

October 30, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

The Honorable Jerome H. Powell  
Chair  
Board of Governors of the Federal Reserve  
20th Street and Constitution Avenue, NW  
Washington, DC 20551

Dear Secretary Mnuchin and Chair Powell:

We write regarding the Treasury Department and Federal Reserve’s failure to ensure that the programs they created under the CARES Act equitably serve people of color and women. You have both acknowledged that the COVID-19 pandemic has had an outsized impact on Black and Brown communities and women, and the Federal Reserve recently proclaimed that its full employment mandate—which applies to the CARES Act programs—is a “broad-based and inclusive goal.”<sup>1</sup> And yet, your design of these programs appears to be widening racial and gender gaps rather than closing them. In this letter, we offer several suggestions for immediately addressing these concerns and aligning your actions with your rhetoric.

### **Municipal Liquidity Facility (MLF)**

State and local governments have been hit hard by COVID-19, creating an estimated budget shortfall of as much as \$650 billion over the next two fiscal years.<sup>2</sup> These governments have already responded by laying off more than one million workers. These targeted layoffs disproportionately affect Black and female workers.<sup>3</sup> A worker laid off in the public sector is 20% more likely to be Black than a worker who loses his or her job in the private sector, and 32% more likely to be a woman.<sup>4</sup> The solvency of our nation’s states and cities is a matter of racial justice.

Congress gave the Treasury Department and the Federal Reserve tools to address this crisis. The CARES Act authorizes the Treasury Secretary to make loans and other investments to provide

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<sup>1</sup> Federal Open Market Committee, Federal Reserve, *Statement on Longer-Run Goals and Monetary Policy Strategy*, Aug. 27, 2020, <https://www.federalreserve.gov/monetarypolicy/review-of-monetary-policy-strategy-tools-and-communications-statement-on-longer-run-goals-monetary-policy-strategy.htm>.

<sup>2</sup> Dan White et al., *U.S. State and Local Government Shortfall Update*, Moody’s Analytics, Sept. 21, 2020, <https://www.economy.com/economicview/analysis/381262?status=1>.

<sup>3</sup> David Cooper & Julia Wolfe, *Cuts to the State and Local Public Sector Will Disproportionately Harm Women and Black Workers*, July 9, 2020, <https://www.epi.org/blog/cuts-to-the-state-and-local-public-sector-will-disproportionately-harm-women-and-black-workers/>.

<sup>4</sup> Dean Baker & Hayley Brown, *Cutting State and Local Budgets is an Attack on the Country’s Black Workers*, June 16, 2020, <https://cepr.net/cutting-state-and-local-budgets-is-an-attack-on-the-countrys-black-workers/> (additional data provided by authors via email).

“liquidity” to state and local governments “related to losses incurred as a result of coronavirus.”<sup>5</sup> That broad language empowers your agencies to make generous loans that match the scale and scope of the liquidity crunch state and local governments are facing.

Instead, you have designed a narrow, punitive lending program that has delivered aid to almost none of the state and local governments struggling with losses related to the COVID-19 pandemic. In the six months since Congress passed the CARES Act, that program (the Municipal Liquidity Facility, or MLF) has purchased only two notes from state and local entities for a total of \$1.65 billion, or just 0.33% of its announced \$500 billion capacity.<sup>6</sup>

Even as the Federal Reserve repeatedly testified before the House Financial Services and Senate Banking Committees and the House Select Subcommittee on the Coronavirus Crisis that relief for cities and states is essential to any economic recovery, it fails to provide that very support.

At a recent hearing of the Congressional Oversight Commission on the MLF, nearly every witness recommended adjusting these terms and conditions to make the MLF a more generous and viable option for state and local governments—including witnesses selected by both Democratic and Republican members of the Commission.<sup>7</sup> Those recommended changes included:

- Extend the MLF’s duration into 2021.
- Lower the MLF’s interest rate.
- Lengthen the repayment term.
- Expand the permitted uses for loan proceeds.
- Allow more cities and counties and other entities to access the program, as well as territories and tribes.
- Create a facility for secondary-market municipal bond purchases.

