



Structured Finance and Securitization

2019 Year in Review



HUNTON
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INTRODUCTION

In 2019, Hunton Andrews Kurth LLP's structured finance and securitization team closed a number of substantial transactions, developed novel structures for our clients and advised on important tax, regulatory and other industry developments.

Over the past decade, our structured finance and securitization practice has expanded rapidly, through proactive growth of our investment banking relationships and through strategic lateral hiring. While still maintaining our deep roots in residential mortgage loan securitizations and related matters, our lawyers have been at the forefront of emerging and reemerging asset classes and initiatives, such as reverse mortgage finance and securitization; "RTL" or "fix to flip" mortgage finance and securitization; small business loans; loans originated on blockchain; agricultural assets; CRE CLOs; structuring financial assets and receivables to facilitate funding through ABCP conduits; small balance commercial; private equity investments in excess servicing and related products; syndicated and bilateral lending against financial assets and ABS products; and compliance and regulatory matters for the financial services industry.

We appreciate the many opportunities to serve both our new and our returning clients, and we look forward to continuing those important business relationships in the years ahead. Below is a summary of factors expected to impact our clients in 2020, as well as an overview of our team's activities in recent months.



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FORECAST FOR 2020

Residential Mortgage-Backed Securities

Issuance volume for RMBS backed by newly originated and reperforming mortgage loans in 2019 outpaced previous expectations. The increase in volume was generally driven by the entrance of new issuers to the market and an increase in the origination and securitization of non-qualified mortgages. While there was a slight increase in delinquency percentages, performance data (particularly for new prime originations) has remained relatively strong and we expect 2020 to continue on a similar pace.

In 2019, we saw the first RMBS transaction backed in part by loans that were originated by creditors designated as Community Development Financial Institutions (CDFIs) by Treasury. The goal of a CDFI is to revitalize low-income neighborhoods by providing economic opportunities through access to financial products (such as residential loans). CDFI loans are not only exempt from the ability-to-repay rules, but there is also no risk retention required for any securitization transaction collateralized solely by CDFI loans. In addition, for securitization transactions in which both CDFI loans and other residential mortgage loans are commingled, the percentage of risk retention required is reduced by the ratio of the unpaid principal balance of the CDFI loans to the total unpaid principal balance of the loans that are backing the securities. With such benefits, we expect to see an increase in transactions in 2020 backed by CDFI loans.

All eyes in RMBS during 2020 will be on whether the “QM patch,” which has been in place since 2014, expires as currently scheduled in January 2021. The QM patch exempts GSE-backed loans from complying with the Ability to Repay/Qualified Mortgage rules. If the QM patch expires, billions of dollars of mortgages that are currently classified as “qualified mortgages” as a result of the QM patch will become non-qualified mortgages. This would further fuel an already vibrant securitization market for non-qualified mortgages.

Reverse Mortgage Securitization

2019 was another very active year for securitizations of reverse mortgages, both for FHA-insured home equity conversion mortgages (HECMs) and proprietary reverse mortgage (not FHA-insured). Hunton Andrews Kurth continues to lead the market in securitizations of this asset as initial purchaser and issuer counsel, including acting as issuer’s counsel for an issuer’s first securitization of a proprietary reverse product in 2019. We saw a new issuer enter the HECM buyout loan securitization market and some new structures, including a REMIC structure backed by active proprietary reverse mortgages and the issuance of notes backed by assignable HECMs. In addition, the seasoned issuers were in the market several times in 2019.

We expect that reverse mortgage securitizations will be robust for 2020 as issuers leverage buyouts of nonperforming HECMs from Ginnie Mae HMBS and continue the development of the assignable HECM securitization market and acquisitions of portfolios from third parties and as proprietary reverse mortgages build in volume.

Credit Risk Transfer

2020 will see the GSEs utilizing the REMIC trust structure developed in 2018 and 2019 as their main staple risk transfer structure. The GSEs will also issue trust structures referencing reference pools related to certain existing direct and trust deals in order to obtain credit protection on the top slice of the bottom tranches of such reference pools. Hunton Andrews Kurth also leads the market in representing underwriters for Fannie Mae issuers looking to issue additional debt backed by previously retained credit risk transfer bonds. In addition, 2019 was an incredibly active year with respect to mortgage insurance-linked note issuances, with on-the-run structures and notes referencing more seasoned policies by certain mortgage insurers, as well as the first issuance of such notes transferring risk on a book of policies from the last mortgage insurance company to participate in the capital markets with this type of structure. 2020 will see the implementation of a new form policy for the mortgage insurers, and we expect the mortgage insurance companies will continue to utilize the insurance-linked



note structure while fine-tuning the amortization and other features of these deals to maximize capital relief in addition to other enterprise-specific goals.

Warehouse Financing

In 2019, we saw benchmark interest rates tick down for the first time after several years of steady increases. This decrease in interest rates was accompanied by a higher volume of mortgage loan originations across a wide variety of mortgage products, and demand for warehouse lending capacity rose to accommodate it. The housing market is not expected to boom in 2020, but at least for the time being, the mortgage industry is no longer struggling with the headwinds of steadily increasing interest rates that hampered origination volume in recent years. In 2019, a few participants in the industry succumbed to the challenges of the recent past, and we worked with our experienced bankruptcy practitioners to protect our clients' interests in connection with a number of restructurings and insolvencies in the mortgage industry. As we turn to a new year and a new decade, we plan to draw on our deep and varied experience to assist our clients in navigating whatever challenges are encountered in 2020 and beyond.

