



MEMORANDUM

TO: Members of the Authority

FROM: Tim Sullivan
Chief Executive Officer

DATE: November 10, 2021

SUBJECT: Main Street Recovery Finance Program - Micro Business Loan

Summary

The Members are asked to approve:

1. Creation of the Main Street Micro Business Loan – a pilot product under the Main Street Recovery Finance Program that makes financing of up to \$50,000 available to micro businesses in New Jersey. This new pilot would replace the Micro Business Loan Program established in 2019.
2. Main Street Recovery Fund utilization of up to \$20 million to fund the Main Street Micro Business Loan pilot program, of which 3% would be used for administrative costs to reduce the fees charged to applicants and an additional \$250,000 would be used for temporary employees if necessary.
3. In accordance with the fee waiver regulations, a partial waiver of EDA’s standard application and closing fees due to the drastic negative impact of the COVID-19 pandemic on micro businesses.
4. Delegation to Authority staff (Chief Community Development Officer, Managing Director – Underwriting and Community Development, Director of Small Business Services, Senior Vice President of Finance and Development, or Vice President of Business Operations) to approve individual applications to the Main Street Micro Business Loan in accordance with the terms set forth in the attached program specifications. The delegated authority requested for approval also includes the delegated authority to decline for any decisions based solely on non-discretionary reasons. For final administrative decisions based solely on non-discretionary reasons, delegated authority is requested for approval by a Chief Legal & Strategic Affairs Officer, any Vice President, or the Director Legal Affairs.

Background

On November 14, 2019, the Members approved the creation of the Micro Business Loan Program, as a demonstration (or pilot) program, utilizing \$1 million from the NJEDA Economic Recovery Fund to make available loans of up to \$50,000 to businesses that are: legally registered to do business in New Jersey and have a commercial location in New Jersey (no home-based businesses), with annual gross revenues of no more than \$1.5 million (as demonstrated in the most recently filed federal tax return) and no more than 10 full-time employees at time of application (and three months prior). Under the existing program, startup businesses are eligible but must demonstrate completion of an entrepreneurship training program or Small Business Development Center counseling sessions. Due to the COVID-19 pandemic and financial hardships affecting the NJ micro business owners, staff recommended enhancements to the program which the Members approved on June 9, 2020, which included the elimination of fees and the inclusion of a loan forgiveness component to the program for forgiveness of 10 percent of the loan.

On January 7, 2021, Governor Phil Murphy signed the New Jersey Economic Recovery Act of 2020 (ERA) into law. The ERA presents a strong recovery and reform package that will address the ongoing economic impacts of the COVID-19 pandemic and position New Jersey to build a stronger and fairer economy that invests in innovation, in our communities, and in our small businesses the right way, with the protections and oversight taxpayers deserve. Tax incentives and other investment tools are critical to economic development, and when used correctly they can drive transformative change that uplifts communities and creates new opportunities for everyone. On July 7, 2021, Governor Murphy signed P.L. 2021 c.160 further improving the programs established under the New Jersey Economic Recovery Act of 2020.

One of the 15+ programs under the ERA is the Main Street Recovery Finance Program, a small business support program under which individual financial assistance products will be created, all of which will share a common purpose of supporting the growth and success of small businesses in New Jersey. As of today, \$100 million has been appropriated for the Main Street Recovery Fund, which funds products in the Main Street Recovery Finance Program. On August 11, 2021, the Members approved the creation of special adopted rules creating the Main Street Recovery Finance Program. These rules created two initial products under the Main Street Program – the Small Business Lease Assistance Grant and the Small Business Improvement Grant. At the time these products were approved, staff had advised the Members that requests would be made at a later date to establish pilot products under the Main Street Recovery Finance Program.

Given the feedback from the business community and stakeholders as well as the effects of COVID-19 on micro businesses across New Jersey, staff requests closing the original Micro Business Loan pilot program and introduce the Main Street Micro Business Loan, an enhanced pilot product within the Main Street Recovery Finance Program, to support even more micro businesses. This new program will remain a pilot program for staff to assess the performance of the significant enhancements to the original program. Staff also recommends authorizing a larger budget (\$20 million as opposed to \$10 million for the original program) because we anticipate higher demand for the new pilot. Under the product enhancement for the Members consideration today, the eligibility will be broadened to enable support for more micro businesses, a portion of all funding will be reserved for businesses located in eligible New Jersey Opportunity

Zone census tracts, and more flexibility will be provided on terms/collateral, including a substantially enhanced forgiveness component for a portion of the loan.

