

Treasury Announces SBLF Terms for S Corps and Mutuals

The United States Treasury has announced the long-awaited terms under which banks and bank holding companies that are taxed as Subchapter S corporations and mutual institutions may apply for funds through the Small Business Lending Fund ("SBLF").

Qualifying Subchapter S corporations and mutual institutions may issue senior securities to the Treasury through the SBLF. Unlike the SBLF plan for C Corporations, the senior securities are unsecured subordinated debentures eligible for inclusion in an institution's **Tier 2 capital and not Tier 1 capital**. With respect to all distributions, the senior securities will rank senior to common stock and any other classes of equity. The interest rate payable on the senior securities will be reduced as the participating institution increases its lending to small businesses. Like the C-Corporation program, the issuer must redeem any CPP or CDCI senior securities on or prior to the date of Treasury's investment.

Complete details can be found at <http://www.treasury.gov/resource-center/sb-programs>. The application deadline for Subchapter S corporations and mutual institutions is **June 6, 2011**.

If you need assistance or further advice about participation in the SBLF program, you may contact a member of the Miller & Martin Financial Services Practice Group:

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The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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