Our warehouse lending practice continued to flourish in 2019 as we served clients in matters involving agency-eligible collateral, nonperforming and re-performing mortgage loans, REO properties, non-QM mortgage loans, traditional and small-balance commercial loans, short-term investor mortgage loans, residential tax liens, CMBS and RMBS financings and reverse mortgage loans. Last year, we predicted that 2019 would bring a major increase in the demand for financing capacity for business purpose loans of all types, including “fix-and-flip” and investor rental loans. That prediction certainly came true as we assisted new and longstanding clients on the buyer and seller sides of numerous deals

involving these asset classes. We anticipate that 2020 will see this trend continue as we have seen increased demand and supply for warehouse financing across many mortgage products in addition to REO properties and mortgage servicing rights. As warehouse lenders have increased their outstanding balance sheets to meet demand, we have also seen a continuing trend of warehouse lenders limiting their exposure through participation of their facilities and re-hypothecation of certain assets via back-to-back repos and other structures.

In the coming year, we will have an important presidential election amidst potentially worrying signs of slowing national and global economies. No doubt 2020 will bring changes, but how those changes will impact the warehouse financing market is unknown. With deep experience in representing programmatic lenders and major repo sellers in warehouse lending transactions across a variety of asset types in all stages of the credit cycle, we look forward to working with our clients to meet their warehouse lending needs.

Single-Family Rental

The SFR market continued to perform well in 2019, as we have seen new lenders and new sponsors entering the market and established sponsors continuing to expand and diversify their portfolios. We have been particularly active in advising clients in the sales, acquisitions and financings of SFR property portfolios of various sizes, as well as advising our REIT clients looking to expand into this space. We expect this market and these activities to remain healthy for 2020.

FORECAST FOR 2020 CONTINUED

Servicing Rights Financing

In 2019, we saw the continued evolution of the financing of, and structuring investments in, servicing rights and servicing cash flows, especially with regard to Fannie Mae, Freddie Mac and Ginnie Mae mortgage servicing. Servicers and their investment banks have been working for years to develop efficient ways to finance mortgage servicing portfolios. Fannie Mae, Freddie Mac and Ginnie Mae have been sensitive to the needs of their servicers to access greater liquidity, balanced against the need for the agencies to retain control over the servicing of their mortgage loans, including those backing agency guaranteed mortgage-backed securities. Investors (largely fund investors and REITs) have become increasingly interested in financing mortgage servicing rights (MSRs) and investing in excess servicing spread strips.

Hunton Andrews Kurth brings together lawyers from our structured finance, corporate secured lending, private equity, tax and bankruptcy teams to focus our combined experience on assisting our clients in developing innovative transactions for financing and investing in MSRs, excess spread related to MSRs, and working with the agencies to find realistic balancing of the market's need for efficient financing and the agencies' need for control.

In 2019, we represented and advised numerous fund investors and REITs on excess spread investments through private equity and lending structures, and several servicers in connection with joint ventures to facilitate investments in servicing cash flows. We represented lenders and borrowers on several loans secured by agency servicing rights and agency and private-label pools of excess servicing spreads associated with MSR portfolios. We also represented lenders, underwriters and issuers in several securitizations secured by Ginnie Mae, Fannie Mae, Freddie Mac and private-label MSR portfolios.

Highlights:

- We closed multilender and bilateral secured term loans with and without delayed draw capacity, in some instances coupled with financing for private equity and REIT debt investors to produce a desirable return, each with different features tailored to the respective lender groups;
- We advised on synthetic transfers of servicing cash flows through joint venture structures to enable private equity investment in servicing cash flows while leaving the servicing performance and the related compensation with the operating servicing company;
- We represented underwriters in connection with the structuring, amending and financing of structured financing facilities backed by excess servicing spreads and MSR collateral under which collateralized bonds were issued, both revolving bank-funded notes and term securities, including representing investment banks in the creation of securitization structures for the financing of Freddie Mac MSR collateral; and
- We advised on the financing of investment interests in excess servicing spread investment vehicles.

We anticipate the continued evolution of the MSR and excess spread market in 2020. Our multidisciplinary team is dedicated to remaining at the forefront of these market developments and we expect to facilitate more innovative solutions for our bank, investor and servicer clients in the coming year.

FORECAST FOR 2020 CONTINUED

MSR Sales and Servicing

2019 was an interesting year for mortgage servicing rights, with rising interest rates of 2018 reversing course and the market adjusting to interest rates again approaching historical lows and the inevitable resulting refi boom. MSR purchase and sale transactions remained active during the disruption, with agency MSRs continuing to dominate. The increased refinancing activity has been good for business for mortgage lenders, although not so good for those holding MSR portfolios. The increased origination volume may portend an increase in MSR purchase and sale activity going forward as buyers and sellers evaluate the increased production and forecasting economic conditions. We are seeing a variety of transactions, including bulk, flow and co-issue transactions and arrangements. Deal size has also varied greatly, with transactions ranging from under \$1 billion in UPB to over \$20 billion, with \$1 billion to \$5 billion seeming to be a sweet spot. Pricing for the smaller transactions is typically lower than for larger transactions, so even larger investors of MSRs are looking at the smaller transactions as a way to earn higher margins, which helps to offset transaction costs. The ability to “recapture” MSRs in connection with refinancings is also playing a significant role in pricing and transaction activity. Finally, there continues to be modest activity for private label MSRs, particularly as a result of players’ exiting the servicing or private label servicing business. These transactions have the added challenge of obtaining third-party (e.g., trustee, master servicer, rating agency) approvals or consents.

