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# Asset-Backed ALERT

THE WEEKLY UPDATE ON WORLDWIDE SECURITIZATION

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## TALF Buyers Seeking Secondary-Market Exit

Buysiders are betting that bonds eligible for financing under the **Federal Reserve's** Term Asset-Backed Securities Loan Facility will soon be worth no more than non-qualifying issues.

In some ways, the prophecy has been self fulfilling. Holders of TALF-eligible securities began preparing for the shift over the past week by dumping billions of dollars of their investments onto the secondary market — shrinking a pricing advantage that those products have long held over non-qualifying transactions.

To be sure, secondary-market prices for asset-backed bonds in general have risen since the beginning of this year and market players expect the pattern to continue in the weeks ahead. But the gains are likely to come slower for TALF deals, as was the case this week.

Investors still hold TALF bonds in high regard, and sources describe the bid for the issues as strong. With the Fed set to hand out its last monthly round of buyer

**See TALF on Page 9**

## WCAS Testing Demand With Throwback CLO

**WCAS Fraser Sullivan** is marketing a rarity these days: a collateralized loan obligation that seeks arbitrage gains on its underlying collateral while serving partly to re-fund a deal the firm issued a year ago.

The New York investment shop started pitching the $500 million transaction this week under the banner COA CLO Financing 2, with **Citigroup** running the books. It expects to complete the sale in the next month or two, in what would be one of the first arbitrage-oriented CLOs carried out in recent memory.

While CLO issuers around the world completed nearly $50 billion of new deals last year, that total was down sharply from 2008. And most of the 2009 supply was meant to clear assets from various banks' balance sheets or to fund business-loan originations in Europe. Only a smattering sought to exploit gaps between yields on corporate-loan investments and returns promised to bond buyers, or to finance

**See WCAS on Page 5**

## Dynamic Credit Layoffs Reflect CDO Retreat

**Dynamic Credit Partners,** once an active issuer of collateralized debt obligations, laid off portfolio manager **Dan Nigro** and trader **Chris Sandleitner** last week amid an ongoing shift in its business.

Dynamic Credit's CDOs once accounted for a big part of its work as an asset manager. With the New York firm's last such deal now more than two years old, it has been turning more of its focus to expanding its structured-product advisory practice. But the advisory work isn't nearly as profitable, leading some market players to predict that more layoffs are coming.

They were particularly surprised by the dismissal of Nigro, who has clocked more than 20 years in the securitization business, including stints at **AIG, Ischus Capital** and **J.P. Morgan.** Nigro was among Dynamic Credit's earliest hires when he joined in 2005. But his specialty — acquiring assets for collateralized debt obligations — was rendered largely obsolete amid the credit crisis. Ditto for Sandleitner, who previously

**See LAYOFFS on Page 9**

## THE GRAPEVINE

**Tom Deutsch** is seeking some backup as he takes over as the **American Securitization Forum's** official executive director. Deutsch, who was filling the top post on an interim basis since **George Miller** stepped down last year, received a permanent appointment on Jan. 13. Now he's seeking a Washington-based professional to handle relations with government officials, along with other individuals to assist in various lobbying efforts. Deutsch also needs some back-office staffers, following the ASF's decision this week to split from **Sifma.** The two groups were sharing space in New York, and the ASF is now searching for a new home.

**Rupert Chisholm,** once a **Lehman Brothers** executive who structured bonds backed by unusual assets, resurfaced this month

**See GRAPEVINE on Back Page**

## FDIC Guidance Points to Deals Ahead

The **FDIC** is tapping **Moody's, S&P** and **Fitch** for advice on how to service failed-bank assets that it plans to securitize.

The talks began in recent weeks, suggesting that the FDIC is moving forward with the seemingly stalled issuance program. However, one rating-agency official said the deposit insurer still has a lot of preparation to do before it can bring any deals to market and probably won't carry out its first such transaction until the second half of this year.

When the FDIC started developing its securitization plan around midyear 2009, expectations were that it would float its debut offering early this year. Its deals, backed by a mix of home loans, were to be part of a multi-pronged effort by the insurer to divest a range of assets seized from failed banks amid the global financial crisis.

Another aspect of the push — "structured sales" of mortgage portfolios — resulted in a flurry of new offerings this month. And when all remained silent on the securitization front, industry players wondered whether that side of the endeavor had stalled.

The rating-agency discussions suggest otherwise. To be sure, the FDIC has been moving at a pace that one industry insider described as deliberative at best. But that's partly because the insurer faces some unique challenges. For starters, most of the 172 banks placed under FDIC receivership since the beginning of 2007 are small regional institutions — and their loan-underwriting and collection practices vary widely. Cobbling their loans into securitization pools and convincing investors that they are adequately serviced promises to be an arduous process.

In part, the FDIC's talks with Moody's, S&P and Fitch focus on whether it should allow current servicing arrangements to remain in place or if it would be best to hire new servicers. Servicing fees also remain undetermined.

At the same time, the FDIC and the rating agencies are figuring out how to make sure all loan documentation, titles and other forms of borrower information are on hand for the planned securitization pools. Meanwhile, one rating official said the various concerns looming over the deals strengthen the case for an already-rumored government guarantee — coverage that would result in automatic triple-A grades.

The FDIC's receivership portfolio includes billions of dollars of home loans and other consumer credits, along with business loans, commercial mortgages and agriculture loans. It also holds a vast book of securities, including mortgage-backed bonds that the insurer has said it may re-securitize. ❖

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## Skepticism Dogs Covered-Bond Plans

Covered-bond issuers in Europe are still hesitating to market their deals in the U.S., even as they carry out a flurry of transactions at home.

An estimated 15 covered mortgage-bond issues have priced in Europe in the past two weeks and several more are on the way, including one from **Caixa Geral de Depositos** of Lisbon. To the disappointment of many industry players, however, similar deals remain largely unmarketable in the States.

Europe-based issuers have been planning for months to begin pitching deals to U.S. buyers, perhaps early this year. But those plans have hit various roadblocks. For example, **S&P** said on Dec. 16 that it would put most outstanding covered bonds on watch for downgrades amid a change in its rating methods. While buyers in Europe are accustomed to covered bonds and were anticipating S&P's actions, some Americans expressed concern.

Still, market players remain hopeful that European deals will start to find a buyer base in the U.S. during the first half of this year. They see the initial sales leading to a gradual buildup of activity in the second half.

Continuing issuance in Europe might also help embolden buyers in the States. "What happens in Europe is a good backdrop," said **Tim Skeet,** who heads **Bank of America's** covered-bond banking area in London. BofA ran the books on four recent offerings.

Among the issuers planning to tap U.S. investors this year is **Compagnie de Financement Foncier** of Paris. Meanwhile, new-deal flow has slowed a bit as the current glut of supply causes spreads to widen. For example, the former **Abbey National** — which this week took on the name of parent **Santander** — has pushed back an offering of five-year paper.

