

Treasury Releases Form Agreements for Capital Purchase Program

The Treasury Department released form agreements and warrant documents related to its Capital Purchase Program late Friday afternoon. The forms include a [Securities Purchase Agreement](#), [Form of Letter Agreement](#), [Certificate of Designation](#), and [Form of Warrant to Purchase Common Stock](#). In its release, the department clarified that the documents were to be used by publicly traded financial institutions applying for the CPP thereby ending questions about whether unlisted public, privately held or subchapter S companies are eligible to receive funds under this phase of the program. Treasury indicated that separate term sheets for these institutions would be forthcoming at a later date.

The form agreements are similar to those filed by the original nine recipients of CPP funds according to those companies' Form 8K's filed with the SEC last week. In addition to the purchase of preferred shares and delivery of a warrant for common stock equal to 15% of the value of the government's investment, the basic contracts include limits on executive compensation that apply during the period in which the Treasury Department owns any debt or equity securities acquired through the Agreement. The documents include a form waiver that senior executives from the institution are required to execute releasing the Department from liability associated with any changes to the executive's compensation agreement as a result of the limitations.

Additional information is available through the Treasury Department website [here](#) and through the firm's website:

[Husch Blackwell Sanders - EESA site](#)

In related news, the FDIC announced that it has extended the deadline to opt-out of participation in the Temporary Liquidity Guarantee Program from November 12 to December 5, 2008. Institutions that do not opt-out will be assessed fees to cover the cost of the plan, which guarantees certain types of senior unsecured debt that is issued on or before June 30, 2009 and extends coverage for non-interest bearing deposit transaction accounts such as payroll accounts used by businesses. Additional information about this plan is available [here](#) or through the firm's website.

Husch Blackwell Sanders is prepared to assist with questions concerning any of the new laws and regulations that relate to the financial crisis. Please contact your attorney or any of the attorneys on the firm's EESA task force listed below.

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