A broad, bipartisan group representing tens of thousands of state and local officials also supported these changes.<sup>8</sup>

At the hearing, the witness representing the Federal Reserve assured the Commission that it would reexamine the MLF’s rules through the lens of whether they serve the Federal Reserve’s recently announced “guiding principles” of inclusion.<sup>9</sup> But instead of moving in that direction, the Federal

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<sup>5</sup> CARES Act, Pub. L. No. 116-136, § 4003(a), 134 Stat. 281 (2020).

<sup>6</sup> Board of Governors of the Federal Reserve System, *MLF Transaction-specific Disclosures*, Oct. 8, 2020, <https://www.federalreserve.gov/publications/files/mlf-transaction-specific-disclosures-10-8-20.xlsx>.

<sup>7</sup> Congressional Oversight Commission hearing on the Municipal Liquidity Facility, 116th Cong. (Sept. 17, 2020) (prepared statements of Marion Gee, President, Government Finance Officers Association & Finance Director, St. Louis Sewer District; Patrick McCoy, Director of Finance, Metropolitan Transit Authority; and Dr. Mark Zandi, Chief Economist, Moody’s Analytics), <https://coc.senate.gov/municipal-liquidity-facility>.

<sup>8</sup> Letter from Government Finance Officers Association; International City/County Management Association; National Association of Counties, National Association of State Auditors, Comptrollers and Treasurers; National Association of State Treasurers; National League of Cities; and The United States Conference of Mayors to Chair Jerome Powell and Secretary Steven T. Mnuchin, dated Oct. 14, 2020, [https://gfoaorg.cdn.prismic.io/gfoaorg/55818178-59da-41f8-ba44-383849bc85ed\\_MLFCoalitionLetter\\_FINAL.pdf](https://gfoaorg.cdn.prismic.io/gfoaorg/55818178-59da-41f8-ba44-383849bc85ed_MLFCoalitionLetter_FINAL.pdf).

<sup>9</sup> Congressional Oversight Commission hearing on the Municipal Liquidity Facility, 116th Cong. (Sept. 17, 2020) (testimony of Kent Hiteshow, Deputy Associate Director, Division of Financial Stability, Federal Reserve), <https://youtu.be/c2Y53bLKABg>.

Reserve has signaled that it intends to shutter the MLF altogether at the end of the year, and stated that potentially interested borrowers must express their interest by the end of November in order to qualify.<sup>10</sup> The Treasury has similarly stated that it is currently planning to shutter the facility.<sup>11</sup>

In contrast to the MLF's failure, your corporate credit facilities and other interventions have boosted the stock market, but not all families share equally in that financial success. Black Americans make up more than 13% of the U.S. population but own only 1.5% of stocks.<sup>12</sup> That means that when you are generous with corporations but stingy with programs like the MLF, you are deepening the racial income and persisting wealth gaps in our country.

Earlier this year, many Members of Congress recognized the risk of such a disparate approach in administering these programs and urged leadership to include an explicit mandate in the CARES Act ensuring equitable terms for the MLF.<sup>13</sup> Instead, the Fed was left with broad and independent authority over these lending programs, which can be used to provide a true lifeline to our cities, states and the communities they serve.

We urge you to exercise this authority and take swift action to postpone the MLF's expiration and to make it more generous, as state and local government officials and other experts have requested. Expanding the MLF will save jobs, protect critical municipal programs, stabilize the economy—and help address the disparate racial and gender impact of the COVID-19 crisis so far.

### **Main Street Lending Program (MSLP)**

We are also concerned about the disparate racial and gender impact of the MSLP.

