

April 22, 2020

VIA ELECTRONIC SUBMISSION - regs.comments@federalreserve.gov

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Jerome H. Powell
Chair
Board of Governors of the Federal Reserve
System
20th Street and Constitution Ave NW
Washington, DC 20551

Re: Concerns Regarding the Main Street Lending Program: Main Street New Loan Facility (MSNLF) and Main Street Expanded Loan Facility (MSELF)

Dear Sirs:

The Real Estate Roundtable¹ (RER) and Nareit² represent the owners, investors, managers and other stakeholders in the \$16 trillion U.S. commercial real estate (CRE) sector, which includes a broad range multifamily, lodging, office, industrial, retail and healthcare properties. U.S. commercial and multifamily real estate is supported by over \$4 trillion in debt – mostly provided by commercial banks, life companies, government sponsored enterprises and commercial mortgage backed securities (CMBS). We appreciate the opportunity to comment on the April 9 term sheets for the Main Street New Loan Facility (MSNLF) and Main Street Expanded Loan Facility (MSELF; together the Programs).

Both of our organizations are grateful for your collective efforts to support the U.S. economy during the economic crisis resulting from the COVID-19 pandemic. We are particularly encouraged by the Federal Reserve and Treasury's timely decision to revive the Term Asset Backed Securities Facility (TALF), the Federal Reserve Bank of New York's (FRBNY) initiation of purchase of agency CMBS³, and we appreciate the recent announcement⁴ that the Federal Reserve will broaden the range of TALF eligible collateral to include the triple-A rated tranches of both outstanding (legacy) CMBS, commercial mortgage loans and newly issued collateralized loan obligations.

¹ The Real Estate Roundtable (www.RER.org) brings together leaders of the nation's top publicly-held and privately-owned real estate ownership, development, lending and management firms with the leaders of major national real estate trade associations to jointly address key national policy issues relating to real estate and the overall economy.

² Nareit (www.Nareit.com) serves as the worldwide representative voice for real estate investment trusts (REITs) and real estate companies with an interest in U.S. income-producing real estate. Nareit's members are REITs and other real estate companies throughout the world that own, operate, and finance income-producing real estate, as well as those firms and individuals who advise, study, and service those businesses.

³ "Statement Regarding Treasury Securities and Agency Mortgage-Backed Securities Operations," Federal Reserve Bank of New York (Mar. 23, 2020), available at:

https://www.newyorkfed.org/markets/opolicy/operating_policy_200323.

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

<https://www.federalreserve.gov/newsevents/pressreleases/monetary20200409a.htm>

We previously wrote to you on March 24 and April 14, urging greater support for Agency and private label, non-agency CMBS and related CRE lending products. We then noted that it was already apparent that the damage to the commercial real estate sector will be both broader and deeper than it was during the 2008 crisis.

Unfortunately, in the intervening days, conditions in the commercial real estate sector have deteriorated further, providing us with a more detailed understanding of the nature and scope of the problem. Survey data with regard to April rents is currently being compiled, but the early data is discouraging. Initial survey data estimates that fewer than 50% of shopping center rents may have been paid. In the residential sector, estimates of unpaid rent range from the six to 14%. These numbers are likely to increase because the CARES Act permits financially stressed tenants in properties financed by federally backed loans to postpone rent payments and several states and municipalities are currently considering additional measures to afford tenants rent forbearance.

Total commercial real estate rents collected in 2019 are estimated to be in excess of \$1.8 trillion. These rents are collected from properties across a range of sectors including office, industrial, retail, multifamily, hotels, health care, self-storage and newer sectors that include data centers and cell phone towers. U.S. rental revenues are equivalent to 9% of GDP, but are rarely recognized because they are an input rather than a final good. Rent supports the payment of expenses such as salaries, property taxes, utilities, insurance and maintenance, principal and interest expense to banks and bondholders, and only then dividends and distributions to investors.

So, with revenue in commercial and multifamily real estate markets diminishing, real estate credit and capital markets are stalled. Borrowers, owners, managers are facing existential challenges. At a time when Main Street needs credit, it cannot get it because the secondary markets that provide liquidity to Main Street lenders are clogged.

