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United States: Term Asset-Backed Securities Loan Facility II[1]

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Abstract

The outbreak of the COVID-19 pandemic in early 2020 caused widespread economic uncertainty, prompting government officials to act swiftly to combat potentially severe fallout. On March 23, 2020, the Federal Reserve announced a series of monetary policy measures and established several emergency lending facilities to assist the US economy. Among these, the Fed revived the Term Asset-Backed Securities Loan Facility (TALF), a Global Financial Crisis (GFC)-era facility that used a special purpose vehicle (SPV) to encourage the issuance of asset-backed securities (ABS). Its main purpose was to restore the flow of credit to households and businesses. TALF II made $100 billion in loans available; each loan had a term of three years, was non-recourse to the borrower, and was secured by eligible AAA-rated ABS. Borrowers could post a wider range of collateral than in the earlier TALF program. Eligible collateral included certain newly issued non-mortgage-backed ABS, certain types of legacy commercial mortgage-backed securities (CMBS), and static collateralized loan obligations (CLOs). After operating for about six months, the TALF was closed by an act of Congress and ceased extending credit on December 31, 2020. Early evaluations of the TALF concluded that its announcement helped to calm markets and normalize interest rate spreads, despite relatively low usage of $4.4 billion.

Keywords: asset-backed securities (ABS), commercial mortgage-backed securities (CMBS), lending, loan, securitization

[1] This case study is part of the Yale Program on Financial Stability (YPFS) selection of New Bagehot Project modules considering market support programs in response to COVID-19. Cases are available from the *Journal of Financial Crises* at https://elischolar.library.yale.edu/journal-of-financial-crises/.

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Overview

The sudden onset of the COVID-19 crisis in the United States led to a precipitous decline in market confidence and related disruptions in short-term funding and credit markets more broadly. Liquidity dried up as access to financing longer than overnight tenors became scarce, the cost of household and corporate borrowing spiked, and demand for assets with any form of credit risk fell sharply. Of particular concern was the fact that issuances of non-agency securitizations,[3] which had greatly increased in the second half of 2019, had come to a near halt by mid-March 2020 (FRB 2020k).

Despite major disturbances resulting from the Global Financial Crisis (GFC) of 2007–09, the securitization market has continued to serve as a critical source of funding for a vast range of commercial activities, consumers, and small businesses. More than $300 billion in asset-backed securities (ABS) were brought to market in 2019, increasing through February 2020 before declining abruptly by more than 70% at the outset of the pandemic (Caviness and Sarkar 2020).

In addition to this sudden drop-off in issuance, the interest rate spreads on these securities sharply increased, signaling a magnification of both credit risk from loan losses and liquidity risk from wary investors. According to the Federal Reserve Bank of New York (FRBNY), spreads on AAA-rated tranches of commercial mortgage-backed securities (CMBS) with a five-year maturity increased by nearly 250 basis points (bps) between February 20 and March 19, while spreads on AAA-rated tranches of three-year maturity prime auto loan ABS increased by almost 180 bps (Caviness and Sarkar 2020).

Key Terms

Purpose: To indirectly support the flow of credit to consumers and businesses by enabling the issuance of asset-backed securities in exchange for a wide range of collateral, including legacy CMBS and static CLOs.

Launch Dates	Authorized: March 22, 2020 Announced: March 23, 2020
Operational Date	June 18, 2020
End Date	December 31, 2020
Legal Authority	Section 13(3) of the Federal Reserve Act U.S.C. 31 § 5302 Exchange Stabilization Fund
Source of Funding	Section 4027 of the Coronavirus Aid, Relief, and Economic Security Act
Administrators	Federal Reserve Bank of New York US Department of the Treasury
Overall Size	$100 billion in loans available
Term	Three years
Haircut Rate	Based on type of collateral
Eligible Collateral	Newly issued non-mortgage-backed ABS, certain legacy CMBS
Peak Utilization	$3.7 billion in TALF loans

[3] Agency securities are guaranteed by a government-sponsored enterprise or by the federal government.

To address COVID-related disruptions in the securitization market, the Board of Governors of the Federal Reserve (the Fed), with the approval of the Treasury Secretary, used its emergency lending powers under Section 13(3) of the Federal Reserve Act to establish the Term Asset-Backed Securities Loan Facility. The credit facility served as a funding backstop to facilitate the issuance of eligible asset-backed securities (ABS), allowing borrowers to access credit on more reasonable terms and generally stabilizing the market.

Under this program, the FRBNY committed to lend to TALF II LLC, a special purpose vehicle (SPV), on a recourse basis. The SPV made $100 billion in loans available; each loan had a term of three years, was non-recourse to the borrower, and was secured by eligible ABS. The Treasury Department backed the facility with a $10 billion equity investment. Deviating from the GFC-era TALF terms, the Fed broadened its definition of eligible collateral in 2020 to include certain types of legacy CMBS and static collateralized loan obligations (CLOs).