Like mortgage-backed securities, covered bonds are secured by pools of home loans. However, the obligations are supported directly by the issuer's creditworthiness.

While there has been talk of such offerings from U.S. issuers as well, the development of those deals has moved slowly. That's partly because of a lack of legislation protecting the securities' underlying assets from seizure in the case of issuer insolvencies. The concerns might be answered by **Rep. Scott Garrett** (R-N.J.), who has introduced a covered-bond amendment for possible inclusion in the **House of Representatives'** Financial Stability Improvement Act of 2009.

Garrett is scheduled to speak at a Jan. 29 panel discussion on covered bonds that the **Association of German Pfandbrief Banks** is hosting in Washington. The event will also feature **Jens Tolckmitt,** executive director of the association, with BofA's Skeet moderating the discussion. For more information, contact **Gisela Keller** at gisela.keller@pfandbrief.us. ❖

## Morgan Bets on Novel Repackaging

**Morgan Stanley** this week priced an unusual resecuritization of bonds backed by dealer-floorplan loans, the first in a planned series of repackagings from the bank as it seeks to rebuild its once-dominant underwriting business.

What made the transaction rare was the underlying collateral. While resecuritizations are common for mortgage-backed securities, market players said they hadn't seen a similar repackaging of asset-backed bonds since just after the 9/11 terrorist attacks, when there were a few deals underpinned by commercial-aircraft leases.

Why the sudden interest? Morgan Stanley apparently hopes to draw on a large supply of bonds it holds in inventory and its strong position as a secondary-market trader to provide its underwriting unit with a fresh pipeline of work. While the bank was once a big underwriter of structured products, its presence has faded amid the credit crisis — and it's hoping the deals will help thrust it back to the forefront.

Investors can expect to see the bank float more resecuritizations in the coming months, including issues involving student-loan pools and residential and commercial mortgage securities.

In this week's deal, Morgan Stanley resecuritized a portion of a $2.25 billion floorplan offering that **Ford** issued in June 2006. It's believed that the collateral came from a $2.1 billion tranche of single-A-rated notes from that transaction, and that the bank bought the securities on the secondary market.

Its privately placed issue, Morgan Stanley Resecuritization Trust, 2010-F, consisted of two 1.4-year tranches: a $255.4 million triple-A-rated slice and a $62 million triple-B piece.

The bank's strategy essentially was to modernize the bonds' credit enhancement so they would appeal to investors who typically wouldn't buy older Ford issues. The original structure was conceived at a time when the rating agencies required subordination levels of 5-10% for triple-A-rated paper backed by dealer-floorplan loans. Now they want 18-20%.

Morgan Stanley brought its deal up to current standards by setting aside a small portion of the bonds it bought to create credit enhancement for the rest.

The institution apparently focused on Ford for its initial repackaging deal because of growing demand for the automaker's newly issued bonds. The bank began showing its deal to investors only after Ford priced a dealer-floorplan offering on Jan. 6 in conjunction with the most recent round of the **Federal Reserve's** Term Asset-Backed Securities Lending Facility. Morgan Stanley didn't want to upstage the automaker, which has been a longtime client.

Initial price talk for the top class of Morgan Stanley's offering was 145-155 bp over Libor. Those bonds priced Jan. 11 at 145 bp (see Initial Pricings on Page 10). Morgan Stanley initially retained the subordinate tranche but is likely to unload it on the secondary market, if it hasn't already. ❖

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## ASF Singles Out FDIC Seasoning Rule

The **American Securitization Forum** is lobbying against an **FDIC** proposal that would force banks to hold onto home loans for at least 12 months before securitizing them.

The FDIC plan is part of a broader set of rules the insurer introduced Dec. 15 in an effort to preserve a so-called safe harbor that insulates securitized assets from seizure by depositors. Market players generally support the overall initiative, but they say the government-enforced holding period would put a serious dent in their businesses.

The safe harbor changes were made necessary by the **Financial Accounting Standards Board's** FAS 166 and 167 guidelines, which impede "true sales" of a range of securitized assets and thus leave them exposed to bank depositors in bankruptcy scenarios. Within the FDIC's proposal are 13 conditions that depository institutions must meet to continue receiving such protections, including the planned mortgage-seasoning rule.

Comments to the FDIC are due by Feb. 22, and a final rule is expected in the following months. In the meantime, banks are operating under a temporary reprieve.

Mortgage lenders fear the seasoning proposal will result in a backlog of loans in their warehouse facilities and on their balance sheets, roiling their funding strategies and forcing them to hold more capital reserves. They say the rule would make it more difficult for them to lend, and thus delay prospects for a housing-market recovery. "Of all the proposed requirements, this is the one that really jumps out," said **Tom Deutsch,** executive director of the ASF.

He added that yields on deals backed by seasoned collateral would be lower than those banks are willing to pay on bonds backed by newly originated assets.

The ASF is drafting a response to the FDIC that would focus on the negative impacts of the seasoning requirement, as are other players in the industry. They describe the holding period as a dramatic departure from the way banks have typically done business — that is, by writing new loans and securitizing them as quickly as possible to free up funding for even more credits.

Issuers in other asset classes, such as auto loans and student loans, have typically sat on their credits for at least a few months before securitizing them. "This will never work. We simply can't do business under this requirement," one mortgage-bond underwriter said.

The FDIC's temporary reprieve, meanwhile, is set to extend at least until March 31. The ASF submitted a letter to the insurer on Jan. 4 requesting that the earliest possible expiration date be moved back as the final safe-harbor rules take shape and issuers make necessary adjustments. ❖

## Treasury Clarifying Deferral Policy

The **U.S. Treasury Department** is poised to release long-awaited guidelines for how servicers should account for securitized loans whose principal payments are deferred under the **Obama Administration's** mortgage-modification program.

Industry players say the Treasury could come out with the procedures as soon as next week, right before servicers and trustees release monthly remittance reports outlining asset performance for December. The likely format: a list of answers to frequently asked questions, reinforcing earlier government guidance that deferred principal be booked as immediate losses.

The Treasury made that recommendation on July 22, as troubled borrowers entered such forbearance arrangements under the administration's Home Affordable Mortgage Program. But servicers continued to treat the entire balances of those accounts as current, complaining that the directive lacked clarity.

In part, they feared lawsuits from mortgage-bond investors who would stand to lose money under the changed cashflow scenarios — actions the Treasury now hopes to prevent. Typically, the Treasury's suggested treatment would favor senior bondholders.