Residential Whole Loan Transactions

The lower interest rate environment and increased refinancing and origination activity have resulted in more supply of new origination mortgage loans and an uptick in the number of originators looking to sell or securitize mortgage loans. Fortunately, there also seems to be significant demand for these loans from buyers looking to invest in or securitize residential mortgage loans. In addition to the increased production of mortgage loans, the greater acceptance and volume of non-QM originations and securitizations had been a major theme of 2019. In addition to non-QM mortgage loans, originators are also finding that conforming agency-eligible mortgage loans may get better execution in a private secondary market transaction compared to an agency delivery. We have seen a significant pickup in new mortgage loan purchase and sale arrangements with existing and new (or returning) players to the market, and including both servicing-released and servicing-retained transactions. Typically, the purchaser dictates the form of the mortgage loan purchase agreement, and while similar in many ways, every agreement has its own nuances and purchaser-friendly provisions. As a result of the long-running economic boom, the volume of nonperforming and reperforming whole loan transactions has decreased significantly over the past several years, although there is some activity in the NPL/RPL space as well as seasoned performing mortgage loan transactions.



FORECAST FOR 2020 CONTINUED

Fintech

The fintech market continued to expand in 2019. Continued low interest rates and an expanding economy could mean more of the same in 2020 as investors search for yield, and the robustness of underwriting and servicing of fintech products remains untested by recession.

Some potential challenges arose in this market this year. Two private litigations were commenced seeking to expand the *Madden* ruling beyond whole loan sales and into the securitization arena. State regulators in Colorado continued their true lender litigation against Avant and Marlette. New rules proposed by the OCC and the FDIC to codify the “valid when made” doctrine could limit *Madden’s* effect but do not seek to address true lender.

The SDNY’s ruling denying the OCC’s authority to issue a special-purpose national bank charter for fintech companies means that state-by-state regulation and the bank partnership model may be here for the foreseeable future in the marketplace lending space. Bank partnership structures continued to evolve in 2019 as more of such arrangements are now structured as participations.

Hunton Andrews Kurth’s 2019 activities in the fintech area included, among other things, representing online lenders and loan sellers in securitizations and whole loan sales, advising online platforms on federal and state regulatory compliance and related matters (including investigations), developing flow purchase programs for online platforms and their investors, advising lenders to online lending platforms, establishing funds to invest in US fintech assets, advising offshore fund and nonfund investors in US federal

income tax aspects of investing in US marketplace loans and other fintech assets, and representing banks providing origination services and warehouse programs to online lending platforms.

Blockchain Technology

Blockchain and smart contracts continued to get a lot of press in 2019. More companies explored and embraced the technology to lower their costs and increase security. Blockchain technology and smart contracts have shown their potential in a number of areas, such as fintech, retail/consumer products and insurance and energy, and we expect those areas to continue to expand. This year marked our firm’s first foray in the financing of blockchain-originated mortgage assets. While there is still continued reliance on traditional mechanics and infrastructure to ensure proper legal transfer of title, as the blockchain platforms mature and the industry participants increase, this segment of the market will continue to become more universally accepted. In 2020 (as was the case in 2019), we expect to see a significant increase in the offer and sale of security tokens and other tokenized assets. Regulators at the state and federal level continue to be active in the space, with each of the SEC, IRS and FinCEN releasing significant regulatory guidance on digital assets in 2019 and New York’s Department of Financial Services proposing guidance for crypto exchanges holding a virtual currency license.

Notwithstanding blockchain’s demonstrated advantages, the technology also presents risks. Hunton Andrews Kurth is at the forefront on the practical uses and implications of how blockchain and smart contracts will transform the landscape of how we conduct business. Hunton Andrews Kurth has a

FORECAST FOR 2020 CONTINUED

multidisciplinary blockchain team, including attorneys in structured finance, real estate, M&A, intellectual property, financial restructuring, and privacy and cybersecurity who are familiar with and knowledgeable about this technology. Read more about our blockchain team [here](#).

2019 Regulatory/CFPB Developments and Projections for 2020

Under the leadership of newly confirmed Director Kathy Kraninger, the Consumer Financial Protection Bureau's (CFPB or Bureau) efforts in 2019 reflect an emphasis on preventative rulemaking measures, in contrast to the Bureau's pre-Trump era focus on enforcement activities. In its fall 2019 Regulatory Agenda, the Bureau announced its intent to "articulate clear rules of the road for regulated entities that promote competition, increase transparency, and preserve fair markets for financial products and services," indicating that the Bureau's rulemaking efforts of the past year will likely continue into 2020.

For example, in May of 2019, the CFPB issued a Notice of Proposed Rulemaking (NPRM) to reconsider the thresholds for reporting data concerning closed-end mortgage loans and open-end lines of credit under the Home Mortgage Disclosure Act (HMDA) rule. Following a reopened comment period over the summer, the Bureau issued a final rule in October 2019 that extends the current temporary threshold for collecting and reporting data concerning open-end lines of credit under HMDA for two years. The rule also clarifies partial exemptions from certain HMDA requirements that Congress added in the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The CFPB announced its intention to address the permanent thresholds for collecting and reporting data on open-end lines of credit and closed-end mortgage loans in 2020.

