

Revised as of ~~July 31~~, September 1, 2020  
Marked to show changes from July ~~27~~, 31, 2020

Term Asset-Backed Securities Loan Facility:  
Frequently Asked Questions

Effective ~~July 31~~, September 1, 2020

## GENERAL

### **Why is the Federal Reserve establishing the TALF?**

Securitization markets fund a substantial share of credit to consumers and businesses. Recently, however, the securitization markets, along with all other financial markets, have been under considerable strain as a result of the disruptions associated with the coronavirus. This disruption has resulted in a significant increase in the interest rate spreads on these securities and a near halt of new issuance in many sectors. The continued disruption of these markets could further squeeze the liquidity and balance sheet capacity of financial institutions, thereby significantly limiting the flow of credit to households and businesses of all sizes and amplifying the current economic disruption.

Pursuant to section 13(3) of the Federal Reserve Act, and with the prior approval of the Secretary of the Treasury, the Board of Governors of the Federal Reserve System (Board) authorized the Federal Reserve Bank of New York (New York Fed) to establish the Term Asset-Backed Securities Loan Facility (TALF) to help facilitate the issuance of asset-backed securities (ABS), stabilize ABS markets, and support the availability of credit to households and businesses.

### **How will the TALF work?**

Under the TALF, the New York Fed will lend to a special purpose vehicle (TALF SPV), which will provide non-recourse funding secured by eligible collateral to eligible borrowers. On scheduled dates each month, borrowers will be able to request one or more three-year TALF loans. Loan proceeds will be disbursed to the borrower, contingent on receipt by the TALF SPV's custodian bank (custodian) of the eligible collateral, an administrative fee, and margin, if applicable. As each TALF loan will be non-recourse to the borrower, if the borrower does not repay the loan, the TALF SPV will enforce its rights in the collateral.

The Master Loan and Security Agreement (MLSA) provides further details on the terms that will apply to borrowings under the TALF. These FAQs, together with the MLSA and the terms and conditions announced by the Board, will constitute the TALF's terms and conditions applicable to any TALF loan.

The TALF loans will be non-recourse except for breaches of representations, warranties and covenants, as further specified in the MLSA.

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**How is the U.S. Treasury supporting the TALF?**

The Secretary of the Treasury approved the establishment of the TALF, and the U.S. Department of the Treasury (Treasury), using funds appropriated to the Exchange Stabilization Fund under section 4027 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), will make a \$10 billion equity investment in the TALF SPV.

**Over what time period will the TALF operate?**

No new TALF loans will be made after December 31, 2020 (TALF Termination Date), unless the Board and the Secretary of the Treasury extend the TALF.

**Where should questions regarding the TALF be directed?**

Questions should be submitted via email to [NYTALF@ny.frb.org](mailto:NYTALF@ny.frb.org).

**How may I receive updates regarding changes to TALF documents?**

[Sign up for email alerts.](#)

**Will the Federal Reserve disclose information regarding the TALF?**

The Federal Reserve will publicly disclose information on a monthly basis regarding the TALF during the operation of the facility, including information identifying each borrower and other participant in the facility, information identifying each Material Investor (as defined below) of a borrower, the investment manager for each borrower organized as an investment fund, the amount borrowed by each borrower, the interest rate paid by each borrower, the types and amounts of ABS collateral pledged by each borrower, and overall costs, revenues, and other fees for the facility.

Balance sheet items related to the TALF SPV and TALF will be reported weekly, on an aggregated basis, on the H.4.1 statistical release titled "Factors Affecting Reserve Balances of Depository Institutions and Condition Statement of Federal Reserve Banks," published by the Federal Reserve.

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In addition, the Federal Reserve will disclose to Congress information pursuant to section 13(3) of the Federal Reserve Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, and the Board's Regulation A.

### **What is a “Material Investor”?**

A Material Investor is an individual or entity that owns, directly or indirectly, 10 percent or more of any outstanding class of securities of an entity. In identifying such Material Investors, TALF Agents may use existing processes for identifying beneficial owners under the ownership prong of the customer due diligence requirements set forth in 31 CFR 1010.230 (such as, for example, risk-based reliance on information, forms and certifications provided by customers). In addition, borrowers and TALF Agents may rely on beneficial ownership information included in Schedule 13D and 13G filings pursuant to the reporting requirements under section 13 of the Securities Exchange Act of 1934 (Exchange Act) to identify beneficial owners which have acquired more than 5 percent of any class of a company's shares.

Example of “indirect” ownership:

If A owns 70% of B, and B owns 40% of the borrower, then B is a Material Investor (with 40% direct ownership in the borrower), and A is a Material Investor (with 28% of indirect ownership in the borrower).

### **Is there a unique regulatory capital treatment for TALF-financed ABS held by a depository institution or bank holding company?**

The regulatory capital requirements for securities financed by a TALF loan are the same as those for securities that are not financed by a TALF loan.

### **Do compensation, stock repurchase and capital distributions restrictions apply to the TALF?**

The compensation, stock repurchase, and capital distribution restrictions that apply to direct loan programs under section 4003(c)(3)(A)(ii) of the CARES Act do not apply to the TALF.

## **BORROWER ELIGIBILITY**

### **Who may borrow under the TALF?**

A U.S. business that owns eligible collateral may borrow from the TALF if it (a) is created or organized in the United States or under the laws of the United States, (b) has significant

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operations in and a majority of its employees based in the United States, and (c) maintains an account relationship with a TALF Agent.

**How is "significant operations in and a majority of its employees based in the United States" evaluated for purposes of meeting the eligibility requirement that a borrower be a U.S. business?**

If a borrower is not an investment fund (as defined below), the borrower, on a consolidated basis (i.e., together with its consolidated subsidiaries), must have significant operations in and a majority of its employees based in the United States, and the Federal Reserve would not consider any parent company or sister affiliate under this test.

For a borrower organized as an investment fund, the investment manager must have significant operations in and a majority of its employees based in the United States.

**What does "significant operations in the United States" mean?**

While not an exhaustive definition, the following are examples of what would constitute significant operations in the United States for a borrower seeking to participate in the TALF:

A borrower (or an investment manager in the case of investment funds) with greater than 50 percent of its consolidated assets in, annual consolidated net income generated in, annual consolidated net operating revenues generated in, or annual consolidated operating expenses (excluding interest expense and any other expenses associated with debt service) generated in the United States as reflected in its most recent audited financial statements.

**Is a U.S. subsidiary or U.S. branch or agency of a foreign bank considered to be created or organized in the United States or under the laws of the United States for purposes of meeting the eligibility requirement that a borrower be a U.S. business?**

Yes, a U.S. subsidiary or U.S. branch or agency of a foreign bank would be considered to be created or organized in the United States or under the laws of the United States for purposes of meeting the U.S. business requirement, as described in the above FAQ, but such branch or agency must also satisfy all of the other relevant criteria to qualify as an eligible borrower under the TALF.

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**Is a U.S. business with a Material Investor that is a foreign government eligible to borrow under the TALF?**

No, a U.S. business with any Material Investor that is a foreign government is not eligible to borrow under the TALF. For this purpose, a sovereign wealth fund is considered a foreign government. In addition, in the case of an investment fund that borrows under the TALF, the investment manager of such an investment fund must not have any Material Investors that are foreign governments. A foreign government would not be considered a “Material Investor” of a pension plan established by such foreign government for the benefit of its employees, so long as such foreign government does not own, directly or indirectly, 10% or more of any outstanding class of securities of the plan or any investment manager of the plan.

**What representations or information will TALF borrowers be required to provide to the TALF Agent?**

Under the MLSA, each borrower makes a continuous representation that such borrower is an eligible borrower, which requires the borrower to at all times meet the eligibility requirements (as described in these FAQs). Accordingly, a TALF borrower is expected to have a mechanism for continuously monitoring its direct and indirect investors as long as the TALF loan is outstanding. If any entity’s direct or indirect ownership interest in the borrower reaches the Material Investor threshold (as defined above), the borrower must escalate such Material Investor to its TALF Agent for due diligence review. These eligibility requirements are included in the MLSA.

**What certifications or attestations will TALF borrowers be required to make?**

A TALF borrower will be required to certify that it is unable to secure adequate credit accommodations from other banking institutions and that it is not insolvent. Each eligible borrower will also be required to certify as to the conflicts of interest requirements of section 4019 of the CARES Act.

**For the purposes of participating in the TALF, what does it mean for a TALF borrower to certify that it is unable to secure adequate credit accommodations?**

As discussed above in the first FAQ, the Board authorized the establishment of the TALF in response to severe dislocations in the ABS markets. Under the Board’s Regulation A, the New York Fed must obtain evidence that participants in the TALF are unable to secure adequate credit accommodations from other banking institutions. While these are not the only factors on which a TALF participant may rely in making this certification, a TALF participant may rely on

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one or more of the following factors: (i) unusual economic conditions in a sector of the ABS market or ABS markets intended to be addressed by the TALF, such as spreads in the primary or secondary ABS markets that are elevated relative to normal market conditions for the sector that the borrower is seeking to use as collateral for a TALF loan, or (ii) elevated rates or haircuts in the financing market (e.g., repo market) relevant for the collateral that the borrower is seeking to use for a TALF loan. Lack of adequate credit does not mean that no credit is available. Credit may be available, but inadequate in its amount, price, or terms.

**What forms of business entities and institutions may borrow from the TALF?**

Eligible business entities or institutions include entities organized as limited liability companies, partnerships, banks, corporations, and business or other non-personal trusts.

**Is the TALF designed to provide loans directly to businesses or consumers?**

No, the TALF is designed to increase credit availability for businesses and consumers by facilitating the issuance of ABS backed by loans to consumers and businesses at more normal interest rate spreads.

**What types of investment funds are eligible borrowers?**

Investment funds that are created or organized in the United States and managed by an investment manager that is created or organized in the United States and has significant operations in and a majority of its employees based in the United States are eligible borrowers for purposes of the TALF.

**What is an "investment fund" for purposes of the TALF eligible borrower definition?**

An investment fund includes (i) 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 (ii) any type of single-investor vehicle that is organized as a business entity or institution.

**To be considered an eligible borrower, does an investment fund need to primarily or exclusively invest in TALF eligible ABS or can it be a multi-strategy fund?**

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An eligible investment fund includes funds that only invest in TALF eligible ABS and only borrow from the TALF, as well as funds that invest in a mix of TALF eligible ABS and other assets.

**Can a newly formed investment fund borrow from the TALF?**

Yes, as long as it satisfies all the eligible borrower requirements set forth above.

**Can a company that originates loans securitize its own loan originations, acquire the triple-A-rated tranche of the securitization, and finance it using the TALF?**

Except as provided below, eligible collateral for a particular borrower must not be backed by loans originated or securitized by the borrower or by an affiliate of the borrower.

Notwithstanding the foregoing, a borrower is not restricted from using SBA ABS as collateral for its TALF loan even if the loans underlying the SBA ABS were originated by such borrower or its affiliates, provided that the borrower has no knowledge that the loans were originated by it or its affiliates. Additionally, a borrower is not restricted from using a broadly syndicated CLO as collateral for its TALF loan even if the loans underlying the broadly syndicated CLO were originated by such borrower or its affiliates as part of a syndicate. For purposes of this FAQ, the definition of "affiliate" shall be as set forth in the MLSA.

**Can a borrower under a commercial mortgage loan that backs a commercial mortgage backed security (CMBS), or an affiliate of such a borrower, borrow from the TALF and pledge the same CMBS as collateral?**

A 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 the TALF borrower or an affiliate, together constitute no more than five percent of the aggregate principal balance of the mortgage loans in the pool as of the subscription date. For purposes of this requirement, the definition of "affiliate" shall be as set forth in the MLSA.

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**Can a borrower under a floorplan loan or a lessee under a fleet lease that backs an ABS, or an affiliate of such a borrower or lessee, borrow from the TALF and pledge the same ABS as collateral?**

An ABS will not be eligible collateral for a particular borrower if the borrower is, or is an affiliate of, an obligor under a floorplan loan, a rental fleet lease, or a commercial or government fleet lease backing the ABS, unless that loan or lease, and each other loan or lease in the ABS pool made to the borrower or its affiliate, together constitute no more than 10 percent of the aggregate principal balance of all of the loans or leases in the pool as of the subscription date. For purposes of this requirement, the definition of "affiliate" shall be as set forth in the MLSA. In the case of leases, the term "aggregate principal balance" refers to the securitization value of the leases in the pool.

**Can a borrower under a leveraged loan that backs a collateralized loan obligation (CLO), or an affiliate of such a borrower, borrow from the TALF and pledge the same CLO as collateral?**

A CLO will not be eligible collateral for a particular borrower if the borrower is, or is an affiliate of, a borrower under a leveraged loan backing the CLO, unless that loan, and each other leveraged loan in the CLO loan portfolio made to the TALF borrower or an affiliate, together constitute no more than four percent of the aggregate principal balance of the leveraged loans in the loan portfolio as of the subscription date. For purposes of this requirement, the definition of "affiliate" shall be as set forth in the MLSA. In the case of leveraged loans, the term "aggregate principal balance" refers to the securitization value of the leveraged loans in the pool.

