

FRBNY BORROWER DUE DILIGENCE POLICY FOR TALF AGENTS

This due diligence policy (this “Policy”) is intended to provide TALF Agents with specific requirements that must be followed in connection with their responsibilities under the Master Loan and Security Agreement among TALF II LLC (“Lender”), The Bank of New York Mellon and the TALF Agents party thereto, each on behalf of itself and its Applicable Borrowers (“Lending Agreement”) and their participation in the Term Asset-Backed Securities Loan Facility (“TALF Program”). Unless otherwise indicated, capitalized terms used herein have the meaning set forth in the Lending Agreement.

I. Introduction

Under the terms of the Lending Agreement, each TALF Agent that intends to make a Loan Request to the Federal Reserve Bank of New York (“FRBNY”) on behalf of an Applicable Borrower must have in place a Required AML Program¹ and a Customer Review Program². These requirements reflect that the TALF Program places great reliance on each TALF Agent to recognize its vital role in safeguarding not only its own reputation but that of the TALF Program as well. Through rigorous identification and diligence of Applicable Borrowers and other Persons³, TALF Agents can help ensure that the TALF Program is operated with integrity, and earns and merits public confidence.

II. Due Diligence

A. Required Reviews

Each TALF Agent shall subject each Applicable Borrower as well as other Persons identified below to its Required AML Program and its Customer Review Program. This diligence must

¹ As defined in the Lending Agreement, a “Required AML Program” is “an anti-money laundering program established by the TALF Agent that is reasonably designed to satisfy such TALF Agent’s obligations under applicable law and regulation, including obligations under the Bank Secrecy Act and the regulations issued thereunder, as well as obligations to refrain from doing business with parties subject to sanctions administered by the Office of Foreign Assets Control.”

² As defined in the Lending Agreement, a “Customer Review Program” is “a program of policies and procedures adopted by the TALF Agent as part of its Required AML Program to enable it to satisfy its legal and regulatory obligations to know its customers, and that is also reasonably designed to permit it to identify, review and report information about the Borrower and other Persons as necessary for it to satisfy its obligations under the Lending Agreement, including those set forth in the FRBNY Due Diligence Policy and the FRBNY Conflicts of Interest Policy.”

³ As defined in the Lending Agreement, a “Person” is “an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or other entity of whatever nature.”

include the application of risk-based policies and procedures for obtaining, verifying, and reviewing information provided by Applicable Borrowers and other Persons as well as information available in the public domain and through use of commercial database searches commonly utilized in the industry. This diligence should provide a reasonable basis for the TALF Agent to know the Applicable Borrower and other diligenced Persons and to (i) identify any problematic or adverse information that may bear on the appropriateness of such Person's participation in the TALF Program, and (ii) provide a basis to satisfy certain representations, warranties, and covenants that the TALF Agent is required to make under the Lending Agreement.

B. Borrower Eligibility

The TALF Agent's application of its Customer Review Program should enable it to form a reasonable basis for concluding that an Applicable Borrower is an Eligible Borrower. Borrower eligibility criteria are set forth in the TALF Standing Loan Facility Procedures. Eligibility criteria generally include the following:

- The Applicable Borrower must be a U.S. business that is created or organized in the United States or under the laws of the United States and that has significant operations in and a majority of its employees based in the United States. For Applicable Borrowers organized as investment funds⁴, the investment manager must also be a U.S. business that is created or organized in the United States or under the laws of the United States and that has significant operations in and a majority of its employees based in the United States;
- The Applicable Borrower may not be a covered entity, as that term is defined in section 4019(a)(2) of the CARES Act;
- The Applicable Borrower must be unable to secure adequate credit accommodations from other banking institutions as described in the TALF Standing Loan Facility Procedures and must not be insolvent (as defined in paragraph B(ii) of section 13(3) of the Federal Reserve Act and section 201.4(d)(5)(iii) of the Board's Regulation A); and
- No U.S. business with any Material Investor that is a foreign government is eligible to borrow under the TALF Program. In addition, in the case of an investment fund that seeks to borrow under the TALF, no investment manager of such an investment fund may have any Material Investors that are foreign governments.

