



Hogan
Lovells

Legal Support for Trust and Agency services providers

How we can help you

June 2017

Contents

Our market-leading trustee practice	2
Legal services for trustees, agents and other service providers	3
Our unique approach	4
About the team	5
Selected experience: structured finance	6
Distressed debt: enforcement and restructurings	7
Selected experience: distressed debt and restructuring	8
Key contacts	9
Case studies	10
About us	12

Our market-leading trustee practice

Unlike many firms, we offer clients a dedicated and market-leading practice advising the providers of trust and agency services on financing transactions. We advise trustees, agents and other transaction service providers across the whole range of capital markets, structured debt products and loans. We advise on both new financings and existing transactions. We appreciate that a number of our clients act in regulated capacities, and need to ensure they are compliant with regulatory requirements when their roles are documented and delivered, and we can include specialist regulatory advice in the services we provide. We have dedicated trustee lawyers located across our global network, including in the UK and Continental Europe, the US and the Asia Pacific region.

- **Market Leading Practice:** We are a go-to firm for some of the world's largest trustee providers, especially on complex matters and distressed or defaulted matters.
- **Global Reach:** We have dedicated trustee lawyers in the key financial markets in which trustees operate across the globe.
- **Experienced Advisors:** Our team of legal advisors has extensive experience of advising on the most complex transactions and workouts.
- **Commercial Outlook:** We are sensitive to and understand the market in which our clients operate; we aim not just to provide a legal solution but also to preserve commercial relationships and help position our clients for future mandates.
- **Added Value:** We also have the ability to offer key clients additional added-value services such as seminars, secondments and legal development updates.
- **Refreshing Attitude:** Our team's down-to-earth approach and client-focused outlook are recognised and appreciated by both clients and the respected legal directories.
- **Pricing:** We ensure that we provide value and a high quality of service for our clients and our pricing proposition is competitive to many of the other law firms operating within the market. For BNP Paribas, we have agreed discount rates as part of our panel arrangement.

Areas of focus

New issuances:

- Eurobonds
- MTN Programmes
- Loan Participation Notes
- Convertible/Exchangeable bonds
- High yield Bonds
- Secured bank lendings
- Securitizations
- Asset leasing/financings
- Real estate financings
- Structured products
- Repackagings
- Energy and Infrastructure projects

On-going advice:

- Further issues of notes
- Amendments and waivers
- Discretionary consent
- Substitutions of obligor
- Noteholder meetings
- Defaults and enforcements
- Refinancings
- Restructurings
- Transaction unwinds

Legal services for trustees, agents and other service providers

Our experienced team can provide advice to all transaction service providers



Our unique approach

General advice

- Clear and concise advice on the extent of our clients' roles, market expectations, opportunities and the parameters of responsibility and potential liability

Document Review

- Quick and efficient review of transaction documents, focusing on identifying key issues at an early stage. We aim to see around the corners to avoid nasty surprises

Risk Analysis

- An expert analysis of legal risks for transaction service providers. We seek to minimise exposure with indemnities and other appropriate protections including, where the risk profile requires, by proposing pro-active strategies

Regulatory Analysis

- Advice on issues applicable to regulated roles, such as custody roles

Client Reporting

- Our innovative and unique Transaction Review Report provides a summary of key issues. This allows clients to consider their position, and to undertake any necessary commercial discussions with the transaction counterparties at the earliest opportunity

Innovative Solutions

- Experience of acting for transaction service providers allows us to suggest innovative solutions to potential issues

Wider Relationships

- We value client relationships outside of specific transactions. This means we are committed to developing our relationships and maintaining contact with the client even where we are not currently involved on a particular transaction



About the team

Our trustee practice operates within our International Debt Capital Markets practice.

The London team consists of two partners and three associates. **Kit Johnson** and **Andrew Carey** lead the practice. Kit joined Hogan Lovells in 2007, and has been a partner since 2009. He is recognised as one of the leading trustee practitioners in London with extensive experience of advising trustees on distressed and defaulted transactions. Andrew has been at Hogan Lovells for 25 years, 15 as a partner in our debt capital markets team. Most of that time has been in London, but he returned to the London office in 2014 following a 3 ½ year secondment to our Singapore office. Andrew has experience of advising on a wide range of corporate debt and structured finance matters, and is regarded as the leading lawyer for advising trustees involved with emerging markets defaults.

