the Journal of STRUCTURED FINANCE

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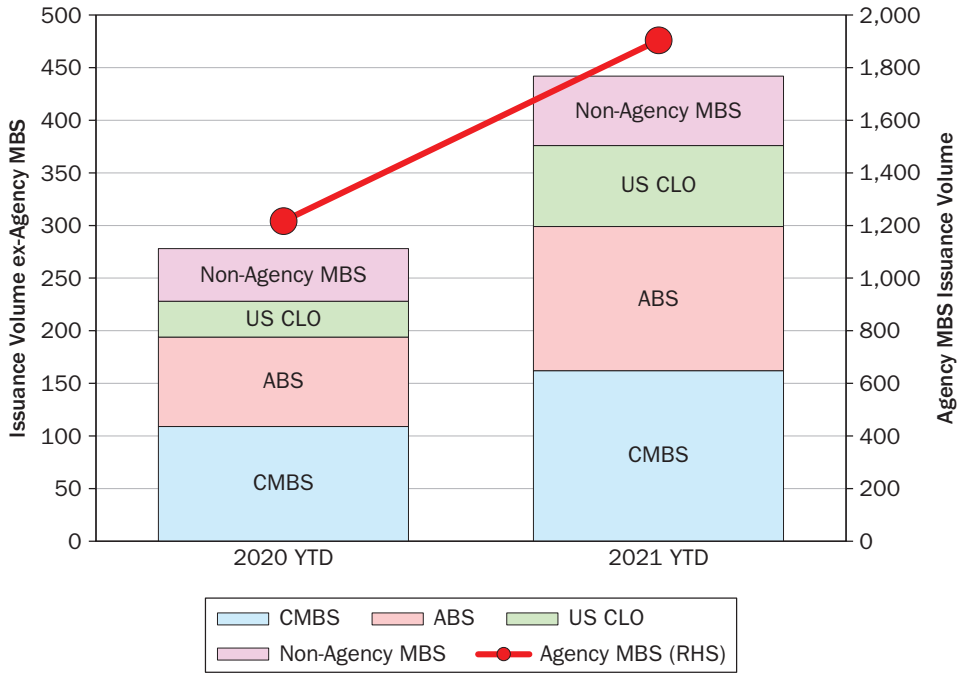
Welcome to the Summer 2021 issue of *The Journal of Structured Finance*. Securitization activity through the first half of 2021 significantly outpaced the same period last year. Every major asset category showed significant growth (Exhibit 1).

Against the backdrop of strong issuance activity, credit challenges gradually abated but were hardly eliminated. While the number of residential mortgage loans in forbearance declined substantially from a peak of more than 4.5 million in May 2020, there were still more than 2 million loans in forbearance plans at the end of June 2021. That amounted to nearly 4% of all US residential mortgage borrowers. Moreover, while many loans exit forbearance plans and perform well, a substantial proportion do not. It seems likely that the loans remaining in forbearance plans the longest will be the most likely to produce losses for investors. Continuing extensions of moratoriums on foreclosures and evictions potentially exacerbate the situation. In a similar vein, recent improvements in the performance of commercial mortgage loans secured by hotels and retail properties were a clearly positive sign, though the proportion of delinquent commercial loans backed by such properties remained elevated compared to pre-pandemic levels. The outlook for office properties over

EXHIBIT 1

US Securitization Issuance Volume (January to Late June, $ billions)



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the longer term is very murky. In ABS, the aircraft sector sent mixed signals. United Airlines recently ordered 270 new narrow-body jets, consisting of 200 Boeing 737 Max 10 airliners and 70 Airbus A321neo airliners. On the other hand, a significant percentage of the global airliner fleet remained in storage because of ongoing coronavirus flare ups. It seems reasonable to expect that air traffic will eventually recover to pre-pandemic levels, but the question is when?

And, as if issuance activity and coronavirus-related credit challenges did not provide enough stimulation for the second quarter, the period also delivered at least five major legal developments for the structured finance community:

- New York State enacted a law to smooth the transition away from LIBOR,[1]
- the US Supreme Court delivered its opinion in *Goldman Sachs Group, Inc. v. Arkansas Teacher Retirement System*,[2]
- the US Supreme Court delivered its opinion in *Collins v. Yellen*,[3]
- Congress nullified the OCC's true lender rule,[4] and
- Hertz exited bankruptcy and announced an offering of notes backed by its fleet of rental cars.[5]

LIBOR. The New York law about LIBOR makes SOFR (plus a spread adjustment) the fallback benchmark for New York contracts that do not otherwise provide for a different fallback benchmark upon LIBOR's cessation. The law designates the Federal Reserve Board (Fed), the Federal Reserve Bank of New York (FRBNY), and the Alternative Reference Rates Committee (ARRC) as the "relevant recommending bodies" that can define the replacement benchmark and the applicable spread adjustment. The ARRC has been pushing SORF as LIBOR's replacement for the past few years. Last year the ARRC recommended using the historical median spread between LIBOR and SOFR over a five-year lookback period as the spread adjustment.

Although the New York LIBOR law will cover many contracts, including the pooling and servicing agreements for many securitizations, the Trust Indenture Act[6] (TIA) may prevent the law from working on securities issued under indentures that are subject to the TIA. The specific issue is TIA § 316(b), which provides that a bond holder's right to receive payment of principal and interest "shall not be impaired *or affected*" without

[1] N.Y. General Obligations Law, Article 18-C (2021) (Assembly Bill A164B signed into law on April 6, 2021), https://www.nysenate.gov/legislation/bills/2021/A164.

[2] Goldman Sachs Group, Inc. v. Arkansas Teacher Ret. Sys., No. 20-222 (US June 21, 2021), https://www.supremecourt.gov/opinions/20pdf/20-222_2c83.pdf.

[3] Collins v. Yellin, No. 19-422 (US June 23, 2021), https://www.supremecourt.gov/opinions/20pdf/19-422diff_a8cf.pdf.

[4] Public Law No. 117-24 (S.J. Res. 15 signed into law on June 30, 2021), https://www.congress.gov/bill/117th-congress/senate-joint-resolution/15; Office of the Comptroller of the Currency, *National Banks and Federal Savings Associations as Lenders*, 85 Fed. Reg. 68742 (Oct. 30, 2020), https://www.govinfo.gov/content/pkg/FR-2020-10-30/pdf/2020-24134.pdf.

[5] The name of the deal is Hertz Vehicle Financing III LLC. *See* Zhang, Chloe, and Karen Ramallo, *Moody's Rates The Hertz Corporation's New Financing ABS Facility*, Moody's press release (Jun. 30, 2021); *In re Hertz Corporation*, No. 20-11218 (Bankr. Del., filed 22 May 2020) (case information and filings are available at https://restructuring.primeclerk.com/hertz/Home-Index).

[6] 15 U.S.C. §§ 77aaa-77bbbb (2019), https://www.govinfo.gov/content/pkg/USCODE-2019-title15/pdf/USCODE-2019-title15-chap2A-subchapIII.pdf.

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its consent.[7] Various corners of the financial industry have reached out to Congress to close the gap. The House Financial Services Committee held a virtual hearing on the subject on April 15, but there had not been further action as of late June.[8]

Goldman Sachs. The Supreme Court decision in *Goldman Sachs* is indirectly about securitization. The case is a shareholder class action against Goldman Sachs. The plaintiffs claimed that Goldman Sachs inflated its stock price by overstating its ability to manage conflicts of interest. The Second Circuit Court of Appeals allowed certification of the class,[9] but the Supreme Court ruled that the Second Circuit had not sufficiently addressed the issue of whether Goldman's statements about its ability to manage conflicts were too generic to have affected its stock price. The Court sent the case back to the Second Circuit to reconsider the question.

The reason the case is relevant to the securitization community is that the allegedly false statements were made in the context of Goldman's securitization activities, in particular its CDO deals, including the notorious Abacus 2007-AC1 transaction. The Second Circuit explained the background of the case in its 2020 decision:

> The conflicts at issue here surround several collateralized debt obligation ("CDO") transactions involving subprime mortgages. Chief among them is the Abacus 2007 AC-1 ("Abacus") transaction. Publicly, Goldman marketed Abacus as an ordinary asset-backed security, through which investors could buy shares in bundles of mortgages that the investors, and presumably Goldman, hoped would succeed. But behind the scenes, Goldman purportedly allowed the hedge fund Paulson & Co. to play an active role in selecting the mortgages that constituted the CDO. And Paulson, which bet against the success of the Abacus investment through short sales, chose risky mortgages that it "believed would perform poorly or fail." The alleged plan worked, and Paulson made roughly $1 billion at the expense of the CDO investors (who are not the plaintiffs here). Goldman ultimately admitted that it failed to disclose Paulson's role in the portfolio selection, and it reached a $550 million settlement with the SEC—the largest-ever penalty paid by a Wall Street firm at the time. Goldman allegedly engaged in similar conduct with respect to three other CDOs. At times, Goldman allegedly represented to its investors that it was aligned with them when it was in fact short selling against their positions.[10]

[7] 15 U.S.C. § 77qqq(b) (2019) (emphasis added).

[8] US House of Representatives, Committee on Financial Services, Subcommittee on Investor Protection, Entrepreneurship and Capital Markets, *Virtual Hearing—The End of LIBOR: Transitioning to an Alternative Interest Rate Calculation for Mortgages, Student Loans, Business Borrowing, and Other Financial Products* (Apr. 15, 2021), https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=407534; US House of Representatives, Committee on Financial Services, Majority Staff, *Memorandum re April 15, 2021, Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets Hearing entitled, "The End of LIBOR: Transitioning to an Alternative Interest Rate Calculation for Mortgages, Student Loans, Derivatives, and Other Financial Products"* (Apr. 12, 2021) https://financialservices.house.gov/uploadedfiles/hhrg-117-ba16-20210415-sd002.pdf.

[9] Arkansas Teacher Ret. Sys. v. Goldman Sachs Group, Inc., 955 F.3d 254 (2d Cir. 2020), https://www.govinfo.gov/content/pkg/USCOURTS-ca2-18-03667/pdf/USCOURTS-ca2-18-03667-0.pdf.

[10] 955 F.3d at 259 (citations omitted) (citing Securities and Exchange Commission, *Goldman Sachs to Pay Record $550 Million to Settle SEC Charges Related to Subprime Mortgage CDO*, press release (July 15, 2010)), https://www.sec.gov/news/press/2010/2010-123.htm).

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In sending the case back to the Second Circuit, the Supreme Court handed Goldman Sachs a partial win, but also left open the possibility that the case could move forward. Of note, the plaintiffs are seeking damages of $13 billion.[11] The case illustrates the potential for a firm's securitization activities to create liabilities to parties other than securitization investors and the government. As noted by the Second Circuit, Goldman already paid a fine of $550 million to the SEC in connection with the Abacus episode. The firm also settled for $3.15 billion with the FHFA[12] and $5.06 billion with the DOJ[13] in connection with its MBS activities. It paid another several hundred million dollars in settling securitization-related lawsuits by private litigants.[14] The potential liability from the current case, together with the cost of the past cases and settlements, points to the conclusion that allowing misstatements in the offer and sale of securitizations can be very costly along multiple dimensions.

Collins v. Yellin. The *Collins* case is about the FHFA and the GSEs. The case was brought by GSE shareholders seeking money damages by trying to invalidate the "net worth sweep" under which all the GSEs' profits went to the US Treasury staring in January 2013.[15] The attack on the net worth sweep asserted that the action was invalid because the structure of the FHFA was unconstitutional. The shareholders argued that the FHFA's structure violated the principle of separation of powers among the different branches of government. The key feature was the "for cause" limitation on the President's power to remove the FHFA director.[16] Following its 2020 decision in *Seila Law*,[17] the Supreme Court ruled that the limitation was unconstitutional.

[11] Petition for a Writ of Certiorari at 4, Goldman Sachs Group, Inc. v. Arkansas Teacher Ret. Sys., No. 20-222 (US June 21, 2021), https://www.supremecourt.gov/DocketPDF/20/20-222/150881/20200821094223302_Goldman%20Sachs%20cert%20petition%20FINAL.pdf.

[12] Federal Housing Finance Agency, *FHFA Announces Settlement with Goldman Sachs*, press release (Aug. 22, 2014), https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Settlement-with-Goldman-Sachs.aspx.

[13] US Department of Justice, *Goldman Sachs to Pay More than $5 Billion for Misconduct Relating to Mortgage-Backed Securities*, press release (Apr. 11, 2016), https://www.justice.gov/usao-edca/pr/goldman-sachs-pay-more-5-billion-misconduct-relating-mortgage-backed-securities.

[14] *See,* for example, Stempel, Jonathan, *Goldman Settles Lawsuit over Subprime Bet for $27.5 Million*, Reuters (Feb. 11, 2016), https://www.reuters.com/article/us-goldman-sachs-settlement-cdo-idUSKCN0VK2E3; Stempel, Jonathan, *UPDATE 1-Goldman to Pay $272 Million to Settle Mortgage Lawsuit*, Reuters (Aug. 13, 2015), https://www.reuters.com/article/goldman-sachs-settlement-idUSL1N10O1XY20150813; Van Voris, Robert, *Goldman Sachs to Pay $26 Million to Settle Investor Suit*, Bloomberg (July 31, 2012), https://www.bloomberg.com/news/articles/2012-07-17/goldman-settles-class-action-over-698-million-offering.

[15] US Department of the Treasury, *Treasury Department and FHFA Amend Terms of Preferred Stock Purchase Agreements for Fannie Mae and Freddie Mac*, press release (Jan. 14, 2021), https://home.treasury.gov/news/press-releases/sm1236; Federal Housing Finance Agency, *Senior Preferred Stock Purchase Agreements*, FHFA webpage (updated Apr. 13, 2021), https://www.fhfa.gov/Conservatorship/Pages/Senior-Preferred-Stock-Purchase-Agreements.aspx.

[16] 12 U.S.C. § 4512(b)(2) (2019) (providing that "[t]he Director shall be appointed for a term of 5 years, unless removed before the end of such term for cause by the President."), https://www.govinfo.gov/content/pkg/USCODE-2019-title12/pdf/USCODE-2019-title12-chap46-subchapI-partA-sec4512.pdf.

[17] Seila Law LLC v. Consumer Financial Protection Bureau, 591 US ___, 140 S. Ct. 2183 (2020) (No. 19-7), https://www.supremecourt.gov/opinions/19pdf/19-7diff_o7kq.pdf.

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Immediately following the Court's ruling, President Biden fired FHFA director Mark Calabria and installed Sandra Thompson as the acting director.[18]

However, despite ruling that the structure of the FHFA was unconstitutional, the Supreme Court held that the net worth sweep was not inherently invalid. On the other hand, the Court acknowledged that the unconstitutional restriction on the President's power could potentially be the cause of compensable harm. The Court sent the case back to the Fifth Circuit Court of Appeals concluding that:

> In the present case, the situation is less clear-cut, but the shareholders nevertheless claim that the unconstitutional removal provision inflicted harm. Were it not for that provision, they suggest, the President might have replaced one of the confirmed Directors who supervised the implementation of the [net worth sweep], or a confirmed Director might have altered his behavior in a way that would have benefited the shareholders.
>
> The federal parties dispute the possibility that the unconstitutional removal restriction caused any such harm. They argue that, irrespective of the President's power to remove the FHFA Director, he "retained the power to supervise the [net worth sweep's] adoption . . . because FHFA's counterparty to the Amendment was Treasury—an executive department led by a Secretary subject to removal at will by the President." The parties' arguments should be resolved in the first instance by the lower courts.[19]

Ultimately, it seems doubtful that the GSE shareholders will be able to prove that a compensable harm was caused by the unconstitutional restriction on the President's power. Thus, the holding on the Constitutional question appears to be merely a pyrrhic victory for the shareholders.

True Lender. Congress invoked the Congressional Review Act[20] to invalidate the OCC's 2020 "true lender" rule.[21] The action was in the form of a joint resolution that started in the Senate on March 25.[22] The resolution cleared the Senate on May 11 by a vote of 52 to 47 and cleared the House on June 24 by a vote of 218 to 208. It was presented to President Biden on June 30, who signed it into law as Public Law No. 117-24 on the same day.

The OCC's invalidated rule provided that a bank was the lender on a loan if two conditions were satisfied: 1) a bank is named as the lender on the loan and 2) a bank funds the loan. The rule also provided that if one bank is named as a lender

[18] Goldstein, Matthew, Adam Liptak, and Jim Tankersley, *Biden Removes Chief of Housing Agency After Supreme Court Ruling*, The New York Times (June 23, 2021), https://www.nytimes.com/2021/06/23/us/biden-housing-agency-supreme-court.html.

[19] Collins v. Yellin, No. 19-422 at 35-36 (US June 23, 2021), https://www.supremecourt.gov/opinions/20pdf/19-422diff_a8cf.pdf.

[20] 5 U.S.C. §§ 801-808 (2019), https://www.govinfo.gov/content/pkg/USCODE-2019-title5/pdf/USCODE-2019-title5-partI-chap8.pdf.

[21] Office of the Comptroller of the Currency, *National Banks and Federal Savings Associations as Lenders*, 85 Fed. Reg. 68742 (Oct. 30, 2020), https://www.govinfo.gov/content/pkg/FR-2020-10-30/pdf/2020-24134.pdf.

[22] S.J. Res. 15, https://www.congress.gov/bill/117th-congress/senate-joint-resolution/15/text/is.

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and another funds the loan, then the one that is named as the lender is the lender.[23] The rule was intended to facilitate interstate lending activities by non-bank lenders that partnered with banks in originating loans. The partnering would preempt state law restrictions, such as usury limits. The rule's nullification revives the legal uncertainty from cases like *Madden* in the Second Circuit, which held that the National Banking Act did not preempt state usury laws with respect to loans purchased by a debt collection agency that was not a national bank.[24]

From the perspective of the securitization industry, the true lender issue is critically important to the marketplace lending sector. Until the issue is resolved, it will potentially cloud securitizations of marketplace loans. From a broader perspective, the nullification of the OCC's true lender rule hints at potentially other challenges to federal preemption of state consumer protection laws. National banks have been empowered to export interest rates across state lines—ignoring state usury laws—since the Supreme Court's 1978 decision in *Marquette National Bank v. First of Omaha Corp.*[25] In that case, the Court held that a national bank can charge the same interest rate allowed in its home state everywhere else in the US.[26] That has been the law for more than 40 years. However, given the vehemence of the objections to the OCC's rule, it is conceivable that efforts to nullify *Marquette* might emerge. A September 2020 letter from eight Senators to the Acting Comptroller of the Currency offers a view into the issue of balancing federal considerations with state consumer protection objectives.[27] That letter asserts that Congress limited the OCC's power to preempt state consumer protection laws when it enacted the Dodd-Frank Act in 2010.

Hertz. Hertz emerged from bankruptcy on June 30 and immediately hit the market with a $4 billion offering of rental car-backed notes in two series: Hertz Vehicle Financing III, Series 2021-1 and 2021-2. Like the company's past deals, the new series were offered under Rule 144A. Each series was for $2 billion comprising four classes, as shown in Exhibit 2.

The new deal was well received by the market, which I find somewhat surprising because of two disturbing developments immediately before and during the Hertz bankruptcy.

The first development was the strong linkage between the company's creditworthiness and the credit ratings of its outstanding rental car-backed securities. Moody's downgraded Hertz's credit rating from B2 to B3 on March 18, 2020. It downgraded the rating again on Friday, April 24, 2020, this time to Caa3. The following Monday (April 27), Moody's downgraded $4.3 billion of the company's rental car-backed ABS from Aaa to A1. That action affected the Class A notes from 11 deals.[28] Hertz filed for bankruptcy protection on May 22, and a week later Moody's downgraded the Class

[23] 85 Fed. Reg. at 68747.

[24] Madden v. Midland Funding, 786 F.3d 246 (2d Cir. 2015), https://www.govinfo.gov/content/pkg/USCOURTS-ca2-14-02131/pdf/USCOURTS-ca2-14-02131-0.pdf.

[25] Marquette Nat. Bank v. First of Omaha Corp., 439 US 299, 99 S. Ct. 540, 58 L. Ed. 2d 534 (1978).

[26] Id., 439 US at 308 (interpreting 12 U.S.C. § 85).

[27] Letter to the Hon. Brian Brooks, Acting Comptroller of the Currency, from Senators Van Hollen, Brown, Reed, Warren, Schatz, Cortez-Masto, Smith, and Feinstein re OCC proposed true lender rule (Sep. 17, 2020), https://www.vanhollen.senate.gov/imo/media/doc/Letter%20on%20OCC%20True%20Lender%20Rule%20banking_9.9%20002%20clean_.pdf.

[28] Bot, Corina, and Karen Ramallo, *Moody's Downgrades Aaa (sf) Ratings of Hertz Corporation's Rental Car ABS*, Moody's press release (Apr. 27, 2020).

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EXHIBIT 2

Hertz Vehicle Financing III, Series 2021-1 and 2021-2

Series	Class	Size ($ millions)	Wt. Avg. Life (years)	Moody's	DBRS Morningstar	Spread to Swaps (bps)
2021-1	A	1,420	3.28	Aaa	AAA	60
	B	180	3.28	A2	A	95
	C	140	3.28	Baa2	BBB	145
	D	260	3.28	Ba2	BB	340
2021-2	A	1,420	5.28	Aaa	AAA	70
	B	180	5.28	A2	A	115
	C	140	5.28	Baa2	BBB	155
	D	260	5.28	Ba2	BB	340

SOURCES: FinSight, Moody's, DBRS Morningstar.

A notes by another five notches, from A1 to Baa3.[29] Thus, over a span of five weeks, Moody's downgraded the Class A notes by *nine notches*, from Aaa to Baa3. The day before the bankruptcy filing, DBRS-Morningstar downgraded the Class A notes from AAA to AA (low)—three notches on the DBRS scale.[30]

The second development was the surprise attack that Hertz launched against its outstanding rental car-backed ABS during the bankruptcy proceeding. Specifically, it sought to *partially* reject the master lease covering its rental fleet.[31] Hertz argued that the intent of the parties had been to create a lease that provided for fluidity in the treatment of the vehicles and that it was subject to division. The holders of the rental car-backed notes objected (acting through the trustee for the deals).[32] The Structured Finance Association (SFA) filed a "friend of the court" brief, also objecting.[33] The SFA explained that the master lease covered a fleet comprising a revolving pool of vehicles

[29] Mattu, Arti, and Karen Ramallo, *Moody's Downgrades Hertz Corporation's Rental Car ABS*, Moody's press release (May 29, 2020).

[30] Babick, Michael, Hollie Reddington, and Christopher D'Onofrio, *DBRS Morningstar Downgrades Ratings on Hertz Vehicle Financing II LP Securities, Maintains UR-Neg. Status*, DBRS Morningstar press release (May 21, 2020). The DBRS Morningstar rating action covered additional securities as well because the rating agency had rated an earlier deal (Series 2013-A) and the other classes of notes in each of the 11 deals where Moody's rated only the senior class.

[31] Debtors' Motion for Order Rejecting Certain Unexpired Vehicle Leases Effective *Nunc Pro Tunc* to June 11, 2020 pursuant to Sections 105 and 365(a) of the Bankruptcy Code, *In re Hertz Corporation*, No. 20-11218 (Bankr. Del., filed June 11, 2020) (ECF No. 390), https://restructuring.primeclerk.com/hertz/Home-DownloadPDF?id1=NDE4ODE5&id2=0.

[32] Objection of Deutsche Bank AG, New York Branch, the MTN Steering Committee, and the Bank of New York Mellon Trust Company, N.A. to Debtors' Motion for Order Rejecting Certain Unexpired Vehicle Leases Effective *Nunc Pro Tunc* to June 11, 2020 pursuant to Sections 105 and 365(a) of the Bankruptcy Code, *In re Hertz Corporation*, No. 20-11218 (Bankr. Del., filed June 24, 2020) (ECF No. 567), https://restructuring.primeclerk.com/hertz/Home-DownloadPDF?id1=NDM3NTAx&id2=0.

[33] Corrected Exhibit A to Motion of Proposed *Amicus Curiae* Structured Finance Association for Leave to File Brief as *Amicus Curiae* in Support of Preliminary Objection of Deutsche Bank AG, New York Branch, The MTN Steering Committee and the Bank of New York Mellon Trust Company, N.A. to Debtors' Motion for Order Rejecting Certain Unexpired Vehicle Leases Effective *Nunc Pro Tunc* to June 11, 2020 pursuant to Sections 105 and 365(a) of the Bankruptcy Code, *In re Hertz Corporation*, No. 20-11218 (Bankr. Del., filed June 26, 2020) (ECF No. 606), https://restructuring.primeclerk.com/hertz/Home-DownloadPDF?id1=NDQxMzky&id2=-1.

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and that Hertz had described the master lease as a single lease in its filings. The SFA argued that the bankruptcy court should not allow Hertz to partially reject the master lease because allowing it do so "would… undermine the risk profiles of similar ABS transactions and, more broadly, the availability of credit to companies in the rental car and other industries." More specifically, the SFA argued that 1) master leases are the lynchpin of ABS structures in the rental car industry as are lease pools in other leased-asset based industries, 2) allowing companies like Hertz to cherry-pick the leases subject to the master lease would undermine the risk profile of existing ABS transactions, and 3) if the court allowed the company's request, rental car companies like Hertz might lose access to better credit terms under ABS.[34] Various observers reported on similar concerns by others.[35]

Before the court could rule on Hertz's motion, the parties temporarily settled the matter, agreeing that the debtors would pay $650 million to the ABS investors, which amounted to a 50% discount on overdue payments. The parties agreed to defer the matter in court until at least mid-January.[36] In the end, the issue was rendered moot. A portion of the proceeds from the new deal was applied to retire all the outstanding securities from the older deals.[37]

Despite the happy ending for Hertz's pre-bankruptcy rental car-backed notes, the two developments concerning those notes during the bankruptcy raise the question of whether they are really ABS. A core idea of ABS is that they are largely de-linked from the fortunes and subsequent corporate actions of the entity that sponsors them (in this case Hertz). When that is not the case, the securities produced in a transaction might be better classified as secured, non-recourse corporate debt. Therefore, it seems less than fully clear whether Hertz's new offering of $4 billion of rental car-backed notes should be viewed as ABS. If not, then the pricing of the deal seems off the mark.

■ ■ ■

Conferences. Just a reminder that this year's major structured finance conferences are scheduled to be in-person events. **SFVegas 2021** is scheduled for October 3–6 at the Aria Resort and Casino in Las Vegas. The **27th Annual ABS East** event is scheduled for December 13–15 at the Fontainebleau in Miami Beach.

[34] *Id*. at i.

[35] *See,* for example, Kang, Jennifer, *Hertz Looks to Reject Lease Payments for Cars in ABS Master Trust*, GlobalCapital (June 15, 2020); Yerak, Becky, *Hertz's Plan to Liquidate Part of Rental Fleet Rattles Lenders*, The Wall Street Journal (June 25, 2020); Welch, David, Claire Boston, and Steven Church, *Hertz, Creditors in $11 Billion Standoff Over 494,000 Used Cars*, Bloomberg (July 2, 2020); Scott, Sean, and Aaron Gavant, *E Pluribus Unum or Ex Uno Plures? Attempted ABS Master Lease Rejection in the Hertz Bankruptcy*, Mayer Brown (Oct. 8, 2020), https://www.realbankruptcyintel.com/2020/10/e-pluribus-unum-or-ex-uno-plures-attempted-abs-master-lease-rejection-in-the-hertz-bankruptcy/.

[36] Notice of Filing of Revised Order Temporarily Resolving Certain Matters Related to the Master Lease Agreement, Setting a Schedule for Further Litigation Related Thereto in 2021 and Adjourning Hearing on the Debtors' Motion for Order Rejecting Certain Unexpired Vehicle Leases Effective *Nunc Pro Tunc* to June 11, 2020 pursuant to Sections 105 and 365(a) of the Bankruptcy Code [Docket No. 390] *Sine Die*, *In re Hertz Corporation*, No. 20-11218 (Bankr. Del., filed July 24, 2020) (ECF No. 805), https://restructuring.primeclerk.com/hertz/Home-DownloadPDF?id1=NTAxOTQ4&id2=-1.

[37] Zhang, Chloe, and Karen Ramallo, *Moody's Rates The Hertz Corporation's New Financing ABS Facility*, Moody's press release (June 30, 2021); Mattu, Arti, and King Lam, DBRS Morningstar Discontinues Ratings on Hertz Vehicle Financing IILP, DBRS Morningstar press release (July 2, 2021).

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This issue opens with an article by Douglas McManus and Elias Yannopoulos of Freddie Mac. They examine forbearance in Freddie Mac mortgage loans during a portion of the Covid-19 pandemic (March to October 2020) and compare the experience to two prior periods: the 2017 storm season (August to December) and a baseline period of January 2019 to February 2020. They find that while many loans are able to get back on track following forbearance, many others fall into serious delinquency, from which recovery is extremely difficult. They also find that mortgage loans with high loan-to-value ratios, low borrower credit scores, or high borrower debt-to-income ratios are more likely to enter forbearance plans.

The issue's next article is by Dhruba Purkayastha of the US-India Clean Energy Finance (USICEF) Facility at the Climate Policy Initiative in New Delhi and Runa Sarkar of the Indian Institute of Management. They explore certain regulatory and policy options for encouraging investment in projects that address climate change. In particular, they advocate for giving such investments favorable treatment under bank capital regulations (i.e., low risk weights in risk-based capital frameworks) and for using receipts from carbon taxes to help subsidize climate-related projects. Their analysis approaches the issues from a truly global perspective.

The next item is my report on the ABS East conference from December 2020. The report covers 14 sessions from the event, which attracted more than 4,000 registered attendees. The covered sessions include ones on global economic trends, housing market trends, private-label MBS, the LIBOR transition, CLO market trends, auto ABS, and ESG principles.

Following the report on the ABS East conference are the highlights from *GlobalCapital* from the second quarter of 2021. The selection was compiled and curated by GC securitization reporter Jennifer Kang. It includes stories on a new CLO trading platform, the impact of the SPAC boom on CLO credit quality, emerging recovery in the aircraft sector, the growing prevalence of "recurring revenue loans" in CLOs, and the recently announced rental car-backed deal from Hertz. It is excellent and timely material, and I encourage all to read it.

This issue also includes a selection of industry news items from the Structured Finance Association, also from Q2 2021. This selection includes more than 30 snippets, further confirming that a lot was going on during the year's second quarter.

We welcome your submissions. Please encourage those you know who have good papers or who have made good presentations on structured finance- or project finance-related subjects to submit them to us.

Submission guidelines can be found at https://jsf.pm-research.com/authors. If you have comments or suggestions, you can e-mail them directly to me at M.Adelson@PageantMedia.com.

Mark Adelson
Editor