

The Federal Reserve's Term Asset-Backed Securities Facility Should Include Commercial and Multifamily Products

MBA RECOMMENDS

The Federal Reserve Board (Federal Reserve) should expand the Term Asset-Backed Securities Loan Facility (TALF) program to include commercial real estate loans and commercial mortgage-backed securities (CMBS) as part of a holistic strategy to develop greater liquidity in the commercial real estate finance market.

BACKGROUND

On November 24, 2008, the Federal Reserve Board (Federal Reserve) announced the creation of the Term Asset-Backed Securities Loan Facility (TALF), a facility that will help market participants meet the credit needs of households and small businesses by supporting the issuance of asset-backed securities (ABS) collateralized by student loans, auto loans, credit card loans, and loans guaranteed by the Small Business Administration (SBA). However, commercial loans and CMBS are not currently eligible to participate in the TALF program.

Under the TALF, the Federal Reserve Bank of New York (FRBNY) will lend up to \$200 billion on a nonrecourse basis to holders of certain AAA-rated ABS backed by newly and recently originated consumer and small business loans. The FRBNY will lend an amount equal to the market value of the ABS less a "haircut" and will be secured at all times by the ABS. A "haircut" refers to the securitization receiving a valuation less than face value of the securitization. Consequently, the loan provided by the FRBYNY would be less than the face value of the securitization. The U.S. Treasury Department--under the Troubled Assets Relief Program (TARP) of the Emergency Economic Stabilization Act of 2008--will provide \$20 billion of credit protection to the FRBNY in connection with the TALF. The terms and conditions are subject to change.

Continued disruption of the ABS markets could significantly limit the availability of credit to households and small businesses and thereby contribute to further weakening of U.S. economic activity. The TALF is designed to increase credit availability and support economic activity by facilitating renewed issuance of consumer and small business ABS at more normal interest rate spreads.

Although the Federal Reserve has the statutory authority to include CMBS in the TALF program, it has yet to do so. However, the TARP Reform and Accountability Act of 2009 (H.R. 384) has a provision that includes commercial mortgages and CMBS in the TARP program. This is intended to signal to the Federal Reserve that there is support in Congress for the inclusion of commercial loans and CMBS in the TALF program.

INCLUSION OF COMMERCIAL REAL ESTATE IN TALF

MBA supports the use of TARP funds to serve as a credit enhancement for a commercial-focused lending facility to revive the broader private commercial mortgage markets. In the case of CMBS, we recommend that the FRBNY utilize these TARP dollars as a credit enhancement for a non-recourse basis to holders of highly rated (e.g. AAA-rated) CMBS backed by commercial mortgage loans secured by

stabilized commercial or multifamily real estate assets, for a term of at least five years with options for extension. The Federal Reserve would lend an amount equal to the value of the CMBS less an appropriate “haircut” and this would be secured at all times by the loan collateral. The proposed commercial facility would also be available to banks for seasoned performing commercial loans, subject to similar “haircut” provisions as CMBS.

BENEFITS

This program would allow for price discovery that would allow the illiquid private sector CMBS market to begin actively trading again. This program would have the potential to provide greater liquidity to the CMBS market, which would assist in creating more favorable market conditions for new CMBS issuance.

The complexity of the commercial real estate finance industry combined with the varied market participants has, thus far, not yielded a single solution or “magic bullet” that has the promise of resolving all the challenges facing the commercial finance industry. Although the inclusion of commercial mortgages and CMBS in the TALF program would be a significant development, MBA will continue to work with Congress, the administration and regulators to implement a range of programs that holistically address this multifaceted market challenge.



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