# Paul Weiss

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# **TALF is Launched with Revised Terms**

The Department of Treasury and the Federal Reserve announced this week the launch of the Term Asset-Backed Securities Loan Facility ("TALF") which is intended to jump-start lending markets by providing loans to investors who purchase qualifying asset-backed securities ("ABS"). In addition, the Federal Reserve Bank of New York (the "New York Fed") published revised terms and conditions for TALF loans and a revised draft of the Master Loan and Security Agreement ("MLSA").

The revised terms and conditions for the first TALF fundings differ from the previously published terms and conditions in ways that may be interesting to investors. We have highlighted some key revisions below:

- **Key dates announced**: Annex 1 shows key dates for the first and second TALF fundings. Annex 2 contains an indicative timeline for TALF fundings based upon the procedures set forth in the MLSA.
- Collateral for first TALF loan subscriptions announced: The first TALF loans may be collateralized by certain AAA-rated ABS backed by newly and recently originated auto loans, credit card loans, student loans and loans guaranteed by the U.S. Small Business Administration.
- Additional collateral for subsequent TALF loan subscriptions being considered: The announcement noted that the terms and conditions for accepting commercial mortgage-backed securities for subsequent TALF loan subscription and closing dates are being analyzed by teams from the Treasury Department and the Federal Reserve. In addition, eligible ABS may be expanded to private label residential mortgages and other asset classes, although it does not appear that a decision has been made.
- Executive compensation restrictions removed: The executive compensation restrictions that were applicable to ABS sponsors have been removed. The revised frequently asked questions ("FAQs") that were published by the New York Fed stated that the executive compensation restrictions will not be applied to TALF sponsors, underwriters and borrowers as a result of their participation in TALF.
- **Reduced margins and haircuts on certain collateral**: The interest rate margins and haircuts for TALF loans secured by certain collateral have been reduced.
  - Government guaranteed student loans: Interest rate margin has been reduced in certain cases to 50 basis points over 1-month LIBOR and the haircuts have been reduced in certain cases by 1-3% depending upon the average life of the pledged ABS.

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- **SBA pool certificates**: The interest rate margin has been reduced in certain cases to 75 basis points over the federal funds target rate and the haircuts have been reduced in certain cases by 1-2% depending upon the average life of the pledged ABS.
- SBA development company participation certificates: The interest rate margin has been reduced in certain cases to 50 basis points over the 3-year LIBOR swap rate and the haircuts have been reduced in certain cases by 1-2% depending upon the average life of the pledged ABS.
- Increased market value cap of pledged collateral: Under TALF, the New York Fed will lend to eligible borrowers an amount equal to the lesser of the par or market value of the pledged ABS minus the applicable haircut. If the pledged ABS has a market value above 100% of par, the New York Fed will lend an amount equal to the market value (up to a cap of 110% of par) minus the applicable haircut with a requirement that the borrower prepay such loan periodically. The previous MLSA capped the market value of collateral at 100% of par.
- Eligible borrowers can request an unlimited amount of loans on each TALF subscription date: The FAQs indicate that eligible borrowers are entitled to request an unlimited amount of loans on each TALF subscription date. Previously, eligible borrowers were entitled to request only one fixed rate loan and one floating rate loan on each TALF subscription date.

We have been following these issues closely and have spoken with many of you about them. To see our recent memorandum about TALF, please go to <a href="http://www.paulweiss.com/financialcrisisresources">http://www.paulweiss.com/financialcrisisresources</a>.

We will continue to provide you with further updates as details emerge about the TALF loan program and other related U.S. Government programs.

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. If you have any questions, or would like to discuss any of the foregoing in further detail, please feel free to call any of the following Paul, Weiss Financing Group lawyers:

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## **KEY DATES**<sup>1</sup>

## First TALF Funding

Date	Announcement/Event	
March 3, 2009	TALF launch	
March 17, 2009	Subscriptions for first funding of TALF to be recorded	
March 25, 2009	First funds from TALF to be disbursed	

## Second TALF Funding

Date	Announcement/Event	
March 24, 2009	Announcement of details for second TALF funding	
April 7, 2009	Subscriptions for second funding of TALF to be recorded	
April 14, 2009	Second funds from TALF to be disbursed	

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According to the FAQs, going forward monthly subscriptions will be scheduled on the first Tuesday of every month. The New York Fed will cease making loans under TALF on December 31, 2009 unless the Board of Governors of the Federal Reserve extends the facility.

Annex 2



# Indicative TALF Borrowing Timeline

	Loan Subscription Date (MLSA Sections 3.1 & 3.2)	4 <sup>th</sup> Business Day before Closing Date (MLSA Section 3.3)	3 <sup>rd</sup> Business Day before Closing Date (MLSA Section 3.4)
	<ul> <li>Primary Dealer to send, on behalf of the applicable borrower, initial loan request to the New York Fed</li> <li>Primary Dealer to send loan request and preliminary or final offering materials to Custodian</li> </ul>	<ul> <li>Primary Dealer to submit the following to the Custodian:</li> <li>&gt; Sales confirmation</li> <li>&gt; Final offering materials</li> <li>&gt; Revised loan request (if necessary to reflect reductions in the amount of new acquisition collateral to be pledged)</li> <li>Auditor attestation and indemnity undertaking from ABS sponsor to be received by the New York Fed</li> </ul>	Custodian to deliver to the New York Fed an eligible collateral schedule including for each item of collateral: > CUSIP number > Description > Principal amount > Haircut amount > Collateral value
1 to 1	2 <sup>nd</sup> Business Day prior to Closing Date (MLSA Section 3.5)	Closing Date (MLSA Section 3.6)	1 <sup>st</sup> Business Day after Closing Date (MLSA Section 3.6(e))
1/2	Custodian to deliver (at the instruction of the New York Fed) a confirmation to the Primary Dealer setting forth: > Amount of requested loans that will be made to the applicable borrowers of such Primary Dealer > Fixed rate or LIBOR margin applicable to requested loans	<ul> <li>Primary Dealer to deliver to Custodian by 8:30 a.m. (New York time):</li> <li>with respect to new acquisition collateral (other than primary dealer delivered collateral) (x) haircut amount and (y) all other closing amounts</li> <li>administrative fee</li> </ul>	Custodian to deliver to the Primary Dealer the final confirmation to reflect all loans disbursed and all collateral accepted
Con the second	<ul> <li>Amount and description (including CUSIP numbers) of the assets to be accepted as eligible collateral and market value and collateral value thereof (as of the preceding business day)</li> <li>Haircut amount and all other closing amounts</li> <li>Amount of administration fee to be paid</li> </ul>	<ul> <li>Primary Dealer to deliver to Custodian the expected ABS collateral</li> <li>Loan amount to be made available to Primary Dealer</li> <li>All expected ABS collateral actually received will be settled against payment therefor</li> </ul>	

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