Also in May of 2019, the CFPB issued a long-awaited NPRM to implement the Fair Debt Collection Practices Act (FDCPA). Among other things, the NPRM would set limits on the number of calls debt collectors may place to consumers on a weekly basis; clarify how collectors may lawfully communicate using newer technologies such as

voicemails, emails and text messages that have developed since the FDCPA's passage in 1977; and require collectors to provide additional information to consumers to help them identify debts and respond to collection attempts. Notably, during the comment period, attorneys general in 28 states urged the CFPB to promulgate a rule that applies equally to the collection of first-party creditors, in addition to debt collectors. The Bureau will likely finalize the debt collection rules in 2020.

Additionally, in July 2019, the CFPB announced plans to allow for the expiration of the temporary Qualified Mortgage (QM) provision applicable to certain mortgage loans eligible for purchase or guarantee by the government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, in the Bureau's Ability to Repay/Qualified Mortgage (ATR/QM) rule. This provision, also known as the GSE Patch, is scheduled to expire no later than January 10, 2021. Accordingly, in 2020, we can likely expect to see the CFPB address the scheduled expiration of the "Patch."

Other rulemaking agenda items the CFPB may address in 2020 include payday/small-dollar loans, PACE (property assessed clean energy) financing, business lending data and remittances. The CFPB may even address the loan originator compensation rule under the Truth in Lending Act (TILA), as part of a longer-term agenda item.

Overall, the CFPB's focus on notice-and-comment rulemaking and decrease in enforcement activity have resulted in state regulators and attorneys general filling the gap, particularly with respect to the licensing of entities that purchase and hold mortgage servicing rights (MSRs). This area continues to be of focus for state regulators, even for entities that do not perform any servicing or consumer-facing activities. For example, the Pennsylvania Department of Banking and Securities (DBS) recently finalized seven consent agreements for violations of its Mortgage Licensing Act (MLA) in the third quarter of 2019 alone. Of note, in the DBS's September 12, 2019, consent agreement, the entity believed it was properly licensed to service loans it originated using a licensed sub-servicer, since it held MSRs for such loans as a licensed mortgage lender in the state. However, the DBS disagreed,

FORECAST FOR 2020 CONTINUED

alleging that the entity violated the MLA's mortgage servicer licensing requirements applicable to "a person who engages in the mortgage loan business by directly or indirectly servicing a mortgage loan." As a result, the entity was required to pay the DBS a \$110,000 fine.

Another area to watch in 2020 is the deference given to the Second Circuit's 2015 decision in *Madden v. Midland Funding, LLC*, which brought into question the viability of the bank partnership lending model. In November of 2019, the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) released a notice of proposed rulemaking on the "valid when made" doctrine, partially in response to the *Madden* ruling. The proposed rule is intended to clarify that "when a national bank or savings association sells, assigns, or otherwise transfers a loan, interest permissible prior to the transfer continues to be permissible following the transfer." Comments on the proposal will be due in early 2020 and the impact of the agencies' interpretation of the "valid when made" doctrine remains to be seen.

Tax Impacts on Structured Finance and Securitization

In contrast to the prior two years, 2019 did not present sweeping changes on the tax front and introduced pullbacks from some of the changes implemented in the Tax Cuts and Jobs Act that revised the Internal Revenue Code. Provisions requiring acceleration of income in certain circumstances now largely exclude market discount and original issue discount from their purview. Congress is currently debating rollbacks to the limitation on the state and local tax deduction, which could affect the housing market in high-tax states if the limitation is removed or reduced. Overall, we continue to develop innovative structures in securitizations and structured finance to support investment by a variety of investors at different points in the capital stack. At this point, we do not expect tax changes in 2020 that would have significant impacts on securitization or structured finance activity.

Fix-and-Flip Loans

After several years of growth and heightened activity, the fix-and-flip/bridge loan market has leveled off and is possibly poised for something of a slowdown in the coming year. The trend in this market mirrors the general real estate housing market and reflects the combined headwinds of higher borrowing costs and low property inventories in many regions. Although property value increases have slowed across most major markets, home values still remain historically elevated, which increases acquisition costs. Competition from primary residential homebuyers, new entrants into the lending and origination market and institutional SFR investors also makes finding suitable properties more difficult as inventory levels remain low in many markets. In some cases, borrowers and lenders have begun expanding into different and larger property classes such as horizontal land development or multifamily, mixed-use and commercial properties. In other cases, many borrowers have begun altering their property takeout strategies to incorporate an SFR component where refurbished and rehabilitated properties are rented for a period of time before the original loan is refinanced with a more traditional loan for equity takeout purposes. 2019 continued to see a number of securitization transactions involving fix-and-flip loans, but secondary market whole loan sales will most likely continue to be the preferred takeout option for originators and lenders.

Fund Finance

The fund finance market has continued to grow both in terms of volume and range of participants. The market has experienced increased focus from banks, institutional investors and insurance companies. Large funds complement their traditional subscription financing lines with more-specific asset and portfolio-based facilities. The firm has worked on a range of structures tailored to the specific financing requirements for funds, including particularly funds investing in the financial services, real estate and oil and gas areas, where the firm has significant industry knowledge and expertise.

