



LMA Senior/Mezzanine Facility Drafting Guide and LMA Intercreditor Agreements for Real Estate Finance Transactions – Updates Published

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The Loan Market Association has just published updates to its (a) drafting guide for its senior/mezzanine single currency term facility agreement for real estate finance multi-property investment transactions and (b) its recommended forms of intercreditor agreement for real estate finance transactions.

Senior/Mezzanine Guide

The purpose of the drafting guide for senior/mezzanine single currency term facility agreement for real estate finance multi-property investment transactions (the “Senior/Mezzanine Guide”) is to provide guidance to the market on the drafting of real estate finance multi-property investment transactions where the structure of the transaction envisages senior and mezzanine third-party lender debt.

The guidance is provided in the form of a template senior facility agreement (the “Senior Facility”), which is based on the LMA’s recommended form of senior single currency term facility agreement for real estate finance multi-property investment transactions (which the LMA updated in September 2022) that is marked up to illustrate and explain the changes that may typically be made to adapt the Senior Facility into a mezzanine facility agreement.

On 22 March 2023, the LMA published the updated Senior/Mezzanine Guide, in which section 6 includes the updated mark-ups showing the recommended changes (subject to, and based on, certain specified assumptions) to be made to the Senior Facility when drafting a mezzanine facility.

The update was published principally to align the template with the Senior Facility that was updated in September 2022, with one of the key updates being the changes to the underlying interest rate provisions to the use of a compounded risk-free reference rate.

The updated Senior/Mezzanine Guide is available on the LMA website to members under the heading “RFR Facility Documentation” of the Real Estate Finance section.

LMA Intercreditor Agreement

The LMA also updated its recommended forms of intercreditor agreement for real estate finance transactions. The purpose of the updated intercreditor agreements is to reflect the transition to risk-free rates and the UK’s withdrawal from the EU.

The revised intercreditor agreements, together with comparisons against the previous versions, were published on 19 April 2023 and are available on the LMA website to members under the heading “Intercreditor Agreement” of the Real Estate Finance section.

Closing thoughts

The Senior/Mezzanine Guide and the recommended forms of intercreditor agreement are not exclusive or definitive, but are intended as guiding principles of typical changes to the Senior Facility that could provide a corresponding mezzanine facility agreement for real estate finance multi-property investment transactions. Please feel free to get in touch with the Cadwalader team to discuss the contents of these updates.