**Can a manufacturer, producer or seller of a product, or the provider of a service, the sale, provision or lease of which is financed by the loans or leases in a pool supporting an ABS, borrow from the TALF and pledge the same ABS as collateral?**

An ABS will not be eligible collateral for a particular borrower if the borrower, or any of its affiliates, is the manufacturer, producer or seller of any products, or the provider of any services, the sale, provision, or lease of which is financed by the loans or leases in the pool supporting that ABS unless the loans or leases relating to such products or services together constitute no more than ten percent of the aggregate principal balance of the loans and leases in the pool supporting such ABS as of the subscription date of such ABS. For purposes of this requirement, products include financial products such as insurance, and services include education, and the definition of "affiliate" shall be as set forth in the MLSA. In the case of leases, the term "aggregate principal balance" refers to the securitization value of the leases in the pool.



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## ELIGIBLE ABS

### **What types of ABS are eligible collateral under the TALF?**

Eligible collateral (eligible ABS) include U.S. dollar-denominated cash (that is, not synthetic) ABS that (i) have a credit rating in the highest long-term or, if no long-term rating is available, the highest short-term investment-grade rating category from at least two eligible nationally recognized statistical rating organizations (NRSROs) (one of which long-term or short-term rating, as applicable, must be from Fitch Ratings, Inc., Moody's Investors Service, Inc., or S&P Global Ratings), (ii) do not have a credit rating below the highest investment-grade rating category from an eligible NRSRO, and (iii) contain underlying assets as described in "ELIGIBLE UNDERLYING ASSETS FOR ABS" below. For CLOs, only static CLOs collateralized by leveraged loans are eligible collateral, as described more fully below. The manager of a CLO must have its principal place of business in the U.S. CLOs backed by commercial real estate are not eligible collateral.

CMBS may not be backed by only a single asset or obligations by only a single borrower. The CMBS must entitle its holders to payments of principal and interest (that is, must not be an interest-only or principal-only security). Each CMBS must bear interest at a pass-through rate that is fixed or based on the weighted average of the underlying fixed mortgage rates.

Eligible small business ABS (SBA ABS) include ABS that are fully guaranteed by the full faith and credit of the U.S. government and backed by loans made pursuant to (i) section 7(a) of the Small Business Act (SBA Pool Certificates) and (ii) the Certified Development Company/504 loan program of the U.S. Small Business Administration (Development Company Participation Certificates).

[Eligible ABS do not include securities that have interest rates that are periodically reset by auctions or that have a variable rate demand feature.](#)

Eligible ABS do not include ABS that bear interest payments that step up or step down to predetermined levels on specific dates.

Eligible ABS must be cleared through the Depository Trust Company.

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With the exception of CMBS and SBA Pool Certificates or Development Company Participation Certificates, eligible ABS must be issued on or after March 23, 2020. CMBS issued on or after March 23, 2020, will not be eligible. SBA Pool Certificates or Development Company Participation Certificates must be issued on or after January 1, 2019.

The set of permissible underlying assets of eligible ABS may be expanded later to other asset classes.

**May student loan ABS issued by states, state agencies, state authorities or non-profits be TALF eligible?**

Yes. Student loan ABS issued by states, state agencies, state authorities or non-profits may be TALF eligible so long as all eligibility criteria are met. Such entities typically have a mission to increase post-secondary access and affordability.

**Will a floating-rate ABS that references LIBOR be eligible collateral for TALF loans?**

Yes. For the TALF, however, the Federal Reserve generally will expect any ABS benchmarked to LIBOR to include adequate fallback language, such as that recommended by the Alternative Reference Rates Committee or substantially similar fallback language.

**May investors borrow against ABS they already own?**

If eligible ABS are not issued on the same day the investor borrows from the TALF, the ABS must have been acquired in an arm's length primary or secondary market transaction within 30 days prior to the relevant loan subscription date (with the date of acquisition measured, under the terms of the MLSA, from the relevant pricing or trade date) and must have settled prior to the relevant loan subscription date. The New York Fed will validate the reasonableness of the price of such ABS pursuant to the price validation process described in the FAQ below titled "What is the process for price validation for ABS purchased prior to the TALF loan settlement date?"

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These requirements are modified for new issue SBA ABS as described below.

### **How should new issue SBA ABS purchases be treated for TALF subscription date requirements?**

TALF borrowings can typically be subscribed such that the TALF loan settlement date will match the date of issuance of new issue ABS, or in respect of already issued ABS that have been purchased and settled prior to the TALF loan subscription date. New issue SBA ABS may be sold on a forward-settling basis, and the issuance and settlement date may be variable and depend on the timing of documentation requirements and other requirements of the SBA program. Accordingly, the trade date for a new issue SBA ABS may occur well in advance of the TALF loan subscription date for the TALF loan settlement date on which a TALF borrower would seek to obtain funds to finance its purchase of the SBA ABS. In addition, an initial settlement date for issuance of the SBA ABS may occur on or before the relevant TALF loan settlement date, notwithstanding that the TALF borrower has committed to acquire the SBA ABS in connection with their primary distribution and seeks to use proceeds of the TALF loan to effect its purchase.

Therefore, new issue SBA ABS will be treated for purposes of the MLSA, and the requirements of the preceding FAQ, as being issued and settled by the applicable borrower on the TALF loan settlement date with the proceeds of the TALF loan (i.e., as New Acquisition Collateral within the meaning of the MLSA), provided that the TALF borrower has entered into a commitment to purchase the SBA ABS in connection with its primary distribution on a trade date on or prior to the first date on which the SBA ABS have been issued and settled in DTC and within 45 days prior to the related TALF loan subscription date (and provided that the delivery of the SBA ABS actually settles to the TALF SPV's account on the TALF loan settlement date). For purposes of these FAQs, such securities are referred to as "New Issue SBA ABS." SBA ABS not purchased in connection with the securities' primary distribution shall be not be considered New Issue SBA ABS regardless of the trade date or settlement date of the acquisition.

In addition, for purposes of the August 4, 2020 TALF loan subscription date only, the same treatment will apply to any new issue SBA ABS in respect of which the TALF borrower entered into a commitment to purchase on a trade date that is on or prior to the first date on which the SBA ABS have been issued and settled in DTC and that is on or after June 4 and before August 4, 2020, subject to the following paragraph.

In all cases, a trade date establishing a purchase price for a New Issue SBA ABS must occur before the TALF loan subscription date on which a TALF borrower seeks to obtain financing for such New Issue SBA ABS.

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If New Issue SBA ABS have settled to the TALF borrower before the applicable TALF loan settlement date, the New Issue SBA ABS must be delivered through the TALF Agent as “TALF Agent Delivered Collateral” (within the meaning of the MLSA).

This FAQ applies beginning with the August 4, 2020 TALF loan subscription date.

**Can a borrower exercise voting rights under an ABS that is used as eligible collateral?**

A TALF borrower must agree not to exercise, or refrain from exercising, any voting, consent or waiver rights, or any rights to direct, initiate, recommend or approve any action, under an ABS that is used as eligible collateral without the consent of the New York Fed.

**Is there a minimum or maximum maturity or average life limit for ABS that are eligible collateral for a TALF loan?**

There is no minimum maturity limit. If an ABS’s maturity is shorter than the three-year TALF loan, the TALF loan will mature upon maturity of the ABS collateral for that loan. The average life for credit card, auto, equipment, floorplan, and premium finance ABS must be under five years. The average life for SBA Pool Certificates and private student loan ABS must be under seven years. The average life for Development Company Participation Certificates, CMBS, and CLOs must be under ten years.

**Are zero coupon ABS eligible collateral for the TALF?**

No.

**Are privately placed ABS eligible collateral for a TALF loan, provided they meet all of the eligibility requirements?**

Yes.

**Would ABS be eligible collateral if the ABS issuance provides for prefunding or the retention of issuance proceeds in anticipation of application thereof to the purchase of additional receivables?**

No.

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**If the issuer of an ABS has an option to redeem such ABS prior to the maturity date (other than pursuant to a customary clean-up call), is the ABS eligible to secure a TALF loan?**

A borrower may pledge CLOs with a redemption option exercisable no earlier than one year after the issuance date, provided that, it is a condition to the exercise of the relevant option that the eligible CLOs and any pari passu class(es) of the securitization are redeemed at their full outstanding principal amount plus any accrued interest outstanding. Such an option may be exercised even if the CLOs are owned by the TALF SPV or the New York Fed.

A borrower may not pledge a newly issued ABS (other than CLOs) with a redemption option exercisable (i) prior to three years after the disbursement date of any TALF loan secured by the pledge of such ABS, other than pursuant to a customary clean-up call, or (ii) at any time when such ABS is owned by the New York Fed or by the TALF SPV. For these purposes, a "customary clean-up call" with respect to a sponsor and its securitization refers to the clean-up call which is exercisable by the servicer or the depositor when the remaining balance of the assets or the liabilities of the issuer is not more than 10 percent (or a higher percentage customarily used by the sponsor in its securitizations that were offered before the TALF program was established) of the original balance of such assets or liabilities.

**What is a static CLO?**

For purposes of the TALF, a static CLO is a CLO that does not include a period of reinvestment of collateral proceeds, including principal or interest proceeds and proceeds on the sale of defaulted underlying leveraged loans, unless such period of reinvestment begins at least three years after the disbursement date of any TALF loan secured by the pledge of such CLO.

Additionally, a static CLO shall not permit reinvestment of proceeds at any time when the senior-most tranche in priority of payment (or, if the CLO structure includes multiple senior tranches that are pari passu in priority of payment, one or more of such senior tranches) is owned by the New York Fed or by the TALF SPV.

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For the avoidance of doubt, eligible CLOs may permit loans to be sold for cash at their par amount, plus accrued interest, to a sponsor where the cash proceeds are applied to amortize the CLO.

**Are sales of defaulted underlying assets permissible for eligible CLOs?**

Yes, CLO managers are permitted to sell underlying loans that have defaulted in payment of principal and/or interest. However, proceeds of such sales may not be reinvested and must be used to amortize the CLO.

**What seniority is required for ~~CMBS~~ABS?**

~~CMBS~~ABS must not have been junior to other securities with claims on the same pool of loans.

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

Yes, the exclusion of "junior" ~~CMBS~~ABS refers to subordination for credit support, not to a later position in the time tranche sequence.

**Are junior triple-A rated ABS tranches eligible collateral under the TALF?**

Only ABS tranches that are not junior to any other class of securities backed by the same pool of assets are eligible for TALF. For example, in typical CMBS structures this means that classes A-1, A-2, A-~~33~~, A-4, and A-~~45~~ are eligible, but junior triple-A tranches (i.e. classes A-M-~~and~~, A-J and A-S) are not. For this purpose, money market eligible tranches for auto loan and equipment loan securitizations are not considered senior to the other triple-A rated securities in those transactions.

**Are interest-only or principal-only ABS eligible collateral under the TALF?**

All eligible ABS must entitle their holders to payments of principal and interest (that is, must not be an interest-only or principal-only security).

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**What are the requirements relating to ABS issued prior to the TALF loan settlement date?**

A borrower may purchase an ABS issued prior to the TALF loan settlement date (including CMBS and CLOs) at any time up to, but not to exceed, 30 days before its desired subscription date, as long as the ABS purchase transaction has a settlement date on or before the desired TALF subscription date and subject to the other requirements specified in the MLSA and the FAQs. A borrower may acquire an ABS in multiple transactions as long as each transaction complies with the requirement in the prior sentence and has proceeds of at least \$1 million. In each case, the borrower's agreement to purchase the ABS must also be made on an arm's-length basis, as specified in the MLSA, and must be for a cash purchase price that does not reflect any economic arrangement other than the purchase of such ABS. Examples of economic arrangements that should not be reflected in the cash purchase price for the bond include financing or hedging arrangements. The New York Fed also must receive a copy of each sales confirmation for the borrower's purchase. For the avoidance of doubt, a borrower may enter into short-term financing transactions that mature on or prior to the relevant TALF loan settlement date.

These requirements are modified for New Issue SBA ABS as described in the above FAQ "How should new issue SBA ABS purchases be treated for TALF subscription date requirements?"

**Are ABS issued by entities that have received specific support under section 4003(b)(1)-(3) of the CARES Act eligible ABS?**

No. Eligible ABS do not include ABS issued by or sponsored by (or, in the case of CLOs, with collateral managers which are) U.S. entities that have received specific support pursuant to section 4003(b)(1)-(3) of the Coronavirus Aid, Relief, and Economic Security Act of 2020 (Subtitle A of Title IV of the CARES Act). Section 4003(b)(1)-(3) authorizes the Treasury to make loans, loan guarantees, and other investments in support of certain eligible businesses.

**Are ABS positions retained by a sponsor or affiliate to satisfy obligations under risk retention rules eligible collateral for TALF?**

No. TALF loans cannot be used to finance ABS positions held to satisfy risk retention obligations.