The TALF became operational on June 18, 2020, nearly three months after its announcement. Peak utilization amounted to $3.7 billion in loans made by the SPV to eligible borrowers as of October 31, 2020 (FRB 2020m). The facility initially offered one subscription per month but increased subscriptions to two per month in July and four per month in August. Although the FRBNY initially scheduled the TALF to terminate on September 30, 2020, it later extended the facility's operations to December 31, 2020, because of prevailing pandemic-related market volatility.

By the end of its operations on December 31, 2020, the TALF had extended 224 loans totaling $4.4 billion to 20 investment funds, more than half of which were foreign based (COC 2021a). The majority of transactions were concentrated in securities backed by commercial mortgages and small business loans guaranteed by the Small Business Administration (SBA) (GAO 2020). The Congressional Oversight Committee (COC) reported in August 2021 that although the TALF had issued only $4.4 billion in loans, improvements in the funding markets allowed $304 billion in capital to reach borrowers over the course of 2020 (COC 2021b).

Summary Evaluation

According to FRBNY Executive Vice President Daleep Singh, markets were highly responsive to the Federal Reserve's recovery efforts because the economic uncertainty of COVID-19 stemmed from a health crisis rather than originating in the financial sector. It was difficult to determine the TALF's exact impact in isolation, since it was one of many fiscal programs and monetary policy decisions designed to combat the economic and financial effects of the virus (Singh 2020b).

Still, Singh also noted in an early assessment, despite limited usage, the lending facilities played a large and sustained role in restoring confidence to private-sector borrowers. This reinforced the principle that the Fed intended such programs to be used as a funding backstop; early evaluators thus viewed the lack of take-up by borrowers as a positive sign of recovery following a short period of volatility (Singh 2020b). For instance, spreads on AAA-rated, five-year tranches of CMBS decreased rapidly from 307 bps to 244 bps between March 23 and the week of April 9, 2020 (Caviness and Sarkar 2020). More specifically, the FRBNY also reported that lending under the TALF continued at low levels over the remainder of 2020 as pricing for ABS became "marginally attractive" for certain collateral types (FRBNY 2020d, 27).

Federal Reserve Chair Jerome H. Powell later testified before the House Select Subcommittee on the Coronavirus Crisis, stating that "[the] announcement and presence of the TALF substantially helped improve liquidity in the asset-backed securities markets . . . and contributed to rapid improvement in credit markets for consumers and business" (Powell 2021, 5). The Financial Stability Oversight Council (FSOC) corroborated Chair Powell's statement in its 2020 Annual Report (FSOC 2020).

In its regular reports to Congress, the COC raised concerns about the TALF's three-year loan terms' effect on taxpayers; it was difficult to discern what market conditions would look like when the loans matured in 2023. However, the COC acknowledged that the TALF had recourse to the ABS collateral securing the loans, and that lending haircuts applied to each ABS at the time of the loan origination provided a further layer of protection against taxpayer loss. Furthermore, many borrowers had reduced borrowing risk by voluntarily prepaying their TALF loans (COC 2021b).

Based on a quarterly Fed assessment conducted on March 31, 2021, there were no credit impairments in TALF's holdings (COC 2021b). The Congressional Budget Office estimated that the income and costs associated with additional lending under the CARES Act would roughly offset each other; the program would therefore not affect the federal deficit (Congressional Budget Office 2020). As of March 10, 2022, the Fed said it continued to expect that TALF will not result in losses to the Federal Reserve. It also reported that the total value of collateral pledged to secure the SPV's loans to eligible borrowers amounted to $2.7 billion, relative to the $1.3 billion in total SPV loans outstanding (FRB 2022a, 2).

US Context: 2019–2020	
GDP (SAAR, Nominal GDP in LCU converted to USD)	$21.7 trillion in 2019 $21.5 trillion in 2020
GDP per capita (SAAR, Nominal GDP in LCU converted to USD)	$65,280 in 2019 $63,414 in 2020
Sovereign credit rating (five-year senior debt)	Data for 2019: Moody's: Aaa S&P: AA+u Fitch: AAA Data for 2020: Moody's: Aaa S&P: AA+u Fitch: AAA
Size of banking system	$13.8 trillion in 2019 $15.9 trillion in 2020
Size of banking system as a percentage of GDP	63.7% in 2019 74% in 2020
Size of banking system as a percentage of financial system	27.1% in 2019 27.3% in 2020
Five-bank concentration of banking system	45.7% in 2019 46.2% 2020
Foreign involvement in banking system	Data not available for 2019 Data not available for 2020
Government ownership of banking system	Data not available for 2019 Data not available for 2020
Existence of deposit insurance	Yes, in 2019 Yes, in 2020
Sources: Bloomberg; FRED; World Bank Global Financial Development Database; World Bank Deposit Insurance Dataset.	

