

Structured and Real Estate Finance





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Seyfarth's Structured and Real Estate Finance Group (SREF) represents lenders across a broad spectrum of real estate finance transactions. SREF's attorneys are located in our offices across the country. Operating as a national, integrated team, we are able to draw upon our lawyers' broad real estate finance backgrounds and practical regional knowledge to provide innovative and comprehensive legal services. Working with a wide array of financial institutions and companies, SREF attorneys structure and negotiate loans and other credit facilities, handle loan administration and servicing issues, and through our Distressed Asset Resolution Team (DART), represent the interests of our clients in loan defaults, workouts, foreclosures, UCC sales, and borrower bankruptcies.

Our knowledge of the lending and capital markets, industry trends, and lending principles further enhances our ability to assist clients with their real estate finance issues. When structuring transactions and drafting loan documentation, our collective background uniquely positions us to meet the needs of our clients, mitigate their potential risks, and augment their customer relationships.

SREF emphasizes knowledgeable, focused, and efficient services that help clients keep pace with a rapidly changing financial marketplace. We are committed to the delivery of practical, result-oriented service through appropriate staffing, consistent points of contact, and clear and effective leadership.



Transaction Experience

We work with our lending clients on a full range of real estate financing matters involving properties located throughout the United States, employing creative strategies to attain our clients' objectives. Our experience includes the following types of transactions:

- Permanent and bridge loans
- Commercial and multi-family construction financing
- Mezzanine and A/B tiered structures
- Participations and other syndicated arrangements
- Capital Markets loans (including conduit financings)
- Preferred equity structures
- Loan acquisitions and sales
- Servicer representations (master and special)
- Issuer representation in loan securitizations
- Financing of environmentally impaired properties
- Lease financings
- Land acquisitions
- Health care facilities
- Commercial and multi-family condominium and planned-unit development financings
- Like-kind exchanges
- Sale/leaseback arrangements
- Letter of credit enhanced transactions
- International transactions

We also have extensive knowledge of community-revitalization programs and other government-sponsored initiatives that allows us to couple these alternatives with conventional financing arrangements. Representative programs include:

- Empowerment zone grants
- Historic preservation tax credits
- Local government grants and loans
- Low-income housing tax credits
- Tax increment financing (TIF)

We have represented numerous not-for-profit clients and we have extensive experience with various forms of tax-exempt real estate and project financing for industrial development and 501(c)(3) organizations, including those in the healthcare industry. We also assist clients in obtaining letter rulings from the IRS and procuring credit enhancements secured by pledges of payments under intergovernmental grant agreements.

Loan Origination

The SREF team has experience with varied types of collateral, including the fee, leasehold, and construction financing of multi-family, office, retail (including shopping centers), warehouse, and hotel properties, mobile-home parks, golf courses, and health care facilities. Our attorneys have closed numerous multi-property transactions and loans ranging in size up to several hundred million dollars. We have substantial experience with TIC and 1031 exchange transactions and, in the capital markets arena, are accustomed to structuring

borrowers and loans to be REMIC compliant and are called upon to assist borrowers in meeting our clients' and the market's structure requirements. We also have represented lenders on Shar'ia-compliant mortgage loans. Additionally, SREF attorneys are knowledgeable on all aspects of construction lending and floating rate transactions (including rate cap and other swap products).

Our work includes all legal due diligence aspects, including review of title, survey, public record searches, zoning reports, opinions, borrower structures and organizational documents, lease reviews, estoppels, and SNDAs (including preparation and negotiation), as well as document preparation and negotiation. In addition, our attorney teams include ERISA and REMIC counsel who provide opinions or structure or document guidance.

Structured Loan Origination, Syndications, Participations, and Purchases/Sales

We have experience in a wide range of co-lending (club), syndication and participation transactions, senior/subordinate and *pari passu* structures, and other structural variations. Our attorneys have represented the originators of B Notes, participations, and mezzanine loans and have represented both buyers and sellers of whole loans and various junior interests. We also have participated in transactions involving both portfolio and securitized lenders on the origination and seller side, and private equity, hedge funds, insurance companies, and major banks on the purchaser side. Our attorneys have drafted and negotiated purchase and sale agreements, co-lender and participation agreements, intercreditor agreements, and servicing agreements. We



complete all post-closing delivery tasks (including transaction descriptions and fulfillment of portfolio or securitization requirements, as applicable) in a timely fashion.

Capital Markets

Seyfarth's attorneys are experienced in structuring mortgage and mezzanine borrowers and loans to comply with rating agency and general market requirements. As a group, we have deep knowledge in special purpose entity (SPE) and bankruptcy remote requirements as well as general documentation and due diligence requirements necessary for capital markets transactions. Moreover, our attorneys assist borrowers in establishing ownership structures that satisfy securitization requirements while addressing the borrowers' other business goals (including minimizing adverse transfer and mortgage recording tax consequences).