Paul Regan joined the team as a senior associate in 2014. Paul is experienced in advising corporate trustees and other service providers on a wide variety of corporate debt and structured finance transactions. He also has experience of advising corporate trustees on post-issue matters, ranging from advising on the exercise of their powers and discretions (including modifications, waivers and substitutions) to advising in distressed situations, which has involved bondholder meetings, consent solicitations, restructurings and enforcement. **Jill Barraclough-Morrow** is a senior associate who returned to the London office in 2014 following a period working in our Singapore office. Jill has advised all the major trustee providers in both Europe and Asia, and has spent time on secondment with one of them. **Megan James** is an associate who also spent time in the team in London and Singapore as a trainee solicitor. After qualifying into the team in 2013, Megan spent seven months seconded to a major trustee provider.

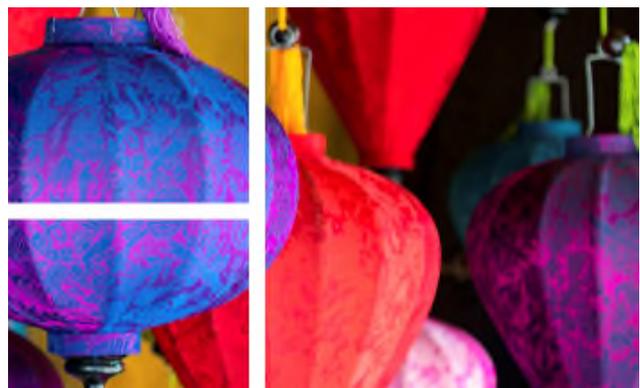
In addition to our trustee specialists, the London team includes **Sylvain Dhennin**, a

partner who advises on high yield bond issues. Sylvain's experience in this space complements our trustee practice and provides additional capabilities when advising on high yield debt transactions.

"They give very good client service and commercial awareness."

Chambers UK, 2016

Our team in London is complemented by our teams in Europe, the US and in the Asia Pacific region. In New York, **Rob Ripin** is a partner with extensive experience of advising trustees. He has a strong track record of advising on catastrophe bonds and has advised all the major trustee providers on some of the largest cat bond transactions over the last 10 years. **Lewis Cohen** (partner) joined our New York practice in 2014 and has experience across a wide range of transaction types, including securitization, structured finance, and debt capital markets. In Singapore, **Andy Ferris** (partner) and **Ryan Spence** (senior associate) are one of the only teams with trustee experience in the Asia Pacific region, and are involved in advising trustees across a variety of both emerging and established markets. Further support can be provided in Frankfurt by partners **Sven Brandt** and **Julian Fischer**, in Paris by **Baptiste Gelpi**, in the Netherlands by **Wouter Jongen** and in Milan by partners **Federico de Monte** and **Corrado Fiscale**.



Selected experience: structured finance

Structured finance

SecurAsset

Advising the trustee on the €20bn Secured Note Programme, a ground-breaking program established by BNP Paribas for secured structured products through a Luxembourg securitization company, SecurAsset S.A.

Pirika/Corsair

Advising the trustee on a Programme for the Issuance of Notes and other Secured Obligations arranged by JPMorgan

DPR Securitization

Advising the Notes Trustee and Security Trustee for a DPR securitisation programme issued by a large Turkish bank

MARC Finance

Advising the trustee for the €20bn Structured Note Programme arranged by BNP Paribas

Bumper 8

Advising the trustee, agents and account bank on the issue of £545m securitised note issuance backed by vehicle lease receivables

Cornhill Mortgages No.2

Advising the security trustee and agents in relation to a warehousing of residential mortgage loans

BNP Paribas Arbitrage programme

Advising Law Debenture as Security Trustee for issuances of secured notes and certificates under the existing Notes, Warrants & Certificates programme arranged by BNP Paribas

Magyar Exim

Advising the Trustee, Custodian and Cash Manager in relation to MAEXIM Secured Funding Limited's €400m issuance guaranteed by the World Bank

Trade MAPS

Advising the trustee for the ground-breaking multi-jurisdiction global multi-bank program supporting global trade flows launched by Citi and Santander

Claris

Advising the trustee for the EUR20bn Secured Transaction Programme arranged by Société Generale

Penarth Structured Debt Programme

Advising Deutsche Bank Trust Company Americas on the Penarth structured debt programme

Malt Hill No.1

Advising the trustee and agents in relation to the warehousing and subsequent £308.4m securitisation issuance in relation to residential mortgage loans

Blue Motor Finance

Advising the trustee, account bank, cash manager and agents in relation to securitisation of vehicle financing receivables

CRanbrook

Advising the Trustee, Custodian, Cash Manager and Account Bank on a secured note programme arranged by RiverRock

Distressed debt: enforcement and restructurings

Legal advisers for distressed transactions

We are the leading provider of legal advisory services to trustees involved in distressed or defaulted transactions, and in the complex world of court-led restructuring processes. The team has advised trustees on distressed transactions, in aggregate representing in excess of US\$60bn of debt. The nature of these transactions has required specialist input from across the firm, with contributions from lawyers in our Debt Capital Markets, Derivatives, Dispute Resolution and Business Restructuring and Insolvency practices in the UK, Europe, the US and Asia. Our trustee clients have benefited from this considerable body of experience and expertise.