Key Design Decisions

1. **Purpose: To combat disruptions in the securitization markets associated with the COVID-19 pandemic, the Federal Reserve established the second iteration of the Term Asset-Backed Securities Loan Facility (TALF).**

The Federal Reserve Board of Governors authorized the establishment of the TALF on March 22, 2020, as one of several market liquidity programs meant to serve as a funding backstop for troubled term securitization markets. In stabilizing ABS markets, the Fed intended to support a freer flow of credit to households and businesses by facilitating the issuance of ABS at more normal interest rate spreads.

2. **Part of a Package: The Fed created the TALF as part of a slate of programs intended to support market functioning at the outset of the COVID-19 pandemic.**

The Fed took extensive measures to enable the flow of credit to the economy through programs such as the Primary and Secondary Market Corporate Credit Facilities, the Commercial Paper Funding Facility (CPFF), the Primary Dealer Credit Facility (PDCF), and the Money Market Mutual Fund Liquidity Facility (MMLF).

3. **Legal Authority: The Federal Reserve used its authority under Section 13(3) of the Federal Reserve Act to authorize establishment of the TALF, with the approval of the Treasury Secretary.**

The Fed authorized the TALF by invoking its authority under Section 13(3) of the Federal Reserve Act (FRB 2020f). Section 13(3) permits the Fed, in "unusual and exigent circumstances," to "discount for any participant in any program or facility with broad-based eligibility" (FRB 2017). The invocation of Section 13(3) allowed the Fed to provide liquidity more broadly than its monetary policy and discount window authorities allowed.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 required prior approval of the Treasury for the facility's establishment. The Treasury also committed a first-loss equity investment to the TALF, using funds appropriated by Section 4027 of the CARES Act (CARES Act 2020, sec. 4027). Although Treasury approval was not required for the GFC-era iteration of the TALF, the Treasury had worked closely with the Fed on that program and provided $20 billion in TARP funds as additional security for that facility (CRS 2020, 19).

4. **Governance: Section 13(3)(c) of the Federal Reserve Act required the Fed to provide Congress with periodic updates regarding the TALF's usage.**

The Fed submitted mandated reports to both the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services. Each report included a brief description of the TALF's operations and any significant updates to its terms and conditions. Provisions specified in Sec. 4026(b)(1)(B) of the CARES Act also required the Fed to publish these reports on its website seven days after submitting them to Congress (116th US Congress 2020).

In addition to scrutiny in House and Senate committee hearings, TALF operations were subject to oversight by the Congressional Oversight Commission and the Special Inspector General for Pandemic Recovery (SIGPR), both of which were established to monitor the government's CARES Act facilities. The Government Accountability Office also published reports on the Fed's emergency lending activities.

5. **Administration: Several private entities assisted in the FRBNY's administration of the TALF.**

While the FRBNY acted on behalf of the Fed in managing the TALF, the program utilized several parties to manage the loan transactions and to assess the collateral values and eligibility of borrowers:

- In May 2020, the FRBNY appointed Pacific Investment Management Company LLC (PIMCO) to act as the collateral monitor for the TALF. That same month, the FRBNY designated the Bank of New York Mellon (BNYM) to serve as custodian and administrator of the facility. PIMCO and BNYM were chosen for their experience in the ABS markets and, in the case of the latter, prior involvement with the Global Financial Crisis-era iteration of the TALF (FRBNY 2020a).

- Designated TALF Agents—primary dealers and other investors party to the Master Loan and Security agreement—were responsible for supporting loan issuance on behalf of their customers, the borrowers. Among other duties, they were tasked with the intermediary roles of collecting loan requests, delivering to the custodian any administrative fees, and managing the relationship between the borrowers and delivering counterparties (if applicable) (FRBNY 2020b).

6. **Communication: From the outset of the COVID-19 pandemic, the Fed committed itself to supporting the flow of credit to households and businesses through capital markets.**

In its initial press release, the Fed committed to "using its full range of tools" to provide credit support for households, businesses, and the general US economy throughout the COVID-19 crisis (FRB 2020g). It reported that the TALF, along with other emergency lending and asset purchase programs, would assist a wide range of markets and institutions while promoting maximum employment and ensuring price stability (FRB 2020g).

7. **Disclosure: TALF operations were subject to additional reporting requirements because the facility received CARES Act funding.**

The Fed announced on April 23, 2020, that it would publicly disclose on a monthly basis the companies that borrowed under its CARES Act emergency lending programs. The Fed emphasized that this new information would accompany its "already robust financial reporting, including a comprehensive weekly balance sheet and annual audited financial statements" (FRB 2020e, 1). Following up on its announcement in a press release dated May 12, 2020, the Fed began publishing the names of each participant in the TALF, respective amounts borrowed, interest rates charged, and value of pledged collateral (FRB 2020f). These reports also included information on the costs, revenues, and fees associated with the overall facility. On December 30, 2021, the Fed released its TALF-specific Disclosures Regarding the Emergency Lending Response to COVID-19, Pursuant to Section 11(s) of the Federal Reserve Act (FRB 2021).

