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MAY 29, 2020 | PUBLICATION

Client Alert: Federal Reserve Creation of a Municipal Liquidity Facility

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Effective April 9, 2020, the Federal Reserve created a Municipal Liquidity Facility (the "Facility") to purchase state and local municipal debt. The Municipal Liquidity Facility was authorized pursuant to Section 13(3) of the Federal Reserve Act and will provide lending to states and cities with populations over 1 million, and counties with populations over 2 million using funds appropriated under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), enacted March 27, 2020. The terms described herein may be adjusted by the Board of Governors of the Federal Reserve System (the "Board") and the Secretary of the Treasury, which such changes will be announced on the Board's website.

Lending Under the Facility.
The Federal Reserve Bank (the "Reserve Bank") will lend money to a Special Purpose Vehicle ("SPV") on a recourse basis and the SPV will purchase Eligible Notes directly from Eligible Issuers at the time of original issuance. The Reserve Bank will be secured by all of the assets of the SPV. The Department of the Treasury will make an initial $35 billion equity investment in the SPV in connection with the Facility. The SPV will have the ability to purchase up to $500 billion of Eligible Notes.

Eligible Notes.
Eligible Notes are TANS (tax anticipation notes), TRANS (tax and revenue anticipation notes), BANS (bond anticipation notes), and other short-term notes with a maximum maturity of 24 months from the date of issuance. Each note's eligibility will be subject to review by the Federal Reserve and will require relevant legal opinions and disclosures, as determined by the Federal Reserve, prior to purchase.

Eligible Issuers.
An Eligible Issuer is a state, city, or county, or an instrumentality that issues on behalf of a state, city, or county for the purpose of managing its cash flows. ONLY ONE ISSUER PER STATE, CITY, OR COUNTY IS ELIGIBLE. However, an Eligible Issuer may use the proceeds of its purchased notes to purchase similar notes or otherwise to assist political subdivisions or instrumentalities of the relevant state, city, or county for the uses specified below.

Limitations.
The Federal Reserve limits the amount of purchase to one or more issuances up to an aggregate of 20 percent of general revenue or utility revenue from the state, city, or county's own sources, measured by fiscal year 2017 revenues. States may request purchases in excess of the limit to assist political subdivisions and instrumentalities not otherwise eligible for the facility.

Terms of the Notes.
Pricing will be based on the issuer's rating at the time of purchase with details to be provided later. The notes are callable at any time at par.

Fees.
There is an origination fee of 10 basis points of the principal amount of notes purchased, payable from note proceeds.

Uses.
The proceeds of the notes may be used to help manage the cash flow impact of income tax deferrals, the potential reduction of tax, and other revenues or the increases of expenses resulting from Covid-19, and debt service payments on obligations of the relevant state, city, or county.

Termination Date.
The SPV will cease purchasing Eligible Notes on September 30, 2020, unless the Board of Governors of the Federal Reserve System and the Treasury Department extend the Facility. The Reserve Bank will continue to fund the SPV after such date until the SPV's underlying assets mature or are sold.

For the most up-to-date legal and legislative information related to the coronavirus pandemic, please visit our Shumaker COVID-19 Client Resource Center at shumaker.com. We have also established a 24/7 Legal & Legislative Helpline at 1.800.427.1493 monitored by Shumaker lawyers around the clock.

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