The team has been involved in some of the highest profile defaults involving failed Structured Investment Vehicles, Lehman Brothers, Northern Rock, several distressed bond issues in Indonesia, multiple defaulted Indian convertible bond issues (including landmark restructurings by Wockhardt and Suzlon) and, most recently, Banco Espirito Santo/Novo Banco. The team has also been involved in many of the high profile disputes in the CMBS space, including the intercreditor disputes on Titan 2007-1 and Windermere XIV.

Challenges faced by trustees

Managing defaults on complex finance transactions throws up a number of challenges. The trustee will need to consider some or all of the following issues:

- **Contractual Obligations:** the trustee will be expected to comply with various contractual obligations, including notification requirements, upon a default event, often in a very short time-frame
- **Control:** the trustee may need to take immediate, effective and complete control of a complex structure with many moving parts
- **Asset Management:** consider what short and medium term management is required
- **Advisory Matrix:** the trustee may need to be proactive in compiling an advisory matrix, comprising legal, financial and restructuring advice. The cross-border element of many transactions may require a multi-jurisdictional approach
- **Valuation:** where collateral is involved, satisfactory and reliable valuation data is often the key to effective and prudent decision making
- **Enforcement strategy:** an effective enforcement strategy must be developed by the securities holders and the trustee can contribute to the development of a workable strategy; the strategy, which may include asserting claims through debt or winding-up proceeding, realization of assets in the open market or a structured solution involving third party refinanciers
- **Dispute Resolution:** the trustee may need to be proactive in resolving disputes between stakeholders which can prevent or delay a restructuring solution
- **Confidentiality:** establish and maintain a confidentiality umbrella to allow effective and productive discussion and information flows to stakeholders and third party refinanciers
- **Third party enforcement:** consider merits of an enforcement agent, such as a receiver
- **Creditors:** organise creditors into an effective body for discussion, consultation or formal directions. It is crucial that early communication flow is established with creditors
- **Protections:** ensure the trustee continues to be protected against potential liability
- **Liability management/consensual solutions:** the role of the trustee in executing commercially agreed restructurings is often poorly understood and the properly-advised trustee has an important role in bringing such a restructuring to a close
- **Court led restructurings:** trustees increasingly find themselves involved in court-led restructurings such as UK Schemes of Arrangement. With other jurisdictions, notably Singapore, putting in place their own legal frameworks for indebted companies to restructure their debts, we expect this to be a significant area of involvement for trustee

Selected experience: distressed debt and restructuring

Distressed debt and restructuring

Titan 2007-1

Advising the Trustee in relation to a defaulted CMBS transaction on a dispute amongst creditors

Vneshprombank

Advising the Trustee of Loan Participation Notes issued by VPB Funding Limited in relation to payment defaults and the liquidation of Vneshprombank

Cheyne

Advising the Security Trustee and the Receivers on the US\$10bn CP/MTN Programme restructuring

Blue Ocean

Advising the Bond Trustee and Security Trustee on the default and subsequent restructuring of US\$325m bonds guaranteed by Central Proteinaprima

Midwest Vanadium

Advising the Note Trustee and Security Trustee on the default of US\$335m senior secured notes issued by Midwest Vanadium and secured on a mine in Western Australia

Towergate

Advising the Trustee Settlement Agent and Escrow agent in relation to the restructuring of Towergate Finance PLC involving the approval of two alternative schemes of arrangement in the English courts

Citibank

Advising Citibank in its capacity as Trustee on the US\$225m Loan Participation Notes due 2016 issued by VPB Funding Limited, in relation to the liquidation of Vneshprombank as ultimate borrower including filing a claim in the liquidation by VPB Funding on behalf of the Noteholders

Banco Espirito Santo

Advising the Trustee on the partial transfer of obligations from BES to Novo Banco

Lehman Brothers

Advising the Trustee on the unwind of the US\$12.5bn Dante Finance synthetic debt repackaging programme

Landsbanki

Advising the Security Trustee on the default of the US\$10bn Repackaging Programme Default

Red Dragon

Advising the Bond and Security Trustee on the default and subsequent restructuring of US\$200m bonds guaranteed by Central Proteinaprima