**ELIGIBLE UNDERLYING ASSETS FOR ABS**

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**To be eligible ABS, what are the types and characteristics of the underlying assets?**

All or substantially all of the credit exposures underlying the eligible ABS must (i) for newly issued ABS, except CLOs, be originated by U.S.-organized entities (including U.S. branches or agencies of foreign banks), (ii) for CLOs, have a lead or a co-lead arranger that is a U.S.-organized entity (including a U.S. branch or agency of a foreign bank), and (iii) for all ABS (including CLOs and CMBS), be to U.S.-domiciled obligors or with respect to real property located in the United States or one of its territories.

The underlying assets must not include exposures that are themselves cash ABS or synthetic ABS.

The underlying exposures for an eligible ABS may include financial assets that represent an interest in or the right to payments or cash flows from another asset pool (such as through a special unit of beneficial interest, collateral certificate, titling trust or similar intermediate security that does not have independent economic features) created in the normal course of business solely to facilitate the issuance of an ABS. In such cases, for purposes of determining whether the exposures underlying an ABS meet the eligibility requirements for TALF collateral, the assets underlying the intermediate securities are considered to be the underlying exposures of the ABS itself.

Auto Receivables

Auto-related receivables will include retail loans and leases relating to cars, light trucks, motorcycles and other recreational vehicles; commercial and government fleet leases; and commercial loans secured by vehicles and the related fleet leases of such vehicles to rental car companies. Loans and leases relating to other recreational vehicles include loans and leases for all recreational vehicle types designed for consumer use that have collateralized ABS transactions in the past, such as recreational vehicles (RVs), boats, trailers and sports vehicles. Commercial, government and rental fleet ABS may include loans and/or leases related to any type of vehicle that have collateralized fleet securitizations in the past. Retail (non-fleet) leases to commercial obligors in amounts not to exceed 15 percent of the total pool of leases may also collateralize prime auto retail lease ABS.



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All or substantially all of the assets underlying eligible auto loan ABS issued by a non-revolving trust must have been originated on or after January 1, 2019. Eligible auto ABS issued by an existing revolving (or master) trust must be issued to refinance existing auto ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date and must be issued in amounts no greater than the amount of the maturing ABS, as discussed further in FAQs under the "Master Trust Requirements" section. In the case of a master trust established on or after March 23, 2020, all or substantially all of the assets underlying eligible auto loan ABS must have been originated on or after January 1, 2020. An auto loan ABS issued by a new or existing trust with "revolving" features that, for example, permit replenishment of pool assets by providing for the application of pool proceeds to purchase from the originator (or its affiliates) additional assets, without such trust having other features of a revolving "master trust", shall not be eligible collateral.

#### Credit Card Receivables

Eligible credit card receivables will include both consumer and corporate credit card receivables. Eligible credit card ABS issued by an existing revolving (or master) trust must be issued to refinance existing credit card ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date and must be issued in amounts no greater than the amount of the maturing ABS, as discussed further in FAQs under the "Master Trust Requirements" section. In the case of a master trust established on or after March 23, 2020, all or substantially all of the assets underlying eligible credit card ABS must have been originated on or after January 1, 2020.

#### Student Loans

Student loan receivables include private student loans. All or substantially all of the assets underlying eligible student loan ABS must have had a first disbursement date on or after January 1, 2019. Private student loans that are for the purpose of refinancing existing private student loans or loans guaranteed by the federal government are eligible collateral if the refinanced loan disbursement date is on or after January 1, 2019.

#### SBA Loans

U.S. Small Business Administration (SBA) loans include loans, debentures or pools originated under the SBA's 7(a) loan and 504 loan programs, provided they are fully guaranteed as to principal and interest by the full faith and credit of the U.S. government and meet all other TALF eligibility requirements. There is no restriction on the dates of the underlying loans or debentures

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as long as the loans or debentures collateralize SBA Pool Certificates and Development Company Participation Certificates that were issued on or after January 1, 2019.

#### Equipment Receivables

Eligible equipment-related receivables will include loans and leases relating to business, industrial, and farm equipment. Such equipment includes, but is not limited to, agricultural, construction, or manufacturing equipment; trucks other than light trucks; smaller ticket items such as communications, office, and medical equipment, computers, copiers and security systems, and equipment types (other than assets such as aircraft, shipping containers, ships, cell phone towers, locomotives, and railcars) that have collateralized equipment ABS in the past. The assets underlying an eligible equipment ABS may include a mixture of loans and leases on a mixture of types of equipment. All or substantially all of the assets underlying eligible equipment loan ABS must have been originated on or after January 1, 2019.

#### Floorplan Receivables

Eligible receivables for auto floorplan ABS are revolving lines of credit used to finance dealer inventories of cars, light trucks and motorcycles. Other types of floorplan receivables may be included in an auto floorplan ABS, but only to the extent that such receivables do not exceed in the aggregate five percent of the total pool of receivables in that securitization. Eligible floorplan ABS issued by an existing revolving (or master) trust must be issued to refinance existing floorplan ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date and must be issued in amounts no greater than the amount of the maturing ABS, as discussed further in FAQs under the "Master Trust Requirements" section. In the case of a master trust established on or after March 23, 2020, all or substantially all of the assets underlying eligible floorplan ABS must have been originated on or after January 1, 2020.

Eligible receivables for non-auto floorplan ABS are revolving lines of credit used to finance dealer inventories of items including, but not limited to, vehicles such as cars and trucks (subject to the limitations described below), recreational vehicles, motorcycles, trailers, boats and sports vehicles; agricultural, construction, or manufacturing equipment; manufactured housing; large appliances; and electronic equipment. The revolving lines of credit for non-auto floorplan ABS may be collateralized by a mixed type of inventory, including any type of inventory that has collateralized securitized floorplan loans in the past. Eligible floorplan loans for non-auto floorplan ABS may also include receivables arising under revolving or non-revolving asset-based lending facilities and loans secured by accounts receivable of the type that have been

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included in floorplan ABS issued in the past (ABL and AR receivables), subject to the limitations described in the next sentence. Receivables that finance cars and light trucks may be included in a non-auto floorplan ABS, but only to the extent that the car and light truck receivables, together with any ABL and AR receivables, do not exceed in the aggregate five percent of the total pool of receivables in that securitization.

#### Premium Finance Receivables

Eligible premium finance receivables will include loans used to finance premiums for property and casualty insurance but will not include deferred payment obligations acquired from insurance companies. The issuer of the ABS must acquire ownership of each premium finance loan in its entirety (as opposed to merely a participation or beneficial interest). The securitization must include a back-up servicer obligated to service the loans upon the resignation or termination of the initial servicer. Eligible premium finance ABS issued by an existing revolving (or master) trust must be issued to refinance existing premium finance ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date and must be issued in amounts no greater than the amount of the maturing ABS, as discussed further in FAQs under the "Master Trust Requirements" section. In the case of a master trust established on or after March 23, 2020, all or substantially all of the assets underlying premium finance ABS must have been originated on or after January 1, 2020.

#### Leveraged Loans

Eligible leveraged loans underlying CLOs comprise broadly syndicated loans to large corporate borrowers and/or middle market loans. All or substantially all of the leveraged loans underlying CLOs must have been originated on or after January 1, 2019. Newly originated leveraged loans may include loans that have been refinanced on or after January 1, 2019. Loans with interest rates tied to LIBOR are generally expected to have adequate fallback language. Such LIBOR fallback language may be recommended by the Alternative Reference Rates Committee or substantially similar fallback language, or as prevailing in the relevant market when the loan was originated.

#### **What additional criteria are applicable to eligible CLOs?**

For a CLO to be eligible, the underlying leveraged loans must be current on principal and interest, senior secured, and subject to the following additional portfolio limitations as of the subscription date:

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- Maximum second lien loan concentration of 10 percent.
- Maximum debtor in possession (DIP) loan concentration of 7.5 percent.
- Maximum covenant lite loan concentration of 65 percent for broadly syndicated CLOs and 10 percent for ~~middle-market~~ CLOs that do not meet the definition of broadly syndicated CLO.
- Maximum single underlying obligor concentration of 4 percent.
- Minimum obligor EBITDA (as calculated in accordance with the underlying instrument) of \$10,000,000 for CLOs that do not meet the definition of broadly syndicated CLOs.

Additionally, eligible CLOs must include at least one overcollateralization test redirecting cash flow from the equity and subordinated tranches of the securitization to the TALF-eligible senior tranche in the event of deterioration in the underlying loan portfolio.

#### **What is the definition of a broadly syndicated CLO ~~and a middle-market CLO~~?**

A broadly syndicated CLO is a CLO that does not include leveraged loans of obligors with potential indebtedness of less than \$150,000,000 and permits no more than 10 percent of the portfolio to be comprised of leveraged loans to obligors with total potential indebtedness of \$150,000,000 to \$250,000,000.

~~A middle-market CLO is a CLO that is composed of leveraged loans of obligors, all or substantially all of which have potential indebtedness of less than \$250,000,000 but does not permit the portfolio to include leveraged loans of obligors with EBITDA (as calculated in accordance with the underlying instrument) of less than \$10,000,000.~~

#### **What is the definition of a covenant-lite loan?**

A covenant-lite loan is a senior secured loan that: (a) does not contain any financial covenants or (b) does not contain any maintenance covenants (i.e. financial covenants applicable during each reporting period whether or not a borrower has taken any specified action); provided that a loan described in clause (a) or (b) above that contains either a cross-default or cross-acceleration provision to, or is pari passu with, another loan of the underlying obligor that requires the underlying obligor to comply with (i) a maintenance covenant or (ii) one or more financial covenants that apply only upon the occurrence of certain actions of the underlying obligor will be deemed not to be a covenant-lite loan. For the avoidance of doubt, a loan that is capable of being described in clause (a) or (b) above only (x) until the expiration of a certain period of time

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after the initial issuance thereof or (y) for so long as there is no funded balance in respect thereof, in each case as set forth in the related underlying instruments, will be deemed not to be a covenant-lite loan.

**Are SBA ABS whose underlying assets include SBA loans originated under the Paycheck Protection Program (PPP loans) eligible for the TALF?**

Yes, SBA Pool Certificates that include PPP loans in the underlying collateral pool are eligible ABS.

**Are both operating and financing leases acceptable underlying receivables?**

Yes.

**What does "all or substantially all" mean in the context of determining whether the underlying assets in a newly issued ABS (except for CLOs) are originated by U.S.-organized entities (including U.S. branches or agencies of foreign banks) and are made to U.S.-domiciled obligors?**

For newly issued ABS (except for CLOs), 95 percent or more of the dollar amount of the underlying assets in the ABS must be exposures that are (i) originated by U.S.-organized entities (including U.S. branches or agencies of foreign banks), and (ii) made to U.S.-domiciled obligors.

**What does "all or substantially all" mean in the context of determining whether the underlying assets in a newly issued CLO are (i) arranged by a lead or a co-lead that is a U.S.-organized entity (including a U.S. branch or agency of a foreign bank), and (ii) made to U.S.-domiciled obligors?**

For newly issued CLOs, 95 percent or more of the dollar amount of the underlying loans in the CLOs must be exposures that are (i) arranged by a lead or a co-lead arranger that is a U.S.-organized entity (including a U.S. branch or agency of a foreign bank), and (ii) made to U.S.-domiciled obligors.

**What does "all or substantially all" mean in the context of determining whether the underlying assets in a CMBS are made to U.S.-domiciled obligors or with respect to real**

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**property located in the United States or one of its territories?**

For CMBS, 95 percent or more of the dollar amount of the underlying assets in the CMBS must be exposures that are made to U.S.-domiciled obligors or with respect to real property located in the United States or one of its territories.

**Do U.S.-domiciled obligors of eligible collateral include those who are domiciled in a U.S. political subdivision or territory?**

Yes. U.S.-domiciled obligors are those domiciled in the United States, or a political subdivision or territory thereof.

**What does "all or substantially all" mean in the context of determining whether the assets underlying an eligible ABS meet the date of origination criteria?**

"All or substantially all" in this context means 95 percent or more of the principal balance of the underlying assets in the ABS.

**How are subprime versus prime defined for auto loan, auto lease, and credit card ABS?**

Auto loan and lease ABS are considered prime if the weighted average FICO score of the receivables is 680 or greater. Receivables without a FICO score are assigned the minimum FICO score of 300 for this calculation. Commercial receivables can be excluded from this calculation if historic cumulative net losses on these accounts have been the same or lower than those on receivables to individual obligors and this information is available in the prospectus or offering document. In addition, the percentage of commercial receivables in a trust must not exceed 10 percent. For auto deals where a weighted average FICO score is not disclosed, the subprime haircut schedule will apply.

Credit card ABS are considered prime if at least 70 percent or more of the receivables have a FICO score greater than 660. FICO scores must reflect performance data within the last 120 days. For credit card trusts where the percentage of receivables with a FICO score of greater than 660 is not disclosed, the subprime haircut schedule will apply.

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### **How will a borrower know if an ABS is considered prime or subprime?**

Issuers will publish in the prospectus or offering document whether the deal is prime or subprime according to TALF criteria. If this is not published in the prospectus or offering document, the deal will be considered subprime. Such representations in the prospectus or offering document are material to the New York Fed's determination of the haircuts for TALF loans and are considered a component of the representation as to the accuracy of the prospectus or offering document.