Additionally, the Fed published annual audited financial statements specific to the SPV, Term Asset-Backed Securities Loan Facility II LLC; two have been published as of this writing (FRBNY 2021b; FRBNY 2022).

8. Use of SPV: The FRBNY established a special purpose vehicle (SPV) to operate the TALF.

The Fed has viewed use of the SPV structure as providing management, accounting, and legal advantages to an intervention—especially when the Fed operates multiple Section 13(3) programs in parallel.[4] Use of an SPV allows the Fed to better tailor a 13(3) program to the goals of the intervention (Baxter 2009, 12–13). Each intervention has its own specific terms, timeline, capital structure, and management team. The management teams may also be in geographically separate reserve banks, depending on which is administering a given intervention.

The SPV structure simplifies the reporting of income and the management of any sales of assets discounted by the facility. As noted in Key Design Decision No. 7, Disclosure, the Fed provided separate annual financial statements for the TALF that were independently audited by an outside accounting firm. These statements provided greater detail and transparency than existed for Fed facilities that did not utilize the SPV structure (Bernanke, Geithner, and Paulson 2020, 157; FRB 2022b). Moreover, the degree of corporate separation from both the Fed and other 13(3) interventions provided by an SPV structure may provide those other entities some protection in the event a 13(3) program is sued.

SPVs are also typically easy and inexpensive to set up. The Fed has viewed its creation of the structures as falling under the "incidental powers as shall be necessary to carry on the business of banking within the limitations" of the Federal Reserve Act (FRB n.d.; Bernanke, Geithner, and Paulson 2020, 156, fn 28).

9. Size: The Fed made $100 billion in loans available under the TALF program.

Peak utilization amounted to $3.7 billion in loans made to eligible borrowers as of October 31, 2020 (FRB 2020m). The majority of transactions were concentrated in securities backed by commercial mortgages and small business loans guaranteed by the Small Business Administration (SBA). Overall issuances of ABS declined substantially year-over-year between January and September 2020 (GAO 2020).

[4] See also Bernanke, Geithner, and Paulson 2020, 156–158.

According to the Fed's disclosures, TALF utilization increased significantly in July 2020, with 106 loans totaling $1.6 billion provided to 36 different borrowers, up from 19 loans totaling $252 million to five different borrowers in June 2020 (COC 2020).

By the end of its operations on December 31, 2020, the TALF had extended 224 loans totaling $4.4 billion to 20 investment funds, more than half of which were foreign-based companies (COC 2021a). Total usage represented 4% of the facility's initial $100 billion capacity (COC 2021b).

10. Source of Funding: The TALF was funded by both the Fed and Treasury and was secured by all assets of the SPV.

As with the GFC-era version of the TALF, the FRBNY committed to lend to a special purpose vehicle (SPV), TALF II LLC, on a recourse basis.

In addition to granting authorization for the facility, the Treasury Department made a $10 billion equity investment in the SPV using funds appropriated to the Exchange Stabilization Fund (ESF). Treasury was required to use existing ESF funds because the Fed announced the establishment of the TALF prior to the passage of the Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020. As of the TALF term sheet dated May 12, 2020, however, Treasury had supplanted the ESF funds with those allocated under section 4027 of the CARES Act (FRB 2020c).

11. Eligible Institutions: Participation in the TALF was open to any solvent US business that owned eligible collateral.

In practice, all TALF borrowers were investment funds. Eligible borrowers included investment funds created or organized in the US and overseen by an investment manager created or organized in the US. These included (1) any type of pooled investment vehicle organized as a business entity or institution, such as a hedge fund, private equity fund, or mutual fund; (2) any type of single-investor vehicle organized as a business entity or institution; (3) any newly formed investment funds, so long as they met other relevant eligibility criteria (FRBNY 2020b).

Eligible participants must have (1) been created or organized in the US or under the laws of the US; (2) had significant operations and a majority of its employees based in the US; and (3) maintained an account relationship with a TALF Agent. Initially, the FRBNY Term Sheet dated May 12, 2020, had described a requirement wherein this account relationship would have to be maintained with a primary dealer. This was updated on July 28, 2020, to include all designated TALF Agents (FRB 2020d).

