

## **Comments to the Federal Reserve from the Association of Art Museum Directors regarding nonprofit access to the Main Street Lending Program.**

The Association of Art Museum Directors (AAMD) comprises the chief executive officers of the leading art museums in North America, with a mission of cultivating leadership, advocating for the field, and fostering excellence. AAMD appreciates the opportunity to submit comments to the Federal Reserve on the Nonprofit Organization Loan Facilities.

Art museums have stepped up to meet the unprecedented level of need in our country due to the COVID-19 pandemic. They are playing a critical role in providing educational programs, often to families that have no history of utilizing such resources. In fact a survey conducted in April and May, after the onset of the pandemic, found that 48% of people using art museum online services had not visited a museum in the previous year. However, art museums are facing challenges to their ability to sustain themselves with limited revenue while simultaneously altering their operations and service delivery. Although they have relied on a largely private model, with such government support as exists coming primarily from local sources, the challenges to private funding as well as state and local governments lead us to turn to the federal government for help in sustaining our operations. In these circumstances, it is critical that the federal government understand our models of governance and operations and fashion relief measures that rise to the need.

We believe that the proposal is aimed more at nonprofits such as hospitals and institutions of higher education, which charge substantial fees for service, than at nonprofits such as art museums that rely on donations to support their missions. Indeed, a third of AAMD's members in the United States charge no fees for admission, two-thirds offer free admission to children, and nearly all offer reduced fees for seniors, students, and members of the military. Nearly all also offer free days per week or month, and labor intensively to reach traditionally underserved audiences, often with free or reduced-cost programming. Even those that charge for admission heavily subsidize entrance fees: while fees range up to \$25, museums often incur costs exceeding \$75 per visit.

By definition, all types of charities are inherently organized around a public mission, but their business models differ. Many of the financial requirements included in this proposal simply are not applicable to organizations that rely on donations. With that in mind, AAMD respectfully requests Congress and/or the Federal Reserve to address the concerns and proposed changes outlined below, recognizing that other charities and associations may have additional requests that are beyond our focus here.

### **1. The Fed'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 criterion that organizations must have 2019 revenues from donations that are less than 30% of total revenue disqualifies most art museums. Because the proposal is vague as to what would qualify as "donations," it is impossible to be precise as to exactly how many art museums might qualify, but if they include gifts from private individuals, foundations, corporations, and government grants, it seems likely that fewer than 15% could meet the proposed standard.

As stated above, this loan facility seems more applicable to for-profit entities, as well as nonprofit educational institutions and hospitals, than to art museums and many other charitable organizations.

Museums receive donations from the public, foundations, corporations and others to fund their public service missions. They often solicit and receive donations specifically to enable a broader public to benefit from their services. For example, the Baltimore Museum of Art used a combination of a gift, in the form of a permanently restricted endowment, and a government grant to offer free admission, allowing it to eliminate its admission fees in the early 2000s. Attendance at family programs rose by 70 percent as a consequence. Asking museums and other charities to reduce donations as a share of revenue is effectively asking them reduce their service to the public.

**Recommendation:** Eliminate the requirement that no more than 30 percent of an organization's 2019 revenues come from donations, and instead make 501(c)(3) organizations that are otherwise meet the employee size are eligible.

## **2. Congress Should Ensure Mid-Sized Nonprofits are Eligible for Loan Forgiveness**

Congress should ensure that mid-sized nonprofits have access to loan forgiveness. While it is a welcome development to see the Federal Reserve making the 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.

Charitable nonprofits of all sizes and focus areas are struggling to maintain mission-critical operations despite enormous economic challenges. [Data released by Independent Sector](#) show that nonprofits with between 500 to 5,000 employees have been severely impacted by this health and economic crisis. When asked "What types of additional assistance would be most helpful to your organization?" organizations overwhelmingly (92% of responses) suggested government support in the form of forgivable loans. Smaller nonprofits throughout the country have been hit equally hard. With an average of 123 Full Time Equivalents, AAMD members fall mainly into the latter category, but they are eager to advocate both for their larger charitable colleagues and for the relatively few art museums that exceed 500 FTE. In this regard they are also pleased that the proposed program would be available to charities with as few as 50 employees, though it needs to be said that this would still leave out a slight majority of AAMD members, and we accordingly request that smaller charities also be allowed to participate.

**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.

## **3. "Reasonable Efforts" Regarding Employee Retention Require Further Clarification**

The description of "Retaining Employees" in the draft term sheet requires refinement if the Federal Reserve expects nonprofits to take advantage of this facility.

**Recommendation:** "Reasonable efforts" should be interpreted in the totality of the circumstances, taking into consideration not only the general economic environment in the community or communities in which the borrower operates, but also factors such as workforce, fundraising ability, revenue-generating activities, and overall demand for the services and programs the organization provides. One option would be to add the qualifier "mission-based" before "reasonable efforts." We note also that the current crisis, and in particular the need for social distancing, has changed the way that art museums deliver services, with most shifting to entirely online operations at least for the duration. This shift necessarily entails a shift in operating procedures and thus in staffing.

**Recommendation:** The terms "maintain its payroll" and "retain its employees" are vague and need further refinement. We ask the Federal Reserve to make clear that nonprofits participating in the Main

Street loan program *generally* should endeavor to pay staff at the same or increased income levels and should act in good faith to keep staffing levels (measured on the basis of full-time equivalents) at the same or increased levels, both for the duration of the loan. It is also important that the loan documents expressly state that the employee retention provision begins on the date that loan funding is received by the borrower rather than at an earlier date.

**Recommendation:** We ask that the Federal Reserve adopt safe harbors of other loan programs and state clearly that nonprofit borrowers will not be penalized under the employee retention provision for the decision of employees to decline offers of rehire, or for those who are fired for cause, voluntarily resign, or voluntarily request a reduced schedule during the time that the loan is outstanding.

#### **4. 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.

**Recommendation:** The 50-employee floor should be removed.

AAMD is grateful for the opportunity to comment.