For ABS issued on or after March 23, 2020 and before May 22, 2020, the prospectus or offering document need not specify whether the deal is prime or subprime according to TALF criteria. For more information about what documentation is required for ABS issued on or after March 23, 2020 and before May 22, 2020, refer to the FAQ below titled “What documentation is required for ABS issued on or after March 23, 2020 and before May 22, 2020?”

### **What additional requirements apply to the underlying assets in the CMBS pledged as eligible collateral under TALF?**

Asset Types: Each CMBS must evidence an interest in a trust fund consisting of fully-funded mortgage loans and not other CMBS, other securities or interest rate swap or cap instruments or other hedging instruments. A participation or other ownership interest in such a loan will be considered a mortgage loan and not a CMBS or other security if, following a loan default, the ownership interest is senior to or pari passu with all other interests in the same loan in right of payment of principal and interest.

Property Types: The security for each mortgage loan must include (or, if payments due under the loan have been defeased, the security for the loan or its predecessor must have previously included) a mortgage or similar instrument on a fee or leasehold interest in one or more income-generating commercial properties.

## **MASTER TRUST REQUIREMENTS**

### **Why are there no loan origination date restrictions for credit card ABS, floorplan ABS, premium finance ABS, and auto ABS issued to refinance a maturing ABS issued out of an existing master trust?**

Unlike other TALF-eligible ABS asset classes, which are backed by a fixed pool of underlying

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loans, credit card ABS, floorplan ABS, premium finance ABS, and some auto ABS are backed by dynamic pools of receivables that constantly change as consumers and businesses draw on and repay their credit lines or add new receivables. The pools include both seasoned and recently originated receivables. Due to the quick turnover and revolving nature of the underlying pools, refinancings of existing credit card ABS, floorplan ABS, premium finance ABS, and some auto ABS largely fund newly originated receivables, consistent with the policy goal of the TALF.

**How is the date of origination of assets underlying an ABS determined in the case of revolving extension of credit arrangements?**

For underlying assets that are in the form of loans drawn under an existing arrangement to extend credit (e.g., draws under a floorplan line of credit or new fundings under a loan secured by leases to a rental car company), the origination date of the underlying asset is the date on which the loan was drawn or funded and not the date on which the arrangement for the extension of credit (e.g., the floorplan line of credit or the revolving loan arrangement) was put in place.

**Does the requirement that eligible floorplan, credit card, premium finance, and auto ABS (issued by a master trust) be issued to refinance existing ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date apply at the individual master trust level or at the sponsor level?**

The refinancing limitation applies at the sponsor level rather than the individual master trust level. For example, if a sponsor has four master trusts with a total of \$20 billion in ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date, the maximum amount of TALF-eligible ABS the issuer could issue prior to the TALF Termination Date is \$20 billion in the aggregate; it may issue that \$20 billion in ABS from one master trust or from multiple master trusts.

**How are variable funding notes (VFNs) with commitment termination dates prior to the TALF Termination Date treated in the calculation of the amount of a sponsor's credit card, floorplan, premium finance, or auto ABS (issued by a master trust) that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date?**

For TALF purposes, a VFN's maturity date is its commitment termination date and its amount is its maximum contractual principal balance, regardless of whether the VFN is renewed.

**How are VFNs that (i) had commitment termination dates prior to the TALF Termination Date and (ii) have controlled amortization periods prior to the TALF Termination Date treated in the calculation of the amount of a sponsor's credit card, floorplan, premium finance, or auto ABS (issued by a master trust) that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date?**

For VFNs in controlled amortization periods, only the amount that amortizes prior to the TALF Termination Date counts toward the amount of an issuer's credit card, floorplan, premium



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finance, or auto ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date.

**For non-VFN ABS with controlled amortization periods, what amount counts toward a sponsor's limit?**

For ABS with controlled amortization periods, only the amount that amortizes prior to the TALF Termination Date counts toward the limit.

**Do ABS in controlled accumulation periods with bullet maturities after the TALF Termination Date count toward a sponsor's limit?**

No. For TALF purposes, non-VFN ABS maturities are defined as dates on which principal payments are due.

**Must eligible ABS that refinance maturing ABS issued by a master trust be issued concurrently with the maturing ABS?**

No. Issuers may issue eligible ABS that refinance ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date; however, if the "maturing ABS" are VFNs, for purposes of calculating the amount of ABS that may be issued in advance of maturing ABS, only the funded amounts of VFNs may be considered. Issuers may also refinance ABS that matured or mature on or after January 1, 2020 and prior to the TALF Termination Date in bulk.

## **CREDIT RATINGS**

**Which NRSROs are eligible rating agencies under the TALF?**

Eligible NRSROs include Fitch Ratings, Inc., Moody's Investors Service, Inc., and S&P Global Ratings. Eligible NRSROs also include DBRS, Inc. and Kroll Bond Rating Agency, Inc. only to the extent the collateral also has a qualifying rating from Fitch Ratings, Inc., Moody's Investors Service, Inc., or S&P Global Ratings.

**How are unsolicited credit ratings treated?**

Unsolicited ratings are not considered in determining whether collateral is eligible under the TALF.

**What happens if an ABS that was eligible for TALF financing is downgraded by an NRSRO?**

Nothing happens to existing TALF loans secured by that ABS, and borrowers are not required to post any additional margin. However, the ABS may not be used as collateral for any new TALF

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loans until it regains its status as eligible collateral. If a CMBS that is proposed to collateralize a loan request is downgraded or placed on review or watch for downgrade after the TALF loan subscription date but before the settlement date, that CMBS will not be deemed ineligible based solely on the downgrade. However, the New York Fed will incorporate any declines in value associated with this downgrade into its valuation of the security, which may affect the amount of TALF financing ultimately extended against the CMBS.

**Are ABS that are rated in the highest investment grade rating category, but are on review or watch for downgrade, TALF eligible?**

No, eligible ABS cannot be on review or watch for downgrade, except as specifically described above.

**Are triple-A credit ratings achieved using a third-party guarantee applicable for TALF eligibility?**

No, an eligible ABS must obtain the necessary highest investment grade ratings without the benefit of a third-party guarantee.

**For ABS backed by SBA loans, are explicit credit ratings required?**

U.S. dollar-denominated cash ABS backed by loans, debentures, or pools under the SBA's 7(a) loan and 504 loan programs will be eligible as long as all of the underlying assets, or the ABS themselves, are fully guaranteed as to principal and interest by the full faith and credit of the U.S. government. These securities do not require an explicit credit rating.

**When must the final credit rating letters for newly issued ABS be received by the New York Fed?**

The issuer/sponsor must submit to [nytalff@ny.frb.org](mailto:nytalff@ny.frb.org) and [nytalffnewissue@ny.frb.org](mailto:nytalffnewissue@ny.frb.org) the final credit rating letters from each eligible NRSRO that provides ratings for newly issued ABS no later than 10 a.m. (New York time) on the applicable TALF loan settlement date.

## **COLLATERAL REVIEW**

**On what basis may ABS be rejected?**

The New York Fed will reject ABS that do not meet the collateral eligibility requirements.

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The New York Fed, in its sole discretion, may also reject an ABS, for any reason, even if the ABS meets the collateral eligibility requirements. In making such determination, the New York Fed may consider, among others, the credit quality, transparency, and simplicity of structure.

Additionally, the New York Fed will not fund a TALF loan if, in its judgment, a potential borrower is motivated to request a TALF loan due to the direct or indirect economic interest of such borrower, or any of its affiliates, in the underlying loans or leases, or products or services relating to such loans or leases, in the pool underlying the ABS, and such economic interest would impact the incentive of such borrower to independently assess the risk of investment in such ABS. To the extent that any potential TALF borrower has any concerns that it could be rejected on this basis, such borrower is encouraged to ask its TALF Agent to contact the New York Fed well in advance of its loan request.

**Will ABS that have previously been pledged as TALF-eligible collateral continue to be TALF-eligible collateral at future subscriptions?**

So long as ABS that have previously been pledged as TALF-eligible collateral continue to satisfy all collateral eligibility requirements, they would be TALF-eligible collateral at future subscriptions. This statement is not an assurance that there will be no fluctuation in the value of the ABS that would change the amount of TALF financing advanced against the ABS. In all cases, the determination that an ABS meets the eligibility requirements of the TALF program continues to be the responsibility of the borrower and the TALF Agent.

As mentioned above, the New York Fed, in its sole discretion, may reject ABS, for any reason. For ABS that have previously been pledged as TALF-eligible collateral, issuers of such ABS will not be required to resubmit data that had been submitted previously in respect of future subscriptions.

**What is the process for price validation for seasoned ABS purchased prior to the TALF loan settlement date?**

In order to validate the reasonableness of the price of seasoned ABS purchased prior to the TALF loan settlement date, the price reflected on the sales confirmation for such purchase will be compared to various market data sources as of the date of such transaction (trade date). The New York Fed may utilize the services of one or more agents to perform a valuation under various stress scenarios. The New York Fed reserves the right to determine a different price with respect to any purchase price that does not reflect then-prevailing market conditions and, in rare cases, may reject a loan request.

**HAIRCUTS**

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**What is the haircut schedule for each asset type?**

Haircuts will vary across asset classes and securities' average lives, but not across borrowers. Collateral haircuts for ABS collateral are as follows:

		ABS Average Life (years)									
Sector	Subsector	0-	1-	2-	3-	4-	5-	6-<7	7-	8-	9-
		<1	<2	<3	<4	<5	<6	<8	<9	<10	
Auto	Prime retail lease	10%	11%	12%	13%	14%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Auto	Prime retail loan	6%	7%	8%	9%	10%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Auto	Subprime retail loan	9%	10%	11%	12%	13%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Auto	Motorcycle/ other recreational vehicles	7%	8%	9%	10%	11%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Auto	Commercial and government fleets	9%	10%	11%	12%	13%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Auto	Rental fleets	12%	13%	14%	15%	16%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Credit Card	Prime	5%	5%	6%	7%	8%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Credit Card	Subprime	6%	7%	8%	9%	10%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Equipment	Loans and Leases	5%	6%	7%	8%	9%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Floorplan	Auto	12%	13%	14%	15%	16%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Floorplan	Non-Auto	11%	12%	13%	14%	15%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

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Leveraged Loan	Static	20%	20%	20%	20%	20%	21%	22%	<u>23%</u>	<u>24%</u>	<u>25%</u>
Premium Finance	Property and casualty	5%	6%	7%	8%	9%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Small Business	SBA Loans	5%	5%	5%	5%	5%	6%	6%	<u>7%*</u>	<u>7%*</u>	<u>8%*</u>
Student Loan	Private	8%	9%	10%	11%	12%	13%	14%	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Commercial Mortgages	Legacy, Conduit	15%	15%	15%	15%	15%	16%	17%	<u>18%</u>	<u>19%</u>	<u>20%</u>

\*Applicable to Development Company Participation Certificates only.

For auto, credit card, equipment, floorplan, and premium finance ABS, the average life must be under five years. For ABS backed by SBA loans, haircuts will increase one percentage point if the average life reaches the five-year date, and an additional one percentage point for every two additional years of average life beyond the five year date.

For other new-issue eligible collateral, haircuts will increase by one percentage point for each additional year of average life beyond the five year date.

For legacy CMBS with an average life beyond the five year date, base dollar haircuts will increase by one percentage point of par for each additional year of average life beyond the five year date. No ABS may have an average life of ten years or longer.

Haircuts are subject to revision should market conditions change materially. Any such revisions will be made available here.

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### **To what values will the haircuts be applied to determine the maximum loan amount for ABS?**

For all ABS, other than SBA ABS, the market value must be no greater than par. For such assets, the New York Fed will lend to each borrower an amount equal to the market value of the pledged collateral, minus a haircut. For SBA ABS with a market value above par, the New York Fed will lend an amount equal to the market value, subject to a cap of 105 percent of par value, minus a haircut, ~~and the borrower will periodically prepay a portion of the loan. The prepayments will be calculated to adjust for the expected reversion of market value toward par value as such ABS mature.~~

### **How is the loan amount determined for CMBS?**

The loan amount for each CMBS is equal to: (i) the base value minus (ii) the base dollar haircut.

Base value is equal to the least of: (i) the dollar purchase price on the applicable trade date, (ii) the market value as of the subscription date, and (iii) a value based on the New York Fed's collateral review, provided, however, that the base value shall not be greater than par.

Base dollar haircut is equal to: (i) for CMBS with an average life under five years, 15 percent or (ii) for CMBS with an average life beyond the five year date, 15 percent plus one percentage point for each additional year of average life beyond the five year date. No CMBS may have an average life of ten years or longer.

If the base value is less than the base haircut, the CMBS is ineligible collateral for TALF.

For example, assuming a CMBS with a par value of 100, a six and a half-year average life, and a base dollar haircut of 17 percent (15 percent + 2 percent) of par:

- If the base value is 75 percent of par, the loan amount is 58 (75-17) and the collateral haircut is 23 percent (17/75) of the applicable price.
- If the base value is 50 percent of par, the loan amount is 33 (50-17) and the collateral haircut is 34 percent (17/50) of the applicable price.
- If the base value is 16 percent of par, the collateral is not eligible for TALF.