A business that named a foreign government as a Material Investor (defined by FRBNY as owning "directly or indirectly, 10% or more of any outstanding class of securities of an entity") was not eligible to borrow (FRBNY 2020b, 2). The TALF terms considered sovereign wealth funds to be equivalent to foreign governments for the purposes of these restrictions. It similarly deemed ineligible any pension plan in which foreign governments owned, directly or indirectly, 10% or more of any outstanding class of securities.

In a departure from GFC-era TALF terms, the FRBNY required COVID-era TALF borrowers to submit to their respective TALF Agents proof of eligibility throughout the duration of the outstanding loan term. The Fed added these requirements to the 2020 TALF conditions following Congress's post-GFC amendments to Section 13(3) and the Fed's subsequent amendments to Regulation A, the authority's implementing rule. Congress amended Section 13(3) to mandate that recipients of such assistance could not be insolvent. While Section 13(3) had already required that the Fed "obtain evidence that such participant . . . is unable to secure adequate credit accommodations from other banking institutions," the Fed amended Regulation A to specifically mention a certification of such from the borrower as "relevant evidence" (FRB 2015, 78963).

Regulation A allowed borrowers to cite one or more of the following when proving eligibility for the TALF: (1) unusual economic conditions in a sector of the ABS market(s) intended to be addressed by the TALF, such as elevated spreads in the primary and secondary ABS markets in sectors for which the borrower sought to use as collateral for the loan; or (2) increased rates or haircuts in the financing market (e.g., the repurchase agreement, "repo," market) relevant for the collateral that the borrower sought to use for a TALF loan (FRBNY 2020b).

12. Auction or Standing Facility: The FRBNY designed the TALF as a standing facility wherein borrowers would submit subscriptions to buy at preannounced rates set by the Fed.

This design feature was a holdover from the first iteration of the TALF. Each month, borrowers were able to request loans on each of the two preannounced subscription dates. The TALF then disbursed loans to the borrower, pending receipt by the custodian of eligible collateral, administrative fee, and applicable margin to cover the haircut. To support market functioning, the TALF made loans at a premium above the market rate that would prevail under otherwise normal conditions (Caviness and Sarkar 2020).

13. Loan or Purchase: The SPV made available non-recourse loans up to an aggregate $100 billion under the TALF.

Because the loans were non-recourse to the borrower, the SPV was able to "enforce its rights in the collateral" if the loan were not repaid (FRBNY 2020b, 1). FRBNY staff members Elizabeth Caviness and Asani Sarkar considered this to be an unconventional feature of market financing in non-crisis times (Caviness and Sarkar 2020).

One of the designers of the GFC-era TALF emphasized that the non-recourse feature was key to the program design. If the market price of the ABS declined, whether because of risk-aversion in the market or because of mounting credit losses, the borrowers' capital loss would be limited by the collateral haircut. They could then exit the loan agreement, leaving the collateral ABS with the Federal Reserve. This aspect of the program highlights that the purpose of the TALF was to heal the securitization markets and motivate investors to be involved in that process (Rhee 2020).

14. Eligible Collateral: The Fed modified its definition of eligible collateral from that used for the GFC-era TALF, allowing the COVID-era TALF to accept static collateralized loan obligations (CLOs).

A borrower could pledge only a single type of eligible collateral per TALF loan. Eligible collateral for a particular borrower could not be backed by loans originated or securitized by the borrower or by an affiliate of the borrower. There were two exceptions, however: (1) A borrower was able to use Small Business Administration (SBA) ABS as collateral for its TALF loan if the loans underlying were originated by the borrower or its affiliates, so long as the borrower had no prior knowledge thereof; and (2) a borrower was also able to use syndicated CLOs as collateral for its TALF loan even if the underlying loans were originated by the borrower or affiliates as part of its syndicate.

Eligible collateral included US dollar-denominated cash (i.e., not synthetic) ABS that had received AAA credit ratings from two qualified, nationally recognized statistical rating organizations (NRSROs) and possessed no lower rating from any NRSRO. Although outstanding TALF loans backed by downgraded ABS were not affected by rating changes, downgraded ABS could not be used as collateral for any new TALF loans until it regained its status as eligible collateral.

For ABS to be eligible as collateral, the FRBNY required that it consist of one of the following underlying credit exposures:

- Auto loans and leases
- Student loans
- Credit card receivables (both consumer and corporate)
- Equipment loans and leases
- Floorplan loans
- Premium finance loans for property and casualty insurance
- Certain small business loans guaranteed by the SBA
- Leveraged loans, or
- Commercial mortgages.

The March 23, 2020, term sheet included eligible servicing advance receivables in its list of acceptable collateral. However, the Fed excluded them from its April 9, 2020, term sheet, instead adding leveraged loans and commercial mortgages.

Eligible ABS must also have been issued on or after March 23, 2020, with the exception of CMBS and SBA Pool Certificates (7[a] loans) or Development Company Participation

Certificates (504 loans). Collateral falling into the latter two categories must have been issued on or after January 1, 2019.

