

June 22, 2020

To: The Federal Reserve

Re: Main Street Lending Program – NONLF and NOELF

via regs.comments@federalreserve.gov

On behalf of the League of American Orchestras, we thank the Federal Reserve for this opportunity to comment on the Main Street Lending Nonprofit Organization Expanded Loan Facility and the Nonprofit Organization New Loan Facility, announced on June 15, 2020.

The League of American Orchestras is the not-for-profit service organization for the field of symphony orchestras. Founded in 1942 and chartered by Congress in 1962, the League represents a diverse membership of orchestras across North America and it links a national network of thousands of instrumentalists, conductors, managers and administrators, board members, volunteers, and business partners. There are more than 1,600 nonprofit orchestras in all 50 states, serving virtually every community, most with annual budgets of under \$300,000. As members of the 501(c)(3) charitable sector, orchestras depend upon private philanthropy and civic support to fuel programs that serve community needs.

The service orchestras provide in communities nationwide is supported by a critical combination of earned revenue and private support. The coronavirus pandemic is having very real financial consequences for orchestras, musicians, and the communities they serve. Following concert and program cancellations, the loss of earned revenue has been immediate and sustained. As large performing ensembles, orchestras engage a workforce of many musicians, typically performing in close proximity to one another. Given the duration of recommendations to sustain physical distancing, the ability to generate earned revenue will be extremely diminished for a long period of time, as orchestras pivot to find new ways to deliver on their mission. As part of the nonprofit charitable sector, orchestras have depended upon private philanthropy for more than 40 percent of the revenue and civic support to fuel programs that serve community needs prior to the coronavirus pandemic. While they have suffered lost contributed revenue as donors reassess their capacity to give due to economic uncertainty, orchestras will rely on private giving as an increasing percentage of overall revenue in the wake of COVID-19 concert and programmatic closures.

We request immediate revisions to the Main Street Lending facilities to support orchestras and other nonprofit organizations in urgent need of resources to support their workforce and services to the public. We join others in the broader nonprofit sector in raising the following points:

Congress Must Act to Ensure Mid-Sized Nonprofits are Eligible for Loan Forgiveness

Congress must ensure that mid-sized nonprofits have access to loan forgiveness. While it is a welcome development to see the Federal Reserve making its Main Street lending program available to some nonprofits, this assistance still falls short of what is most needed by nonprofit organizations – a provision that makes these loans forgivable. As orchestras near the end of the duration of relief provided under the Paycheck Protection Program (PPP), further assistance is urgently needed. Additionally, orchestras that exceeded the 500-employee PPP qualifying threshold have been left out of opportunities for federal relief.

Recommendation: Congress must recognize the vital services nonprofits provide to communities and the economy by including loan forgiveness in the next round of COVID-19 relief legislation

The Federal Reserve's Proposal to Limit Loans to Mid-Size Nonprofits with Less than 30% of Revenue from Donations Disqualifies Many in Charitable Sector

The Federal Reserve's criteria that organizations must have revenues from donations that are less than 30% will disqualify many charities, including most nonprofit orchestras. Prior to the onset of COVID-19, orchestras have, on average, relied on private contributions for 43% of revenue. While comprehensive data is not yet available, it is certain that orchestras' reliance on private contributions will only grow as sources of earned revenue are greatly diminished in the wake of cancelled concerts and programmatic activity.

Recommendation: Eliminate the requirement that no more than 30 percent of an organization's 2019 revenues come from donations.

Make Loan Terms More Favorable to Charitable Organizations

The draft Nonprofit Loan Facility imposes certain liquidity, asset, and reserve requirements that are not required in Main Street New Loan Facilities available to for-profit businesses.

The list of borrower requirements includes #7: "has a ratio (expressed as a number of days) of (i) liquid assets at the time of loan origination to (ii) average daily expenses over the previous year, equal to or greater than 90 days." The list of borrower requirements also includes #8: "at the time of loan origination, has a ratio of (i) unrestricted cash and investments to (ii) existing outstanding and undrawn available debt, plus the amount of any loan under the Facility, plus the amount of any CMS Accelerated and Advance Payments, that is greater than 65%."