Under this formulation, the size of the haircut increases with the size of the price's discount from par, reflecting a recognition that large discounts from par generally indicate credit concerns.

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The New York Fed will review existing market conditions and may either modify the value or reject a TALF loan request that does not reflect then-prevailing market conditions, and may reject a TALF loan request if the requested loan amount is greater than a stress valuation.

### **How is the loan amount determined for ABS?**

The loan amount for an ABS issued on or after March 23, 2020 is equal to: (i) the base value minus (ii) the base dollar haircut.

Base value for seasoned collateral is equal to the least of: (i) the dollar purchase price on the applicable trade date, (ii) the market value as of the subscription date, and (iii) a value based on the New York Fed's review, provided, however, that, other than SBA ABS, the base value shall not be greater than par. Base value for newly issued collateral is the dollar purchase price on the applicable trade date.

Base dollar haircut varies with the asset class and average life of the ABS, as indicated in the haircut schedule in the relevant FAQ.

If the base value is less than the base haircut, the ABS is not eligible collateral for TALF.

For example, assuming a private student loan ABS with a par value of 100, a six and a half-year average life, and a base dollar haircut of 14 percent of par:

- If the base value is 75 percent of par, the loan amount is 61 (75-14) and the collateral haircut is 19 percent (14/75) of the applicable price.
- If the base value is 50 percent of par, the loan amount is 36 (50-14) and the collateral haircut is 28 percent (14/50) of the applicable price.
- If the base value is 12 percent of par, the collateral is not eligible for TALF.

Under this formulation, the size of the haircut increases with the size of the price's discount from par, reflecting a recognition that large discounts from par generally indicate credit concerns.

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The New York Fed will review existing market conditions and may either modify the value or reject a TALF loan request that does not reflect then-prevailing market conditions, and may reject a TALF loan request if the requested loan amount is greater than a stress valuation.

## AVERAGE LIFE

### How is average life defined?

For ABS with bullet maturities, average life is determined by the expected principal payment date. For amortizing ABS, average life is defined as the weighted average life to maturity based on the prepayment assumptions and market conventions listed below, calculated as of the desired TALF loan settlement date. These prepayment assumptions may be updated periodically for future TALF subscriptions and may be adjusted on a deal-specific basis. For auto rental fleets, the average life is the length of any revolving period plus 6 months.

The average life of a CMBS will be calculated as of the desired TALF loan settlement date on the basis of (i) the current composition of the mortgage pool, as reflected in recent servicer and trustee reports, (ii) the entitlement of the CMBS to make distributions (including, if applicable, its position in a time-tranched sequence of classes), (iii) the assumption that "anticipated repayment dates" are maturity dates, and (iv) a 0% CPR and the absence of future defaults. For this purpose, loans in default or special servicing will be considered as if they had not defaulted, and previously-modified loans will be considered according to their terms as modified.

Sector	Subsector	Prepayment Assumption
Auto	Prime retail lease	100% of prepayment curve
Auto	Prime retail loan	1.3% ABS
Auto	Subprime	1.5% ABS
Auto	Motorcycle/other recreational vehicles	1.5% ABS



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Auto	Commercial and government fleets	100% of prepayment curve
Equipment	Loans and leases	8% CPR
Leveraged Loan	Broadly syndicated and middle market loans	10% CPR
Small Business	SBA 7(a) loans	14% CPR
Small Business	SBA 504 loans	7% CPR
Student Loan	Private	8% CPR

CPR (Conditional Prepayment Rate) represents the proportion of the principal of a pool of loans that is assumed to be paid off prematurely in each period. ABS (Absolute Prepayment Speed) represents the percentage of the original number of loans that prepay during a given period.

**Where will a newly issued ABS's average life be published?**

The issuer is expected to publish the security's average life in the prospectus or offering document. For amortizing assets the issuer should calculate the weighted average life to maturity based on the above prepayment assumptions and make a representation in the prospectus or offering document that the weighted average life to maturity for each triple A-rated tranche was calculated in accordance with the TALF prepayment assumptions. In addition, issuers are encouraged to base weighted average life to maturity calculations on a loan-by-loan analysis. However, if the analysis is based on representative pools, the pools must fairly and accurately model the actual characteristics of collateral underlying TALF-eligible securities.

Issuers should understand that such representations of weighted average life to maturity in the prospectus or offering document are material to the New York Fed's determination of the haircuts for TALF loans and the representation as to accuracy of the prospectus or offering document contained in the Issuer and Sponsor Certification would be breached if the weighted average life calculations incorrectly apply the prepayment assumptions listed above or are based on assumptions that are not representative of the actual collateral characteristics underlying TALF-eligible securities.

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For ABS issued on or after March 23, 2020 and before May 22, 2020, the prospectus or offering document is not expected to contain the weighted average life calculations based on the prepayment assumptions prescribed in this FAQ. For more information about what documentation is required for ABS issued on or after March 23, 2020 and before May 22, 2020, refer to the FAQ below titled “What documentation is required for ABS issued on or after March 23, 2020 and before May 22, 2020?”

**How will ~~a newly issued~~ an ABS’s average life be calculated if the ABS is pledged subsequent to its issuance date?**

For an ABS that is transferred to the TALF SPV’s custodian as TALF collateral on a date subsequent to the date the security was issued (other than New Issue SBA ABS), the following formulas will be used:

Adjusted Average Life for bullet maturities = Original Average Life – [1 X ((~~Upcoming~~ Desired TALF Loan Settlement Date – Original Closing Date of Security)/360)]

Adjusted Average Life for amortizing assets = Original Average Life – [1/2 X ((~~Upcoming~~ Desired TALF Loan Settlement Date – Original Closing Date of Security)/360)]

Except for SBA Pool Certificates, the Original Average Life is the average life reported in the final prospectus or offering document. The Original Average Life for SBA Pool Certificates is the average life reported in the undertaking.

## **INTEREST RATES**

**What interest rates are offered under the TALF?**

The TALF loan rate is determined by the type of collateral securing the loan.

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For CLOs, the interest rate will be 150 basis points over the 30-day average Secured Overnight Financing rate (30-day average SOFR). Interest on TALF loans financing ABS (other than CLOs) shall be payable monthly; interest on TALF loans financing CLOs shall be payable quarterly rather than monthly.

For SBA Pool Certificates (7(a) loans), the interest rate will be the top of the federal funds target range plus 75 basis points.

For Development Company Participation Certificates (504 loans), the interest rate will be 75 basis points over the 3-year fed funds overnight index swap (OIS) rate.

For all other eligible ABS, the interest rate will be 125 basis points over the 2-year OIS rate for securities with an average life less than two years, or 125 basis points over the 3-year OIS rate for securities with an average life of two years or greater.

Interest rates will be set one day prior to the subscription date.

Sector	Subsector	Fixed 3 year loan (Average Life, in years)		Floating
		1-<2	>=2	
Auto		2-year OIS rate + 125 bps	3-year OIS rate + 125 bps	N/A
Commercial Mortgage		2-year OIS rate + 125 bps	3-year OIS rate + 125 bps	N/A

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Credit Card		2-year OIS rate + 125 bps	3-year OIS rate + 125 bps	N/A
Equipment		2-year OIS rate + 125 bps	3-year OIS rate + 125 bps	N/A
Floorplan		2-year OIS rate + 125 bps	3-year OIS rate + 125 bps	N/A
Leveraged Loan		N/A	N/A	30-day average SOFR + 150 bps
Premium Finance		2-year OIS rate + 125 bps	3-year OIS rate + 125 bps	N/A
Small Business	SBA 7(a) loans	N/A	N/A	Top of Fed Funds Range + 75 bps
Small Business	SBA 504 loans	3-year OIS rate + 75 bps		N/A
Student Loan	Private	2-year OIS rate + 125 bps	3-year OIS rate + 125 bps	N/A

Interest rates are subject to revision should market conditions change materially. Any such revisions will be made available [here](#).

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**Where can the 30-day average SOFR be obtained?**

The 30-day average SOFR is published every business day by the New York Fed. It can be found [here](#).

**Will the interest rate spread and haircuts change from month to month?**

The Federal Reserve will periodically review and, if appropriate, adjust the TALF interest rate spread and haircuts for new loans, consistent with the policy objectives of the TALF.

**Why are the spreads on the loans backed by collateral benefitting from government guarantees lower?**

The lower credit risk of these ABS merits a lower risk premium on the TALF loans.

**What fees are associated with the TALF?**

On each loan's settlement date, the borrower must pay to the TALF SPV's settlement account an administrative fee equal to 10 basis points of the loan amount which will cover the fees associated with the facility.

**OPERATIONAL MECHANICS**

**How does an entity participate in the TALF program?**

An eligible borrower must be a customer of a TALF Agent and will be required to have executed a customer agreement authorizing the TALF Agent, among other things, to execute the MLSA as agent for the borrower and to perform all actions required on their behalf. The MLSA provides further details on the requirements that apply to the entities seeking to borrow under the TALF.

**Will there be a separate lending facility for each ABS asset class?**

No. Borrowers with eligible ABS of all asset types will receive loans from the same TALF facility.

**What information will issuers be required to deliver in connection with newly-issued ABS?**

Sponsors or issuers of newly-issued ABS must provide to the New York Fed, no later than 5 p.m.

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(New York time) three weeks in advance of the subscription date that immediately follows the pricing of such ABS, all data on the ABS or its underlying exposures that the issuer has provided to any NRSRO. A sponsor or issuer must deliver such information to [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org) and [nytalfnewissue@ny.frb.org](mailto:nytalfnewissue@ny.frb.org). The New York Fed reserves the right to request further information from the sponsor or issuer in connection with performing its review and requires the sponsor and issuer to promptly provide any additional data provided to any NRSRO to [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org) and [nytalfnewissue@ny.frb.org](mailto:nytalfnewissue@ny.frb.org).

The sponsor or issuer must also provide a written waiver or consent (in a form acceptable to the New York Fed) to every NRSRO to which such sponsor or issuer provided data on the ABS or its underlying exposures, permitting such NRSRO to share its view of the credit quality of the ABS and its underlying exposures with the New York Fed. A copy of such written waiver or consent must be delivered to [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org) and [nytalfnewissue@ny.frb.org](mailto:nytalfnewissue@ny.frb.org) no later than 5 p.m. (New York time) three weeks in advance of the applicable subscription date. The requirement to provide such written waiver or consent applies regardless of whether any such NRSRO is a TALF-eligible rating agency or whether such NRSRO actually issues a rating on the ABS.

**What constitutes “data” provided to the NRSROs for purposes of the delivery requirement specified in the FAQ above?**

Data includes any information prepared by or on behalf of the sponsor or issuer specifically for presentation to the applicable NRSROs, commonly known as the “rating agency book,” plus any information provided by or on behalf of the sponsor or issuer to the applicable NRSROs relating to (i) the underlying assets of the ABS, including information relating to its historical performance and the relevant characteristics of the collateral relating to eligibility criteria, (ii) the structure of the ABS, including any term sheets, cash flow projections, structural diagrams or draft offering documents provided to the NRSROs, and (iii) the issuer, sponsor, servicer or originators. Data does not include transaction documentation other than term sheets and offering documents.

**What constitutes “additional data” provided to the NRSROs for purposes of the delivery requirement specified in the FAQ above?**

Additional data includes any information prepared by or on behalf of the sponsor or issuer that is delivered to an NRSRO subsequent to the initial delivery deadline that provides additional information on any of the matters described in the FAQ above, including without limitation, any

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information, updates or changes relating to the collateral pool, the structure of the ABS or the issuer, sponsor, servicer or originators.

**Does “data” provided to the NRSROs include oral communications?**

Data does not include oral communications, but it is the New York Fed’s understanding that material information relating to the matters described above would be communicated in writing to the NRSROs.

**Does “data” provided to the NRSROs include emails?**

The New York Fed does not expect to be copied on every communication with the NRSROs, however, if emails contain substantive information with respect to the matters described in the FAQs above, such emails should be considered to be data for purposes of the delivery requirements.

**What communications should issuers expect to receive after submitting “data” to the New York Fed?**

If the New York Fed becomes aware of any factors that could adversely affect the eligibility of an ABS, the New York Fed will communicate with the issuer as soon as practicable. The issuer will be given an opportunity to discuss details and clarify potential areas of concern with the New York Fed.

**Do issuers need to publish a final (“black”) prospectus by the subscription date, or can borrowers subscribe for a loan based on the preliminary (“red”) prospectus, and deliver the final prospectus at a later date?**

On the applicable TALF loan subscription date, the TALF Agent must provide to the New York Fed (via [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org) and [nytalfnewissue@ny.frb.org](mailto:nytalfnewissue@ny.frb.org)) the CUSIP numbers with prospectuses/offering documents of all collateral expected to be pledged against the TALF loans. If the CUSIP number corresponds to a new issuance, the prospectus/offering documents submitted on the subscription date may be preliminary (“red”), but the final (“black”) prospectus/offering documents must be provided to the New York Fed no later than 12:00 p.m. (New York time) three business days prior to the applicable TALF loan settlement date. Prospectuses/offering documents are not required for SBA Pool Certificates.

