Banking and Finance Law Daily Wrap Up, TOP STORY—Fed to make unlimited government securities purchases; adds new tools to support economy, (Mar. 23, 2020)

Banking and Finance Law Daily Wrap Up

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By John M. Pachkowski, J.D.

In its efforts to support the economy during the fallout of the coronavirus pandemic, the Federal Reserve Board has taken additional steps to support the flow of credit to households and businesses.

To address the economic disruptions resulting from the coronavirus pandemic, the Fed has taken a number of further steps to steps to support the flow of credit to households and businesses.

Securities purchases. The first step was the Federal Open Market Committee directing the Open Market Trading Desk at the Federal Reserve Bank of New York to increase the System Open Market Account holdings of Treasury securities and agency mortgage-backed securities (MBS) in the amounts needed to support the smooth functioning of markets for Treasury securities and agency MBS. FOMC also directed the Desk to purchase agency commercial mortgage-backed securities (CMBS). The FOMC had previously announced it would purchase at least $500 billion of Treasury securities and at least $200 billion of mortgage-backed securities.

Following the FOMC's directive the New York Fed's Open Market Trading Desk updated its plans regarding purchases of Treasury securities and agency MBS during the week of March 23, 2020. Specifically, the Desk plans to conduct operations totaling approximately $75 billion of Treasury securities and approximately $50 billion of agency MBS each business day this week, subject to reasonable prices.

Credit facilities. The other steps taken by the Fed includes:

- Establishment of two facilities to support credit to large employers—the Primary Market Corporate Credit Facility (PMCCF) and the Secondary Market Corporate Credit Facility (SMCCF).
- Establishment of a third facility, the Term Asset-Backed Securities Loan Facility (TALF).
- Expanding the Money Market Mutual Fund Liquidity Facility (MMLF) to include a wider range of securities, including municipal variable rate demand notes (VRDNs) and bank certificates of deposit.
- Expanding the Commercial Paper Funding Facility (CPFF) to include high-quality, tax-exempt commercial paper as eligible securities.

The Fed originally created the CPFF on March 17, 2020, in the wake of the Dow Jones Industrial average losing nearly 13 percent of its value on March 16, 2020; and despite the Fed's lowering of the discount rate to new zero- to 0.25-percent level (see *Banking and Finance Law Daily*, March 16, 2020 and March 17, 2020).

The MMLF was originally established by the Fed on March 18, 2020, as a to enhance the liquidity and functioning of money markets and expanded to include state and municipal money markets (see *Banking and Finance Law Daily*, March 19, 2020 and March 20, 2020).

The PMCCF will, among other things, allow companies access to credit so that they are better able to maintain business operations and capacity during the period of dislocations related to the pandemic. This facility is open to investment grade companies and will provide bridge financing of four years.

The SMCCF will purchase in the secondary market corporate bonds issued by investment grade U.S. companies and U.S.-listed exchange-traded funds whose investment objective is to provide broad exposure to the market for U.S. investment grade corporate bonds.

Under the TALF, the Fed will lend on a non-recourse basis to holders of certain AAA-rated ABS backed by newly and recently originated consumer and small business loans. The Federal Reserve will lend an amount equal to the market value of the ABS less a haircut and will be secured at all times by the ABS.

The Fed noted that the creation of the new programs and the expansion of the others, taken together, will provide up to $300 billion in new financing. The Fed added that the Treasury Department, using the Exchange Stabilization Fund (ESF), will provide $30 billion in equity to these facilities

TLAC rule. Finally, the Fed issued an interim final rule that revises the definition of eligible retained income for purposes of its total loss-absorbing capacity (TLAC) rule. The Fed adopted the TLAC rule, in December 2016, to require the largest domestic and foreign banking organizations operating in the United States to maintain a minimum amount of total loss-absorbing capacity, consisting of a minimum amount of long-term debt (LTD) and tier 1 capital. In addition, the TLAC rule prescribed certain buffers above the minimum TLAC amounts that could result in limitations on the capital distributions and certain discretionary bonus payments of a firm. The final rule also included a separate requirement that these companies maintain a minimum amount of LTD.

The revised definition of eligible retained income will make any automatic limitations on capital distributions that could apply under the TLAC rule more gradual and aligns to recent action taken by the Fed, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation regarding their capital rules (see *Banking and Finance Law Daily*, March 17, 2020).

The interim final becomes effective upon publication in the *Federal Register*.

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