Treasury officials have been working on the upcoming statement for several months, with assistance from the **American Securitization Forum.**

Sources said the guidance will borrow heavily from a list of recommendations that ASF executive director **Tom Deutsch** outlined in a Dec. 19 letter to the Treasury's acting undersecretary for domestic finance, **Michael Barr.**

Under the $50 billion Home Affordable Modification Program, lenders are encouraged to reduce monthly payments for cash-strapped homeowners by placing their loans in forbearance. No interest is charged on the deferred principal amount, which essentially becomes a balloon payment due at maturity or when the underlying home is sold. ❖

## Foundation: Citi Gave Bad Advice

A charitable foundation is suing **Citigroup** over some $5.5 million of investment losses, including hits on collateralized debt obligations.

The **Samuel and Jean Frankel Jewish Heritage Foundation** filed its suit in **U.S. District Court** in Detroit on Dec. 30, seeking to recover its losses. The claim is that Citi failed to adequately disclose risk when it advised the organization to invest in two CDOs — TCW GEM 8 and Granite Ventures, 2005-2 — along with a now-defunct hedge fund run by the bank.

The Troy, Mich., foundation hired Citi as an advisor in 2004 and says it told the bank that it was interested in capital preservation. The $98 million organization claims in its complaint that it was "not willing to assume the risk involved in aggressive investment," and that it didn't realize the scope of its potential losses.

Its investments, made in 2004 and 2005, initially totaled $6 million. They're now worth $465,000. The foundation's $1 million stake in GEM 8, for example, is now valued at $200,000. And its $1 million piece of the Granite Ventures deal now stands at $90,000.

**TCW** issued the GEM transaction in June 2005, raising $455 million. Citi ran the books. **Stone Tower Capital** issued the $360.5 million Granite Ventures transaction in November 2005, also with Citi as bookrunner. Both deals, backed by portfolios of structured products, suffered performance troubles amid the global financial crisis.

The Citi hedge fund, Corporate Special Opportunities Partners, began unwinding in November 2008 in response to heavy losses and an accompanying investor exodus. The highly leveraged corporate-debt vehicle, which once contained some $4.2 billion of shareholder equity, ultimately returned only pennies on the dollar. ❖

## Calpers Suit Faces New Challenge

**Moody's, S&P** and **Fitch** are trying again to nullify a lawsuit in which **Calpers** accuses them of assigning overly optimistic ratings to securities issued by three structured investment vehicles.

Defense lawyers are scheduled to appear before **San Francisco Superior Court Judge Richard Kramer** on April 30 to argue for a dismissal of the case. They claim there's no legal basis for Calpers' suit even if the allegations are true, and that the rating agencies' opinions are protected under the First Amendment.

Industry players say there is little chance Kramer will rule in favor of the agencies, which means a trial is likely in the coming months.

Moody's, S&P and Fitch have tried before to take the proceedings out of Kramer's hands. In November, they sought to have the case lumped together with similar actions in federal court. But **U.S. District Court Judge Suzanne Illston** in San Francisco denied the motion.

Calpers' state court complaint, filed July 9, accuses the agencies of applying inaccurate ratings to securities it bought from **Cheyne Capital's** Cheyne Finance, **Gordian Knot's** Sigma Finance and **Stanfield Global's** Stanfield Victoria Funding. All three SIVs collapsed amid the global credit crisis, and the $207 billion pension claims it has taken $1 billion of losses as a result. It is seeking compensatory damages, plus interest and reimbursement for legal expenses. ❖

## Correction

A Jan. 8 ranking, "Bookrunners of US Prime MBS in 2009," omitted four of last year's issues. Three of the missing deals were led by **Credit Suisse,** resulting in an incorrect ranking for the bank. It should have been in first place with 17 bookrunning assignments adding up to $11.7 billion, giving it a 24.4% market share. The total issuance of U.S. MBS was actually $48.1 billion via 124 deals, a 94.2% increase from 2008. The corrected ranking can be found on ABAlert.com by clicking on "Marketplace" and then "Rankings of Market Players." ❖

## WCAS ... From Page 1

lending in the States.

WCAS' issue would add a twist, deriving a portion of its collateral by absorbing the portfolio of a $261.7 million CLO the firm priced on Jan. 13, 2009. The plan is to call the bonds from the earlier deal, which were placed at higher yields than those currently available to issuers.

Citi led the first issue, also called COA CLO Financing, and took down the senior portion of the transaction before eventually selling the notes to a European bank. WCAS is hoping the same buyer will step forward to take on the top class of the new deal.

Those securities could take the form of what one source characterized as a $325 million batch of triple-A-rated bonds that WCAS aims to unload at 175 bp over Libor, although the firm is focusing its current marketing efforts on junior tranches with double-A and single-A grades. It would retain all equity in the transaction.

Because the new issue is almost twice as large as its predecessor, WCAS would need to fill out its collateral pool with open-market purchases. It plans to have 85% of the overall assets on hand by the time the CLO closes, according to marketing documents. More than 90% of the underlying collateral would consist of first-lien senior secured bank loans.

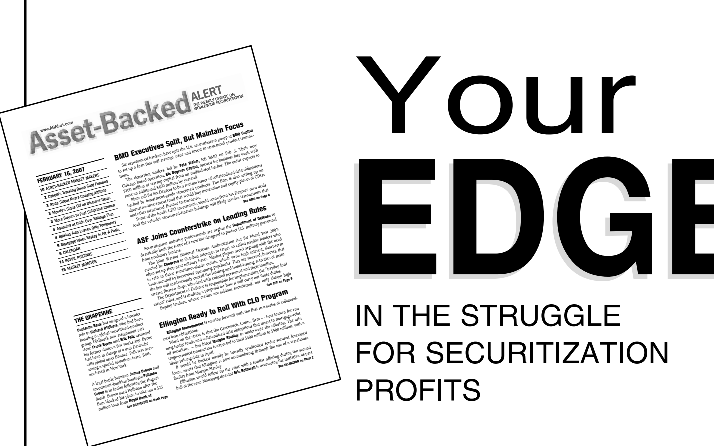
Market players have been predicting for a while that the once-flourishing market for arbitrage- and funding-oriented CLOs would stage a rebound after getting crushed by the broader credit-market collapse. WCAS' potential offering suggests that the sector's comeback might be beginning.

A number of other issuers are examining potential transactions. **Silvermine Capital,** for example, is ready to go with a Citi-led CLO. But that deal hasn't priced yet.

Among commercial lenders who fund their activities through CLOs, **NewStar Financial** priced a $275 million issue on Dec. 15 and closed the sale Jan. 7. **Wells Fargo** ran the books. **Guggenheim Partners** bought all of the deal's triple-A paper, which carries a term of 2.3 years and a spread of 275 bp over Libor. Boston-based NewStar issued on an annual basis from 2005 to 2007, then stepped away from the market. Now it hopes to resume its yearly pattern. "Investors are gradually getting accustomed to buying CLOs again," NewStar chief executive **Timothy Conway** said.

That said, deals are taking longer than before to reach completion due to stricter rating-agency reviews and lingering skepticism among investors.

