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Capital Assistance Program FAQs

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CAPITAL ASSISTANCE PROGRAM FAQs

Will the Capital Assistance Program (CAP) replace the Capital Purchase Program (CPP)?

No. The CAP is a new capital program that will not replace the CPP and is open to qualifying institutions regardless of whether they participated in the CPP.

How does a Qualifying Financial Institution (QFI) know if it is eligible to participate in the Treasury Department's CAP?

A QFI should review the eligibility requirements as described in the term sheet and related documents (which are available at <http://www.treas.gov/initiatives/eesa/> and <http://financialstability.gov/>). In addition, a QFI should contact its appropriate Federal banking agency.

Which financial institutions are eligible QFIs under the CAP?

Generally speaking, any bank holding company, financial holding company, insured depository institution and savings and loan holding company that engages solely or predominately in activities that are permissible for financial holding companies under relevant law and that is organized and operating in the United States qualifies as a QFI if it is deemed viable by the appropriate Federal banking agency. Financial institutions controlled by a foreign entity will not be eligible. For purposes of CAP eligibility, the deadline for approval of any holding company application is January 15, 2009, i.e. the same as the deadline for CPP eligibility.

Specifically, a QFI is defined as:

(i) Any U.S. bank or U.S savings institution not controlled by a Bank Holding Company ("BHC") or Savings and Loan Company ("SLHC"); (ii) any top-tier U.S. BHC; and (iii) any top-tier U.S. SLHC which engages solely or predominately in activities that are permitted for financial holding companies under relevant law; except that "QFI" shall not mean any BHC, SLHC, bank or savings association controlled by a foreign bank or company.

Must a financial institution have participated in the CPP to be eligible for the CAP?

No.

May an institution terminate its status as a bank holding company or a savings and loan holding company and continue to participate in the CAP?

No. Any QFI that is a bank holding company or a savings and loan holding company that participates in the CAP must maintain its status as a bank or savings and loan holding company for as long as Treasury holds stock and/or warrants in the company. A bank or savings and loan holding company seeking to terminate its status as such must fully redeem all stock and warrants held by Treasury prior to terminating its status.

What is the investment limit under the CAP?

QFIs may issue an amount of CAP convertible preferred stock between 1 and 2% of total risk-weighted assets (RWA) plus any amount of CAP convertible preferred stock to the extent the proceeds are used to redeem preferred shares sold under the CPP and, if applicable, the Targeted Investment Program.

What if a QFI needs capital in excess of the investment limit referred to above?

An institution that needs capital in excess of the investment limit referred to above is deemed as needing “exceptional assistance.” In consultation with the appropriate Federal banking agency, Treasury will determine whether an institution qualifies for “exceptional assistance” on a case-by-case basis.

What will be the terms of transactions involving QFIs in need of exceptional assistance?

QFIs falling under the “exceptional assistance” standard may have bank-specific negotiated agreements with the Treasury Department.

How does a QFI apply for the CAP?

A QFI must submit an application to the appropriate Federal banking agency. If the applicant is a bank holding company, the application should be submitted to both the applicant's holding company supervisor and the supervisor of the largest insured depository institution controlled by the applicant. Each Federal banking agency will provide information on its public web site regarding where an application for participation in the CAP should be directed. This information will be available at:

1. For the Federal Deposit Insurance Corporation: www.fdic.gov
2. For the Federal Reserve: www.federalreserve.gov
3. For the Office of the Comptroller of the Currency: www.occ.treas.gov
4. For the Office of Thrift Supervision: www.ots.treas.gov

Is the application form for CAP the same as the CPP application?

No. Although similar, there is a separate application for the CAP. Institutions should make sure they are filling out the proper application for CAP.

What information will a QFI have to provide on the application?

The application form requires the QFI to submit basic information about the institution, the amount of the investment that the financial institution is requesting from Treasury, as well as information regarding the amount of authorized but unissued preferred stock and common stock that the institution currently has available for purchase.

What is the deadline to apply to the CAP?

The deadline is May 25, 2009. Institutions will have up to six months after receiving preliminary approval to close the transaction. QFIs taking part in the special forward-looking economic assessments in conjunction with their supervisors (those with assets in excess of \$100B) need not wait for the conclusion of those assessments to apply.

How will Treasury determine which institutions qualify for investments under CAP?

Institutions must submit their application to the appropriate Federal banking regulator. That regulator will submit a recommendation to Treasury. Treasury will review both the application and the recommendation from the regulator.

How will you define “publicly traded” for purposes of institutions applying for the program with the May 25, 2009 deadline?

A “publicly traded” bank holding company, financial holding company, insured depository institution or savings and loan holding company is a company (1) whose securities are traded on a national securities exchange and (2) required to file, under the federal securities laws, periodic reports such as the annual (Form 10-K) and quarterly (Form 10-Q) reports with either the Securities and Exchange Commission or their appropriate Federal banking agency.

Will applications filed by QFIs or the names of applying QFIs be released publicly?

No. Treasury will not release the names of QFIs who apply for the CAP or those which are not approved. Treasury will publish electronic reports detailing any completed transactions, including the name of the QFI and the amount of the investment, as required by the Emergency Economic Stabilization Act of 2008, within 48 hours of the investment.

Any applicant desiring confidential treatment of specific portions of the application must submit a request in writing with the application. The request must discuss the justification for the requested treatment. The applicant's reasons for requesting confidentiality should specifically demonstrate the harm (for example, loss of competitive position, invasion of privacy) that would result from public release of information (5 U.S.C. 552). Information for which confidential treatment is requested should be: (1) specifically identified in the public portion of the application (by reference to the confidential section); (2) separately bound; and (3) labeled “Confidential.”

The applicant should follow the same procedure when requesting confidential treatment for the subsequent filing of supplemental information to the application. The applicant should contact the appropriate regulatory agency for specific instructions regarding requests for confidential treatment. The appropriate regulatory agency will determine whether the information will be treated as confidential and will advise the applicant of any decision to make available to the public information labeled as “Confidential.”

How long will it take for an application to be processed?

Treasury, working in consultation with the Federal banking agencies, will process and preliminarily accept applications submitted under the CAP as expeditiously as possible. However, because of the diversity of institutions that are expected to apply, response times may vary.

How will a QFI that has filed a timely application be notified when a preliminary decision on the application has been made by Treasury?

Preliminary decisions on applications will be communicated by Treasury to the representative of the institution identified on the application form.

When does a QFI submit the final documentation to complete the Preferred Share purchase?

Final documentation may be submitted up to six months after a QFI has been notified that it has received preliminary acceptance into the program. Instructions for submitting final documentation will be available on Treasury's website at <http://www.treas.gov/initiatives/eesa/> and <http://financialstability.gov/>.

Please check back regularly for postings of additional Q&As.