Program Details

The Main Street Micro Business Loan will offer financing of up to \$50,000 to for-profit and non-profit businesses, including home-based businesses, registered to do business in New Jersey (except for non-profit businesses that are not required to register), with a business location (including a home office) in New Jersey. All entities must be in existence, as evidenced by date of formation/incorporation, and in operation for at least six months prior to the date of application being made publicly available. No real estate or holding companies are eligible.

The ERA statutes establishing the Main Street Recovery Finance Program, as amended, provide specific terms by which the Authority can lend to micro businesses. Pursuant to the statute, an eligible micro business must have less than \$1.5 million in annual gross revenue in the most recently filed federal tax return (to the extent the business has annual revenues). Furthermore, the statute defines a micro business as having no greater than 10 full-time employees. For this pilot program, staff does not propose a minimum number of employees. To ensure that the business has not temporarily reduced employment, the maximum number of employees must be satisfied both at the time of application and three months before the date of application.

Given the level of need in the small business community for this funding and the expected interest, the Authority has narrowed down the eligible uses of the financing to make sure the limited funding is being utilized as widely and as impactfully as possible. Therefore, eligible uses of the financing under the program will be limited to future operating expenses such as inventory, equipment (that does not require installation or construction work totaling more than \$1,999.99). As the operating expenses can be made in the future, the loan funds may be held by the business as working capital to fund such future business operating expenses. Home-based businesses cannot use loan proceeds for any residential costs (i.e. home mortgage or lease payments). The term of the loan will remain a standard 10-year term as is currently under the product. Additionally, the interest rate will remain at 2 percent for this program, set at approval, with no interest and no payment due for the first year.

This new loan product will offer a generous forgiveness portion. At the end of year 5 the applicant may be eligible for the balance of the loan to be forgiven if the applicant 1) is current on all of their loan payments (as agreed upon in their loan agreement) with no delinquency of more than 90 days, 2) has no current default, and 3) certified that they are still open and operating by submitting to the Authority a completed Open and Operating Certification Form. This form will be included in the loan agreement and must be returned by the applicant 60 days prior to the end of the 5th year. If the applicant delays providing this certification form, they must continue making all loan payments until the form is submitted to the Authority. If, after submission of the form, staff can independently verify that the business is still in operation, then the Authority will forgive the balance remaining either at the end of year 5 if submitted 60 days prior to the end of the 5th year or at the time the form is verified if submitted later. Any business that does not meet the forgiveness criteria will be responsible for continuing to make their payments as defined in their loan agreement.

Staff recognizes that traditional underwriting has posed a challenge to the micro businesses in need of this financing, staff is proposing that the underwriting for for-profit businesses be based on the guarantees of all owners and on at least one owner having a credit score of 600 or more. Although an individual's credit score does not determine a business's ability to repay debt, the ability an individual owner's ability to successfully maintain their personal credit during the pandemic is a good indicator that the applicant may support the debt service requirement for the loan amount under this product. While owner guarantees would not apply to non-profits, they would only need to meet a 1.0 debt service coverage ratio. Accordingly, there will no longer be a collateral requirement for any applicants.

It should be noted that the risk rating on loans under the Main Street Micro Business Loan Program are expected to be substandard. If the risk rating assessment supports an override to a lower risk rating, then staff will do so to reflect the appropriate rating.

As required by the Main Street Recovery Finance Program statute, in addition to the eligibility parameters already stated above, the applicant must also be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and NJ Department of Environmental Protection at the time of application to be eligible for a micro business loan. A current tax clearance will need to be provided prior to approval to demonstrate the applicant is in substantial good standing with the NJ Division of Taxation. This statutory requirement is consistent with how the current Micro Business Loan product works.