MetInvest

Advising the existing Trustee and the new Security Agent in relation to the restructuring of notes issued by Metinvest B.V. through an English scheme of arrangement, including the exchange of the existing notes into new notes

Zlomrex

Advising the trustee in relation to the restructuring of Zlomrex International Finance, a French subsidiary of a Polish steel group, by way of an English law scheme with Chapter 15 recognition

Magyar Telecom BV

Advising the Trustee of notes issued by Hungarian telecom provider, Magyar Telecom, on a restructuring through a COMI shift and English scheme of arrangement with recognition under Chapter 15 in the US

Sazka

Advising the Trustee on default of a Czech based leisure company of the €215m 9% Bonds

Wockhardt

Advising the Bond Trustee on the default and subsequent restructuring of US\$110m Zero Coupon Convertible bonds (FCCBs)

Suzlon

Advising the Bond Trustee on the default and subsequent restructuring of US\$461m of convertible bonds

Wind Hellas

Advising the Trustee in the restructuring of the debt of European telecoms company Wind Hellas under an English law scheme

DTEK

Joint counsel to the Trustee advising on the restructuring of DTEK's high yield debt by way of an English law scheme of arrangement

Astana

Advising the trustee and agents in relation to the US\$2 billion Kazakh court approved debt restructuring of JSC Astana Finance, a Kazakh financial services group

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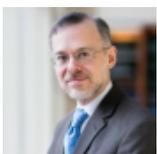
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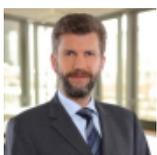
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Case studies

Case study: sale by UK Asset Resolution Limited of mortgages

Advising trustee on exercises of discretion

Overview

In 2010, the UK government established UK Asset Resolution Limited ("**UKAR**") to manage mortgage books originated by the collapsed UK banks, Northern Rock ("**NR**") and Bradford & UKAR completed the first return of mortgages to the private sector with the sale of £13bn of NR-originated assets to Cerberus Capital. Most of these assets were securitised under NR's **Granite** programme on which our client was trustee. The five final bidders made different proposals for acquiring the assets and funding the acquisition. Each of these required amendments, waivers and/or consents from our client as the Granite trustee and also from our client as trustee of the related credit default swap-backed **Whinstone** transactions. Our client was asked to assist UKAR by giving each bidder comfort that it, in its various trustee roles, would provide the consents needed to support the relevant proposal should its bid be successful.

Challenges Faced

- A tight time frame set by the sale process
- Multiple proposals to be reviewed simultaneously
- Testing the extent to which informal comfort regarding consent can be given prior to consent taking effect
- Confidential sale process
- Maintaining Chinese walls between different proposals and bidding teams
- Needing to develop a deep understanding of the transactions and the complex proposals
- A lack of understanding of the discretion process by counterparties
- A need to identify the powers of the trustee relevant to the proposals

Our Contribution

- Providing a team of specialist trustee advisers with expertise in advising on exercises of discretion
- Meeting bidders to explain the concerns of our client and the process for the trustee exercising discretion
- Building a deep knowledge of the affected transactions
- Reviewing proposals simultaneously to meet strict timeframes imposed by the sale process
- Ensuring a level playing field for the different bidders and transparency for the bidders in the process of the trustee exercising discretion

Outcomes

Hogan Lovells' involvement contributed to a successful outcome for our client. With our help the trustee was able to support UKAR's sale process by providing consent to the proposals of the different bidders notwithstanding that only one of the bidders would be successful. Our client was able to fulfil its obligations to the secured parties in the Granite and Whinstone transactions while also assisting with a process designed to be fair both to all bidders and to all other participants including the UK taxpayer.

Case study: structured finance default

Advising Trustee on Failure of Lehman Brothers' US\$12.5bn Synthetic Debt Repackaging Programme

Overview

Our client is a large multi-national corporate finance trustee which acted as trustee for the Dante Programme. The Dante Programme was Lehman Brothers' proprietary synthetic debt repackaging programme. At the time of Lehman Brothers' demise in September 2008, the Dante Programme consisted of over 240 debt issuances by 19 separate issuers, with a total aggregate outstanding amount of US\$12.5bn and investors based in all the main financial centres in Europe, the US and Asia. Unwinding the Dante Programme has thrown up a number of unprecedented challenges for the trustee, including litigation in both the UK and the US.