Our REMIC tax lawyers assist in more complicated deal structures and provide assurance of tax compliance necessary to securitize loans in CMBS pools (e.g., incorporating property substitutions into deal structures, providing for material construction work, and addressing non-real estate collateral issues). The firm's bankruptcy attorneys aid in formulating certain bankruptcy remote structures as well as reviewing non-consolidation opinions and addressing potential fraudulent conveyance issues, where appropriate.

We have closed loans ranging from small conduit deals to multi-property/multi-state large loan "securitizable"

transactions on most property types and are experienced in structuring multi-layer transactions, including B Notes, mezzanine loans, and equity participations, as well as syndicated TIC deals, Shar'ia-compliant structures, 1031 exchange and reverse 1031 transactions and earn-out and other future funding facilities. We are familiar with all legal aspects involved in capital markets loan closings, from the application phase (including assisting with drafting certain provisions and addressing borrower, REMIC, or other structure or collateral matters) through post-closing matters.

Loan Servicing

Our attorneys are experienced in loan servicing matters, including construction, new and amended leases, SNDAs, property and owner interest transfers (including in TIC structures), loan and partial loan defeasances, and, for certain capital markets facilities, REMIC opinions. In our role as master servicers' counsel, we are keenly aware of issues that need to be vetted with rating agencies and special servicers. We have successfully worked with borrowers and their counsel in structuring assumptions, change-in-control transactions, and other servicing matters that accommodate the borrowers' needs while complying with all applicable servicing standards and, where applicable, REMIC tax rules and rating agency requirements. Through DART, we have extensive distressed asset experience, including pre-negotiation letters, workout meetings, loan and borrower restructures, bankruptcies, UCC sales, foreclosures, intercreditor issues, tax matters, management and leasing issues, REMIC pool/PSA matters, and REO lender structures.lender structures.



Our attorneys have represented lenders in diverse real estate finance transactions from modest, plain vanilla loans to large multi-property, multi-tier facilities.

Covered Bonds

Our covered bonds team is led by one of our attorneys with direct experience in this area, allowing us to assist clients who are evaluating the use of covered bonds in the domestic market.

Green Lending

Our attorneys assist lending clients with due diligence and legal documentation in connection with the construction financing of green buildings or the retrofit financing of an existing building with energy-efficient upgrades. We advise both lenders and borrowers on the legal requirements and incentives relating to green buildings, and assist clients with issues relative to certification, code compliance, insurance, leasing, property management and other related issues in the context of a green building loan.

Benefit to You

We are fully aware of the need to not only have broad transactional experience and current market savvy, but also to be efficient in providing our services. We understand that controlling our costs is essential to building borrower satisfaction and, in turn, repeat business. We encourage active dialog with our clients on an ongoing basis to ensure that our services are meeting or exceeding both client and borrower expectations. By implementing consistent process controls, we are able to contribute to a smoother client closing process and materially reduce costs, which, we believe, distinguishes our firm in the marketplace.

Taking into consideration our clients' legal position and economics, we draft our documents mindful of both our clients' and borrowers' post-closing administration concerns, such as property development, lease and transfer approvals, and property repair and maintenance approvals. We believe this practice materially enhances the borrower's loan experience and reduces the number of borrower post-closing issues.

We are cognizant of the speed of transactions in a competitive marketplace. Ever mindful of protecting our clients' collateral and remedies' position, we comply with transaction timing requirements, including expedited document preparation and due diligence.

Many of the issues that arise in documenting, negotiating, and closing loans require counsel with particular experience. Seyfarth Shaw's SREF attorneys have a broad range of experience but also know when to bring in colleagues from our firm's other practice areas to add value to the services we provide. Our ability to match appropriate legal experience and knowledge to client needs and the transactions we handle enables our clients to have a seamless experience that addresses their objectives and expectations.

About Seyfarth Shaw

Seyfarth Shaw was founded in 1945 by three lawyers and has grown to more than 750 lawyers across ten offices. We handle issues for our clients in all key areas including labor and employment, commercial litigation, construction, corporate and finance, employee benefits, environmental, government contracts, intellectual property, litigation, real estate, securities litigation, trade secrets, trusts and estates, and workouts and bankruptcy, among others.

Our success is the result of a constant, unrelenting focus on the needs of our clients. Our commitment to excellence and our belief in the strength of a team-based approach to the delivery of our services offers an atmosphere of creative and innovative thinking.

Our clients are our partners in business and we are committed to listening to their needs and to aligning the skills and abilities of our people to respond to those needs. Our clients range from *Fortune* 100 to midsize companies, and include publicly traded and privately held companies. We represent clients of all sizes across all industries and we are diligent in providing the same level of commitment to each client.



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