



## Workouts, Restructurings and Enforcement Actions

Federman advises borrowers, owners, investors, guarantors and sureties, lenders, regular and special loan servicers, buyers of distressed loans and properties on all aspects of workouts, loan and lease restructurings including bankruptcy planning considerations. Federman's general approach to workouts is practical and business oriented, carefully balancing the interests of relevant stakeholders to increase the probabilities of a successful resolution to any distressed situation and to minimize losses.

### Creditor/Lender Representation

The attorneys at Federman have extensive experience advising lenders/creditors in connection with workouts of bridge, permanent, construction, commercial, conduit, mezzanine, and asset-based loans, including counseling lenders and trustees of their rights and remedies under loan documents, credit agreements, note purchase agreements, pooling and servicing agreements, trust agreements, indentures, servicing agreements, ISDA derivative transactions, and other loan documents. Federman lawyers advise creditors in their negotiations and dealings with junior, subordinated, or second-lien lenders, equity interest holders, swap counter-parties, and other interested parties and stakeholders, where applicable.

In connection with these transactions, Federman lawyers (i) assist the client in gathering data relative to the current state of the borrower and the impacted project; (ii) conduct a forensics audit on the file (with particular focus on prior correspondence between the borrower and the lender), the existing documentation, and the current status of asset liens and title, (iii) advise clients on the election of remedies including an analysis of viability and enforceability, and (iv) where applicable, structure, draft and negotiate pre-negotiation letters, loan modification agreements, forbearance agreements, deeds in lieu of foreclosure, debt for equity conversions and assignments for the benefit of creditors. When the foreclosure process is available without court oversight, Federman counsels its clients on proper procedures, strategies, and potential liabilities in the enforcement of secured creditor rights

arising under the Uniform Commercial Code. Federman lawyers have handled all aspects of the disposition of real property collateral through deed-in-lieu of foreclosure transactions and the public or private disposition or strict foreclosure of personal property collateral under Article 9 of the UCC.

## **Debtor/Owner Representation**

Federman advises borrowers and owners in connection with workouts of bridge, permanent, construction, commercial, conduit, and mezzanine loans, assisting our clients in the navigation of often daunting requirements dictated by REMIC trusts, master servicers, special servicers, mezzanine lenders, B-note lenders, rating agencies, and bondholders. In connection with these transactions, Federman lawyers (i) assist the client in assessing the interests, rights, and remedies of, and potential remedies against, lenders and other relevant stakeholders; (ii) advise the client (a) on the sale and disposition of distressed projects, including short sales, (b) in the negotiation of loan modifications, discounted payoffs and other forms of loan forgiveness, loan extensions, forbearances, and deeds in lieu of foreclosure, (c) on strategies to modify or extend commercial conduit loans in light of the restrictions imposed by servicing standards and REMIC trust pooling and servicing agreements, and (d) on the enforceability of loan documents, focusing on the relevant limitations placed upon creditors under applicable law, the administrative and procedural requirements lenders must follow, the scope of liability under guaranties and indemnities, and the availability of potential suretyship defenses; and (iii) provide advice regarding the income and other tax consequences of cancelling or modifying debt obligations, including analyzing the potential for recognizing cancellation of indebtedness income, and structuring transactions to minimize any related adverse consequences and to release all legal liability to creditors.

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