The Fed announced on April 9, 2020, that it would permit certain types of CMBS and static CLOs to be used as collateral. Spreads on these assets had initially tightened following the announcement of the TALF but tightened further following the collateral expansion (Caviness and Sarkar 2020).

All, or substantially all, of the credit exposures underlying the eligible ABS must (1) for newly issued ABS, except for CLOs, have been originated by US-organized entities (including US branches or agencies of foreign banks); (2) for CLOs, have had a lead or a co-lead arranger that is a US-organized entity (including a US branch or agency of a foreign bank); and (3) for all ABS (including CLOs and CMBS), have been US-domiciled obligors or with respect to real property located in the United States or one of its territories.

ABS that bore interest payments that stepped up or down to predetermined levels on specific dates were ineligible. Additionally, underlying credit exposures of eligible collateral could not include exposures that were themselves cash ABS or synthetic ABS. Single-asset single-borrower CMBS, non-static CLOs, and commercial real estate CLOs were also ineligible.

The FRBNY also required eligible collateral to undergo clearance procedures through the Depository Trust Company. As was the case during the GFC, "this review provided a layer of due diligence beyond that of the credit rating agencies and investors, putting the public sector in a better position to manage adverse selection" (Rhee 2020, 295).

There were no penalties for investors who failed to provide a security on the settlement date; however, a delay would result in the cancellation of that portion of the loan and the withholding of the administrative fee.

15. Loan Amounts: The FRBNY determined loan amounts based on the market value of the underlying CMBS or ABS.

Although the FRBNY required borrowers to request a minimum of $5 million per loan application, there were no maximum amounts imposed. The FRBNY determined the value of the loans collateralized by both CMBS and ABS by the base value minus the base dollar haircut, defined by the following FRBNY guidelines:

CMBS:

- The base value was equal to the least of (1) the dollar purchase price on the applicable trade date, (2) the market value as of the subscription date, and (3) a value based on the New York Fed's collateral review, provided, however, that the base value was not to be greater than par.

- The base dollar haircut was equal to: (1) for CMBS with an average life under five years, 15% or (2) for CMBS with an average life beyond five years, 15% plus one percentage point for each additional year of average life beyond the five-year date. No CMBS could have an average life of 10 years or longer.

- If the base value was less than the base haircut, the CMBS was ineligible.

ABS:

- The base value for seasoned collateral was equal to the least of: (1) the dollar purchase price on the applicable trade date, (2) the market value as of the subscription date, and (3) a value based on the New York Fed's review, provided, however, that, other than SBA ABS, the base value was not greater than par.

- For SBA ABS with a market value greater than par, the Fed lent an amount equal to market value, subject to a cap of 105% of par value, minus a haircut.

- The base value for newly issued collateral was equivalent to the dollar purchase price on the applicable trade date.

- The base dollar haircut varied with the asset class and average life of the ABS.

- If the base value was less than the base haircut, the ABS was ineligible (FRBNY 2020b).