We are encouraged by the steps taken by the Treasury and the Federal Reserve thus far, but more must be done. It is important for the Main Street Lending Program to work effectively and support commercial real estate.

Suggestions to Enable CRE Borrowers to Access the Programs

The Federal Reserve established the Main Street Lending Program to enhance support for small and mid-sized businesses across the U.S. economy that are in good financial standing before the crisis. Notwithstanding the significance of commercial real estate to the U.S. economy, it will be difficult, if not impossible, for many commercial real estate companies to access the Main Street Lending Program if certain changes, set forth below, are not made to offer more realistic flexibility to the Program.

1. Underwriting/Leverage Limitations/Loan Size.

As a general matter, we recommend that the banks underwriting these Main Street loans be granted greater discretion in assessing credit worthiness across industries and with respect to individual borrower circumstances. In addition to considering industry-specific factors, lenders should be able to take account of existing covenants, funding terms and utilize pre-existing metrics in the credit agreements for calculating the leverage limitations applicable to borrowings from the MSNLF and the MSELF.

Our CRE members are particularly concerned that the “one-size-fits-all-industries” leverage limits set forth in the MSNLF and MSELF term sheets will not work for most U.S. CRE companies, which typically operate at higher leverage levels than other industries. The highly specific Debt/EBITDA metrics of 4x (New Loan) and 6x (Expanded Loan) would significantly limit the number of CRE companies who can access the Main Street Lending Programs. Lenders should be given discretion to use CRE-specific leverage limitations based on loan-to-value or a substantially higher EBITDA threshold to address the conventions of CRE practices.

2. Distributions.

REITs and certain other pass-through entities are required by law to annually distribute their taxable income to shareholders. The application of the dividend-related restriction to REITs would not be consistent with the longstanding federal interest of supporting REIT-based real estate investment. For this reason, it would appear that the absence of an exception for REITs is an oversight stemming from the emergency nature of the CARES Act. We suggest that the Programs allow for limited exceptions to the CARES Act distribution prohibitions for borrowers, like REITs, which are required by law to make distributions to maintain their legal status. Similarly, any extension of the restriction to distributions by S corporations or partnerships would undermine the critical purposes served by the lending facilities.

3. Loan Terms.

The Programs loan terms, as proposed, will be too short to accommodate CRE borrowers in many cases. CRE loans tend to be longer-dated than lending facilities for operating businesses. We suggest that the Programs permit lenders and borrowers to agree to terms of at least six years, and permit borrower and its lenders to agree to amortization schedules consistent with existing their circumstances and existing borrowings.

4. Applicable Interest Rate Index.

The great majority of CRE borrowers currently use LIBOR. With respect to more recent CRE loans, provisions generally permit the agent to move to a replacement rate when LIBOR is no longer published, or when an alternative rate (e.g., SOFR) is generally in use. We suggest that the Programs implement a similar policy, consistent with current market practice, i.e., permit

borrowers to initially use LIBOR with “fallback” provisions for transitioning to SOFR consistent with either of the ARRC’s approved options.

5. Program Timing.

Given the complexity of CRE capital structures and loans, the ability to complete transactions that benefit these properties may take longer than September 30, 2020. We suggest that the Program’s facility termination date be extended to December 31, 2020.

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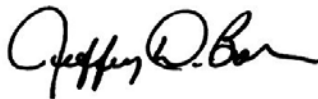
We appreciate the opportunity to provide commentary on the Main Street Lending Programs, and the importance enabling the Programs to provide credit support for the commercial real estate sector. We respectfully urge that these additional measures be adopted to expand the scope of the Main Street Lending Programs to forestall further disruption and economic dislocations in the commercial real estate sector.

Should you have any questions or desire any clarification concerning the matters addressed in this letter, please do not hesitate to contact Clifton E. Rodgers, Jr. (crodgers@rer.org) or Victoria Rostow (vrostow@nareit.com).

Sincerely,



Steven A. Wechsler
President & CEO
Nareit



Jeffrey D. DeBoer
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The Real Estate Roundtable