

CLIENT ALERT

NEW YORK FED TO CONSIDER LIMITING TALF LOANS SECURED BY CMBS

On August 18, 2009, the Federal Reserve Bank of New York (New York Fed) announced that it may limit the volume of Term Asset-Backed Securities Loan Facility (TALF) loans secured by legacy commercial mortgage-backed securities (CMBS), and that it is considering whether to allocate such volume via an auction or another procedure.

In addition, the New York Fed indicated that certain eligibility and leverage restrictions will apply to TALF financing of legacy CMBS. For example, not all Public-Private Investment Funds (PPIFs) will be eligible to borrow from the TALF in order to finance purchases of legacy CMBS. According to the New York Fed, PPIFs that have received Treasury debt financing equal to or less than 50 percent of the PPIF's total equity (including private and Treasury-supplied equity) may borrow from the TALF to finance purchases of eligible legacy CMBS. By implication, PPIFs that have received Treasury debt financing in excess of 50 percent of the PPIF's total equity may be barred from borrowing from the TALF to finance purchases of eligible legacy CMBS.

Furthermore, the New York Fed indicated that haircuts applicable to TALF-supplied debt issued to PPIFs to finance purchases of legacy CMBS will be adjusted upward, such that the combination of Treasury- and TALF-supplied debt will not exceed the total amount of debt that would be available leveraging the PPIF equity alone.

Specifically, the New York Fed has stated that TALF haircuts for PPIFs purchasing legacy CMBS will be 50 percent higher than for other non-PPIF

borrowers. For example, if the TALF haircut applied to a specific pledge of legacy CMBS is 20 percent for other borrowers, it would be 30 percent for a PPIF.

These announcements, once in effect, will reduce the total amount of leverage available to PPIFs purchasing legacy CMBS.

CONTACT INFORMATION

We also invite you to visit the firm's [Economic Recovery Resource Center](#) for news and analysis concerning the government's economic recovery programs and their impact on business and the law.

If you have any questions concerning this alert, please contact—

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