To date, the MSLP has supported just \$2.2 billion in loans from a total of 252 companies, or 0.37% of the \$600 billion capacity touted when the program was first announced.<sup>14</sup> While that meager performance has hurt a broad array of small and midsize companies that need support, we are concerned that it has had a particularly harsh impact on women- and minority-owned businesses. As Chair Powell has acknowledged, the MSLP currently targets businesses that “are larger businesses than a lot of minority businesses.”<sup>15</sup> And because the MSLP relies on banks as intermediaries, Black and Brown business owners will likely deal with the same discrimination they face when normally attempting to access capital and credit. Indeed, a matched-pair audit of the Paycheck Protection Program (PPP) in the

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<sup>10</sup> Federal Reserve Bank of New York, New York Fed Announces Notice of Interest Deadline for Municipal Liquidity Facility, October 6, 2020, <https://www.newyorkfed.org/newsevents/news/markets/2020/20201006>.

<sup>11</sup> Letter from Treasury Department to Congressional Oversight Commission, dated October 16, 2020, <https://coc.senate.gov/sites/default/files/2020-10/Treasury%20Response%20-%20MLF%20Hearing%20QFRs.pdf>.

<sup>12</sup> Lenore Palladino, The Contribution of Shareholder Primacy to the Racial Wealth Gap, Roosevelt Institute, Feb. 2020, [https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI\\_TheContributionofShareholderPrimacy\\_Working-Paper\\_202001.pdf](https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI_TheContributionofShareholderPrimacy_Working-Paper_202001.pdf); U.S. Census Bureau, *Quick Facts*, <https://www.census.gov/quickfacts/fact/table/US/PST045219> (last visited Oct. 12, 2020).

<sup>13</sup> Letter from Congresswoman Rashida Tlaib, Congresswoman Ayanna Pressley, Congresswoman Alexandria Ocasio-Cortez, et al., to Speaker Nancy Pelosi and Leader Kevin McCarthy, dated Mar. 25, 2020, [https://pressley.house.gov/sites/pressley.house.gov/files/Support for State and Local Municipalities Letter Rashida Tlaib.pdf](https://pressley.house.gov/sites/pressley.house.gov/files/Support%20for%20State%20and%20Local%20Municipalities%20Letter%20Rashida%20Tlaib.pdf).

<sup>14</sup> Board of Governors of the Federal Reserve System, *MSLP Transaction-specific Disclosures*, Oct. 8, 2020, <https://www.federalreserve.gov/publications/files/mslp-transaction-specific-disclosures-10-8-20.xlsx>.

<sup>15</sup> Hybrid Hearing with Treasury Secretary Steven T. Mnuchin and Federal Reserve Chair Jerome Powell Before the Senate Banking Committee, 116th Cong. (2020) (Testimony of Jerome Powell).

CARES Act found statistically significant disparities in whether banks offered or encouraged prospective borrowers to obtain government-backed loans based on the prospective borrowers' race and gender.<sup>16</sup>

To be clear—these disparities were not unpredictable, and they certainly were not inevitable. From the onset, experts had estimated that up to 95% of Black-owned businesses were at risk of being locked out of the PPP program.<sup>17</sup> In an April 15<sup>th</sup> letter to Secretary Mnuchin and Administrator Carranza, over 80 Members of the House and Senate raised several concerns with the PPP program and guidance including disparate access, the need for racial data collection, and the notable lack of reference to fair lending law enforcement.<sup>18</sup>

We knew what needed to be done then and we know what must be done now. Failing to heed lessons learned from the PPP is nothing short of malpractice.

To address these concerns, we request four changes relating to the MSLP:

- Reduce the minimum loan amount: You have suggested that administrability concerns preclude you from doing so,<sup>19</sup> but as the Oversight Commission and others have recommended, the Federal Reserve could share the administrative burden of an expanded MSLP among more Fed regional banks.<sup>20</sup> As the Oversight Commission further recommended, the Treasury and the Federal Reserve should also consider creative fee structures that better incentivize banks to identify and provide support to smaller companies.<sup>21</sup>
- Establish and enforce strict anti-discrimination rules: When the Federal Reserve was asked how it planned to prevent the kind of discrimination that had been found in the similar PPP, it did not identify a concrete plan. Instead, it pointed to a few “outreach” sessions and webinars designed “to raise awareness” of the MSLP, which has nothing to do with preventing *lender*

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<sup>16</sup> Dr. Sterling Bone et al., *Lending Discrimination within the Paycheck Protection Program*, Nat'l Community Reinvestment Coalition, <https://www.ncrc.org/lending-discrimination-within-the-paycheck-protection-program/> (last visited Oct. 28, 2020).