The Members are also requested to approve the use of \$20 million from the Main Street Recovery Fund to capitalize the Main Street Micro Business Loan. The Main Street Recovery Finance Program statute requires a disparity study relevant to the purposes of the program. At this time, until such study is completed and the results are evaluated, staff proposes setting aside \$8 million to support entities that meet all other applicable eligibility criteria and have a commercial business address (or home address for home-based businesses) located (fully or partially) in a census tract that was eligible to be selected as New Jersey Opportunity Zone (i.e. a New Market Tax Credit census tract). There are 715 census tracts that were eligible to be Opportunity Zones in New Jersey. Setting aside a portion of available funding under the Main Street Micro Business Loan Program to support entities located in these census tracts further reinforces the State's commitment to helping to ensure all Opportunity Zone eligible tracts in New Jersey receive opportunities for investment that are equitable and inclusive.

Staff is also requesting to use 3% of the \$20 million funding request for administrative costs to allow for reduced application fees to the public. In accordance with the Authority's regulations on fee waivers, Staff recommends a partial waiver of standard EDA application and closing fees because of the drastic negative impact of the pandemic on most micro businesses. Micros businesses need operating support to help them survive in this time of recovery, but they have experienced challenges accessing capital at attractive terms. A burdensome fee structure would deter these businesses, which are most in need of financial support to recover from the pandemic. Therefore, staff proposes that to allow for reduced application fees to the public. A reduced application fee of \$100 would be collected at time of application instead of \$300, with a flat closing fee of \$400 to be paid at the time of closing to receive loan proceeds rather than taking the normal fee of .875% at both commitment and closing. Thus, the applicant's total flat fee under this pilot would be \$500 to have access up to \$50,000.

Staff is further requesting an additional amount of up to \$250,000 of the \$20 million funding to cover the costs of temporary employees who may be needed to assist with administering this product, which may be made through one or more purchase orders to 22nd Century Technologies Inc., the current State vendor.

This pilot product will be available for three years from the date applications are made available to the public, or until the total funding pool is exhausted (whichever is sooner). Applications will be reviewed on a first-come, first-served basis, based on the date/time in which the Authority receives the completed application. The initial application that must be completed will gather the required information. Staff will be able to follow up with applicants if clarity or additional support documentation is needed. Given the expected demand and urgent need by businesses for funding, applicants will have a limited window of time in which to respond to requests by staff for financial documentation and clarifying questions, or risk declination as a result of unresponsiveness. The original Micro Business Loan pilot program approved by the Members in June 2020 will cease accepting new applications and will end. Any pending applicant can still proceed towards closing on their loan and still be eligible for this product as well. Any previous recipient of the original Micro Business Loan would be eligible for this product too.

Finally, the Members are requested to approve Delegation to Authority staff (Chief of Community Development, Managing Director – Underwriting and Community Development, Director of Small Business Services, Senior Vice President of Finance and Development, or Vice President of Business Operations) to approve individual applications to the Main Street Micro Business Loan in accordance with the terms set forth in the attached product specifications. The delegated authority requested for approval also includes the delegated authority to decline for any decisions based solely on non-discretionary reasons.

Entities whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 10 business days). The Director of Legal Affairs will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will recommend an administrative decision. For final appeal decisions on non-discretionary reasons delegated authority is issued to the following staff Chief Legal & Strategic Affairs Officer, any Vice President, and Director of Legal Affairs.

Recommendation

Approval is requested for: (1) Creation of the Main Street Micro Business Loan to replace the Micro Business Loan Program established in 2019; (2) Main Street Recovery Fund utilization of up to \$20 million to fund the Main Street Micro Business Loan pilot program, of which 3% would be used for administrative costs to reduce the fees charged to applicants and an additional \$250,000 would be used for temporary employees if necessary; (3) A partial waiver of EDA's standard application and closing fees due to the drastic negative impact of the COVID-19 pandemic on micro businesses; (4) Delegation to Authority staff (Chief Community Development Officer, Managing Director – Underwriting and Community Development, Director of Small Business Services, Senior Vice President of Finance and Development, or Vice

President of Business Operations) to approve individual applications to the Main Street Micro Business Loan in accordance with the terms set forth in the attached program specifications. The delegated authority requested for approval also includes the delegated authority to decline for any decisions based solely on non-discretionary reasons. For final administrative decisions based solely on non-discretionary reasons, delegated authority is requested for approval by a Chief Legal & Strategic Affairs Officer, any Vice President, or the Director Legal Affairs.

