

A close-up photograph of two hands, one on the left and one on the right, each holding a pen and positioned over a document. The background is slightly blurred, showing what appears to be a desk or office setting. The image has a dark, semi-transparent overlay.

WELCOME TO THIS INFORMATIVE WEBINAR

HOW TO MODIFY A PERFORMING LOAN

Hosted by:



SPEAKERS



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TYPICAL REQUESTS COVERED TODAY

Release of reserve funds

Change of property manager

Release of a portion of the collateral

Lease approvals/amendments/SNDA

Uncross cross collateralized loans

Assumption/change of ownership

Casualty loss and rebuild

Defeasance – wavier

SURPRISE*

Almost all can be done!!

Need to understand who makes decisions & what their role is

Why does it seem so difficult?

Definition of performing

PRIMARY SERVICER

Company that originated the loan

When an originator retains their servicing, they typically become the primary servicer

MASTER SERVICER

Must be rated by all rating agencies that rate the pool

Is responsible for all primary servicers in pools

Advancing – and therefore, typically a bank

SPECIAL SERVICER

Appointed at the time of securitization

They get involved in major decisions (i.e.; change of ownership)

Loans go to the special servicer when they are 60 days delinquent or there is an imminent default

The special servicer's role is to maximize returns and minimize losses to bond holders

CONTROLLING CLASS REPRESENTATIVE (CCR)

Lowest rated bondholder at any given time

Does change throughout the life of a pool

Appoint special servicer

Has ultimate authority to approve most decisions in the pool

REMIC

Real estate mortgage investment conduit

Creation of tax law that allows the trust to be a pass thru entity not subject to taxes

CMBS transaction is structured and priced based on the assumption that it will not be taxed

Servicers must follow rules put in place to protect the REMIC status

POOLING AND SERVICING AGREEMENTS

PSA governs allocation and distribution of loan proceeds and losses to the bondholders

Describes in detail how the loans are to be serviced & each servicer's roles

Includes guidance to ensure the trust continues to comply with REMIC provisions of the tax code

RELEASE OF RESERVE FUNDS

Loan documents will specifically state what the reserve funds are to be used for

Master Servicer has SOME ability to change usage of funds

Have to be very confident the loan will not default in the future

Special servicer will likely need to approve this

CHANGE OF PROPERTY MANAGER

Most loan documents define Qualified Manager

The CMBS Trust must be better off with new manager than current for master to approve

Master servicer has a lot of discretion on approval

RELEASE OF A PORTION OF THE COLLATERAL

“Diminimus” rule

Best if loan documents allow for release

Case study

LEASE APPROVALS/AMENDMENTS/SNDA

Timing

Conditions for approval

Tenant improvement, leasing commissions

Market rate of tenant

UNCROSS CROSS COLLATERALIZED LOANS

Best if in loan documents

Will require special servicer approval

Remaining property LTV

Must be compelling reason to do it

ASSUMPTION/CHANGE OF OWNERSHIP

CMBS pool must be better off with new entity than current

Master servicer will re 'underwrite' to ensure loan has little likelihood of defaulting in the future

CASUALTY LOSS AND REBUILD

Loan documents will state requirements

To do something different than what is in the loan documents, must have compelling reason

Case study

DEFEASANCE – WAIVER

Be the bondholder

Who's pocket will money go into



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