<sup>17</sup> Megan Cerullo, *Up to 90% of Minority and Women Owners Shut out of Paycheck Protection Program, Experts Fear*, CBS News (CBS Interactive, April 22, 2020), <https://www.cbsnews.com/news/women-minority-business-owners-paycheck-protection-program-loans/>.

<sup>18</sup> Letter from Congresswoman Ayanna Pressley, et al., to Secretary Steven T. Mnuchin and Administrator Jovita Carranza, dated Apr. 15, 2020, <https://pressley.house.gov/sites/pressley.house.gov/files/PPP%20Racial%20Disparities%20Letter%20-%20Final.pdf>.

<sup>19</sup> Letter from U.S. Department of the Treasury to Congressional Oversight Commission, dated June 8, 2020, at 8 (attached as Appendix B to The Third Report of the Congressional Oversight Commission, July 20, 2020, [https://coc.senate.gov/sites/default/files/2020-08/20200618\\_Congressional\\_Oversight\\_Commission\\_2nd\\_Report.pdf](https://coc.senate.gov/sites/default/files/2020-08/20200618_Congressional_Oversight_Commission_2nd_Report.pdf)).

<sup>20</sup> Congressional Oversight Commission, *The Fourth Report of the Congressional Oversight Commission*, Aug. 21, 2020, at 32, [https://coc.senate.gov/sites/default/files/2020-08/COC%204th%20Report\\_08.21.2020%20with%20Appendix%208-27%20update.pdf](https://coc.senate.gov/sites/default/files/2020-08/COC%204th%20Report_08.21.2020%20with%20Appendix%208-27%20update.pdf); Robert Hockett, *The Fed Is a 'Development Bank' – Make It Our Development Bank Again*, Forbes, Sept. 30, 2020, <https://www.forbes.com/sites/rhockett/2020/09/30/the-fed-is-a-development-bank--make-it-our-development-bank-again/#2d7e0eb86ab4>.

<sup>21</sup> Congressional Oversight Commission, *The Fourth Report of the Congressional Oversight Commission*, Aug. 21, 2020, at 32, [https://coc.senate.gov/sites/default/files/2020-08/COC%204th%20Report\\_08.21.2020%20with%20Appendix%208-27%20update.pdf](https://coc.senate.gov/sites/default/files/2020-08/COC%204th%20Report_08.21.2020%20with%20Appendix%208-27%20update.pdf).

discrimination.<sup>22</sup> The Fed also cited its “expect[ation]” that MSLP loans would be subject to existing anti-discrimination regulations.<sup>23</sup> As we saw with the inequitable distribution of PPP loans, that expectation is no substitute for robust non-discrimination requirements in the MSLP program, such as lender certifications and loan-officer training requirements, as well as an audit and enforcement plan.

- Include Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs) as eligible lenders and expand the program to fit CDFI and MDIs’ needs: In response to the question about whether the Federal Reserve would consider including CDFIs in the MSLP program, the Federal Reserve stated that nonbank CDFIs are not considered eligible lenders, acknowledged that program criteria like loan size and underwriting criteria “may limit participation by eligible CDFIs,” and stated that unspecified other “approaches to supporting CDFIs and the communities [may be more efficient] than adjustments to Main Street.”<sup>24</sup> While there are strong bipartisan proposals in Congress to require the Federal Reserve and Treasury to create programs tailored to expanding CDFIs’ and MDIs’ footprint,<sup>25</sup> there is nothing stopping the Federal Reserve from modifying the criteria that exclude CDFIs and MDIs now. The Federal Reserve should take these steps immediately, especially because CDFIs and MDIs have a proven track record of supporting women and people of color.<sup>26</sup>
- Collect demographic data and conduct other analyses of program impact: It is unclear whether a single one of the 252 companies to receive MSLP loans is minority- or women-owned, because the Fed has repeatedly refused to collect any demographic information on MSLP borrowers<sup>27</sup>— despite a representative of the banking industry stating that their “member banks would of course be willing to work with the Federal Reserve Bank of Boston to determine how best to capture such data.”<sup>28</sup> The Federal Reserve has similarly refused to commit to studying whether MSLP or any of its own emergency lending programs are reaching minority communities, even though the

