National Retail Federation Board Meeting Questions

(1) What did the Fed do on March 23 and how can retailers access it? What does it mean in concrete terms for retailers?

- The Federal Reserve Board (the Fed) announced extensive new measures on March 23 to support households, businesses, and the U.S. economy. In concrete terms, the Fed is trying to support the flow of credit to retail businesses that qualify under eligible federal programs consistent with its mandate and statutory authority.

- The measures announced by the Fed that may be of interest to retailers include the establishment of the:

    - Primary Market Corporate Credit Facility (PMCCF) for new bond and loan issuances to support credit for large employers;
    - Secondary Market Corporate Credit Facility (SMCCF) to provide liquidity for outstanding corporate bonds for large employers; and
    - Term Asset-Backed Securities Loan Facility (TALF), to support the flow of credit to consumers and businesses and which will enable the issuance of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets.

- For each of the above, the Fed has released only a term sheet with minimal details (e.g., eligible issuers under the programs must be U.S. companies that meet certain investment rating criteria). The Fed intends to release more detailed information with terms and condition soon on how retailers can access the facilities.

- The Fed has also indicated that it expects to announce soon the establishment of a Main Street Business Lending Program to support lending to eligible small and medium=sized businesses, complementing efforts by the SBA. There is no additional information on this program at this time. A term sheet likely will be forthcoming.

- Available background, including term sheets for the above mentioned programs is available: https://www.federalreserve.gov/newsevents/pressreleases/monetary20200323b.htm.

(2) What is Congress going to do and how can retailers access it?

- In a bill pending before Congress, the Coronavirus Economic Stabilization Act of 2020 (the Act), the Treasury Secretary would be authorized to make loans, loan guarantees and other investments in support of eligible businesses, States, and municipalities in an amounts that do not exceed $500 billion total to provide liquidity to certain eligible businesses that have not otherwise received adequate economic relief in the form of loans or loan guarantees provided under the Act.

- These loans, loan guarantees, and other investments will be made available as follows under the current version of the bill, in a section called the Economic Stabilization Fund:

- $50 billion to make loans and loan guarantees for passenger air carriers.
- $8 billion to make loans and loan guarantees for cargo air carriers.
- $17 billion to make loans and loan guarantees for businesses critical to maintaining national security.
- $425 billion and any remaining amounts not used above shall be available to make loans, loan guarantees, and other investments in support of programs or facilities established by the Fed for the purpose of providing liquidity to the financial system that supports lending to eligible businesses, States, or municipalities by—
  - purchasing obligations or other interests directly from issuers of such obligations or other interests; or
  - purchasing obligations or other interests in secondary markets or otherwise.

- The bill does not set forth how the retailers can access these programs and it gives the Treasury considerable discretion to determine appropriate terms and conditions for the programs.

  - The bill requires the Treasury Secretary to publish procedures for application and minimum requirements as soon as practicable but in no case later than 10 days after the date of enactment of the Act.

  - These procedures should provide further detail on how retailers can access these prams.

  - NRF will work with Treasury in the (tight) 10-days-after-signature period to develop requirements and procedures, as well as with later applications themselves.

(3) How will eligibility for retailers be evaluated for programs under the bill?

- As noted above, much of this likely will be left to the Treasury's (and Fed's) discretion. However, the bill does contain certain conditions, including for use of the Fed programs that any applicable requirements under section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)), including requirements relating to loan collateralization, taxpayer protection, and borrower solvency, shall apply with respect to any obligation or other interest issued by an eligible business, State, or municipality that is acquired under a program or facility.

- While eligibility requirements for retailers have not to-date been established, it is likely that they will look like the eligibility requirements for the Fed facilities that have been established to-date under the authority of section 13(3) as described above.

(4) Once we know what is in the bill, how quickly will the facilities be established?

- The Fed likely has every incentive to move as fast as it can to develop these programs consistent with the bill after passage and the Fed will devote its resources to standing up these programs as swiftly as possible.

- As noted above, though differences are certainly possible, we believe evaluation of eligibility will look similar to programs the Fed has announced to-date.

(5) What will the term sheets look like for the Congressionally authorized $425 billion program? Specifically, how can retailers collateralize direct lending and/or best take advantage of the primary and secondary lending programs and TALF purchases, understanding that retailers already have asset-backed lending with their primary lending institutions?

- As indicated above, the Fed has only provided a term sheet to-date on the new lending and TALF programs. More details on how to actually use the program should be forthcoming.

- The TALF term sheet may be instructive for accessing the additional borrowing that will be made available under the latest Congressional action. According to the TALF term sheet, all U.S. companies that own eligible collateral and maintain an account relationship with a primary dealer are eligible to borrow under the TALF.

  - **Eligible collateral includes** U.S. dollar denominated cash (that is, not synthetic) asset-backed securities (ABS) that have a credit rating in the highest rating category.[1] All or substantially all of the credit exposures underlying eligible ABS must have been originated by a U.S. company. Eligible ABS must be issued on or after March 23, 2020. Eligible collateral must be ABS where the underlying credit exposures are one of the following: Auto loans and leases; Student loans; Credit card receivables (both consumer and corporate); Equipment loans; Floorplan loans; Insurance premium finance loans; Certain small business loans that are guaranteed by the Small Business Administration; or Eligible servicing advance receivables. To be eligible collateral, all or substantially all of the underlying credit exposures must be newly issued. The feasibility of adding other asset classes to the facility will be considered in the future.

- The new TALF program indicates that certain additional, detailed terms and conditions should be forthcoming that will be broadly consistent with the 2008 TALF. Additional background on the earlier TALF is available: https://www.newyorkfed.org/markets/talf.html.

[1] Note that TALF involves the purchase of asset-backed securities; a term sheet for the newly created Emergency Stabilization Fund will not necessarily include this rating element, and we will advocate strongly on this point.