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## **COLLATERAL MONITORS AND OTHER AGENTS**

### **How will the New York Fed include minority-, women-, and veteran-owned business entities in supporting the TALF?**

The New York Fed is committed to the fair inclusion and utilization of minority-, women-, and veteran-owned business entities as it responds to the economic effects of the pandemic. In supporting the TALF, the New York Fed will consider expanding the pool of TALF Agents to include a wider range of entities and will seek opportunities to consider a broader set of firms for various roles supporting the TALF as short-term vendor relationships are revisited in the coming months.

### **Which third-parties are providing services to the TALF?**

Initially, Pacific Investment Management Company LLC will be the collateral monitor and The Bank of New York Mellon will be the TALF custodian. These are short-term engagements. Following the launch of the facility, when sourcing a vendor is less time sensitive, the New York Fed will revisit these relationships.

The New York Fed may also use the services of additional collateral monitors or other agents in connection with TALF.

## **FOR NEWLY-ISSUED ABS: ISSUER AND SPONSOR CERTIFICATION, SPONSOR INDEMNITY UNDERTAKING, AND AUDITOR ASSURANCES**

### **What information must the issuer and sponsor include in the prospectus or offering document of a newly-issued ABS in order to represent that the ABS is eligible collateral for a TALF loan?**

In addition to information required by applicable laws, the issuer and the sponsor (as described below) must ensure that the information included in the prospectus or offering document includes a signed certification indicating, among other items, that (i) the ABS is “eligible collateral” and (ii) the sponsor (or, if the sponsor is a special purpose vehicle, the sponsor’s direct or indirect ultimate parent) has executed and delivered an indemnity undertaking to the



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TALF SPV and the New York Fed indemnifying them from any losses they may suffer if such certifications are untrue. The form of certification and indemnity are available [here](#).

This FAQ is not applicable to SBA ABS.

**What entity is the “issuer” that must sign the Issuer and Sponsor Certification?**

The "issuer" for purposes of the issuer and sponsor certification, in both public and private offerings of TALF eligible ABS, will be the legal entity that issues the ABS.

**What entity is the “sponsor” that must sign the Issuer and Sponsor Certification and the Sponsor Indemnity Undertaking?**

The “sponsor” for purposes of the issuer and sponsor certification and sponsor indemnity undertaking, in both public and private offerings for TALF eligible ABS, will be the legal entity that is the sponsor of the ABS issuance. The sponsor is the entity that organizes and initiates an ABS transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuing entity. For CLOs, the collateral manager shall be the “sponsor” for these purposes even if the collateral manager is not the “sponsor” for purposes of the risk retention rules. If the sponsor is a special purpose vehicle, the sponsor’s direct or indirect ultimate parent must also execute the certification and indemnity undertaking.

**What documentation is required for SBA Pool Certificates and Development Company Participation Certificates?**

With respect to SBA Pool Certificates, no issuer certification, indemnity or offering document is required. However, an SBA-approved pool assembler must execute an undertaking in connection with each SBA Pool Certificate CUSIP addressed to the TALF SPV and the New York Fed. Such pool assembler may be either the entity that assembled the pool, or the pool assembler that is the seller in a TALF-financed transaction. For pools assembled jointly between two or more pool assemblers, any one of them may execute the undertaking. An undertaking must be delivered to the New York Fed (via [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org) and [nytalfnewissue@ny.frb.org](mailto:nytalfnewissue@ny.frb.org)) for each CUSIP no later than four business days prior to the TALF loan settlement date in order for a borrower to pledge that CUSIP as collateral for a TALF loan. Without an undertaking, the CUSIP cannot be used as collateral for a TALF loan regardless of whether it meets other TALF eligibility requirements.

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With respect to Development Company Participation Certificates, no issuer certification, indemnity or undertaking is required. However, offering documents that either contain the security's weighted average life or include a supplement disclosing the security's weighted average life must be delivered to the New York Fed (via [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org) and [nytalfnewissue@ny.frb.org](mailto:nytalfnewissue@ny.frb.org)) on the TALF loan subscription date. If the CUSIP number corresponds to a new issuance, the offering document(s) submitted on subscription date may be preliminary, but the final offering document(s) must be provided to the New York Fed no later than 12 p.m. (New York time) three business days prior to the applicable TALF loan settlement date.

### **What information relating to TALF-eligible SBA ABS will be available from the SBA?**

The SBA provides guidance about the TALF eligibility of SBA ABS. Such guidance has not been validated by the New York Fed.

### **What level of assurance will be required from an accounting firm regarding collateral eligibility?**

As a condition of the disbursement of the TALF loan to be secured by a newly-issued ABS, an accounting firm retained by the issuer must provide to the New York Fed: (i) an auditor attestation, providing an opinion on the assertion of management of the issuer and sponsor that the ABS is TALF eligible (Auditor Attestation) or (ii) in the case of CLOs, a report on agreed upon procedures (AUP Report (TALF)) with respect to factual matters related to various TALF eligibility criteria for leveraged loans. The New York Fed acknowledges the sufficiency of the procedures set forth in the AUP Report (TALF) for its purposes. If available, as a condition of the disbursement of the TALF loan, the accounting firm must also provide to the New York Fed a copy of the report on agreed upon procedures that it delivers to the sponsor and the underwriter or initial purchaser, including any updates to such report, in connection with the CLOs (AUP Report (Industry)).

The accounting firm providing the Auditor Attestation, the AUP Report (TALF) and, if available, the AUP Report (Industry) must be a nationally recognized certified public accounting firm that is registered with the Public Company Accounting Oversight Board. The Auditor Attestation or AUP Report (TALF) (as applicable) and, if available, the AUP Report (Industry) must be submitted to the New York Fed (via [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org) and [nytalfnewissue@ny.frb.org](mailto:nytalfnewissue@ny.frb.org))

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no later than 5 p.m. (New York time) on the same day the issuer furnishes them on Form ABS-15G.

The New York Fed has consulted with the ASB Asset Securitization Task Force members of the American Institute of Certified Public Accountants (AICPA) to ensure that the Guidance for Accounting Firms and the form of Auditor Attestation and the AUP Report (TALF) are consistent with AICPA standards and industry practices.

This FAQ is not applicable to SBA ABS.

**What documentation is required for ABS issued on or after March 23, 2020 and before May 22, 2020 in order for such ABS to be eligible collateral for a TALF loan?**

With respect to ABS issued on or after March 23, 2020 and before May 22, 2020, the following documentation must have been submitted to the New York Fed: (i) an Issuer and Sponsor Certification, (ii) a Sponsor Indemnity Undertaking, and (iii) an Auditor Attestation or an AUP Report (TALF) (as applicable) and, if available, an AUP Report (Industry). The forms are substantially similar to the forms required for ABS that will be issued on the TALF loan settlement date. The issuer and the sponsor may rely on a previously issued certification made at the time of ABS issuance and conduct additional due diligence, as appropriate, to certify that the ABS is TALF-eligible as of the date of the certification required above.

Additionally, the sponsor or issuer must have submitted to the New York Fed all data submitted to the NRSROs, a copy of the final prospectus or offering document, and all other data that the issuer has considered to analyze and certify collateral eligibility criteria (including recent trustee and servicer reports). The sponsor or issuer must also have provided a written waiver or consent (in a form acceptable to the New York Fed) to every NRSRO to which such sponsor or issuer provided data on the ABS or its underlying exposures, permitting such NRSRO to share its view of the credit quality of the ABS and its underlying exposures with the New York Fed. The requirement to provide such written waiver or consent applies regardless of whether any such NRSRO is a TALF-eligible rating agency or whether such NRSRO has actually issued a rating on the ABS.

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For the avoidance of doubt, the final prospectus or offering document need not specify whether the deal is prime or subprime or include the weighted average life calculations based on the prepayment assumptions prescribed in the FAQs above.

All documentation described above must have been submitted to the New York Fed (via [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org)) no later than 3:00 p.m. (New York time) on June 30, 2020.

In advance of submitting any loan requests for the June 17, 2020 subscription date only, the issuer must have submitted the CUSIP number of such ABS expected to be pledged against the TALF loan and a copy of the final prospectus or offering document to the New York Fed (via [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org)) no later than 3:00 p.m. on June 11, 2020, and all documentation described above must have been submitted to the New York Fed (via [nytalf@ny.frb.org](mailto:nytalf@ny.frb.org)) no later than 3:00 p.m. on June 15, 2020.

**For newly-issued ABS, should the assertions made in the Issuer and Sponsor Certification be made as of the date ABS is priced, or can such assertions be made as of an earlier date? When must Auditor Attestations be made?**

The assertions as to TALF eligibility of the ABS made by the issuer and sponsor may be made earlier than the date of the final (“black”) prospectus or offering document. The Auditor Attestation and the AUP Report (TALF) shall be made as of the same date that the issuer and sponsor make their assertions in the Issuer and Sponsor Certification. The Issuer and Sponsor Certification must be included in the final prospectus or offering document. A form of (or, if available, a signed copy of) the Issuer and Sponsor Certification must be included in the preliminary (“red”) prospectus or offering document. The Sponsor Indemnity Undertaking, the Auditor Attestation or the AUP Report (TALF) (as applicable) and, if available, the AUP Report (Industry), must all be submitted to the New York Fed only once per CUSIP no later than 5 p.m. (New York time) on the same day the issuer furnishes the Auditor Attestation or the AUP Report (TALF) (as applicable) and, if available, the AUP Report (Industry) on Form ABS-15G.

**For newly-issued ABS to be considered for a subscription date, when should an issuer price such ABS?**

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An issuer must price a newly-issued ABS no earlier than two business days prior to a subscription date and no later than the subscription date. This FAQ is not applicable to SBA ABS.

If an issuer prices a newly-issued ABS earlier than two business days prior to a subscription date, loan requests with respect to such ABS may not be submitted on such subscription date, but may be submitted on subsequent subscription dates (so long as, consistent with the FAQs above, (a) the borrower acquires such ABS in an arm's length primary or secondary market transaction within 30 days prior to such subsequent loan subscription date, with the date of acquisition measured, under the terms of the MLSA, from the relevant pricing or trade date, and (b) such acquisition has a settlement date prior to such subsequent loan subscription date). Such ABS will be subject to the New York Fed's price validation process described in the FAQ above titled "What is the process for price validation for ABS purchased prior to the TALF loan settlement date?"

For example, for a January 31 (Friday) subscription date, if an issuer prices ABS on or after January 29 (Wednesday) and no later than January 31, loan requests with respect to such ABS may be submitted on the January 31 subscription date. If an issuer prices ABS on or before January 28 (Tuesday), then loan requests with respect to such ABS may not be submitted on the January 31 subscription date, but may be submitted on subsequent subscription dates.

**For newly-issued ABS, when must an issuer submit all requisite documents in order for the ABS to be eligible collateral for a TALF loan?**

In order for a newly-issued ABS to be eligible collateral for a TALF loan, an issuer must submit all documents required to be delivered with respect to such ABS within the time frames specified in the FAQs for the subscription date immediately following pricing (even if the issuer does not anticipate any borrowers to submit loan requests on such subscription date). For more information about what documents issuers are required to submit, refer to "FOR NEWLY-ISSUED ABS: ISSUER AND SPONSOR CERTIFICATION, SPONSOR INDEMNITY UNDERTAKING, AND AUDITOR ASSURANCES" and "OPERATIONAL MECHANICS" above.

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## LOAN SUBSCRIPTION AND CLOSING

### **How frequently will TALF subscriptions be offered?**

There will be approximately two TALF loan subscription dates per month, and each will be open to all eligible asset classes.

### **What is the date upon which the New York Fed will set the initial benchmark rates for a TALF subscription?**

The New York Fed will set the initial benchmark rates for a TALF subscription one business day prior to subscription date. Such rates will be available on the TALF website.

### **What other information will be available?**

Aggregate information regarding initial loan requests will be made available on the TALF website on each loan subscription date, and aggregate information regarding loans settled will be available within one business day of each loan settlement date.

Additionally, those ABS that the New York Fed determined to be TALF-eligible and those ABS that borrowers proposed as eligible but the New York Fed determined to be ineligible will be available on the TALF website two business days before each loan settlement date. Eligibility determinations are as of the date indicated and do not guarantee that ABS will remain eligible or be accepted for subsequent loan requests. As noted above, the New York Fed retains the right to reject any ABS as TALF collateral, and loan requests may also be rejected for a number of reasons not having to do with the eligibility of the proposed collateral. Eligibility determinations will be made available on the TALF website for ABS pledged as part of a loan request, as well as based on information submitted by an issuer and its accounting firm unconnected to a specific loan request.

### **What is the TALF loan process from subscription to settlement?**

On the TALF loan subscription date, the TALF Agent must submit each loan request no later than the time specified by the New York Fed on its website.

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On the loan settlement date, the TALF Agent will deliver the eligible ABS collateral, administrative fee and applicable margin to the TALF SPV's settlement account at the TALF custodian.

