

Revised as of July 2, 2009

Marked to show changes from June 23, 2009 version of Legacy CMBS FAQs

Effective ~~June 23~~July 2, 2009

Changes from June ~~16~~23 (Legacy CMBS) FAQs



General

Which nationally recognized statistical rating organizations (NRSROs) are ~~TALF CMBS~~-eligible rating agencies?

under the TALF?

~~For ABS other than CMBS, the TALF-CMBS-eligible rating agencies are Fitch Ratings, Moody's Investors Service and Standard & Poor's.~~

For CMBS, the TALF CMBS-Eligible rating agencies are DBRS, Inc., Fitch Ratings, Moody's Investors Service, Realpoint LLC and Standard & Poor's.

The Federal Reserve will periodically review its use of NRSROs for the purpose of determining TALF-eligible ABS.

~~When is the initial subscription date for legacy CMBS?~~

~~The initial legacy CMBS subscription date will be in late July. The specific date will be announced shortly. The subscription and settlement cycle for both legacy and new issue CMBS will occur in the latter part of each month, whereas the cycle for non-CMBS ABS TALF asset classes will remain in the first half of the month.~~

Can a borrower under a commercial mortgage loan that backs a CMBS, or an

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affiliate of such a borrower, borrow from the TALF and pledge the same CMBS as collateral?

A ~~legacy~~ CMBS will not be eligible collateral for a particular borrower if the borrower is, or is an affiliate of, a borrower under a mortgage loan backing the CMBS, unless that loan, and each other mortgage loan in the CMBS mortgage pool made to an affiliate of the TALF borrower, together constitute no more than 5% of the aggregate principal balance of the mortgage loans in the pool as of the subscription date.

On what basis will the New York Fed decide whether or not to accept a ~~CMBS under the legacy TALF program?~~ CMBS?

The New York Fed may reject a legacy CMBS based on factors including, but not limited to, the following:

- The legacy CMBS does not meet the explicit requirements stated in the Terms and Conditions.
- Unacceptable performance of the mortgage loan pool. Legacy CMBS that represent interests in pools with high cumulative losses, a high percentage of delinquent loans, loans in special servicing or loans on servicer watch lists or a high percentage of subordinate-priority loans may be rejected. The New York Fed may consider in its decisions forecasts of pool level losses under various stress scenarios.
- Unacceptable concentrations. Legacy

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CMBS that represent interests in pools that, alone or considered together with loan pools backing other TALF-financed CMBS, possess one or more concentrations (such as borrower sponsorship, property type and geographic region) considered unacceptable to the New York Fed may be rejected.

The New York Fed will utilize the services of one or more agents in connection with the review of legacy CMBS and the loan pools that back them. [For further information, see the FAQs under "Collateral Monitor" below.](#)

What is the process for price validation of a secondary market transaction for the legacy CMBS program?

In order to validate the reasonableness of the price of any secondary market transaction, the price reflected on the sales confirmation for the secondary market transaction will be compared to various market data with respect to the existing market prices on the date of such transaction (trade date). The New York Fed will reject a loan request with respect to a legacy CMBS with a purchase price that does not reflect then-prevailing market prices.

In addition to the price validation process will the New York Fed perform a valuation of legacy CMBS in deciding whether to fund a TALF loan?

Yes. The New York Fed will utilize the services of one or more of its agents to perform a

valuation of each legacy CMBS under various stress scenarios. The New York Fed reserves the right to reject the TALF loan request if the requested TALF loan amount is greater than the stress valuation.

For purposes of determining the loan amount to fund a TALF loan secured by a legacy CMBS loan, what is the method to determine the applicable price?

The applicable price will be the lesser of the purchase price on trade date or the market price as of subscription date of the CMBS.

The New York Fed, with the assistance of one or more of its agents, will determine the market price of the legacy CMBS as of subscription date on the basis of information provided by pricing services, unless that information is determined by the New York Fed and its agents not to be representative of market conditions prevailing at that time. If the pricing information with respect to legacy CMBS is not available or if the pricing information is determined not to be representative of market conditions, then the New York Fed, through its agents, will use its reasonable efforts to secure price quotations from at least three broker-dealers and the market price will be the arithmetic average of the broker quotations received. If the New York Fed and its agents are unable to obtain these quotations or it is determined that one or more of the quotations may not accurately reflect the market price of such legacy CMBS, then the market price will be determined by the New

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York Fed and its agents.

Is there an agent that the New York Fed has selected to be collateral monitor for TALF as it relates to ~~legacy~~ CMBS?

Trepp, LLC (“Trepp”) has been selected to serve as a collateral monitor for the New York Fed for ~~legacy~~ CMBS. Trepp will assist the New York Fed by providing valuation, modeling, analytics and reporting, as well as advising on these matters. Trepp will not establish policies or make decisions for the New York Fed, including decisions whether to reject a CMBS as collateral for a TALF loan- or exclude loans from mortgage pools.

Will the New York Fed be adding other collateral monitors?

The New York Fed may use the services of one or more collateral monitors in connection with TALF.

~~What are the adjustments that will be required to determine the~~ How is weighted average life determined for purposes of haircuts on ~~legacy~~ CMBS?

~~The New York Fed is considering requiring that default-related circumstances be considered in calculating the~~ weighted average life of a legacy CMBS. Details will be calculated on the basis of any required adjustments(1) the current composition of the mortgage pool, as reflected in recent servicer and trustee reports, (2) the entitlement of the legacy CMBS to distributions (including, if applicable, its position in a time-tranched sequence of classes), (3) the

assumption that “anticipated repayment dates” are maturity dates, and (4) a 0% CPR and the absence of future defaults. For this purpose, loans in default or special servicing will be ~~announced shortly~~ considered as if they had not defaulted, and previously-modified loans will be considered according to their terms as modified.

How will the par-based haircuts be applied to the current prices of the legacy CMBS?

The maximum size of a TALF loan secured by a legacy CMBS would be the ~~current~~lesser of the dollar purchase price on trade date or the market price as of subscription date of the CMBS ~~minus~~less, in either case, the base dollar haircut. This is the equivalent of a collateral haircut equal to the base dollar haircut divided by the ~~current market~~applicable price. For example, assuming a legacy CMBS with a par value of 100 and a seven-year weighted average life, with a base dollar haircut of 17 percent of par:

- If the ~~market~~applicable price is 75% of par, the loan amount is 58 (75-17) and the collateral haircut is 23% (17/75) ~~of~~ of the applicable price.
- If the ~~market~~applicable price is 50% of par, the loan amount is 33 (50-17) and the collateral haircut is 34% (17/50) of the applicable price.

Under this formulation, the size of the haircut increases with the size of the price’s discount from par, reflecting a recognition that large

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discounts from par generally indicate credit concerns.

Do CMBS (e.g., Class A-2) that receive principal later than the other most senior CMBS classes (e.g., Class A-1) but are otherwise *pari passu* with such other senior CMBS, qualify for TALF financing?

Yes, the exclusion of “junior” CMBS in the Terms and Conditions is a reference to subordination for credit support, not to a later position in the time tranche sequence.

~~**When will more information about the other requirements that will apply to legacy CMBS be available?**~~

~~The New York Fed recognizes the importance of providing more specific information about the procedures and requirements for legacy CMBS, including the process for the New York Fed's right to reject CMBS as TALF loan collateral and the requirement that TALF loans be used to fund recent secondary market transactions that are executed on an arm's length basis. The New York Fed intends to announce the information well in advance of the initial subscription date for legacy CMBS.~~