Tim Sullivan
Chief Executive Officer

Attachments

Exhibit A – Main Street Micro Business Loan – Product Specifications

Main Street Micro Business Loan – Proposed Product Specifications

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| <p>Funding Source</p> | <p>Up to \$20,000,000 – Main Street Recovery Fund under Economic Recovery Act</p> <p>40% or \$8 million of total funding amount will be reserved for businesses located in an eligible NJ Opportunity Zone census tract.</p> |
| <p>Program Purpose</p> | <p>To provide low-cost financing to micro businesses in New Jersey.</p> |
| <p>Eligible Applicants</p> | <p>The following entities are eligible for financing under the Main Street Micro Business Loan:</p> <ul style="list-style-type: none"> • For-profit business, non-profit, and home-based businesses with a business location in New Jersey and that have been in operation for at least six months prior to the date that the application is made available to the public • No real estate or holding companies are eligible for this product. <p>All entities must meet the following requirements to be eligible under the Micro Business Loan:</p> <ul style="list-style-type: none"> • Must have annual gross revenues of \$1,500,000 or less according to the most recent federal tax return that the applicant was required to file. • At time of application and three months prior to application entity cannot have more than 10 full-time employees in total. All employees must work in New Jersey as evidenced by WR-30 filings. There is no minimum employee number and sole proprietors are eligible. • One loan per business entity (verified by the business’s employer identification number, or EIN) • Applicants and recipients of the original Micro Business Loan are eligible for this loan if they meet all eligibility requirements. |

Main Street Micro Business Loan – Proposed Product Specifications

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| <p>Eligible Applicants (continued)</p> | <ul style="list-style-type: none"> • A business entity with multiple locations (that is, all locations operate under only one EIN) will be limited to one application under this new product (under the sole business entity). • Entity must provide a current Tax Clearance Certification prior to receiving EDA approval. • Applicant must be in substantial good standing with the Department of Labor and Department of Environmental Protection, with all decisions of substantial good standing at the discretion of the Commissioner of the Department of Labor. • Applicant must submit a completed legal debarment questionnaire and not be subject to disqualification based on that questionnaire. <p>Businesses that are engaged in the following are not eligible for funding: the conduct or purveyance of “adult” (i.e., pornographic, lewd, prurient, obscene or otherwise similarly disreputable) activities, services, products or materials (including nude or semi-nude performances or the sale of sexual aids or devices); any auction or bankruptcy or fire or “lost-our-lease” or “going-out-of-business” or similar sale; sales by transient merchants, Christmas tree sales or other outdoor storage; or any activity constituting a nuisance.</p> |
| <p>Eligible Uses</p> | <ul style="list-style-type: none"> • Future operating expenses, which may be held as working capital to fund such future operating expenses • Future inventory expenses • Future purchases of equipment as long as installation and construction costs do not exceed \$1,999.99 • Home-based businesses cannot use loan, proceeds for any residential costs (i.e. home mortgage/lease payments) <p>The following uses are not eligible uses:</p> <ul style="list-style-type: none"> • Refinancing of existing debt |

Main Street Micro Business Loan – Proposed Product Specifications

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| <p>Eligible Uses (continued)</p> | <ul style="list-style-type: none"> • Personal, non-business obligations or costs incurred by related entities • Construction • Equipment requiring installation or construction costs in excess of \$1,999 • Rolling stock – no cars, trucks, or vans can be purchased |
| <p>Application Process and Board Approval/ Delegated Authority</p> | <ul style="list-style-type: none"> • Applications will be reviewed on a rolling basis (first-come, first- served as applications are completed) until all funds are committed or program expires (3 years). • Delegation to Authority staff (Chief Community Development Officer, Managing Director - Underwriting and Community Development, Director of Small Business Services, Senior Vice President of Finance and Development, or Vice President of Business Operations) to approve individual applications to the Main Street Micro Business Loan in accordance with the terms set forth in the attached program specifications. • The delegated authority requested for approval also includes the delegated authority to decline for any decisions based solely on non-discretionary reasons. For final administrative decisions based solely on non-discretionary reasons, delegated authority is requested for approval by a Chief Legal & Strategic Affairs Officer, any Vice President, or the Director Legal Affairs. • Entities whose applications are denied will have the right to appeal. Appeals must be filed within the timeframe set in the declination letter (which must be at least 10 business days). The Director of Legal Affairs will designate Hearing Officers who will review the applications, the appeals, and any other relevant documents or information. The Hearing Officer will recommend a final administrative decision. For final appeal decisions on non-discretionary reasons, delegated authority is issued to the following staff: Chief Legal & Strategic Affairs Officer, any Vice President, and Director of Legal Affairs. |

