Communicating with Your Servicer in the Time of COVID-19

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How Debt is Classified Across Retail Real Estate

Share of loans on retail properties as a percentage of overall CRE Loan Portfolios/MDO by channel:

<table>
<thead>
<tr>
<th>Channel</th>
<th>% of CRE Loans</th>
<th>Outstanding Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banks</td>
<td>29.0%&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$430.5B&lt;sup&gt;1,2&lt;/sup&gt;</td>
</tr>
<tr>
<td>Life Cos</td>
<td>20.3%&lt;sup&gt;3&lt;/sup&gt;</td>
<td>$111.4B&lt;sup&gt;3,4&lt;/sup&gt;</td>
</tr>
<tr>
<td>CMBS</td>
<td>25.1%&lt;sup&gt;5&lt;/sup&gt;</td>
<td>$135.8B&lt;sup&gt;5&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

Bank exposure to the retail industry occurs through three loan types:
- CRE Mortgages
- CRE Construction Loans
- Commercial & Industrial (C&I) Loans

*Total bank exposure of $700B – 7% of all bank Loans and Leases*

Bank C&I exposure to retail borrowers:
- 8.3% of bank C&I loans are to retailers
- An additional 2.3% of C&I loans are to restaurants and other eating establishments
- Total retail exposure: 10.5%

Source: Trepp LLC 2020
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Life Company Perspective

April 3, 2020

Kelli Burke
Vice President, Commercial Multifamily Group
Mortgage Bankers Association
Primary Differences Between Life Companies and Other Service Providers

Life Companies work with a Body of Regulators who weigh in on accounting policy and treatment of loan modifications.

- National Association of Insurance Commissioners (NAIC)
- Financial Condition (E) Committee
- American Council of Life Insurers (ACLI)
- Financial Accounting Standards Board (FASB)
Life Company Accounting and Capital Issues

**Accounting** (statutory accounting, not exactly the same as GAAP)
- Will the modification be treated as a Troubled Debt Restructured (TDR)?
- Will deferrals need to be reported as Loans Past Due/Delinquent after 90 days?
- Will life companies have to book impairments as a result of COVID-related loan modifications?

**Risk-Based Capital**
- Will a loan modification require a reclassification of the risk-based capital treatment of a loan, at the time of the modification, or at some time in the future?

**Status**
- Helpful interpretations and guidance from NAIC already issued
- MBA and life companies are seeking clarification and modification of the interpretation and guidance to provide life companies with more flexibility to work constructively with borrowers and to take prudent actions to address covid-19 impacts.
Life Company Guidance Received

NAIC RISK-BASED CAPITAL RELIEF
• Guidance. Last Friday, March 27, the Financial Condition (E) Committee issued a memo providing RBC relief for impacts arising from COVID-19: Guidance for Troubled Debt Restructurings for March 31-June 30 Statutory Financial Statements and Related Interim Risk-Based Capital Filings (where required).

NAIC ACCOUNTING RELIEF
• Request Letter. Last Wednesday, March 25, MBA, ACLI, CREFC and seven other trade associations sent a letter urging the Statutory Accounting Standards (E) Working Group to grant relief similar to the relief granted by federal prudential regulators in an Interagency Statement and an accompanying Financial Accounting Standards Board (FASB) Statement.
Life Company Relief

When contacting your life company servicer provider for relief, remember these useful tips.

- **Contact** your servicer as soon as you and your tenant identify an issue
- **Use** your service providers’ tools and websites; do not change the way you communicate
- **Submit** all requests in writing detailing the tenant hardship and impact to the property
- **Provide** full disclosure of property financials: rent rolls, operating statements, etc.
- **Show** how you are being part of the solution, detail steps you are taking to assist tenants

Once NAIC adopts the COVID-19 related guidance, life company servicers will have more flexibility to expedite relief.
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Servicing Parties
## Servicer Roles

<table>
<thead>
<tr>
<th>Task</th>
<th>Primary Servicer</th>
<th>Master Servicer</th>
<th>Special Servicer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan Administration</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>New Account Set-Up</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Escrow Administration</td>
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<td>✓</td>
<td></td>
</tr>
<tr>
<td>Investor Reporting</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Performing Asset Administration</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Customer Service</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>Primary Servicer Oversight</td>
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<td>✓</td>
<td></td>
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<tr>
<td>Advancing</td>
<td></td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Defaulted/Nonperforming Loan</td>
<td></td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Management</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Outsourcing/Vendor Management</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>
Primary Servicer
Primary Servicer Overview

• Primary Servicer is not a party to the PSA
• Primary Servicer is borrower point of contact
  • Point of communication with the mortgage loan borrower; reviews and approves or recommends borrower requests for easements, alterations, demolitions, etc.
  • Monitors borrower compliance including affirmative and negative covenants and financial reporting
  • Conducts periodic inspections of mortgaged properties
  • Must enter into subservicing agreement with Master Servicer
• Must act in accordance with the Servicing Standard
• Freddie K deals have over 90% of primary servicing retained by originator/primary
• Responsible via Pooling and Servicing Agreement (PSA) for all servicing and administration of the loans in the mortgage pool, except for loans in special servicing or where certain decisions on performing loans are deemed the responsibility of the Special Servicer (i.e., transfers of ownership, major lease appraisals, etc). This division of duties can vary by PSA.

• Collects/consolidates monthly payments of principal and interest from borrowers and remits to Trustee

• May engage Primary or Sub-Servicers to perform servicing functions

• Must act in accordance with the “Servicing Standard,” applicable law, the terms of the PSA, and the terms of the mortgage loans
  — Servicing Standard – must service the loans with the same care, skill, prudence and diligence with which the master servicer services and administers similar mortgage loans on behalf of third parties or on behalf of itself, whichever is the higher standard
• Point of communication with the mortgage loan borrower; reviews, and approves or recommends borrower requests for easements, alterations, demolitions, etc.

