

Term Asset-Backed Securities Loan Facility Pre-Certification Process

I- Introduction

The Term Asset-backed Securities Loan Facility (“TALF”) is a Federal Reserve credit facility authorized under section 13(3) of the Federal Reserve Act. TALF is intended to assist the credit markets in accommodating the credit needs of consumers and businesses by facilitating the issuance of asset-backed securities (“ABS”) and improving the market conditions for ABS more generally. Compliance policies have been developed around TALF and are described in part in the TALF Borrower Eligibility and New York Fed Due Diligence Policy (“Due Diligence Policy”). To further supplement the Due Diligence Policy, and in order to address requests from the TALF Agent community, FRBNY has developed the Term Asset-backed Securities Loan Facility Pre-Certification Process to set forth details on the pre-certification process for borrowers requesting loans from FRBNY through the TALF Program.

II- Purpose of Pre-Certification Process

The pre-certification process is designed to enhance certainty of TALF financing for a subset of eligible borrowers that meet the criteria described below. The pre-certification process will not in any way exempt a TALF Agent from its responsibility to determine borrower eligibility or from conducting its KYC obligations with respect to any potential TALF borrower as required by applicable laws and regulations and the Due Diligence Policy. Nor will the pre-certification process exempt the borrower from its continuous obligation to remain an eligible borrower.

III- Pre-Certification Criteria

In order to qualify for pre-certification for a TALF loan, in addition to being an Eligible Borrower, the potential borrower must meet all the following conditions:

- The potential borrower has been subject to the TALF Agent’s KYC process (including Customer Identification Program, Customer Due Diligence and, as applicable, Enhanced Due Diligence).

- Upon completion of the KYC process, the TALF Agent is able to form a reasonable belief that it knows the true identity of the potential borrower.
- The TALF Agent has reason to believe that the potential borrower is a reputable party that is acceptable to the TALF Agent (i.e., the TALF Agent would feel comfortable offering its services to such a borrower in other circumstances that are not TALF-related).

In addition to the conditions set forth previously, the potential borrower *must* be an entity (or a directly or indirectly wholly owned subsidiary of such entity) that is deemed to be a “top-tier” financial entity, i.e. it is seen as one of the industry leaders in its field and/or is ranked among the largest entities and/or has some of the largest operations in that field. FRBNY will create proprietary lists of such “top-tier” financial entities for internal use only and will not be circulating such lists to the TALF Agent community. Based on its own judgment, if a TALF Agent believes that a potential borrower qualifies for a pre-certification, the TALF Agent may send a request for pre-certification to FRBNY by following the process set forth in the section below.

For the purposes of this policy, financial entities are defined as:

- US-based depository institutions
- US branches or agencies of foreign banks
- US public pension funds
- US university or college endowment funds
- US-based hedge funds
- US-based private equity firms
- US-based mutual funds
- US Insurance companies

IV- Pre-Certification Process

In order to obtain a pre-certification for a potential borrower from TALF, the TALF Agent needs to complete the TALF Pre-Certification Form¹ and send it, via secure email at least two (2) business days prior to subscription date, to FRBNY at talf.compliance@ny.frb.org. Upon receipt, FRBNY will review the request and determine whether or not the potential borrower satisfies its pre-certification criteria.

Once a TALF Agent has received notice from FRBNY that a borrower has been pre-certified, the pre-certification will remain valid until 6/30/2010. If a pre-certified borrower wishes to apply for a new TALF loan in a subsequent subscription, the TALF Agent need not re-submit that borrower for pre-certification.

However, prior to requesting a new TALF loan, a TALF Agent is required to conduct a review of the borrower to establish if there has been any material changes in its ownership structure or control persons (e.g., there are new Specified Material investors or control persons), overall nature of business (e.g., acquisitions of competitor's business, large expansion to new geographies, bankruptcies, etc.), or if the borrower has been subject to recent regulatory action, is under civil or criminal investigation or has had material negative information published about it. In cases where the TALF Agent's review discovers any of the above, the TALF Agent must re-escalate that borrower to FRBNY along with accompanying relevant information explaining the rationale for re-escalation.

V- Escalation as Specified Borrower

In situations where a potential borrower wishes to obtain greater certainty of TALF funding and the TALF Agent does not believe that the potential borrower will satisfy the pre-certification criteria, or in instances where FRBNY determines that the potential borrower does not satisfy the pre-certification criteria, the TALF Agent can still escalate the potential borrower to FRBNY for pre-screening in advance of a subscription date by following the Specified Borrower process². In such instances, the TALF Agent needs to complete the TALF Borrower Due Diligence form as well as submit to FRBNY a copy of

¹ The TALF Pre-Certification Form will be provided to each TALF Agent wishing to participate as an agent of TALF borrowers via secure e-mail.

² For the purposes of pre-certification, the potential borrower can be treated as a Specified Borrower and be escalated as "any Person whom the TALF Agent determines, in its discretion, to bring to FRBNY's attention for the purposes of this Policy."

the borrower's KYC file (in electronic form) as compiled by the TALF Agent according to its KYC Program. For additional details regarding the Specified Borrower process, see the Due Diligence Policy. Any such requests for pre-screening of Specified Borrowers should be escalated by the TALF Agent well in advance of (and no fewer than two (2) business days prior to) subscription date to allow sufficient time to FRBNY to complete its review.

Once a potential borrower has successfully completed the Specified Borrower process, that borrower may continue to seek TALF loans until 6/30/2010. If such a borrower wishes to apply for a new TALF loan in a subsequent subscription, the TALF Agent need not re-submit that borrower to FRBNY.

However, prior to requesting a new TALF loan, a TALF Agent is required to conduct a review of the borrower to establish if there has been any material changes in its ownership structure or control persons (e.g., there are new Specified Material investors or control persons), overall nature of business (e.g., acquisitions of competitor's business, large expansion to new geographies, bankruptcies, etc.), or if the borrower has been subject to recent regulatory action, is under civil or criminal investigation or has had material negative information published about it. In cases where the TALF Agent's review discovers any of the above, the TALF Agent must re-escalate that borrower to FRBNY along with accompanying relevant information explaining the rationale for re-escalation.

VI-Exceptions

If an eligible borrower is pre-certified and posts eligible collateral, there should be every expectation of financing from TALF. However, FRBNY reserves the right not to fund in exceptional cases, such as upon revelation of materially adverse information about the borrower prior to settlement, but those cases are expected to be isolated and rare.