

A Refresher on Term Sheets and Commitment Letters

Term sheets and commitment letters are documents frequently used by lenders to outline the terms of a potential financing. However, these two documents differ with respect to what is required of, and whether the terms are binding on, the parties, write Paul M. Fogleman and Brian F. Corbett of Poyner Spruill LLP.

“A commitment letter differs from a term sheet in that it creates a binding agreement on the part of a lender to make a loan on the stated terms.” they write. “In addition, a commitment letter generally requires that a borrower reimburse a lender for out-of-pocket expenses and possibly pay a break-up fee if the loan transaction does not close, whereas there is generally no obligation for the borrower to pay these costs and fees in a term sheet.”

They offer some points to consider in drafting commitment letters and term sheets.

Read the article.