C. Due Diligence of Additional Persons: Customer "Look-Through"

In addition to subjecting each Applicable Borrower to its Required AML Program and Customer Review Program, each TALF Agent must "look through" the Applicable Borrower to

⁴ An "investment fund" includes (1) any type of pooled investment vehicle that is organized as a business entity or institution, including without limitation a hedge fund, a private equity fund, and a mutual fund, and (2) any type of single-investor vehicle that is organized as a business entity or institution.

determine certain additional Persons that must be subject to both programs (such Persons, along with the Applicable Borrower, “Covered Persons”):

- Each Material Investor⁵ of the Applicable Borrower;
- At least one Control Person⁶ of the Applicable Borrower who is an individual who exercises managerial control over the Applicable Borrower;
- Each Control Person of an Applicable Borrower that is a legal entity, and for each such entity at least one individual who exercises managerial control over such entity; and
- If the Applicable Borrower is organized as an investment fund, each Material Investor of its investment manager.⁷

The ownership structure of an Applicable Borrower may include one or more intermediate layers. In such circumstances, a TALF Agent must trace through the ownership chain to the ultimate ownership layer. For example, if the Applicable Borrower is a master fund employing a “master/feeder” structure, the feeder funds are investors in the Applicable Borrower, and the TALF Agent must “look through” the master fund and the feeder funds to identify any Material Investors along the ownership chain. The TALF Agent also should be attentive to situations where an Applicable Borrower may through its structure or otherwise be improperly seeking to avoid TALF eligibility restrictions or disclosure requirements.

D. Identification and Escalation of “Specified Borrowers”

Certain Covered Persons that are or were subject to the TALF Agent Required AML Program and Customer Review Program will require further scrutiny and escalation to the FRBNY for further consideration (such a Covered Person, a “Specified Borrower”).

⁵ As defined in the Lending Agreement, a “Material Investor” is “a Person who owns, directly or indirectly, an interest in any class of securities of a Borrower that is greater than or equal to a 10% interest in such outstanding class of securities.

⁶ As defined in the Lending Agreement, a “Control Person” is “any Person with Control over the Borrower’s general business and also includes, with respect to a Borrower’s participation in TALF, any Person that has the direct or indirect power to direct or manage, or cause the direction or management of, Borrower’s participation in TALF.” For purposes of the TALF Agent’s Customer Review Program, Control Persons of the Borrower who are individuals may include senior executive management (e.g., Chief Executive Officer, Chief Financial Officer, Chief Investment Officer), and senior Board members (e.g., Chair, Vice Chair). Control Persons also include the sponsor or ultimate parent entity of the Borrower. In addition, for Borrowers which are investment funds, Control Persons include legal entities such as the investment manager, managing member, and/or general partner of the Borrower.

⁷ TALF Agents should review this information for the purpose of determining whether a Material Investor in the investment manager is a foreign government.

i. Definition of a Specified Borrower

A Covered Person will be considered a Specified Borrower if one or more of the following is the case:

- 1) The Person is or was subject to the TALF Agent's enhanced due diligence procedures, whether required by law or otherwise;
- 2) The Person is specially monitored by such TALF Agent due to activity that has warranted reporting or enhanced scrutiny;
- 3) The TALF Agent has otherwise taken action against the Person under its Required AML Program, such as restricting such customer's account activity or closing one or more of the customer's accounts;
- 4) A Person is an Affiliate of the TALF Agent;
- 5) A review of the Person identified negative or adverse information that may bear on the reputational risk associated with Applicable Borrower's participation in the TALF Program;
- 6) A Person that the TALF Agent determines, in its discretion, to bring to FRBNY's attention for further consideration.

ii. Process for Escalating Information

At least three Business Days prior to the relevant Loan Subscription Date, each TALF Agent shall provide the FRBNY with information relating to each Specified Borrower. Information and documentation provided to the FRBNY must include a completed TALF Specified Borrower Form⁸ and a copy of the TALF Agent's due diligence file on the Applicable Borrower (in electronic form) as compiled in accordance with its Required AML Program and Customer Review Program. TALF Agent also shall provide the FRBNY with contact information for an individual with whom the FRBNY can speak about the Specified Borrower. Communications pursuant to this Section should be made to the FRBNY via secured email to talf.compliance@ny.frb.org.

