UPDATE

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Considerations for funds investing in the US Federal Reserve's Term Asset-Backed Securities Loan Facility

This update briefly considers the advantages of Cayman vehicles for funds investing in the US Federal Reserve's Term Asset-Backed Securities Loan Facility.

Term Asset-Backed Securities Loan Facility

In response to the profound economic challenges arising from the COVID-19 pandemic, the US Federal Reserve recently announced the establishment of the Term Asset-Backed Securities Loan Facility (**TALF**) to help stabilise the US Economy. The TALF aims to support the flow of credit to consumers and businesses by facilitating the issuance of asset-backed securities (**ABS**) on or after 23 March 2020, and consequently improving market conditions for ABS. A similar TALF facility was last offered by the Federal Reserve during the 2008 global financial crisis.

Under the current TALF, the Federal Reserve will initially make up to US$100 billion of secured, non-recourse loans available to eligible borrowers for a borrowing term of three years, by creating a special purpose vehicle (**SPV**) to facilitate loans to each borrower. The US Treasury will also make an equity investment of US$10 billion in the TALF SPV. The Federal Reserve has issued a Term Sheet providing full details of the TALF programme.

Notably, on 9 April 2020, the 'eligible collateral' for TALF was extended to include the triple-A rated tranches of certain types of outstanding commercial mortgage-backed securities (**CMBS**) and newly issued collateralised leveraged loan obligations (**CLOs**). However, this does not include single-asset borrower CMBS, commercial real estate CLOs or residential mortgage servicing advances.

Cayman implications

Our team has recently advised on, and is ready to assist with, the establishment of new Cayman feeder funds for non-US and US tax exempt investors looking to invest (usually via a Delaware master fund) in opportunities created by the TALF regime. Such funds have a key role to play in injecting capital into the US market at this crucial time.

The Cayman Islands is the largest domicile for private funds outside of the US and so provides a well-established, popular and efficient vehicle for investors to access an investment in eligible securities under the TALF program. Importantly, Cayman fund structures are frequently used to facilitate investments by both non-US and US tax exempt investors. Ultimately, investors do not want to take structural risks at a time of great uncertainty and so the Cayman Islands provides a vital solution for clients looking to establish private funds in a non-US jurisdiction.

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In a nutshell – key advantages of Cayman funds include:

- widely recognised and popular vehicle for international investors;
- various legal forms may be used (exempt companies, LLCs and exempted limited partnerships);
- ease and speed of incorporation and registration procedures;
- no requirement to have Cayman-based directors or officers, managers, administrators or custodians;
- no restriction on commercial matters such as investment objectives, trading strategies or leverage, trading or diversification limits;
- the Cayman Islands, as a financial services jurisdiction, has:
    - a clear and effective regulatory environment;
    - a respected level of corporate governance;
    - an established and respected court and legal system; and
    - high quality and experienced legal, administrative and accounting service providers.

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