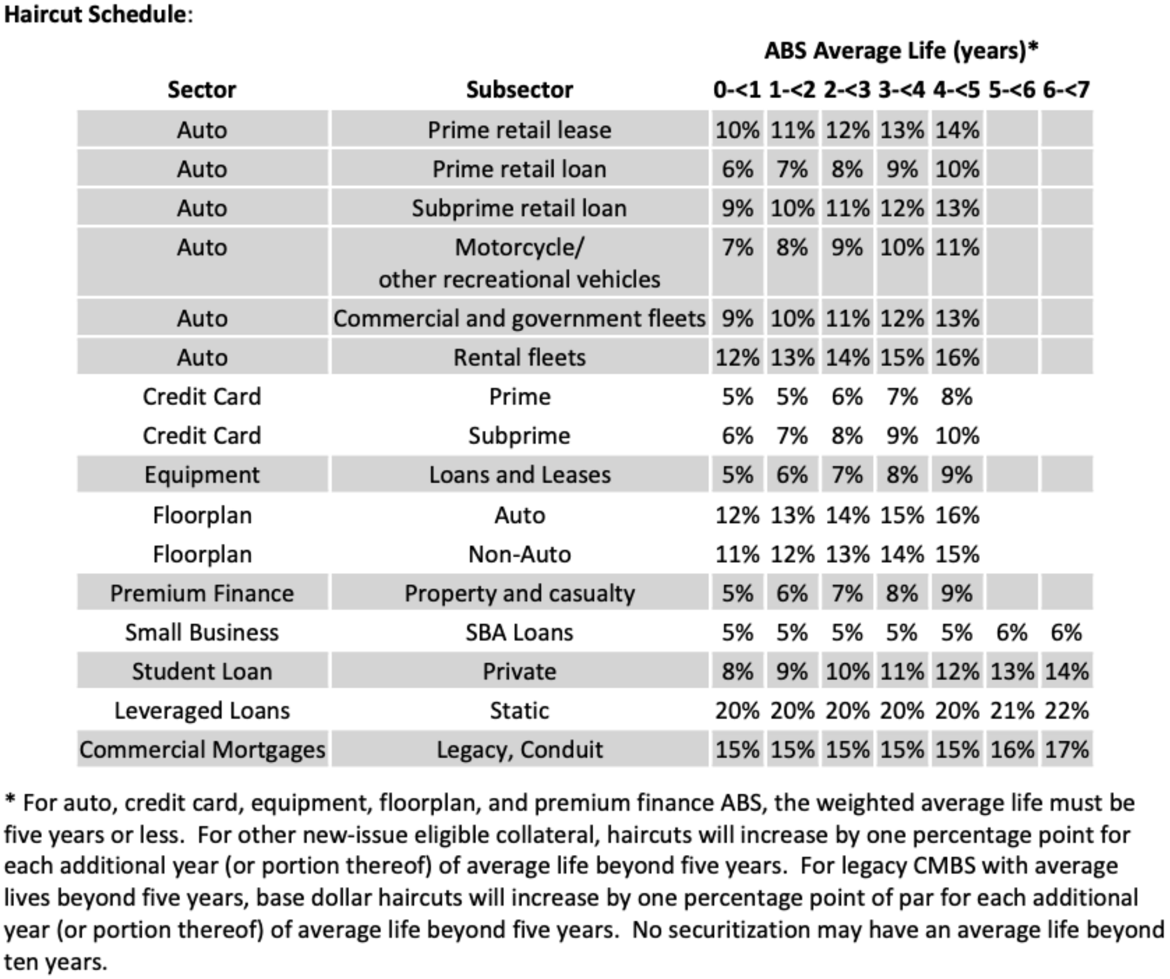
The weighted average life of a CMBS asset was calculated on the basis of (1) "the current composition of the mortgage pool, as reflected in recent servicer and trustee reports, (2) the entitlement of the legacy CMBS to make distributions, (3) the assumption that "anticipated repayment dates" are maturity dates, and (4) a 0% conditional payment rate and the absence of future defaults" (FRBNY 2020b, 13–14). Loans in default or special servicing were considered as if they had not defaulted, and previously modified loans were considered according to their modified terms.

FRBNY required CMBS to bear interest at a pass-through rate that was fixed or based on a weighted average of underlying fixed mortgage rates.

16. Haircuts: The Fed set a haircut schedule similar, though not identical, to that of the GFC-era TALF.

The haircut schedule (see Figure 1) was mostly consistent with that of the GFC-era iteration of the TALF, with a few notable exceptions: The 2008 predecessor never bought leveraged loans but did include newly issued CMBS (FRB 2020d, 3; Rhee 2020, 290).

Figure 1: Initial Haircut Schedule for TALF II LLC



Haircut Schedule:

		ABS Average Life (years)*						
Sector	**Subsector**	**0-<1**	**1-<2**	**2-<3**	**3-<4**	**4-<5**	**5-<6**	**6-<7**
Auto	Prime retail lease	10%	11%	12%	13%	14%		
Auto	Prime retail loan	6%	7%	8%	9%	10%		
Auto	Subprime retail loan	9%	10%	11%	12%	13%		
Auto	Motorcycle/ other recreational vehicles	7%	8%	9%	10%	11%		
Auto	Commercial and government fleets	9%	10%	11%	12%	13%		
Auto	Rental fleets	12%	13%	14%	15%	16%		
Credit Card	Prime	5%	5%	6%	7%	8%		
Credit Card	Subprime	6%	7%	8%	9%	10%		
Equipment	Loans and Leases	5%	6%	7%	8%	9%		
Floorplan	Auto	12%	13%	14%	15%	16%		
Floorplan	Non-Auto	11%	12%	13%	14%	15%		
Premium Finance	Property and casualty	5%	6%	7%	8%	9%		
Small Business	SBA Loans	5%	5%	5%	5%	5%	6%	6%
Student Loan	Private	8%	9%	10%	11%	12%	13%	14%
Leveraged Loans	Static	20%	20%	20%	20%	20%	21%	22%
Commercial Mortgages	Legacy, Conduit	15%	15%	15%	15%	15%	16%	17%

* For auto, credit card, equipment, floorplan, and premium finance ABS, the weighted average life must be five years or less. For other new-issue eligible collateral, haircuts will increase by one percentage point for each additional year (or portion thereof) of average life beyond five years. For legacy CMBS with average lives beyond five years, base dollar haircuts will increase by one percentage point of par for each additional year (or portion thereof) of average life beyond five years. No securitization may have an average life beyond ten years.

Source: FRB 2020d, 3.