WCAS Fraser Sullivan formed in 2007 as a partnership between private equity firm Welsh Carson and debt manager Fraser Sullivan Investment. It manages $1.8 billion overall. Before joining up with Walsh Carson, Fraser Sullivan issued two CLOs — a $515 million offering and a $500 million deal, both in 2006, according to **Asset-Backed Alert's** ABS Database. ❖

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## BONY Edges Wells in Trustee Race

**Bank of New York** claimed its usual standing as the securitization industry's most active trustee in 2009, but only after getting a run for its money from **Wells Fargo.**

Bank of New York won indenture assignments on $59.1 billion of U.S. asset- and mortgage-backed bond deals last year to claim a 30.8% market share, according to **Asset-Backed Alert's** ABS Database. That marked a sizable decline from 2008, when the bank fielded more than double the business of its closest competitor by handling $71.6 billion of transactions for a 40.3% market share.

A late-year rally helped Wells Fargo finish 2009 just a step behind, with $53.7 billion of league-table credit and a 28% piece of the business. The San Francisco bank's 97 assignments, meanwhile, outnumbered Bank of New York's total of 90.

The dollar volume of deals handled by Wells equates to an increase of almost 80% from 2008, when it finished with $29.9 billion of trustee mandates. Posting similar gains was 2009's number-three finisher, **U.S. Bank.** The Minneapolis institution climbed one slot by serving as trustee on $34.8 billion of new deals, up from $19.5 billion.

As Wells and U.S. Bank rose, **Deutsche Bank** fell out of the number-two spot it held in 2008. Its dollar volume slipped from $35.2 billion to $32.5 billion, which was good for fourth place.

The changes in the rankings likely reflect ongoing turbulence across the securitization sector. After falling in 2008, issuance of asset- and mortgage-backed bonds in the States

See BONY on Page 9

## Trustees for US ABS and MBS in 2009

| | | 2009 Issuance ($Mil.) | No. of Deals | Market Share (%) | 2008 Issuance ($Mil.) | No. of Deals | Market Share (%) | '08-'09 % Chg. |
|---|---|---|---|---|---|---|---|---|
| 1 | Bank of New York | $59,070.9 | 90 | 30.8 | $71,628.4 | 113 | 40.3 | -17.5 |
| 2 | Wells Fargo | 53,744.6 | 97 | 28.0 | 29,926.4 | 50 | 16.8 | 79.6 |
| 3 | U.S. Bank | 34,844.9 | 42 | 18.2 | 19,501.2 | 46 | 11.0 | 78.7 |
| 4 | Deutsche Bank | 32,518.2 | 48 | 16.9 | 35,199.2 | 37 | 19.8 | -7.6 |
| 5 | Citigroup | 6,135.8 | 7 | 3.2 | 4,755.4 | 7 | 2.7 | 29.0 |
| 6 | Wilmington Trust | 1,323.4 | 4 | 0.7 | 718.1 | 4 | 0.4 | 84.3 |
| 7 | Manufacturers & Traders | 1,123.9 | 3 | 0.6 | 548.0 | 1 | 0.3 | 105.1 |
| 8 | Bank of America | 1,101.2 | 2 | 0.6 | 0.0 | 0 | 0.0 | |
| 9 | LaSalle Global | 287.2 | 2 | 0.1 | 0.0 | 0 | 0.0 | |
| 10 | CIBC Mellon | 256.2 | 1 | 0.1 | 400.0 | 1 | 0.2 | -36.0 |
| 11 | Union Bank | 209.1 | 1 | 0.1 | 0.0 | 0 | 0.0 | |
| | OTHERS | 1,292.6 | 6 | 0.7 | 15,119.1 | 35 | 8.5 | -91.5 |
| | **TOTAL** | **191,907.9** | **303** | **100.0** | **177,795.7** | **294** | **100.0** | **7.9** |

## Trustees for CDOs Issued Worldwide in 2009

| | | 2009 Issuance ($Mil.) | No. of Deals | Market Share (%) | 2008 Issuance ($Mil.) | No. of Deals | Market Share (%) | '08-'09 % Chg. |
|---|---|---|---|---|---|---|---|---|
| 1 | Deutsche Bank | $53,916.5 | 19 | 59.4 | $73,373.4 | 61 | 46.2 | -26.5 |
| 2 | Bank of New York | 11,858.1 | 16 | 13.1 | 24,347.4 | 36 | 15.3 | -51.3 |
| 3 | Citigroup | 10,724.7 | 6 | 11.8 | 16,319.2 | 14 | 10.3 | -34.3 |
| 4 | BNP Paribas | 3,425.5 | 1 | 3.8 | 2,786.2 | 5 | 1.8 | 22.9 |
| 5 | Deloitte & Touche | 3,385.8 | 2 | 3.7 | 577.7 | 3 | 0.4 | 486.1 |
| 6 | LaSalle Global | 2,497.3 | 3 | 2.7 | 14,359.5 | 9 | 9.0 | -82.6 |
| 7 | Stichting Security | 1,023.4 | 1 | 1.1 | 1,895.1 | 3 | 1.2 | -46.0 |
| 8 | TMF Trustee | 550.3 | 4 | 0.6 | 0.0 | 0 | 0.0 | |
| 9 | Titulizacion de Activos | 480.2 | 1 | 0.5 | 1,964.3 | 2 | 1.2 | -75.6 |
| 10 | U.S. Bank | 376.1 | 2 | 0.4 | 2,647.5 | 7 | 1.7 | -85.8 |
| 11 | Law Debenture Trust | 278.0 | 2 | 0.3 | 1,011.8 | 4 | 0.6 | -72.5 |
| 12 | Sumitomo Trust & Banking | 98.4 | 1 | 0.1 | 268.2 | 1 | 0.2 | -63.3 |
| | OTHERS | 2,212.8 | 1 | 2.4 | 19,170.5 | 40 | 12.1 | -88.5 |
| | **TOTAL** | **90,827.0** | **59** | **100.0** | **158,720.7** | **185** | **100.0** | **-42.8** |

## Parity In Sight for Rating Agencies

Structured-product issuers are spreading the rating assignments for their deals more evenly among **Moody's, S&P** and **Fitch.**

S&P graded more U.S. asset- and mortgage-backed securities than any of its rivals in 2009, marking its 12th consecutive league-table victory. But the company's $138.2 billion of mandates amounted to a market share of just 72%, down from 92.1% in 2008.

Meanwhile, Moody's and Fitch held onto their usual second- and third-place standings. Moody's saw its piece of the business shrink to 62.2% from 88.3% as it graded $119.5 billion of new asset- and mortgage-backed securities in the States last year. Fitch's claim declined to 61.1% from 66.3% as it racked up $117.2 billion of credit.

With each of the top-three players in the business accounting for a lower proportion of overall assignments, less than 11 percentage points separated first place from third in terms of market share. In 2008, the differential was nearly 26 points. In 2007, it was almost 38 points.

