4003(c)(3)(C) of the CARES Act (the "U.S. Business Certificate"); and (iv) a certificate regarding the forms of the closing documents (the "MLF Closing Certificate").
2. Although separate from the Issuer Certification Packet, the NPA and NPC also include as Exhibit B a closing certificate of the Eligible Issuer, which functions as a bring-down at closing of the representations and warranties included in the NPA and NPC and a confirmation that the closing conditions have been satisfied.

3. Under the Solvency and Adequate Credit Certificate, the Eligible Issuer must certify that: (i) it is not insolvent and (ii) it is unable to secure adequate credit accommodations from other banking institutions. In making this certification, the Eligible Issuer may consider current economic or market conditions as compared to normal economic or market conditions, including the inability of the Eligible Issuer facing increased outlays and decreased revenues to fully meet its financial needs through the capital markets. To that end, the Eligible Issuer is not required to establish that credit is unavailable, but rather that credit may be available, but at such prices or upon such terms that are inconsistent with normal market conditions.
4. Section 4019 of the CARES Act places certain conflict of interest restrictions on entities that issue equity interests.¹¹ The Conflict of Interest Certificate requires Eligible Issuers to certify that they are not subject to these restrictions because they issue no equity interests.

¹¹Section 4019 of the CARES Act defines “equity interest” as “(A) a share in an entity, without regard to whether the share is (i) transferable; or (ii) classified as stock or anything similar; (B) a capital or profit interest in a limited liability company or partnership; or (C) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share or interest described in subparagraph (A) or (B), respectively.”

5. Sections 4003(a) and (b) of the CARES Act authorized the establishment of certain liquidity facilities for eligible businesses, states and municipalities relative to the COVID-19 pandemic including, with respect to the Eligible Issuers, the MLF. Under Section 4003(c)(3)(C), such facilities may not purchase obligations from a business unless the business is created or organized in the United States or under the laws of the United States and has significant operations in and a majority of its employees based in the United States. The U.S. Business Certificate requires Eligible Issuers to confirm that they are not “businesses” subject to Section 4003(c)(3)(C).
6. Under the MLF Closing Certificate, Eligible Issuers must certify that the documents submitted to the SPV in connection with the closing of the Eligible Notes are identical to the draft documents submitted with their Application, other than dates, signatures and pricing details. In furtherance of this certification, the Eligible Issuer must attach redlined copies of such closing documents to the certificate.

How soon after the pricing of the Eligible Notes will the closing occur?

1. The closing date will be a date selected by the Eligible Issuer and agreed to by BLX that is not less than five (5) nor more than seven (7) business days after the pricing (for a competitive offering) or the date of the NPA (for a direct purchase transaction).

Have any Eligible Issuers used the MLF?

1. The State of Illinois was the first borrower under the MLF, with an issuance on June 5, 2020 of \$1.2 billion general obligation bond anticipation notes, maturing in one year and bearing interest at 3.8%.
2. The State of New York has designated the New York MTA as a Designated RBI for purposes of the MLF; but the MTA has yet to decide whether it will utilize the program.
3. The MLF's pricing methodology has become less attractive in recent months, as the municipal securities market continues to recover from the illiquidity that occurred in March and April of 2020.

4. Barring a further expansion of its scope, the MLF will continue to support Eligible Issuers that are challenged by low credit ratings or other unique credit structures or other circumstances, such that they are unable to obtain reasonable pricing through the municipal securities market or directly from lenders.
5. As a general matter, the MLF will continue to serve as a stabilizing force and useful backstop, particularly if the COVID-19 pandemic causes further market volatility in the coming months (through a second wave of the virus, credit deterioration across certain sectors, or otherwise).

Where can I obtain additional information about the MLF?

1. Details about the MLF, including future announcements regarding adjustments to the program's terms and conditions, if any, can be found on the Federal Reserve Website and the Reserve Bank Website.
2. If you have any questions regarding the MLF, please contact Neal Pandozzi at npandozzi@apslaw.com or Jonathan Cabot at jcabot@apslaw.com.

Biographies

Neal R. Pandozzi

Neal is a twenty-year veteran of New England public finance transactions. He has served as bond counsel, underwriters' counsel, borrower's counsel, disclosure counsel, lender's counsel and trustee's counsel in all types of transactions and all varieties of credits benefitting states, their political subdivisions, special districts and quasi-public corporations, including general obligation bonds, revenue bonds, drinking water and wastewater revolving fund and pooled loan bond issues, taxable and tax-exempt industrial and economic development bonds, transportation and airport financings, stadium financings, certificates of participation, tax-exempt leases and 501(c)(3) bond transactions.

Neal received his B.A., magna cum laude, from Providence College, his J.D. from Roger Williams University School of Law and his LL.M. from Boston University.

Jonathan L. Cabot

Jonathan's practice involves public and commercial finance, mergers and acquisitions and general corporate matters. Jon has worked on a number of public finance transactions in which the firm served as bond counsel, underwriters' counsel and lender's counsel. During law school, Jonathan interned with the Honorable John J. McConnell, Jr. of the United States District Court for the District of Rhode Island. He also spent a year externing with an internationally operated and publicly traded gaming technology company, where he worked on cross-border commercial transactions and strategic acquisitions. After law school, Jonathan clerked in the Rhode Island Supreme Court Law Clerk Department.

Jonathan graduated cum laude from Florida Atlantic University in 2010 and received his law degree, cum laude, from Roger Williams University School of Law in 2016. Jonathan is currently a member of the Board of Directors of Steere House, a not-for-profit nursing home facility.