**How will the process work if a newly issued ABS closes on the same day as the TALF loan settlement date?**

The borrower of a TALF loan must identify the counterparty expected to deliver the newly issued ABS to be pledged as collateral at the time of the loan subscription. When the borrower's TALF Agent who submitted the loan request receives the confirmation of the loan and its details from the TALF custodian two business days prior to the loan settlement date, the TALF Agent can extract the pertinent information to generate and forward a trade confirmation to the borrower's delivering counterparty. The delivering counterparty can be the lead underwriter or co-manager of the newly issued ABS, other syndicate member, or the TALF Agent of the borrower.

The borrower must always remit the margin to its TALF Agent who submitted the loan request. If the TALF Agent is not the delivering counterparty, the TALF Agent will forward the margin to the TALF SPV's account at the TALF custodian in order for the issuer to receive the full purchase price of the security issue. The delivering counterparty will deliver the ABS collateral to the TALF custodian against payment. Upon settlement, the TALF custodian will reflect the loan and collateral pledged on its books and records.

**Will there be a limit on how many loans a borrower may request?**

No. An eligible borrower may request an unlimited number of loans at each subscription date.

**May borrowers request loans through multiple TALF Agents?**

Yes. If a borrower requests loans through multiple TALF Agents, it must deliver the collateral for each loan through the respective TALF Agent, unless the collateral is a new issuance delivered by the underwriter/other syndicate desk.

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**What is the minimum TALF loan amount?**

A borrower must request a minimum of \$5 million for each loan.

**Is there a maximum TALF loan amount?**

No.

**May a borrower revise its original loan request?**

The borrower's original loan request, submitted via its TALF Agent on the subscription date, may subsequently be adjusted only if the borrower is allocated less than the expected amount of a newly issued ABS.

**In the isolated and unlikely occurrence that a borrower is deemed ineligible between the subscription date and the settlement date, is a TALF Agent that acts as underwriter and agent for the borrower allowed to finance the failed subscription by borrowing under the TALF facility?**

Yes, in the unlikely event that a borrower is deemed ineligible between the subscription date and the settlement date, the borrower's TALF Agent may borrow, under the TALF facility, provided that: (i) the amount borrowed is equal to the loan amount that the ineligible borrower requested; and (ii) the borrowing is not used for a transaction underwritten by the TALF Agent that contains assets that the TALF Agent, any of its affiliates, or any entity under direct or indirect control of the TALF Agent, originated. The TALF Agent must indicate its intent to borrow within two hours of receiving notification regarding a borrower's ineligibility. In such circumstances, the TALF Agent will not be required to submit a conflicts of interest plan to the New York Fed.

**The MLSA requires the TALF Agent to deliver on behalf of the borrower, among other things, a sales confirmation. What form of sales confirmation is acceptable?**

A Rule 10b-10 confirmation is satisfactory. Other written sales confirmations, including e-mail confirmations that contain the required pricing information and are customarily provided by many broker-dealers prior to mailing of a Rule 10b-10 confirmation, will also be acceptable.

The sales confirmation price should be entered on each borrower loan request to not exceed the eighth decimal point. The eight decimal point value should be a truncated value. Sales confirms should not be submitted in an image format.



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### **Must an eligible borrower own newly issued ABS it plans to pledge as collateral for a TALF loan at the time it subscribes for the loan?**

An eligible borrower need not own a new issue ABS on the subscription date. However, in order for the TALF Agent to perform their due diligence, the borrower must inform the TALF Agent by the subscription date of the CUSIP of the ABS it intends to deliver as collateral on the loan settlement date. If the borrower is allocated less than expected of the new ABS issue, the TALF Agent must submit a revised loan request no later than noon (New York time) on the fifth business day prior to the loan settlement date so that an adjustment may be made to the margin and administrative fee prior to the loan settlement date.

### **How do record dates, the timing of factor adjustments, and the associated principal payments on ABS affect TALF loan settlements?**

The Collateral Value for any ABS that trade on the basis of an original principal amount and a factor to be pledged as collateral for a TALF loan will be established based on the most recent factor available as of the third business day prior to the loan settlement date. Where the Collateral Value for a TALF loan is established during the period after a record date for the collateral and before the distribution date in relation to that record date on which an updated factor becomes available, the borrower (or its agent or custodian) and not the TALF custodian will receive the principal payment associated with the reduction of the factor on that distribution date—i.e., the reduction of the factor from the factor on which the Collateral Value is based. Under the terms of the MLSA, such principal payment (a “principal due amount”) is considered to be an amount received in respect of the collateral for the TALF loan, and the borrower is required to promptly turn over such principal due amount to the Custodian for application under the MLSA. The principal due amount is equal to the full amount of the principal payment and is not reduced by applying the haircut percentage applicable to the collateral for the TALF loan. Principal due amounts are applied as “Principal Receipts” under the MLSA. Any amounts corresponding to the product of the haircut percentage and the principal due amounts will be distributed pursuant to Section 5 of the MLSA, subject in all cases to the terms of the MLSA.

In order to facilitate the payment by the borrower, where the TALF loan settlement date occurs on or after the date on which the principal due amount can be determined with the updated factor, the principal due amount may be netted in the New York Fed’s sole discretion from the TALF loan proceeds and retained by the TALF SPV to satisfy the borrower’s obligation under the MLSA, ~~and will be applied as “Principal Receipts” under the MLSA on the next MLSA payment date.~~ Where the principal due amount is not known on the TALF loan settlement date

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or no netting has occurred on the loan settlement date, the principal due amount must be paid promptly by the borrower to the TALF SPV after receipt under the terms of the MLSA. “Promptly” should be understood in this context to require payment by the borrower within three business days after the related distribution date on which the relevant principal amount is paid to the borrower (or its agent or custodian), failing which a Collateral Enforcement Event (as defined in the MLSA) will be considered to have occurred. The TALF SPV expects to instruct the TALF custodian to initiate claims for payment of principal due amounts through the TALF Agents, using The Depository Trust Company’s Security Payment Order service or such other means as the TALF SPV may determine from time to time. In all cases, however, the borrower remains responsible for ensuring that its principal due amounts are paid promptly to the TALF SPV, whether or not the TALF SPV has initiated a claim.

The TALF SPV also reserves the right to adjust the determination of the Collateral Value at any time on or prior to the TALF loan settlement date if it is expected that a significant principal due amount will be owed by the borrower following the settlement date.

**Is there a penalty if an investor fails to provide a security on settlement date?**

No, although the New York Fed expects the ABS collateral identified by CUSIP in the confirmation sent to the TALF Agent by the TALF custodian to be delivered on the loan settlement date. Should any portion of expected ABS collateral not be received on settlement date, that portion of the loan will be cancelled and the administrative fee will not be refunded.

**May a borrower pledge more than one security as collateral for a single loan?**

No. A borrower may pledge only a single eligible ABS as collateral for a single TALF loan. In the case of SBA Pool Certificates, however, a borrower may pledge more than one security as collateral, provided that, each Certificate falls into a weighted average life range such that the same haircut percentage is applied to each Certificate and the frequency of the interest rate reset on each Certificate is the same (e.g., monthly or quarterly). Each SBA Pool Certificate must have proceeds of at least \$1 million.

**POST-CLOSING ISSUES**

**What is the maturity of a TALF loan?**

Each TALF loan will have a three-year maturity.

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**If the ABS matures after the TALF loan matures, is the borrower responsible for selling the collateral and repaying the loan at the end of the loan's maturity? (For example, if an ABS matures in four years and the TALF loan matures in three years, is the borrower responsible for selling the collateral and repaying the loan at the end of the third year?)**

The TALF loan must be repaid upon the TALF loan's maturity. The borrower may: (i) repay the TALF loan with same day funds, at which time the TALF SPV will deliver the collateral free of payment; or (ii) arrange for the sale of the collateral and instruct the TALF SPV to deliver the pledged ABS to the counterparty versus payment in an amount sufficient for the repayment of the TALF loan.

If the sale proceeds amount are insufficient to repay the TALF loan in full, including accrued interest, the borrower first must deliver same day funds to TALF SPV to make up any shortfall, before the TALF SPV will deliver the pledged ABS versus payment.

Any excess sale proceeds will be remitted back to the borrower.

At the maturity of the TALF loan, a borrower may surrender the collateral to the TALF SPV, in lieu of repaying the outstanding principal or interest on a TALF loan, by delivering a Collateral Surrender and Acceptance Notice (in the form provided in the MLSA) with respect to such TALF loan by the maturity date.

**Will prepayment of the TALF loan be permitted?**

Yes. A borrower may prepay a TALF loan by delivering a Prepayment Notice in full or in part subject to the terms and procedures set forth in the MLSA including the restrictions on permitted repayment dates. If a borrower makes a partial prepayment, collateral securing its TALF loan will be released on a pro-rata basis, taking into consideration minimum ABS denominations.

**Are there any penalties associated with prepayment of a TALF loan?**

No.

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**May a borrower substitute collateral during the term of its TALF loan?**

No.

**If the ABS collateral supporting a TALF loan is sold, can the TALF loan be transferred with that collateral?**

A borrower may assign all of its obligations with respect to a TALF loan to another eligible borrower in accordance with the terms and procedures set forth in the MLSA and with the prior consent of the New York Fed by delivering an Assignment and Assumption, provided that, the collateral is eligible collateral as of the date of the assumption. The New York Fed will review the eligibility of the assignee as a borrower at the time of the transfer and confirm that the assignee has executed all the requisite documentation for the facility.

No assignments will be consented to after December 31, 2020, unless the Board and the Treasury extend the TALF.

**How are principal payments on eligible collateral allocated between the borrower and repayment of principal on the TALF loan?**

Unless otherwise provided in the MLSA, any remittance of principal on eligible collateral must be used immediately to reduce the principal amount of the TALF loan in proportion to the haircut. For example, if the original haircut was 10 percent, 90 percent of any remittance of principal on the ABS must immediately be paid to the TALF SPV.

**If a TALF-financed ABS incurs a principal loss, would the loss be allocated between the borrower's haircut and the TALF loan?**

No. The borrower is responsible for all interest and principal payments on a TALF loan. If the borrower does not make these payments, the New York Fed will enforce its rights to the collateral and the borrower will forfeit its haircut amount.

**Are there other events that may affect the portion of current cash flow on ABS collateral that is applied to a borrower's TALF loan obligations?**

Yes. If one or more specified circumstances exist with respect to a particular ABS pledged as

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collateral for a TALF loan, then all cash flow received on such ABS while the circumstance exists must be applied to the payment of the accrued interest on and outstanding principal amount of the TALF loan. The specified circumstances consist of:

- in the case of any ABS with a revolving (or master) trust, the occurrence of an early amortization event (or an event by another name, such as early redemption event, that has the same effect), if principal payments on such ABS commence because of such occurrence or, if principal payments have already commenced due to the termination of the revolving period, the amount of such principal payments is adjusted because of such occurrence;
- in the case of any ABS, the occurrence and continuation of an event or circumstance that constitutes an event of default under the governing agreements for such ABS (to the extent the event or circumstance is not waived in accordance with those governing agreements); and
- additionally, in the case of any CMBS, the depletion of credit support for such CMBS, a circumstance that will be deemed to exist if (and for as long as) the aggregate outstanding principal balance of the classes of securities that provide credit support to such CMBS, minus the aggregate amount of “appraisal reduction amounts” in effect with respect to the assets that back such CMBS, is less than or equal to zero.

**What happens if a borrower does not repay its TALF loan?**

In lieu of repaying the outstanding principal or interest on a TALF loan, a borrower may surrender the collateral to the New York Fed by delivering a Collateral Surrender and Acceptance Notice (in the form provided in the MLSA) with respect to the TALF loan. If a borrower fails to deliver the Collateral Surrender and Acceptance Notice by the maturity date, the New York Fed may exercise full recourse rights against the borrower and require it to repay the TALF loan.

**Is there a grace period associated with a borrower’s obligation to pay interest on a TALF loan?**

Yes, a borrower has a grace period of 30 days to pay interest on a TALF loan if the net interest on the pledged ABS is not sufficient to cover the interest payment associated with the TALF loan. After the grace period, if the loan remains delinquent, the New York Fed will enforce its rights to the TALF loan collateral. Where the insufficiency relates solely to a timing difference between the interest payments on the pledged ABS and the interest on the TALF loan (and the

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pledged ABS continue to pay in accordance with their terms), that timing differential is not considered a delinquency.

**When a borrower elects to surrender the collateral in satisfaction of a TALF loan, can it do so by surrendering specific collateral or is the entire pool of collateral surrendered?**

All of the ABS that secures an individual TALF loan must be surrendered. A borrower that desires to effect a collateral surrender must make a request through its TALF Agent by submitting a Collateral Surrender and Acceptance Notice (in the form provided in the MLSA).

**TALF AGENT RISK MANAGEMENT AND COMPLIANCE**

**What is a TALF Agent?**

A TALF Agent is a financial institution that is a party to the MLSA from time to time, individually and as agent for its borrower. The TALF Agents' role in supporting the TALF is to serve as agents on behalf of their customers, the TALF borrowers.

TALF Agents include the Primary Dealers as well as other dealers designated by the New York Fed for this role in support of TALF, subject to adequate due diligence, compliance, and other reviews. A full description of eligibility and program requirements for firms interested in participating as TALF Agents can be found in the Expression of Interest (EOI) materials and Frequently Asked Questions (FAQs) for the Section 13(3) facility counterparty and agent expansion.