Challenges Faced

- The trustee required legal advice on a number of issues including:
- Investor management
- Document analysis
- Swap termination and valuation
- US bankruptcy issues
- Litigation with investors and swap counterparty
- Indemnities

Our Contribution

We assisted the trustee in a number of ways:

- Experienced and dedicated team
- Derivatives
- Litigation
- Managing information flows/investor communications
- Ensuring uniform processes
- Investor meetings
- Document solutions
- Liability management

Outcomes

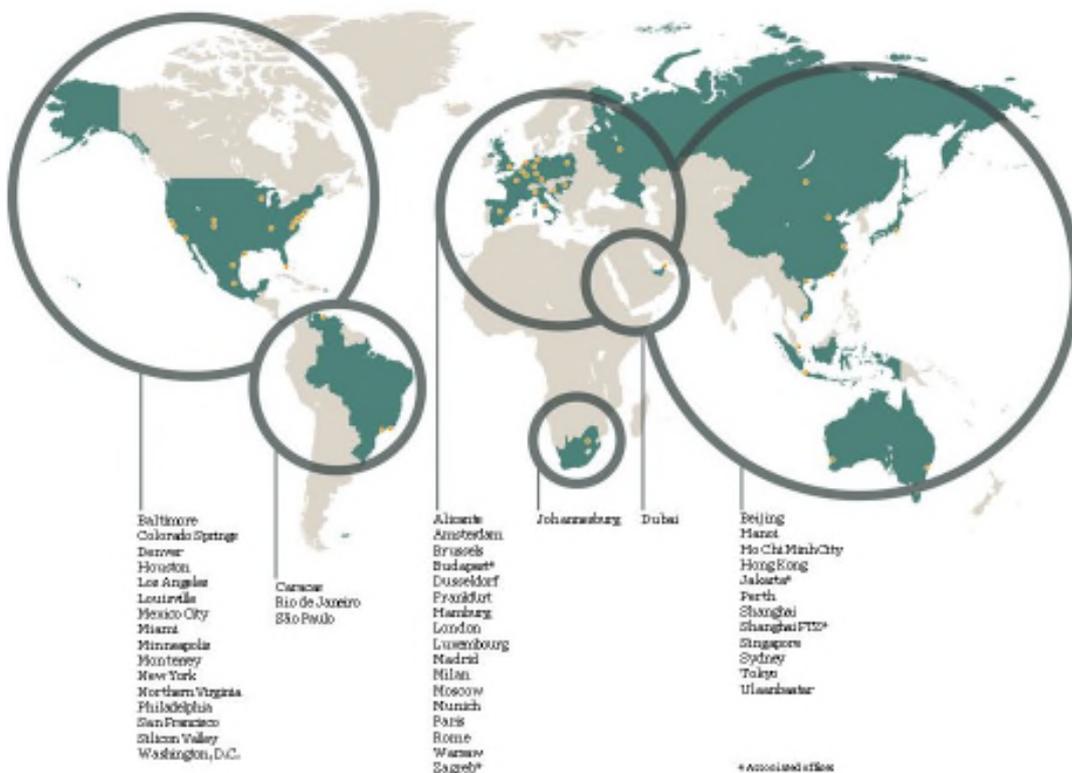
Hogan Lovells contributed to the successful outcome of the programme unwind. Despite being a lengthy process, the outcome has largely been satisfactory for stakeholders. As well as protecting the trustee from liability exposure, we have ensured the trustee's brand has been protected and enhanced throughout the process.

About us

Change is happening faster than ever, and to stay ahead, you need to anticipate what's next. Legal challenges come from all directions. We understand and work together with you to solve the toughest legal issues in major industries and commercial centers around the world. Whether you're expanding into new markets, considering capital from new sources, or dealing with increasingly complex regulation or disputes, we can help. Whether change brings opportunity, risk, or disruption, be ready by working with Hogan Lovells. Straight talking. Understanding and solving the problem before it becomes one. Delivering clear and practical advice that gets your job done. Hogan Lovells offers extensive experience and insights gained from working in some of the world's most complex legal environments and markets for corporations, financial institutions and governments. We help you identify and mitigate risk and make the most of opportunities. Our 2,500 lawyers on six continents provide practical legal solutions wherever your work takes you.

A fast-changing and inter-connected world requires fresh thinking combined with proven experience. That's what we provide. Progress starts with ideas. And while imagination helps at every level, our legal solutions are aligned with your business strategy. Our experience in cross-border and emerging economies gives us the market perspective to be your global partner. We believe that when knowledge travels, opportunities arise.

Our team has a wide range of backgrounds. Diversity of backgrounds and experience delivers a broader perspective. Perspectives which ultimately make for more rounded thinking and better answers for you. Giving back to communities and society is fundamental to good business. And, it's part of our core. We are advocates of justice, equality, and opportunity. Everyone at Hogan Lovells is asked to volunteer at least 25 hours a year as part of their normal work duties. Around the world, our people are making a difference through pro bono activities, community investment, and social justice



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