FORECAST FOR 2020 CONTINUED

Servicer Advance Financing

Financing secured by servicer advance receivables was robust throughout 2019. Several large portfolio acquisitions by major industry players led to an uptick in both agency and private-label servicing advance facilities. This year witnessed a number of rated term note issuances. Any economic slowdown in 2020 could result in continued activity in the servicer advance space. Increased borrower delinquencies put financial strain on servicers to advance funds to ensure continuity of payment to investors in mortgage-backed securities. Servicer advance facilities provide a reliable and efficient liquidity source for servicers in a period of high borrower delinquencies. In addition, any increase in mortgage company acquisition or consolidation in the industry will require the development of innovative financing solutions for servicer advances as part of those transactions.

Stressed Credit Response

2019 saw a meaningful increase in filings under chapter 11 of the United States Bankruptcy Code by debtors with over \$50,000,000 in liabilities. Among those seeking relief under chapter 11 of the Bankruptcy Code were Stearns Holdings—the parent company of the twentieth-largest mortgage lender in the United States, Stearns Lending—and Ditech Holdings—the parent company of forward mortgage originator and servicer Ditech Financial and reverse mortgage servicer Reverse Mortgage Solutions, Inc. Stearns and Ditech each utilized Sections 363 and 364 of the Bankruptcy Code to enter into new, post-petition warehouse financing facilities to support the continued operation of their respective mortgage businesses while their chapter 11 cases progressed. Approval of these facilities at the outset of the Stearns and Ditech chapter 11 cases was necessary due to the ability of pre-petition warehouse financing lenders to terminate their respective commitments under the automatic stay safe harbor provisions available for counterparties to repurchase, netting and swap agreements. In securing the approval of such facilities, both Stearns and Ditech worked collaboratively with Fannie Mae and Freddie Mac to remain approved mortgage sellers

(and, in the case of Ditech, an approved mortgage servicer) and with Ginnie Mae to remain approved single-family issuers.

Following the approval of Stearns' post-petition warehouse financing facility and settlement with PIMCO, the largest holder of Stearns' funded indebtedness, Stearns enjoyed a relatively quick exit from chapter 11. Ditech, however, had its chapter 11 plan, premised in large part on the sale of its servicing portfolio and creation of a \$5 million reserve to settle consumer claims, upheld by Sections 363(o) and 1129(a)(7) of the Bankruptcy Code. Section 363(o) provides that interests in consumer credit transactions that are subject to the Truth in Lending Act, such as the servicing and origination transactions, cannot be sold "free and clear" of claims and defenses available to consumer creditors' part to such transactions. While a sale of assets under a chapter 11 plan is not subject to the restrictions of Section 363, Judge James L. Garrity Jr. of the Southern District of New York Bankruptcy Court held that Section 363(o) remained relevant to determining whether Ditech's proposed treatment of consumers complied with the best interests test set forth in Section 1129(a)(7). Section 1129(a)(7) provides that impaired creditors that do not vote to accept a plan must receive or retain property of a present value that is equal to or greater than the amount such creditor would receive in a chapter 7 liquidation. In rejecting the sufficiency of Ditech's proposed \$5 million payment to consumer creditors, Judge Garrity noted that such creditors would be entitled to retain the full value of their claims if Ditech's servicing portfolio was sold to a third-party buyer in a chapter 7 liquidation. Ditech subsequently amended its chapter 11 plan to provide for the full payment of such consumer creditors. Judge Garrity's ruling in Ditech suggests that a debtor looking to sell servicing portfolios or other interests in consumer credit transactions that are subject to the Truth in Lending Act under chapter 11 plans must be either prepared to provide for the full payment of consumer claims or introduce compelling evidence that the subject assets could not be sold or assigned in a chapter 7 liquidation.

HIGHLIGHTS FROM 2019

We are privileged to represent many leading structured finance and securitization market participants and look forward to expanding those relationships in 2020. Some of our representative transactions for the past year are detailed below:

- We served as lead counsel in connection with a \$1.5 billion debtor-in-possession (DIP) financing facility, agented by Barclays to Stearns Lending, LLC, in its Chapter 11 bankruptcy case in the United States Bankruptcy Court for the Southern District of New York. Because the facility serves as a warehouse line to finance Stearns Lending's mortgage loan originations, the facility was structured as a repurchase agreement and accompanied by a hedging facility for up to \$2.2 billion notional amount of master securities forward transactions. Stearns is a leading provider of residential mortgage lending services in the wholesale, retail and strategic alliance sectors, and is controlled by funds affiliated with Blackstone, one of the world's leading investment firms, with \$512 billion in assets under management. This financing was a major component of a comprehensive financial restructuring plan for Stearns, implemented through voluntary petitions for reorganization under Chapter 11 with Blackstone serving as plan sponsor and also committing to providing substantial new capital. This representation constituted our first engagement as lead DIP lending counsel for this leading restructuring investment bank. We also represented Barclays on the subsequent exit facility, also arranged by Barclays.
- We have represented the dealers/initial purchasers on each of the Freddie Mac Structured Agency Credit Risk (STACR[®]) Notes transactions since the commencement of the program in 2013. The STACR[®] debt notes are unsecured notes issued by Freddie Mac in which principal payments and losses on the notes are based upon the delinquency and principal payment experience (or, with respect to transactions since 2015, actual losses) on a particular reference pool. Since May 2018, the STACR[®] program has issued notes from trusts that enter into a credit protection agreement with Freddie Mac with respect to each transaction's referenced pool of mortgage loans. Freddie Mac continues to refine its program, including issuing transactions that reference seasoned and reperforming mortgage loans, as well as Enhanced Relief RefinanceSM mortgage loans. The principal payment and losses on the notes are calculated similarly to the notes issued under the STACR[®] debt notes program.
- We have represented the placement agents and underwriters on each Freddie Mac Seasoned Loans Structured Transaction (SLST) and Freddie Mac Seasoned Credit Risk Transfer (SCRT) offerings. The SLST transactions are securitizations of seasoned reperforming loans and moderately delinquent loans in which Freddie Mac guarantees the senior tranche of the securitization and the first loss subordinate tranche is required to be retained by a designated purchaser who bids on such subordinate certificates. The SCRT transactions are rated securitizations issued by Freddie Mac consisting of modified seasoned loans and another important tool for Freddie Mac to shed credit and market risks.
- We represented Ginnie Mae in a securitization that included floating rate securities indexed to SOFR.
- We also represented Ginnie Mae in a Guaranteed Stripped Mortgage-Backed Securities transaction, the first such Ginnie Mae transaction closed in over a decade.
- We represented Jefferies Funding LLC (Jefferies) in its role as note purchaser and lender in connection with a \$1 billion variable funding financing facility of home equity lines of credit (HELOCs) with Figure Lending LLC (Figure Lending) in a first-of-its-kind financing transaction involving collateral originated on blockchain. Figure Lending, a blockchain lending startup, has changed home equity lending by using cutting-edge technology in the origination process. The startup recently developed Provenance.io, a blockchain platform used to originate, finance and sell HELOCs to banks, asset managers and credit funds. This deal effectively paves the way for the first structured financing on blockchain, demonstrating the cost-savings, risk reduction and liquidity benefits that blockchain can deliver.



HIGHLIGHTS FROM 2019 CONTINUED

- We represented multiple underwriters in the securitization of Penny Mac credit risk transfer bonds. These transactions were unique in the fact that they involved the financing of previously issued credit risk transfer bonds from previously issued Fannie Mae MBS using a repurchase agreement transfer structure.
- During the past year, we have acted as program counsel to Ginnie Mae in connection with over 190 Multiclass Securities transactions, representing the issuance of more than \$90 billion of government-guaranteed REMIC securities backed by government-insured mortgage loans, including participations in government-insured reverse mortgage loans.
- We represented PHH Mortgage Corporation (the successor by merger to Ocwen Loan Servicing, LLC) as seller's counsel in connection with a very large transfer of mortgage servicing rights relating to over 2,000 securitization transactions to New Residential Investment Corp., including massive due diligence review of securitization agreements and negotiating and obtaining required third-party consents (including trustees, master servicers, depositors and other transaction parties).
- We were seller's counsel in a series of sales of performing and nonperforming mortgage loans, manufactured housing loans and mortgage servicing rights over a two-year period ending in July 2019 in connection with a major bank's exit from the residential mortgage loan origination and servicing business.
- We represented buyers and sellers of MSRs in over 20 transactions during the year, including Fannie Mae, Freddie Mac, Ginnie Mae and private-label mortgage loans.
- We represented buyers and sellers in numerous whole loan purchase transactions involving performing, nonperforming and reperforming mortgage loans, bridge and fix-and-flip mortgage loans, government-insured mortgage loans, reverse mortgage loans and commercial mortgage loans.
- We represented ZeroDown, a rent-to-own sponsor currently operating in the San Francisco Bay area, in negotiating its first revolving warehouse facility to finance ZeroDown's portfolio of homes. In addition to the credit facility, our consumer compliance team developed a full set of compliance guidelines and policies for ZeroDown.
- We represented lenders and borrowers in connection with the warehouse financing of residential and commercial mortgage loans, RMBS, CMBS and tax liens. We closed more than 90 transactions with an aggregate amount of more than \$27 billion in 2019.
- We served as underwriters' counsel for a series of transactions relating to securities backed by mortgage servicing rights under both the Ginnie Mae and Fannie Mae MBS programs, expanding upon the repurchase structure that Hunton Andrews Kurth was instrumental in creating. Our representation included three takedowns from existing programs and the establishment of two new programs for new issuers.
- We represented two global investment banks in connection with the warehouse financing of small-balance commercial mortgage loans, including SBA Section 504 loans, for Harvest Commercial Corporation.

HIGHLIGHTS FROM 2019 CONTINUED

We also acted as underwriters' counsel in the first-ever term securitization of SBA 504 loans.