As described below, TALF Agents will have ongoing obligations with regard to Applicable Borrowers even after a Loan has been made by the FRBNY. If a TALF Agent becomes aware of any information concerning a Borrower or other Covered Person, which would have caused such Borrower or other Covered Person to be a Specified Borrower had the information been known by the TALF Agent at the time of the TALF loan, the TALF Agent must immediately escalate such information to the FRBNY under the Specified Borrower process outlined in this section.

⁸ The FRBNY has developed and will provide participating TALF Agents with the Specified Borrower Form.

E. Determinations Made by FRBNY

The FRBNY will determine in its sole discretion whether an Applicable Borrower will be permitted to participate in the TALF Program. If the FRBNY determines that an Applicable Borrower will not be permitted to participate, it will inform the TALF Agent of such determination. Such TALF Agent will not knowingly act as TALF Agent on behalf of such Applicable Borrower to participate at a subsequent time in the TALF Program, nor will such TALF Agent act in such capacity on behalf of any other Covered Person whose connection to the Applicable Borrower informed the decision to deny participation.

III. Required Updates of Customer Information and Refreshed Due Diligence for Existing Borrowers

Prior to requesting a new TALF loan on behalf of an Applicable Borrower that has already borrowed from the TALF Program, a TALF Agent must reapply its Customer Review Program to the Applicable Borrower so as to be able to identify, verify and review updated and current information about the Applicable Borrower, Material Investors and Control Persons.

In addition, each TALF Agent must reapply its Customer Review Program to each existing Borrower at least annually, or more frequently if required by its Customer Review Program, for as long as such Borrower has outstanding obligations to the TALF Program. TALF Agents must notify each Borrower of its continuing obligation to immediately notify its TALF Agent of any new Material Investor for as long as the Borrower has outstanding loan obligations to the TALF Program.

IV. FRBNY Right of Review of TALF Agent Required AML Program and Customer Review Program

The FRBNY shall have the right, in its sole discretion, to seek and obtain further information about TALF Agent's Required AML Program and Customer Review Program in order to satisfy itself that such Programs are in place and operating effectively as to TALF Agent-related responsibilities.

Upon request by the FRBNY, each TALF Agent will: 1) provide the FRBNY with documentation and other materials describing its Required AML Program and Customer Review Program, including information sufficient to describe the TALF Agent's process and criteria for determining Borrower eligibility and for identifying Specified Borrowers; 2) provide the FRBNY with any reports or information that it reasonably requests with respect to any Borrower; 3) permit the FRBNY and any agents or representatives designated by the FRBNY, including representatives of the Board of Governors of the Federal Reserve System (the "Board") or other oversight bodies, to visit, audit and inspect the records maintained by such TALF Agent on any Borrower as well as evaluate key elements of its compliance program during normal business hours; and 4) permit the FRBNY to make extracts from and copies of such records.

V. Maintenance of Records

TALF Agents must maintain records for each Borrower and other Covered Persons that comply with applicable laws and regulations, and that are sufficient to document the basis for the TALF Program-related actions taken under the Required AML Program and Customer Review Program, the determinations reached thereunder, and the satisfaction of TALF Agent's obligations under this Policy. Such records must be maintained in accordance with applicable legal and regulatory record retention requirements for at least five (5) years after: 1) a TALF Borrower's TALF loan is repaid; or 2) a TALF Borrower transfers its interest in the securities purchased with the TALF loan, or forfeits its rights to such securities.

~~**VI. Required Certifications**~~

~~On each Loan Subscription Date, TALF Agents will be required to provide the FRBNY with a certification stating that it is in compliance with this Policy with respect to each Borrower included on the loan request form for such Loan Subscription Date. A form of the certification is attached hereto as Exhibit 1.~~

EXHIBIT 1

~~[Letterhead of the TALF Agent]~~

~~FORM OF CERTIFICATION IN CONNECTION WITH TALF LOAN REQUEST FORM~~

TALF II LLC
c/o Federal Reserve Bank of New York
Email: talf.compliance@ny.frb.org

~~[Name of TALF Agent] hereby certifies that it is in compliance with the FRBNY Borrower Due Diligence Policy for TALF Agents with respect to each Borrower included on the Loan Request dated [Date].~~

~~IN WITNESS WHEREOF, the undersigned has signed this Certification on _____,~~
~~2____.~~

By: _____
Name: _____
Title: _____