Those results can be seen as a victory of sorts for Fitch, which has long sought a market share on par with those of Moody's and S&P. Another big winner was **DBRS,** which placed a distant fourth last year but was the only rating agency to boost its presence.

The shrinking gap largely reflects an ongoing effect of the credit crisis, as Moody's and S&P win fewer assignments to rate prime-quality mortgage bonds. Those two shops have traditionally graded more private-label MBS than their peers, but started to lose their grip in recent years amid unsteady issuance and growing investor distrust of their evaluations — opening the door for Fitch to grab first place in the sector last year.

Fitch rated $29.3 billion of mortgage bonds in 2009 to come away with a 61% market share. Perhaps just as impressive, DBRS took second place with a 41.9% share. It was followed by S&P (40.6%) and Moody's (5.3%).

Among asset-backed bond issues, S&P took back first place after losing that honor to Moody's in 2008. Its $118.7 billion of 2009 assignments worked out to an 82.5% market share. Moody's registered at 81.3%, followed by Fitch and DBRS.

Looking forward, the rating business is likely to feel the influence of growing government scrutiny as regulators and lawmakers seek to implement stricter financial-market controls.

The **SEC,** for instance, is proposing to force rating agencies to disclose fees collected from issuers, among other data. ❖

## Rating-Agency Shares of US ABS and MBS Issuance in 2009

| ABS/MBS | | 2009 Issuance ($Mil.) | No. of Deals | Market Share (%) | 2008 Issuance ($Mil.) | No. of Deals | Market Share (%) | '08-'09 % Chg. |
|---|---|---|---|---|---|---|---|---|
| 1 | S&P | $138,196.8 | 189 | 72.0 | $163,818.4 | 247 | 92.1 | -15.6 |
| 2 | Moody's | 119,456.8 | 132 | 62.2 | 156,942.1 | 220 | 88.3 | -23.9 |
| 3 | Fitch | 117,233.3 | 169 | 61.1 | 117,912.6 | 158 | 66.3 | -0.6 |
| 4 | DBRS | 27,098.9 | 53 | 14.1 | 11,906.6 | 26 | 6.7 | 127.6 |
| | **TOTAL** | **191,907.9** | **303** | **100.0** | **177,795.7** | **294** | **100.0** | **7.9** |

| ABS | | 2009 Issuance ($Mil.) | No. of Deals | Market Share (%) | 2008 Issuance ($Mil.) | No. of Deals | Market Share (%) | '08-'09 % Chg. |
|---|---|---|---|---|---|---|---|---|
| 1 | S&P | $118,658.5 | 144 | 82.5 | $142,994.2 | 184 | 93.4 | -17.0 |
| 2 | Moody's | 116,917.5 | 121 | 81.3 | 146,914.7 | 183 | 96.0 | -20.4 |
| 3 | Fitch | 87,903.2 | 89 | 61.1 | 106,779.2 | 120 | 69.8 | -17.7 |
| 4 | DBRS | 6,933.4 | 17 | 4.8 | 7,498.3 | 10 | 4.9 | -7.5 |
| | **TOTAL** | **143,819.4** | **179** | **100.0** | **153,035.8** | **211** | **100.0** | **-6.0** |

| MBS | | 2009 Issuance ($Mil.) | No. of Deals | Market Share (%) | 2008 Issuance ($Mil.) | No. of Deals | Market Share (%) | '08-'09 % Chg. |
|---|---|---|---|---|---|---|---|---|
| 1 | Fitch | $29,330.1 | 80 | 61.0 | $11,133.4 | 38 | 45.0 | 163.4 |
| 2 | DBRS | 20,165.4 | 36 | 41.9 | 4,408.3 | 16 | 17.8 | 357.4 |
| 3 | S&P | 19,538.3 | 45 | 40.6 | 20,824.3 | 63 | 84.1 | -6.2 |
| 4 | Moody's | 2,539.3 | 11 | 5.3 | 10,027.4 | 37 | 40.5 | -74.7 |
| | **TOTAL** | **48,088.5** | **124** | **100.0** | **24,759.9** | **83** | **100.0** | **94.2** |

# Bingham Takes Torch From McKee In 2009 Law-Firm Rankings

**Bingham McCutchen** is heading into 2010 with a commanding position among law firms that advise issuers and underwriters on new securitizations.

Bingham served as underwriter counsel on more U.S. asset- and mortgage-backed bond deals than any of its peers in 2009, with 40 assignments, according to **Asset-Backed Alert's** ABS Database. The Boston firm also placed third among issuer counsel with 27 deals — but would have been first if it received credit for issues handled by market powerhouse McKee Nelson, which it took over Aug. 1.

Bingham, which didn't traditionally maintain a presence in the securitization field, kept McKee's structured-finance team intact with the firm's takeover. And McKee's legacy is reflected prominently in the 2009 league table.

Bingham's underwriter-counsel ranking puts it just one deal ahead of second-place **Sonnenschein Nath,** another market newcomer. That firm owes its impressive debut to the late-2008 hiring of more than 100 lawyers from the now-dissolved **Thacher Proffitt.** But its deals spanned the entire year.

Bingham's total came in just five months, and the firm's total would be especially imposing — at 70 deals to Sonnenschein's 39 — if it got credit for McKee's 30 pre-takeover mandates. In fact, McKee was able to place third among issuer counsel last year on the strength of its January-July supply alone.

Chicago-based Sonnenschein placed first among issuer counsel by supplying legal support on 42 deals. It was trailed by **Mayer Brown,** with 30 issues. Bingham came next, followed by McKee. Together, however, their 50 assignments would have been a lock for the top spot.

When measured by dollar volume, Bingham served as underwriter counsel on $25.8 billion of deals, or $52.8 billion combined with McKee's total. Sonnenschein fielded $15.9 billion of underwriter-counsel assignments. On the issuer side, the Bingham-McKee team would weigh in together at $31.6 billion to Sonnenschein's $17.6 billion. Mayer Brown would register at $24.7 billion.

Mayer's league-table presence has been growing as issuance patterns shift. In past years, a torrent of mortgage-related transactions overshadowed the Chicago firm's work as it focused on asset-backed issues, which now account for a greater proportion of the market. It also has a big commercial-paper conduit business.