- We represented a client in its inaugural non-QM securitization, represented other various clients in continuing non-QM securitizations, new origination securitizations, and seasoned and reperforming mortgage loan securitizations.
- We represented various investment banks as initial purchasers in multiple series of mortgage insurance-linked notes transactions for various mortgage insurers, including two mortgage insurers that were issuing such mortgage insurance-linked notes for the first time post-crisis. We represented such initial purchasers and the related comanagers in the 144A/Reg S placement of notes that provided reinsurance coverage to the related mortgage insurers on certain of their mortgage insurance policies.
- We served as underwriters' counsel for three securitization issuances of servicer advance receivables-backed term notes related to mortgage loans serviced by subservicers, including subsidiaries of New Residential Investment Corp. (NRZ) and two issuances of securitization servicer advance receivables-backed term notes related to mortgage loans serviced by a subsidiary of Ocwen Financial Corp. (OFC). This is a continuation of our firm's primary role with respect to securitizations of this asset class and represents a resurgence in the market for these notes. These are the first securitizations involving PHH Mortgage Corporation's servicer advance receivables since its merger with Ocwen Loan Servicing.
- We represented various investment banks on securitizations of nonperforming FHA-insured reverse mortgage loans for several different reverse mortgage servicers. These transactions were 144A/Reg S private placements. We also represented a servicer of HECMs in their initial securitization of nonperforming FHA-insured reverse mortgage loans, as well as their second securitization in the second quarter of 2019.
- We represented the New York branch of a London-based global investment bank, as left lead, in its closing of the first post-financial crisis rated securitization of performing jumbo reverse mortgages, and have since completed a second securitization for the same issuer with similar reverse mortgage loans.
- We acted as tax counsel in all seven of the Fannie Mae Connecticut Avenue Securities credit risk-sharing REMIC transactions in 2019. Fannie Mae issued more than \$7.1 billion worth of securities in Connecticut Avenue Securities transactions during 2019.
- We acted as tax counsel in structuring and closing the inaugural Fannie Mae Multifamily Connecticut Avenue Securities credit risk-sharing debt transaction in 2019, in which Fannie Mae issued over \$472 million worth of debt securities in the first transaction.
- We represented the credit rating agency in an auto loan securitization by a credit union, which was the first securitization that has been completed under the National Credit Union Administration's safe-harbor regulation and securitization guidance.
- We represented Velocity Commercial Capital as borrower on various small-balance commercial lending facilities and as issuer on securitizations.
- We are representing a start-up fintech company based in San Francisco that is providing credit lines to small businesses.
- We acted as issuer's and sponsor's counsel for several SFR securitizations.

THOUGHT LEADERSHIP

In 2019, our lawyers spoke on panels, were quoted in industry publications and authored client alerts covering a range of topics in the structured finance and securitization industry:

- Ed Douma will speak at the SFVegas 2020 conference on the MSR 101 panel, February 2020
- Peter Partee will speak at the SFVegas 2020 conference on the Impact of Courts on Securitization panel, February 2020
- Kendal Sibley, George Howell, Mike O’Leary, Tom Ford and Courtney Butler spoke at a firm-sponsored webinar on the topic of a new midstream energy REITs structure, November 2019
- Kendal Sibley spoke at a Strafford-sponsored webinar on the topic of structuring REIT mergers and acquisitions: due diligence, preserving REIT status, tax concerns and closing conditions, September 2019
- Tom Hiner spoke at IMN’s Residential Mortgage Servicing Rights Forum on the topic of financing in the MSR market, April 2019
- Mike Nedzbala spoke at IMN’s Residential Mortgage Servicing Rights Forum on the topic of transaction management: issues surrounding purchase and sale agreements, April 2019
- Janet McCrae spoke at IMN’s 4th Annual Credit Risk Transfer Symposium on the topic of GSE program updates, April 2019
- Kendal Sibley spoke at IMN’s 4th Annual Credit Risk Transfer Symposium on the topic of opportunities in credit offering, April 2019
- Rudene Haynes was quoted in [“VBA Asks Lawyers ‘RUWell?’”](#) by *Virginia Lawyers Weekly*, March 2019
- Brent Lewis spoke at SFIG Vegas 2019 on the topic of PLS, February 2019
- Kendal Sibley spoke at PLI’s 2019 Real Estate M&A and REIT Transactions Conference on the topic of tax reform a year later: evaluating the current tax landscape for REITs and dealing with the issues, January 2019

CLIENT ALERTS

- [Treasury Publishes Proposed Regulations Intended to Ease Transition from LIBOR](#), October 2019
- [House of Representatives Approves Bipartisan Blockchain Bill](#), October 2019
- [Federal Banking Regulators Raise Residential Real Estate Appraisal Exemption from \\$250,000 to \\$400,000](#), October 2019
- [FASB Releases Proposed Accounting Guidance for LIBOR Replacement](#), September 2019
- [SEC Warns of Risks Related to LIBOR Transition](#), July 2019
- [ARRC Releases Recommended LIBOR Fallback Language](#), May 2019
- [Florida to Enhance Scrutiny of Business-Purpose Mortgage Loans](#), April 2019
- [What Are the Tax Implications of Brexit?](#) February 2019
- [State Attorneys General Continue to Fill the Enforcement Gap for Consumer Protections](#), January 2019



RANKINGS AND AWARDS

Over the past year, our structured finance team and individual lawyers have received a number of awards or recognitions and are consistently ranked among the top legal advisors in industry rankings and league tables.