17. Interest Rates: Interest rates on TALF loans were fixed or floating depending on the underlying collateral, and they were generally high relative to the historical coupon rate on ABS and CMBS.

The FRBNY determined interest rates on TALF loans based on the type of collateral securing the loan, setting them one day prior to the subscription date. A borrower then had a 30-day grace period during which to pay interest if the net interest pledged on the ABS was not sufficient to cover the interest payment associated with the TALF loan.

Pricing was determined as follows:

- For collateralized loan obligations (CLOs), the interest rate was 150 bps over the 30-day average secured overnight financing rate (SOFR).
- For SBA Pool Certificates (7[a] loans) the interest rate was the top of the federal funds target range plus 75 bps.
- For SBA Development Company Participation Certificates (504 loans), the interest rate was 75 bps over the three-year federal funds overnight index swap (OIS) rate.
- For all other eligible ABS, the interest rate was 125 bps over the two-year OIS rate for securities with a weighted average life less than two years, or 125 bps over the three-year OIS rate for securities with a weighted average life of two years or greater (FRB 2020d).[5]

Similar to its GFC-era predecessor, the interest rates on TALF loans were generally high relative to the historical coupon rate on ABS and CMBS (Caviness and Sarkar 2020).

18. Fees: The FRBNY charged borrowers an administrative fee equal to 10 bps of the TALF loan amount.

Upon settlement of collateral, the FRBNY required borrowers to pay to the TALF II LLC an administrative fee equaling 10 basis points of the loan amount.

19. Term/Repayment: Each TALF loan carried a maturity of three years.

Loans offered under the GFC iteration of the TALF initially carried terms of three years. However, the FRBNY later extended these terms because of a mismatch between the maximum three-year range of the loans and the maximum five-year range of their underlying assets (Rhee 2020).

Despite the extension of the previous version of the program, the TALF II terms specified a three-year maturity for each loan. As noted in Figure 1, the maximum maturity for the underlying collateral remained much longer than three, or even five, years.

Upon receipt of a Prepayment Notice, the FRBNY allowed borrowers to prepay a TALF loan, in full or in part and without penalty. The borrower then received collateral securing the relevant TALF loan on a pro-rata basis. Despite this prepayment provision, borrowers were not permitted to substitute collateral during the term of the loan.

20. Other Restrictions on Eligible Participants: Participants accessing funds through the TALF were not subject to the compensation, stock repurchase, or capital

[5] Rates per the March 23, 2020, term sheet were based on LIBOR rather than SOFR (for CLOs) or OIS (all other asset classes). The FRBNY began using the latter benchmarks beginning with the publication of the term sheet dated April 9, 2020 (FRB 2020a, 2; FRB 2020b, 2).

distribution restrictions that applied to direct loan programs implemented under section 4003(c)(3)(A)(ii) of the CARES Act.

Furthermore, there were no additional regulatory capital requirements for securities financed by a TALF loan. Borrowers were, however, subject to the conflicts of interest requirements outlined in section 4019 of the CARES Act.

As with the first iteration of TALF, the principle underlying executive compensation restrictions needed not apply to TALF borrowers because they were not the ultimate recipients of emergency credit (FRBNY 2020b).

21. **Regulatory Relief: The Fed did not implement any regulatory changes to assist with the operation of—or participation in—the program.**

Sources consulted do not indicate the existence of regulatory concessions.

22. **International Coordination: The Fed did not coordinate with other jurisdictions when designing or operating the TALF.**

Sources consulted do not indicate that the Fed consulted with international parties.

23. **Duration: The FRBNY scheduled the TALF to terminate on September 30, 2020, but later extended its operations through December 31, 2020.**

Due to prevailing pandemic-related market volatility and slow national economic recovery, the Fed announced a three-month extension on July 28, 2020 (FRB 2020h).

On November 19, 2020, Treasury Secretary Steven T. Mnuchin formally requested that the Fed return unused funding for CARES Act facilities (including the TALF, among others) to the Treasury (Mnuchin 2020). Although the Fed initially expressed reservations about the early closure, Chair Powell later indicated that he would defer to Treasury (Powell 2020). Following Secretary Mnuchin's request, Congress passed an amendment to the Consolidated Appropriations Act (CAA) of 2021 that would explicitly prevent the Fed from reinstating any of the CARES Act facilities, with the notable exception of the TALF (House of Representatives 2021, 966). According to a CRS report, the CAA may have excluded the TALF because it was the only program backed by CARES Act funding initially established during the GFC (Labonte 2021).

On January 7, 2021, the FRBNY and Treasury amended the TALF II Limited Liability Company Agreement to provide for "an interim distribution to Treasury of a portion of its previously contributed capital" (FRBNY 2021a, 1). This return of equity amounted to approximately $10 billion, less the amount of outstanding loans (FRBNY 2021a).

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