As for Bingham, its securitization practice falls within a capital-markets division led by former McKee attorney **Reed Auerbach,** who saw the global financial

See BINGHAM on Page 10

## Top Underwriter Counsel for US ABS/MBS

| | | 2009 No. of Deals | 2009 Issuance ($Mil.) | 2008 No. of Deals | 2008 Issuance ($Mil.) |
|---|---|---|---|---|---|
| 1 | Bingham McCutchen | 40 | $25,790.6 | 0 | 0.0 |
| 2 | Sonnenschein Nath | 39 | 15,901.1 | 0 | 0.0 |
| 3 | McKee Nelson | 30 | 26,983.3 | 65 | 42,027.0 |
| 4 | Sidley Austin | 16 | 12,759.9 | 18 | 9,206.6 |
| 5 | Orrick Herrington | 14 | 12,375.5 | 28 | 19,665.0 |
| 6 | Hunton & Williams | 13 | 6,763.3 | 2 | 345.0 |
| 7 | Cadwalader Wickersham | 12 | 12,225.5 | 16 | 20,710.9 |
| 8 | Mayer Brown | 12 | 6,425.3 | 4 | 4,275.9 |
| 9 | Stroock & Stroock | 7 | 6,803.9 | 10 | 10,226.3 |
| 10 | Cravath Swaine | 5 | 7,000.0 | 9 | 7,500.0 |
| 11 | Skadden Arps | 3 | 1,950.0 | 26 | 18,560.0 |
| 12 | Baker McKenzie | 3 | 488.5 | 1 | 60.0 |
| 13 | Shearman & Sterling | 2 | 1,628.8 | 0 | 0.0 |
| 14 | Milbank Tweed | 2 | 1,034.1 | 0 | 0.0 |
| 15 | Dechert | 2 | 952.5 | 8 | 2,590.3 |
| 16 | Vedder Price | 2 | 200.0 | 0 | 0.0 |
| | OTHERS | 101 | 52,625.6 | 107 | 42,628.8 |
| | **TOTAL** | **303** | **191,907.9** | **294** | **177,795.7** |

## Top Issuer Counsel for US ABS/MBS

| | | 2009 No. of Deals | 2009 Issuance ($Mil.) | 2008 No. of Deals | 2008 Issuance ($Mil.) |
|---|---|---|---|---|---|
| 1 | Sonnenschein Nath | 42 | $17,557.6 | 0 | 0.0 |
| 2 | Mayer Brown | 30 | 24,717.4 | 17 | 9,794.3 |
| 3 | Bingham McCutchen | 27 | 14,397.2 | 0 | 0.0 |
| 4 | McKee Nelson | 23 | 17,215.6 | 39 | 16,612.6 |
| 5 | Hunton & Williams | 13 | 2,992.4 | 2 | 345.0 |
| 6 | Skadden Arps | 11 | 14,129.1 | 17 | 16,715.1 |
| 7 | Orrick Herrington | 10 | 6,280.3 | 37 | 29,110.1 |
| 8 | Dewey & LeBoeuf | 9 | 10,853.0 | 9 | 9,153.2 |
| 9 | Kirkland & Ellis | 7 | 4,258.7 | 3 | 2,797.4 |
| 10 | Greenberg Traurig | 5 | 3,089.8 | 2 | 1,096.7 |
| 11 | Shearman & Sterling | 4 | 5,425.5 | 11 | 18,995.5 |
| 12 | Winston & Strawn | 4 | 2,422.7 | 1 | 486.0 |
| 13 | Cadwalader Wickersham | 4 | 940.9 | 8 | 4,215.5 |
| 14 | Kutak Rock | 3 | 1,559.0 | 4 | 4,391.7 |
| 15 | Sidley Austin | 3 | 1,295.5 | 10 | 3,100.2 |
| 16 | Alston & Bird | 2 | 2,800.0 | 0 | 0.0 |
| 16 | Latham & Watkins | 2 | 2,800.0 | 4 | 3,500.0 |
| 18 | Milbank Tweed | 2 | 2,154.5 | 4 | 3,651.8 |
| 19 | McGuire Woods | 2 | 1,431.0 | 2 | 952.8 |
| 20 | Hughes Hubbard | 2 | 1,034.1 | 0 | 0.0 |
| | OTHERS | 98 | 54,553.6 | 124 | 52,877.7 |
| | **TOTAL** | **303** | **191,907.9** | **294** | **177,795.7** |

## Layoffs ... From Page 1

had worked at **Deutsche Bank** and **Morgan Stanley.**

Dynamic Credit's headcount now stands at 25, down from about 35 in 2007.

For the firm's part, chief executive **Jim Finkel** denied that more job cuts are in the works. In fact, he said he is in hiring mode. "Our business has changed," Finkel said. "Dan and Chris both did great jobs for us."

For now, their duties are consolidated under **David Schwartz,** head of Dynamic Credit's advisory business. That team's staff already included CDO specialists **Mike Li, Deo Sabino** and **Mendel Starkman.** Now **Sumeet Sablok** and **Alex Suh,** asset- and mortgage-backed bond specialists who worked for Nigro, also report to Schwartz.

Two other staffers left late last year: **Adam Zivitofsky,** a marketing specialist who worked closely with Nigro's team, and **Stephen Pennington,** head of information technology for consumer-asset bonds handled by the asset-management division.

Dynamic Credit was founded in 2003 by Finkel, who held an executive post on Deutsche's European CDO desk, and **Tonko Gast,** an **ABN Amro** alumnus. Pre-credit crisis, the firm was largely focused on managing structured-product pools via hedge funds and a series of collateralized debt obligations issued from 2005 to 2007. The last of the series, a $400 million vehicle called Dalton CDO, was issued in May 2007. Dynamic Credit has fared better than many CDO managers, as five of the nine CDOs it issued remain solvent.

More recently, the firm has taken over management of two other CDOs: **Petra Capital's** Brookville CDO and a **Summit Investment** deal. Dynamic Credit continues to seek management assignments, but progress has been slow.

That has forced the firm to rely more heavily on its advisory work, which includes helping fund managers and other investors analyze and assign values to holdings and prospective purchases of structured products. But it faces strong competition, as many once-high-flying fund managers have attempted to recast themselves as advisors in the aftermath of the credit crisis. Dynamic Credit currently is recruiting marketing and business-development specialists to sell its services.

Nigro and Sandletiner couldn't be reached for comment. ❖

## TALF ... From Page 1

financing in March, however, the thought is that there will be little reason for those securities to be worth more than non-qualifying ones going forward.

TALF has helped bring back prices on asset-backed bonds from their 2009 lows by supplying low-cost Fed leverage that helps boost buyer yields.

Many TALF-bond investors chose not to borrow from the central bank for issues carried out in recent months though, and they're the ones now believed to be driving the secondary-market flow.

The hope is to cash out before TALF expires, at which point the lack of financing for future buyers would likely cause the value of their holdings to converge with the market average. "Those bonds are trading at levels tight to where a market with no TALF would have them trade," one trader said. "You don't want to be a seller of that stuff post the TALF subscription date in March."

Another trader estimated that $800 million of TALF bonds crossed his desk on Friday and Monday, and that the number climbed even higher as this week progressed.

In one of the trades, a batch of TALF-eligible auto-loan bonds that **Nissan** priced last March at an initial average life of 3.1 years changed hands on Jan. 8 at a spread of 33 bp. That was about seven bp tighter than comparable non-TALF paper was trading at the time.

Since then, similar TALF issues have come in another two to five bp while non-qualifying issues have seen about 10 bp of tightening. In some cases, that has already been enough to erase the pricing differential between the two transaction types.

The gap for credit-card paper also narrowed last week from what had been an average of 5-7 bp, as spreads on TALF and non-TALF issues came in 10-20 bp. Three-year TALF paper from **J.P. Morgan** is now circulating at 35 bp over Libor, while **Bank of America** issues are fetching a 40 bp spread.

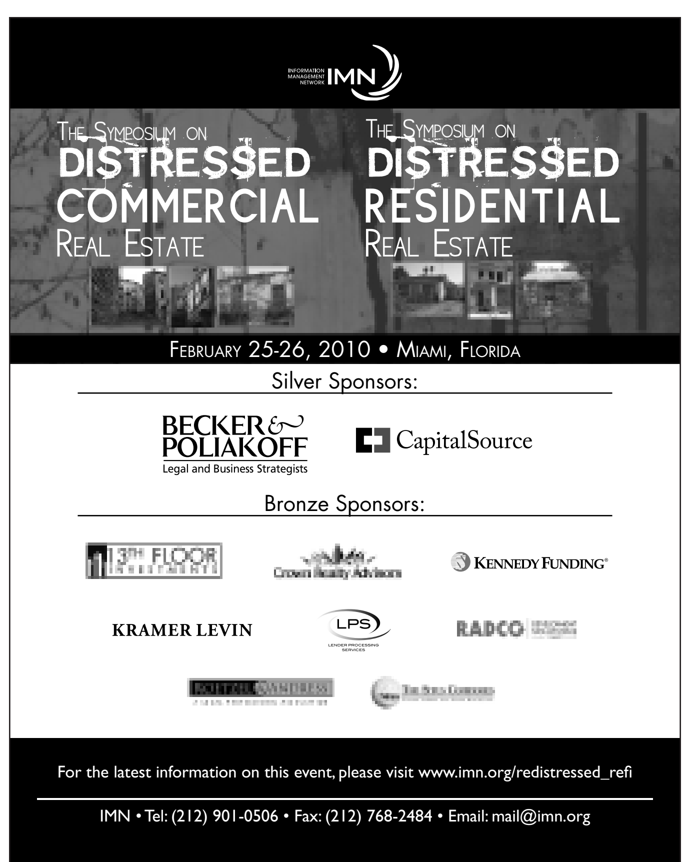
Across asset classes, spreads are hundreds of basis points tighter than they were when TALF took effect last March. Some industry participants are pointing to those gains to discount the notion that sellers are trying to get out before eligible securities lose their pricing advantage. Instead, one trader said investors might be unloading inventory to raise money that could be put to work in a separate TALF component for commercial mortgage bonds or in residential-MBS funds set up through the **U.S. Treasury Department's** Public-Private Investment Program.

In any event, trading is likely to remain heavy. "There's a lot of cash out there, and people who will be forced [into the market]," another trader said. ❖

## BONY ... From Page 6

actually increased 7.9% last year to $191.9 billion. At the same time, trustees have been fielding an increasing volume of requests to expand the scope of their duties. In many cases, they've had to seek court intervention in investor battles as deals from the market's boom years continue to fall apart.

Among trustees for collateralized debt obligations issued worldwide, which are excluded from the main ranking, Deutsche maintained its top standing from 2008 even as its deal volume fell to $53.9 billion from $73.4 billion. Bank of New York, which won in 2007, held steady in second place with $11.9 billion of deals, down from $24.3 billion. **Citigroup** completed the top three. ❖




## Bingham ... From Page 8

crisis cause some earlier staff cutbacks for his team. In 2008, McKee topped both sides of the league table.

Asset-Backed Alert's tally of law-firm volume takes into account all SEC-registered, Rule-144A and privately placed term securitizations sold primarily in the U.S. It excludes collateralized debt obligations. Because the rankings seek only to capture advisory assignments that law firms win on new deals, they leave out restructurings, fund-formation work and other contracts that have come to represent ever-growing proportions of the shops' businesses as the liquidity crunch drags on. ❖

## INITIAL PRICINGS

### Morgan Stanley Resecuritization Trust, 2010-F

**Priced:** Jan. 11
**Amount:** $255.4 million
**Collateral:** Floorplan loans
**Seller:** Morgan Stanley
**Bookrunner:** Morgan Stanley

| Class | M/S | Amount | WAL | Spread | Benchmark |
|---|---|---|---|---|---|
| A | AAA | 255.400 | 1.40 | +145 | 1 mo. Libor |

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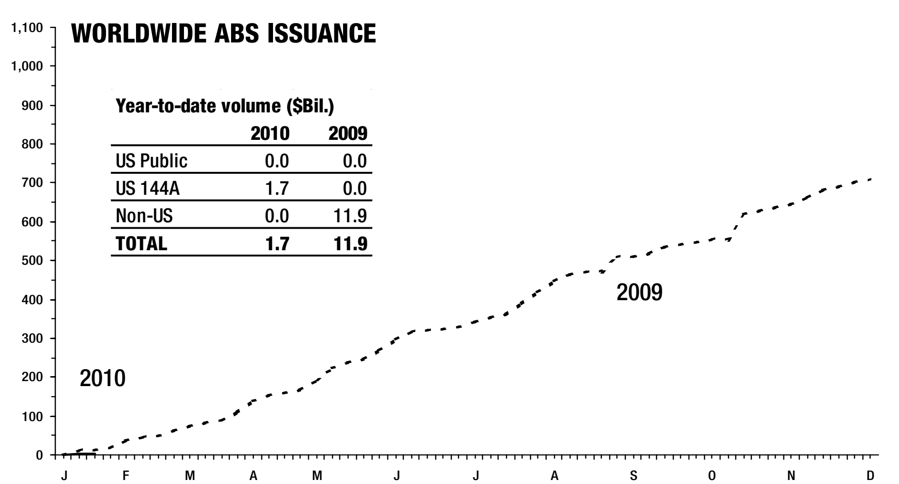
# MARKET MONITOR

## WORLDWIDE ABS ISSUANCE



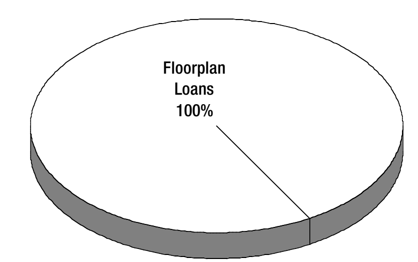
Year-to-date volume ($Bil.)

| | 2010 | 2009 |
|---|---|---|
| US Public | 0.0 | 0.0 |
| US 144A | 1.7 | 0.0 |
| Non-US | 0.0 | 11.9 |
| **TOTAL** | **1.7** | **11.9** |



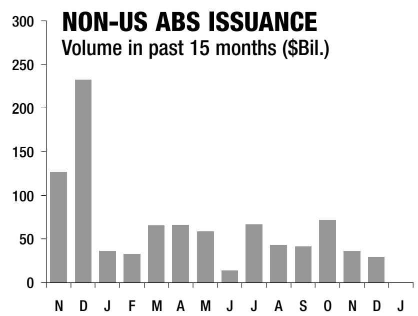
## US ABS BREAKDOWN

Year-to-date



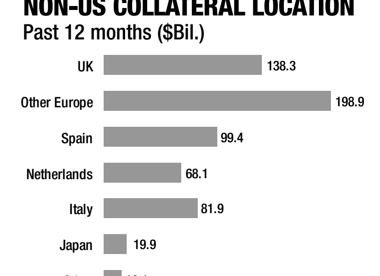

## NON-US ABS ISSUANCE

Volume in past 15 months ($Bil.)