- The firm ranked third for top underwriter counsel and fifth for top issuer counsel for US ABS/MBS in *Asset-Backed Alert's* 2019 year-end league tables. Since 2014, the firm has moved up five spots in the underwriter category and an impressive 16 spots in the issuer category.
- The firm received a Tier One ranking by *Legal 500* for Structured Finance, with several lawyers receiving individual accolades.
- The firm received a Band Two ranking by *Chambers USA* for Capital Markets: Securitization, with several lawyers receiving individual rankings.
- The firm received a Tier Two ranking by US News Media Group and *Best Lawyers* for Securitization and Structured Finance Law.
- The firm was recognized as a “Leading Law Firm in US Securitization Industry” by *Asset-Backed Alert*.
- Janet McCrae was named to Law360’s Rising Stars for 2019, an annual compilation of lawyers under the age of 40 whose legal accomplishments transcend their age. Janet was among only three attorneys recognized for their work in securitization.
- Vicki Tucker was named among the 2019 “Influential Women of Law” by *Virginia Lawyers Weekly*. This new awards program honors women attorneys and judges for their excellent work on behalf of their clients, their commitment to their communities and their service to the profession.
- George Howell and Kendal Sibley were named “BTI Client Service All-Stars” for 2019. They join a select group of 335 lawyers identified as client service leaders by corporate counsel at the world’s leading organizations.
- Vicki Tucker is past chair of the Business Law Section of the American Bar Association in September 2018. This is the final step of a four-year leadership succession plan. With more than 45,000 members, the Business Law Section is one of the ABA’s largest sections and is recognized as the voice of the business lawyer community worldwide.

NEW TEAM MEMBERS



Alex Velinsky

Partner, Charlotte

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We are pleased to report that Alex Velinsky was promoted to partner in April 2019. Alex works on an array of transactions for borrowers, lenders and servicers in structured finance transactions, warehouse financings, sales and acquisitions of servicing platforms and mortgage servicing rights, and issuances of term notes and variable funding notes. Alex routinely represents hedge funds, investment banks and other financial institutions in structuring and negotiating transactions involving residential and commercial mortgage loans, RMBS, CMBS, servicing advances and servicing rights.



Serena Mentor

Counsel, New York

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In May 2019, we added industry veteran Serena Mentor to our structured finance team. Serena has longstanding experience representing issuers, sponsors, underwriters, agents, trustees and servicers in connection with public and private asset-backed securitization transactions, with a special focus on mortgage and mortgage-related assets. Serena is widely recognized for her securitization work, and our lawyers have known her for nearly 20 years, most recently in her role as senior capital markets counsel at Wells Fargo Bank. Serena immediately filled the need we had in our RMBS practice for an additional deal leader.



Michael Zinder

Counsel, New York

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In March 2019, we added Michael Zinder to our debt funds, restructuring and lending group. Mike has more than two decades of experience across a range of practices, including banking and finance, capital markets, and restructuring and workouts. Mike has played a large role in a number of our key cross-practice engagements. Most recently, we have connected Mike and his team with our structured finance lawyers for restructuring and DIP financing for mortgage and financial services companies as the need for this financing grows in an uncertain market. This collaboration recently led to our first engagement as lead DIP lending counsel on both the DIP financing and in Bankruptcy Court litigation in connection with the filing by Stearns in July 2019.

KEY CONTACTS



Tom Hiner

Partner, New York

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Tom is a versatile lawyer with broad corporate finance experience, having represented financial institutions for over 26 years in acquisitions, asset-based finance, structured secured lending, venture capital and asset securitization transactions. Tom frequently works side by side with lawyers from our M&A, business lending, private equity, tax and bankruptcy teams in structuring and executing transactions, providing clients with a comprehensive approach to their structured finance transactions in a complex and constantly changing market. In recent years, Tom has emerged as a notable figure in mortgage servicer finance. In the last decade, he has led over 60 transactions for the financing of servicer advance receivables. The structures range from revolving loans to master securitization trusts that combine revolving variable funding notes with term asset-backed securities placed with institutional investors.



Mike Nedzbala

Partner, Richmond

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Mike handles complex, fast-paced negotiations on a wide range of secondary market transactions involving residential mortgage loans and mortgage servicing rights. He has been involved in the mortgage loan market since its inception. For over 25 years, he's seen the asset class evolve from early days to bull market to financial crisis and beyond. His long-term perspective on mortgage loans and their regulatory overlay allows him to be creative and persuasive in even the most challenging deals, and makes him an effective advocate in large transactions involving novel structures and numerous counterparties. With a successful track record on hundreds of transactions, Mike has represented banks, hedge funds, private equity investors, REITS, servicers, mortgage companies and others. In recent years, Mike has become especially well known for his work on MSR transactions and his understanding of how the servicing industry works.

ABOUT US

Hunton Andrews Kurth is a longstanding market leader in structured finance and securitization. For more than 35 years, we have represented clients in connection with mortgage-backed and asset-backed securities offerings and other structured financing matters. Our practice is at the forefront of the development of securitization and structured finance techniques, having represented our respective clients in the first REMIC program backed by the full faith and credit of the United States, the first auto loan synthetic securitization transaction, the first RMBS structure involving the issuance of floating-rate securities, the first securitization of reperforming FHA and VA loans, the first master trust servicer advance securitization structure in 2002 and the groundbreaking first GSE/agency credit risk transfer issuances in 2013.

Hunton Andrews Kurth is a global law firm of more than 1,000 lawyers handling transactional, litigation and regulatory matters for clients in a myriad of industries including energy, financial services, real estate, retail and consumer products and technology. Areas of practice focus include capital markets, mergers and acquisitions, intellectual property, P3, public finance and infrastructure, and privacy and cybersecurity. With offices across the United States and in Europe, the Middle East and Asia, we're aligned with our clients' businesses and committed to delivering exceptional service.

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