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<sup>22</sup> Pres. Eric Rosengren, Federal Reserve Bank of Boston, *Responses to Follow-up Questions from Commissioner Ramamurti*, at 4, Aug. 31, 2020 (attached as Appendix G to The Fifth Report of the Congressional Oversight Commission, July 20, 2020, [https://coc.senate.gov/sites/default/files/2020-10/15Oct2020\\_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf](https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf)).

<sup>23</sup> *Id.*

<sup>24</sup> Pres. Eric Rosengren, Federal Reserve Bank of Boston, *Responses to Follow-up Questions from Commissioner Ramamurti*, at 9, Aug. 31, 2020 (attached as Appendix G to The Fifth Report of the Congressional Oversight Commission, July 20, 2020, [https://coc.senate.gov/sites/default/files/2020-10/15Oct2020\\_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf](https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf)).

<sup>25</sup> S. 4255, 116th Cong. § 5 (2020).

<sup>26</sup> E.g., Opportunity Finance Network, *20 Years of Opportunity Finance 1994-2013: An Analysis of Trends and Growth*, Nov. 10, 2015, [https://ofn.org/sites/default/files/OFN\\_20\\_Years\\_Opportunity\\_Finance\\_Report.pdf](https://ofn.org/sites/default/files/OFN_20_Years_Opportunity_Finance_Report.pdf).

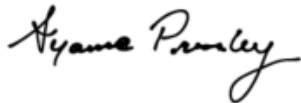
<sup>27</sup> Pres. Eric Rosengren, Federal Reserve Bank of Boston, *Responses to Follow-up Questions from Commissioner Ramamurti*, at 3-4, Aug. 31, 2020 (attached as Appendix G to The Fifth Report of the Congressional Oversight Commission, July 20, 2020, [https://coc.senate.gov/sites/default/files/2020-10/15Oct2020\\_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf](https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf)); Hybrid Hearing with Federal Reserve Chair Jerome Powell Before the House Oversight and Reform Subcommittee on Select Coronavirus Crisis, 116th Cong. (2020) (Testimony of Jerome Powell), <https://www.c-span.org/video/?c4910590/user-clip-mslp-demographic-data-collection>.

<sup>28</sup> Lauren Anderson, Senior Vice President and Associate General Counsel, Bank Policy Institute, *Responses to Follow-up Questions from Commissioner Ramamurti*, at 1, Aug. 31, 2020 (attached as Appendix G to The Fifth Report of the Congressional Oversight Commission, July 20, 2020, [https://coc.senate.gov/sites/default/files/2020-10/15Oct2020\\_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf](https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf)).

Federal Reserve published a study finding that *another agency's* program, the PPP, had “left significant coverage gaps” with respect to Black-owned businesses.<sup>29</sup> The Federal Reserve should work with banks and any other necessary entities to collect demographic data (consistent with privacy concerns) and conduct robust analyses of the racial and gender impact of its MSLP design.

In short, there are monetary policy tools at your immediate disposal to quickly and directly address the outsized impact of the pandemic on communities of color and women, as well as the large gap between White and Black and Brown unemployment. We hope you will take these steps with the speed and urgency this moment demands.

Sincerely,

A handwritten signature in black ink that reads "Ayanna Pressley". The signature is written in a cursive, flowing style.

Ayanna Pressley  
Member of Congress

/s/ Bharat Ramamurti  
Commissioner  
Congressional Oversight Commission

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<sup>29</sup> Claire Kramer Mills, *Double Jeopardy: COVID-19's Concentrated Health and Wealth Effects in Black Communities*, Federal Reserve Bank of New York, at 2, Aug. 2020, [https://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy\\_COVID19andBlackOwnedBusinesses](https://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses).