

# Buying Distressed Loans and Property

8:00 – 9:15 Introduction by the Workshop Leader

9:15 – 10:30 **The Distressed Debt Market: General Overview**

- Bank debt, notes, private and public issues
- Bankruptcy, including impact of recent changes to bankruptcy law
- Inter-creditor issues
- Receivers
- Brokers
- Bank agents
- Discounted payoff
- Dispositions, e.g. sealed auction bids, outcall, traditional sale (bulk or individual loan)
- Securitized vs. balance sheet lenders' loans
- Assumption vs. participation

Presenter: **Deborah J. Saltzman**, *Associate, Restructuring Practice*,  
DLA Piper US LLP

10:30 – 10:45 *Break*

10:45 – 12:15 **Best Practices in Due Diligence for Distressed Loan Purchases**

- Loan, borrower and property level issues
- Origination/ underwriting/monitoring process
- Review of
  - Collateral
  - Legal file
  - Cash flow—historical and forecasts
  - Correspondence
  - Pay history
  - Prior sales of purchased loans
  - Communications with borrower
  - Development status, where applicable
- Collateral status, including condition, other encumbrances and market prospects
- Additional funding obligations or requirements
- Current and future property condition valuation
- Other liabilities: e.g. taxes, environmental, litigation, other debt
- Borrower status and likely actions/defenses
  - Lender liability claim
  - Bankruptcy recoveries (preference, fraudulent transfer)
  - Complications of related properties and/or debt
- Link to warranties

Presenter: **Michael Carey**, *Co-Managing Member*, Insight Consulting LLC

12:15 – 1:30 *Group Luncheon*

1:30 – 2:30 **Valuing Distressed Loans**

- Loan, borrower and property level issues
- Nature of loan – permanent vs. construction, cash flow vs. asset based
- Review of collateral
- Identify optimal resolution path, involving e.g.
  - Discounted pay off
  - Foreclosure
  - Deed in lieu – possibly with payment
  - Additional construction funding—either through advances under current loan or additional senior loan
  - Forbearance
  - Subsequent note sale
  - Guarantee enforcement
- Identify the expected costs and risks, e.g.
  - Legal costs of enforcement or foreclosures
  - Cost in fees and time of borrower defenses or actions
  - Property level cash flow needs
  - Bankruptcy risks
- Cash flow model/ DCF
  - Bottom up analysis of property, borrower and loan analysis
- Stress test/ sensitivities on model assumptions

Presenter: **Jay Rollins**, *President and co-founder*, JCR Capital, LLC

2:30 – 3:30 **Best Practices in Underwriting Distressed Property**

- Many issues consistent with distressed loan purchase
- Land, commercial property, residential subdivisions, home builders, condos
- Foreclosure, RE and sale
- Complications from the management of the asset such as:
  - Deferred financial obligations
  - Unmet commitments to buyers, renters or lessees
- Construction status, including code compliance, if applicable
- Deferred maintenance
- Taxes and government fees
- Environmental
- Operating or sale information
- Tenant payment and financial status
- Market conditions

Presenter: To be announced

3:30 – 4:00 *Break*

4:00 – 5:00 **Valuing and Pricing Distressed Property**

- Many issues consistent with underwriting the collateral for loan purchase
- Traditional approaches – cost, market, income
- Recognize additional risk factors associated with defective financial or legal conditions
- Cash flow models
- Additional risk considerations
- Lender who may not otherwise have been marketing the loan
- Acquire with intent to foreclose (with or without borrower knowledge/agreement)
- Identify borrower or property issues (and resolutions) to incentivize lender to sell

Presenters: **Ernesto M. Ure**, *Principal*, Covenant Realty Partners  
**Douglas Nason, ASA**, *Vice President*, Wells Fargo Real Estate  
Technical Services Dept.