Main Street Micro Business Loan – Proposed Product Specifications

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| <p>Underwriting/ Approval Criteria</p> | <ul style="list-style-type: none"> • For for-profit businesses, the financial information that is provided will only be utilized to verify annual revenue to determine an applicant’s eligibility criteria and ownership – it will not be used to determine the applicant’s ability to repay this loan. However, all owners will need to provide a guarantee. • If otherwise eligible, staff will have a specialty hard credit report pulled specific for small businesses from CoreLogic Credco. At least one of the guarantors (owners) must have a credit score of 600 and above in at least one of the three data sources provided in the credit report: Equifax (Beacon 5.0), Experian (FICO II), and TransUnion (FICO Classic 04). • Non-profits will be required to meet a minimum Debt Service Coverage Ratio (DSCR) of 1.00x based on most recent tax return or financial statements. |
| <p>Loan Amounts</p> | <p>Up to \$50,000</p> |
| <p>Rates & Terms</p> | <ul style="list-style-type: none"> • Standard 10-year term • The interest rate will be 2 percent for this program, set at approval. • No payments or interest will accrue during the first year after closing. Payments of principal and interest will begin at the beginning of year 2. • No payment term amendments are allowed prior to end of 5th year – all other modifications unrelated to the payment terms may be permitted throughout the term of the loan. If after the 5th year any payment terms are modified, the business will no longer be eligible for forgiveness. • At the end of year 5 the applicant may be eligible for the balance to be forgiven if the applicant (1) has made their loan payments as identified in their loan agreement with no |

Main Street Micro Business Loan – Proposed Product Specifications

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| <p>Rates & Terms (continued)</p> | <p>delinquency of more than 90 days, (2) has no current default, and (3) is still be open and operating. The applicant will be required to submit a certification form to EDA certifying that they are open and operating, that they have used the loan for approved purposes only, and that they are not in default. This form will be included in the loan agreement and must be returned by the applicant 60 days prior to the end of the 5th year so a decision can be made by EDA. If the applicant does not submit the form by that date, they may still qualify for loan forgiveness, however loan payments will continue to be required until their certification form is supplied to and verified by EDA, which will reduce the balance EDA will forgive. Staff will verify the business is open and operating, which may be through an Internet search. If verified, EDA will forgive the remaining balance at the end of year 5 or later if the certification form is not received by the due date as described above. If an applicant is not eligible for forgiveness or does not request forgiveness and submit the required documentation, they are required to continue making their payments as defined in their loan agreement.</p> |
| <p>Lien/Collateral/Security</p> | <ul style="list-style-type: none"> • No collateral is required • Guarantee is required of all owners except for non-profits • Risk Rating: expected to be substandard. If the risk rating is found to support an override to a lower risk rating, then staff will do so to reflect the appropriate rating. |
| <p>Fees</p> | <p>Staff is requesting a partial waiver of EDA’s standard application and closing fees because of the drastic negative impact of the pandemic on most micro businesses:</p> <ul style="list-style-type: none"> • Application fee of \$100 (non-refundable) at time of application |

Main Street Micro Business Loan – Proposed Product Specifications

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| Fees (continued) | <ul style="list-style-type: none">• Closing fee: \$400 <p>EDA will use up to 3% of the \$20 million funding for administration to process applications and to cover other operating fees since fees to applicants are reduced.</p> <p>EDA will use an additional amount up to \$250,000 to hire temporary employees for processing if deemed necessary.</p> |
| Disbursement | Approved loan amount to be fully disbursed upon closing. |