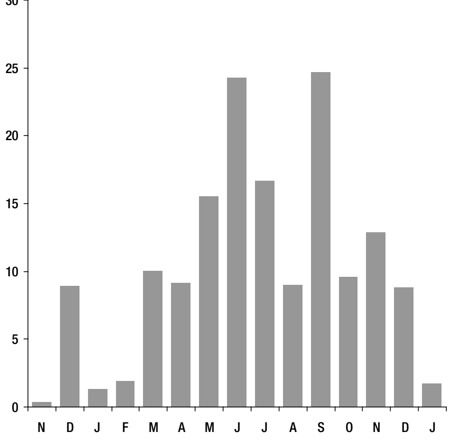

## NON-US COLLATERAL LOCATION

Past 12 months ($Bil.)



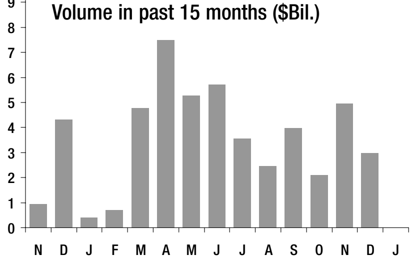

## US ABS ISSUANCE

Volume in past 15 months ($Bil.)



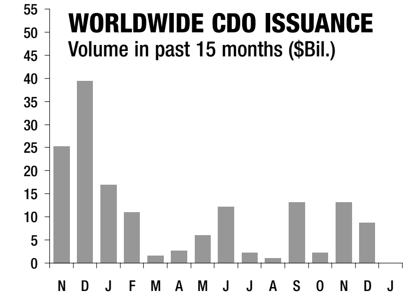

## US NON-AGENCY MBS ISSUANCE

Volume in past 15 months ($Bil.)




## WORLDWIDE CDO ISSUANCE

Volume in past 15 months ($Bil.)




## ASSET-BACKED COMMERCIAL PAPER OUTSTANDING

Since 1/1/04 ($Bil.)

Source: Federal Reserve Board

Jan-04 Jan-05 Jan-06 Jan-07 Jan-08 Jan-09 Jan-10

## 5-YEAR FIXED CARD SPREADS

Last six months (basis points)

J A S O N D J

## SPREADS ON TRIPLE-A ABS

| | Avg. Life | Spread (bps) 1/14 | Week Earlier | 52-wk avg. |
|---|---|---|---|---|
| Credit card - Fixed rate (vs. Swap) | 2.0 | +30 | +35 | +131.2 |
| | 5.0 | +45 | +50 | +175.7 |
| Credit card - Floating rate (vs. 1 mo Libor) | 2.0 | +30 | +40 | +146.3 |
| | 5.0 | +55 | +70 | +193.1 |
| Auto loan - Tranched (vs. Swap) | 2.0 | +30 | +30 | +126.7 |
| | 3.0 | +45 | +50 | +170.4 |
| Home equity - Fixed-rate/ wrapped (vs. Swap) | 2.0 | +650 | +650 | +1,055.7 |
| | 5.0 | +900 | +900 | +1,423.6 |
| Swap spreads (bid/offer midpoint) | 2.0 | +26 | +27 | +45.4 |
| | 5.0 | +28 | +30 | +45.8 |
| | 10.0 | +10 | +11 | +19.1 |

Source: Deutsche Bank

**Data points for all charts on this page can be found in The Marketplace section of ABAlert.com**

## THE GRAPEVINE

... From Page 1

at **Spring Hill Capital** of New York. His new job is as a senior banker focused on structuring deals backed by cell-tower leases, utility fees and other off-beat credits. Chisholm most recently spent about a year as a structured-finance consultant at **BlackRock Solutions** of New York. He spent eight years at Lehman prior to that, and earlier did a five-year stint as a **Moody's** vice president rating asset-backed bonds. Spring Hill was set up last year by **Kevin White,** who served as one of Lehman's top structured-product executives until the investment bank went bust in September 2008.

**NewOak Capital** has lost another executive: **James Dougherty,** a managing director at the firm since August 2008. Dougherty, who previously headed U.S. credit-product investments at **PB Capital,** left NewOak a few weeks ago and is currently on gardening leave. He evidently has another job lined up. New York-based NewOak, an advisory firm focused on structured products, has seen a number of key staffers head for the exits. Just last month, **Patrick Mooney** left to join **Bermuda Investment Advisory.**

**Pamela O'Neill** joined **Weiser** about a month ago to lead the New York accounting firm's bond-valuation practice. That unit helps specialty-finance companies and investors assign prices to securities backed by a variety of assets, including residential mortgages, credit-card accounts and trade receivables. O'Neill is working closely with Weiser partner **Marshall Sterman.** O'Neill most recently led a similar valuation practice at **AlixPartners** in New York. Before that, she oversaw a **Deloitte** team that helped banks and other financial institutions assign values to securities.

**Gregory Panagos** took a job last month as managing director at **AmericaVest,** a Fort Lauderdale, Fla., asset-management and advisory shop. In his new post, he is helping to evaluate structured products and other assets held by small banks and insurance companies. Founded in 2006, AmericaVest has about $50 million under management. Panagos most recently did a stint at **Auriga USA,** where he traded mortgage bonds and collateralized debt obligations. Before that, he traded mortgage-backed securities and credit-default swaps at **Amherst Securities.**

**Adam Mitchell,** who previously traded structured products at **Credit Suisse** and **CIBC,** joined **Scotia Capital's** Toronto office last week as a trader of high-yield corporate bonds. From 2004 to 2007, Mitchell worked as an asset-backed bond analyst and trader at CIBC. He then moved to Credit Suisse to trade a broader mix of fixed-income products, including asset-backed securities. He left Credit Suisse last month.

**Carlos Diaz** joined **Credit Suisse's** securitization-research desk in London a few weeks ago as an associate. He reports to **Gail Lee,** the bank's New York-based head of structured-product research worldwide. The hiring of Diaz coincides with the relaunch of Credit Suisse's "Tracker" publication, which covers the performance of various asset-backed securities.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