Like most others in the nonprofit sector, these requirements are not achievable for most orchestras. According to data collected by the League of American Orchestras prior to the COVID-19 pandemic, less than one-third of orchestras reporting balance sheet data had three months or more of liquidity available, and that portion has likely narrowed following the onset of COVID-19-related declines in revenue.

Recommendation: Recognizing the unique nature of nonprofit operations and their importance in continuing to serve communities during and beyond the COVID-19 crisis, we urge the Federal Reserve to eliminate borrower requirements 7 and 8. If this is not possible, we alternatively ask that the requirements be lessened significantly to reflect the economic realities of nonprofit operations.

We are also concerned that certain eligible loan features are too onerous for nonprofit organizations and are less favorable than those offered in other government programs. Specifically, the interest rate of

LIBOR plus 300 basis points is significantly higher than that offered for PPP Loans (1.0%) and that for Economic Injury Disaster Loans (2.75%). The notion that nonprofits would be faced with a 70% balloon payment at the end of the fifth year of the loan would be prohibitive for many nonprofits. Nonprofits with existing loans with balloon payments are usually provided an opportunity to renegotiate such loans at prevailing market rates.

Recommendation: We urge that the loan terms including interest rate and balloon payments be revisited and recommend the lowest permissible rate such as the 0.5% rate initially proposed for PPP loans. In addition, we urge some flexibility in the balloon payment requirement to afford the opportunity for renegotiation. If the 5-year amortization were extended to 7 years, this could lessen the balloon payment. We request that the borrower have access to engage with derivatives (change to a fixed rate) without the minimum swap requirements.

The Ratio of Adjusted 2019 Earnings before “EBIDA” Should Be Revised

In the “Draft for Public Consultation,” for both the Nonprofit Organization New Loan Facility and the Nonprofit Organization Expanded Loan Facility, one of the eligibility criteria for borrowers is that they must have “a ratio of adjusted 2019 earnings before interest, depreciation, and amortization (“EBIDA”) to unrestricted 2019 operating revenue, greater than or equal to 5%.” In the context of nonprofit operations, this threshold is too high and would make many, if not most, nonprofits ineligible based on these criteria alone, which seems written more in the context of for-profit businesses as opposed to nonprofit organizations.

It may certainly be prudent and necessary to have a positive ratio of adjusted earnings; however, nonprofits generally run on a small margin, out of necessity and also so as not to leave excess surpluses that could instead be used for fulfilling their missions. Moreover, at times a nonprofit may have a planned and manageable deficit as part of a strategic approach; therefore a negative ratio at one isolated point is not always an indication of instability.

Recommendation: The 5% requirement should be reduced to zero, if not eliminated. In addition, a statement of explanation of a deficit should be allowed so that a negative ratio does not mean automatic ineligibility for a nonprofit borrower. Finally, further clarification on the calculation methodology—in the context of nonprofit operating budgets—is needed in regard to restricted funding from grants in annual operating budgets, as well as capital funds for improvements that are part of an annual operating budget. This clarification would allow noted revenues to remain in calculation to ease the restriction and not further restrict eligibility.

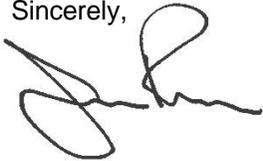
Limitation of 50-Employee Minimum Should Be Removed

The term sheet for the proposed nonprofit loan facility imposes a size minimum that is not imposed in the Main Street New, Priority, or Expanded Loan Facilities for for-profit businesses. There is no explanation why the Federal Reserve is proposing that nonprofits with fewer than 50 employees should not be eligible for Main Street loans for which their small business counterparts of equal size could secure lending support. For orchestras that engage a workforce in a combination of employee and independent contractor status, this limitation could make many organizations ineligible.

Recommendation: The 50-employee floor should be removed.

As a vibrant part of the charitable sector, our nation's more than 1,600 nonprofit orchestras rely on philanthropy and event-dependent income to fuel programs that serve community needs and support a dynamic workforce. We urge consideration of loan eligibility and forgivability as the Federal Reserve takes further action. Orchestras and the broader nonprofit sector are critical partners in jumpstarting local, state, and national recovery efforts during and after COVID-19 and should be supported by all forms of relief.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse Rosen', with a large, stylized initial 'J'.

Jesse Rosen

President & CEO