• Monitors borrower compliance with mortgage loan documents (affirmative and negative covenants, financial reporting, etc.)

• Conducts periodic inspections of mortgaged properties (other than specially serviced loans)

• Monthly surveillance and watchlist
Special Servicer Overview

- Experienced commercial real estate workout specialists
- Special Servicer becomes responsible for loans that transfer to special servicing, typically due to:
  - Payment default at maturity (subject to certain extension rights)
  - Periodic payment default greater than 60-days
  - Payment or other material default is likely to occur in the foreseeable future and is likely to remain unremedied for at least 60 days
  - Borrower insolvency events
  - Foreclosure or proposed foreclosure of other liens on mortgaged property
  - Any other default that materially and adversely impairs the value of collateral property or the interests of bondholders
Special Servicer Overview

- Special Servicer may also review and approve borrower initiated requests on certain decisions on performing loans, depending on the PSA.
- Evaluates whether causes of default can be corrected over reasonable period without significant impairment of value to property.
- Orders appraisals and may calculate appraisal reduction amount in order to reduce amounts of servicing advances based on decrease in appraised value and to determine the controlling class.
- Conducts inspections and takes such other actions as it deems necessary and appropriate to protect collateral.
Special Servicer Overview

• Develops a business plan (aka Asset Status Report) detailing actions to resolve the default or anticipated default conditions, including:
  — Summary of the status and any negotiations with borrower, discussion of property condition and legal and environmental considerations
  — Financial and operating information
  — Recommendations on how the loan may be returned to performing status (including if modified) or otherwise realized upon (sale of loan, foreclosure, sale of REO), description of actions taken and alternatives considered
  — Analysis of whether or not taking such actions is reasonably likely to produce a greater recovery on a present value basis than not taking such actions

• Evaluates loan for potential representation or warranty breaches
Special Servicer Courses of Action

• Workout
  - Amend, modify or waive terms of the defaulted mortgage loan subject to REMIC restrictions
  - Forgive or defer principal, accrued interest and/or yield maintenance
  - Reduce monthly P&I payments, including a temporary or permanent reduction in the interest rate
  - Forbearance
  - Extend maturity date
  - Permit the release or substitution of collateral
  - Accept principal prepayment during any lockout period

• Foreclosure and REO
  - Through foreclosure, trust takes title to and operates property prior to sale. May contract with independent property manager, leasing agent and/or sales broker.
  - May have trust advance expenses with respect to REO property so long as those expenses are not determined to be non-recoverable
  - Under REMIC rules, must sell by end of third calendar year after the year trust took possession, but this can be extended up to three more years by submitting a request to IRS
Need Relief? A CMBS Borrower’s Quick Guide for Communicating with Your Servicer in Cases of Need
What Borrowers Should Know About Potentially Requesting Forbearance and Relief for Commercial Real Estate Mortgages Owned by a CMBS Trust

CREFC’s dialog with constituents within the CMBS community have indicated that the following are best practices when submitting requests for relief due to circumstances brought about by COVID-19 impacts. First, required loan payments should continue to be made to the extent possible. Second, requests for relief must be reasonable and fit the circumstances of the property, loan structure, and borrower, as well as meet the credit requirements of the lender (“servicer”) and the terms of the Pooling and Servicing Agreement for the specific CMBS trust.
Useful Tips for Borrowers to Remember if Submitting a Request for Relief:

1. Be Transparent
2. Highlight Your Operational Capability
3. Disclose Significant Issues (with Available Documented Support)
4. Offer a Detailed Plan Demonstrating Your Understanding of the Situation and Thoughtful Intent for Future Operations of the Property
Be Transparent

• Communicate directly with your servicer as expeditiously as possible according to the directions provided in the servicer’s communication, web portal, billing statements, payment advice, and/or other communications.

• Provide written communication regarding your situation and hardship. This should include:
  • The nature of your request and the relief alternatives you would like to be considered;
  • A candid description of property operations;
  • Current financial statements (borrower financials and property operating statements) and anticipated changes in financial position;
  • The most recent rent roll and any anticipated changes in tenancy;
  • Physical property status and condition;
  • A description of what steps you will take during the forbearance to protect and maintain the property – in particular if you or any tenants are ceasing operations, and
  • Any other documentation that specifically supports your request
Highlight Your Operational Capability

- Outline factors that evidence competence in:
  - Property operations;
  - Management; and
  - Relationship management with your franchise (for hotels), tenant representatives, and other key entities related to the operation of your business.

- Outline a plan to maintain payment of taxes, insurance and ground rent if not escrowed;

- Demonstrate ownership’s commitment to the property.
Disclose Significant Issues (with Available Documented Support)

Include:

a. Employment and retention status for property employees;
b. Property contracts and leases;
c. Franchise (hotel flag) agreements, plans to maintain the flag and directives;
d. Tenant operating status and requests for rent relief; and
e. Notices of intent by tenants to forego rental payment.
Offer a Detailed Plan Demonstrating Your Understanding of the Situation and Thoughtful Intent for Future Operations of the Property

Include:

a. The future direction of the property operations, both near and longer term; and

b. Your plan to resolve the issues identified if the request is granted, including plans for repayment of any forbearance.
These general guidelines are offered for informational purposes only, and are of course, not binding on any of the parties to the loan documents in any manner whatsoever. Additionally, you are encouraged to review your loan documents for more specific information concerning your loan, as well as consulting your counsel as may be necessary.
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