**What is the TALF Agent's role?**

The MLSA specifies a TALF Agent's roles and responsibilities, including the agency functions to be performed on behalf of its customers. Among other duties, the TALF Agent shall:

- Collect from its customers the amount of each borrower's loan requests, the CUSIPs of the ABS the borrower expects to deliver and pledge against the loan and the prospectuses and/or offering documents of the newly issued ABS expected to be pledged;

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- Submit aggregate loan request amounts on behalf of its customers in the form and manner specified by the New York Fed;
- On the subscription date, submit a file to the custodian containing a detailed breakdown of the loan requests, which will, among other things, include the identity of the individual borrowers, the amount of each borrower's loan request and the material information collected above;
- Work with its customers to resolve any discrepancies identified by the custodian;
- Collect from its customers and deliver to the custodian the administrative fee and any applicable margin required to be delivered to the custodian on the loan settlement date;
- Periodically receive from the custodian the portion of the distributions on the collateral that are to be paid to its customers and disburse such payments in accordance with the instruction of its customers and provide any applicable tax report to its customers;
- Receive, or forward, notices on behalf of its customers;
- Conduct know-your-customer due diligence on its customers so as to be able to identify, verify, and review information needed to satisfy the TALF Agent's obligations under the MLSA and [FRBNY Borrower Due Diligence Policy for TALF Agents](#) (TALF Due Diligence Policy) regarding borrower eligibility; and
- Implement policies and procedures to identify, manage, and mitigate potential conflicts of interest associated with its TALF Agent responsibilities under the [FRBNY Conflicts of Interest Policy for TALF Agents](#) (TALF Conflicts of Interest Policy).

**What additional responsibilities does a TALF Agent that is an underwriter of an issue of asset-backed securities have under section 10.1(d) of the MLSA?**

While TALF Agents generally do not have responsibility for the accuracy of disclosure contained in the offering materials, section 10.1(d) of the MLSA makes an exception for TALF Agents acting as underwriters. Under section 10.1(d), a TALF Agent that acts as underwriter for an ABS issue represents that no information contained in the ABS' offering materials furnished by it is untrue as to any material fact, or omits any material fact. The intention is that the underwriter's representation under section 10.1(d) of the MLSA as to the offering materials, taken together with the "reasonable care" standard of liability under section 17.0, would impose a duty as to this disclosure coextensive with the underwriter's legal obligations under the federal

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securities laws. If, on the date offering materials were delivered to the New York Fed, the issuance and distribution of the securities have been completed so that the TALF Agent is no longer acting as underwriter of the issuance, section 10.1(d) imposes no incremental duty on the TALF Agent to “bring down” the underwriter's due diligence to such date.

**What constitutes “reasonable care” on the part of a TALF Agent in confirming the accuracy of the representation as to eligibility of collateral for TALF loans?**

The TALF Agent is expected to have reviewed the relevant offering materials (including the certifications contained therein) and, except in the case of SBA ABS, separately confirmed that the ratings currently applicable to the collateral meet the eligibility criteria.

**In meeting its responsibilities under the MLSA and TALF Due Diligence Policy in respect of TALF borrower eligibility, what level of reliance should a TALF Agent place on certifications and other information it receives from the borrower?**

TALF Agents should utilize judgment and the standards of their own Customer Review Programs (as defined in the TALF Due Diligence Policy) to determine what level of verification and scrutiny of TALF borrower-provided information is appropriate. TALF Agents are not expected to conduct a de novo review of the factual foundation of certifications provided by TALF borrowers. However, in exercising reasonable care, the TALF Agent’s responsibility goes beyond simply collecting and relying on information and certifications supplied by a TALF borrower. At a minimum, TALF Agents should consider the entirety and consistency of all information received and identified in the course of their due diligence and should not rely on a certification provided by a borrower if they know of information that raises material doubts about the certification’s accuracy. Notwithstanding the foregoing, additional due diligence is not required with respect to a TALF borrower’s certification that it is unable to secure adequate credit accommodations.

**How should TALF Agents identify, verify, and screen Covered Persons (as defined in the TALF Due Diligence Policy)?**

The TALF Due Diligence Policy does not impose prescriptive requirements for how TALF Agents should identify and verify Covered Persons with respect to TALF borrowers, and TALF Agents may utilize a risk-based approach consistent with their Customer Review Program (as defined in the TALF Due Diligence Policy) to identify and verify Covered Persons. However, the TALF Due Diligence Policy does require TALF Agents to screen all Covered Persons associated with a TALF borrower for negative or adverse information, and not just a subset of such Covered Persons.

**With respect to a borrower organized as an investment fund, would a TALF Agent satisfy the expectations of the TALF Due Diligence Policy by identifying and screening the**



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**Material Investors of the investment manager of such borrower, but not verifying the identity of any Material Investor of such investment manager?**

Yes. Verification is not required.

**Who is required to sign the annual due diligence certification required by the MLSA on behalf of the TALF Agent?**

The MLSA does not prescribe who must sign the annual TALF Agent certification. The signatory should be someone who has the requisite signing authority under the TALF Agent's own policies and procedures and who is knowledgeable about the matters covered by the certification.

**Will conflicts that require escalation under a TALF Agent's Conflicts of Interest Plan result in a denial of a related loan request?**

TALF Agents should escalate TALF-related conflicts of interest and plans to mitigate them. For example, plans by a TALF borrower to use the proceeds of a TALF loan to repay the TALF Agent or its affiliates on prior obligations or financing arrangements in respect of the collateral for such TALF loan is a conflict that should be escalated. To the extent that the TALF Agent's plan mitigates the risk that such an arrangement would compromise the integrity of the TALF Agent's due diligence processes related to evaluating the eligibility of the borrower and the collateral, the related loan request will not be denied just because of the escalation.

**What are the expectations for a TALF Agent's Conflicts of Interest Plan?**

An effective Conflicts of Interest Plan should address the following:

- *Be specific to TALF.* The TALF Agent should consider conflicts of interest in a thorough and thoughtful manner, tailored specifically to TALF. Firms may use existing policies and procedures around conflicts as a foundation, but should not rely on them alone. A plan should describe the different TALF-related roles the firm might play, the criteria for identifying and escalating conflicts, and assignment of responsibility for different aspects of the plan.
- *Information Gathering.* The TALF Agent should have the ability to identify conflicts across various business units. This should facilitate awareness of the multiple possible roles the organization might play with regard to collateral to be financed through TALF and the relationships it might have with borrowers and their Material Investors.
- *TALF-specific training.* TALF Agents should identify staff within the organization in positions relevant to conflicts (i.e., traders of eligible collateral and related derivatives, bankers responsible for underlying eligible collateral) and provide TALF-specific training to those individuals. This training should be specific to conflicts and incremental to any training focused on commercial or operational aspects of TALF.

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- *TALF monitoring.* TALF Agents should consider and implement, as appropriate, tailored monitoring and surveillance around their specific TALF-related conflicts.
- *Governance and decision-making.* TALF Agents should document which individuals and committees are responsible for making conflicts-related determinations, as well as implement and document appropriate governance and recordkeeping around such decision-making.
- *Maintain a log.* TALF Agents should maintain a log to track TALF-related conflicts of interest issues and decisions to evidence work done.

**What are the tax reporting and withholding responsibilities of TALF Agents that participate in the TALF?**

The TALF Agents are responsible for managing any tax withholding and reporting obligations for their customers. TALF Agents should consult with tax counsel to understand the tax implications and requirements of TALF Agents for the specific tasks performed on behalf of customers in connection with TALF.

**What information will the TALF Agent receive from the TALF custodian to assist in reconciling and distributing aggregate monthly interest payments to investors?**

With each payment distribution, the TALF Agent will receive information regarding the gross principal, interest and other distribution amounts paid on the ABS collateral, as well as the principal, interest and other distribution amounts to be remitted to the borrower. Should an interest deficiency exist, the net interest and/or principal will be used to offset that deficiency, in which case the TALF Agent will be informed.

**Are there any bankruptcy protections for the borrower if the TALF Agent should declare bankruptcy following its receipt of principal and interest from the TALF custodian, but prior to disbursement to the borrower?**

Once funds or collateral are transferred by the TALF custodian to a TALF Agent or at the direction of the TALF Agent, none of the TALF custodian, the New York Fed, or the TALF SPV has any obligation to account for whether the funds or collateral are transferred to the borrower.

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**Will the Securities and Exchange Commission (SEC) be providing an exemption from section 11(d)(1) of the Exchange Act to permit TALF Agents to arrange TALF financing from the New York Fed on new issues for which they may be underwriters?**

The SEC has granted a limited exemption from the prohibition on arranging certain credit under section 11(d)(1) for those TALF Agents arranging TALF financing from the New York Fed on new issues of non-exempted securities where such dealers may have been within the preceding 30 days a “member of a selling syndicate or group” in respect of the distribution of the new issue. This exemption is limited to the arranging prohibitions of section 11(d)(1) and does not relieve TALF Agents from any applicable limitations on direct extensions of credit by them. Please refer to the SEC's order on this matter.

## **OTHER CONSIDERATIONS**

**What measures are in place to protect the TALF against credit losses and fraud?**

The Federal Reserve and the Treasury have structured the TALF to minimize credit risk for the U.S. Government to the greatest extent possible, consistent with achieving the program’s purpose of encouraging lending to consumers and businesses. Examples of the structural features of the TALF that minimize credit risk include the following: (i) investors are required to supply risk capital in the form of haircuts; (ii) the TALF haircut methodology is risk sensitive across asset class and maturity; (iii) the TALF only accepts collateral that has a credit rating in the highest long-term or, if no long-term rating is available, the highest short-term investment-grade rating category from at least two eligible NRSROs (one of which long-term or short-term rating, as applicable, must be from Fitch Ratings, Inc., Moody’s Investors Service, Inc., or S&P Global Ratings) and does not have a credit rating below the highest investment-grade rating category from an eligible NRSRO; and (iv) the New York Fed and its collateral monitor perform a review of all proposed and pledged TALF-eligible ABS.

The New York Fed has also put in place a number of measures designed to detect and prevent potential fraudulent activity associated with the TALF. Under the TALF program, TALF Agents are required to subject all prospective borrowers to their AML and customer due diligence programs to demonstrate that they “know their customer” and to review and identify information that should be escalated to the New York Fed for further consideration, including information bearing on whether a prospective borrower satisfies eligibility criteria, as well as information about the prospective borrower of an adverse or negative nature that may bear on the appropriateness of its participation in TALF. The New York Fed also requires TALF Agents to adhere to policies regarding the identification and management of potential conflicts of interest.

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In addition, a collateral eligibility assurance program places responsibilities on multiple parties to provide certifications, assurance, and information to serve as a basis for making well-informed and accurate eligibility determinations. The New York Fed has also established a 24-hour telephone and internet-based hotline for anonymously reporting of fraudulent conduct or activity associated with the TALF. The hotline can be reached at 877-52-FRBNY (877-523-7269) or NY Fed Integrity Hotline.

With respect to newly-issued ABS, the issuer and sponsor must provide a certification that the ABS is TALF eligible, and that there are no untrue statements of material fact or omission of material fact made in the prospectus or offering document or in the information provided to any NRSRO. If the collateral is found to be ineligible, the New York Fed has the right of indemnity against the sponsor for all damage, loss, liability, and expense in connection with any misrepresentation or breach of warranty related to collateral eligibility. Additionally, if a borrower who has participated in the TALF program is found to have been ineligible at the time of the loan or is found to have breached certain representations related to the eligibility of the collateral, the applicable loan becomes full recourse and payable upon demand. Moreover, as indicated above, TALF Agents are required to apply their "know your customer" program to each borrower and comply with additional due diligence requirements, such as "looking through" to Material Investors at the 10 percent level and the escalation of higher-risk borrowers to the New York Fed for additional review.

As described above, as a condition to the disbursement of a TALF loan (to be secured by newly-issued ABS and ABS issued on or after March 23, 2020 and before May 22, 2020), the New York Fed requires that an accounting firm retained by the issuer provide: (i) an Auditor Attestation, providing an opinion on the assertion of management of the issuer and sponsor that the ABS is TALF eligible, or (ii) in the case of CLOs, an AUP Report (TALF) with respect to factual matters related to various TALF eligibility criteria for leveraged loans. If available, an accounting firm is also required to deliver to the New York Fed an AUP Report (Industry) that it delivers to the sponsor and the underwriter or initial purchaser, including any updates to such report. These requirements are not applicable to SBA ABS.

**May borrowers enter into a credit hedge associated with eligible collateral securing a TALF Loan?**

No. To participate in TALF, a borrower must agree that prior to and after the applicable TALF loan settlement date (for as long as it has a TALF loan outstanding), the borrower has not entered

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and will not enter into a transaction intended to serve as a credit hedge for the collateral posted as security for that loan. A credit hedge means a transaction or series of transactions that are intended to offset in whole or in part the credit risk associated with the collateral, including direct hedges, such as credit default swaps, and correlative hedges, such as short-selling the ABX index. A credit hedge does not include hedges on a borrower's broader portfolio (which may include securities purchased with TALF Loans), nor interest-rate hedges.