

Cadwalader Tops CMBS Rankings

Cadwalader maintained its dominant position among law firms advising on commercial mortgage securitizations in the U.S. last year, winning the issuer-counsel title for nonagency CMBS, CRE CLOs and agency deals.

The firm served as issuer counsel on 29 of the 61 nonagency CMBS deals that priced in 2023. Issuance declined sharply for the second year in a row, totaling \$39.33 billion, according to **Commercial Mortgage Alert's** CMBS Database. Cadwalader has led that league table every year since 2000.

Orrick Herrington took second place with 16 deals, edging out **Sidley Austin**, which had 15. **Dechert** picked up one assignment. Sidley was first in the race for underwriter counsel with 31 deals, while Cadwalader was second with 17. Dechert (eight) and Orrick (five) took the balance of deals.

In the CRE CLO market, where issuance fell to a meager \$6.67 billion, Cadwalader was named issuer counsel on four of the 10 deals, edging out Dechert (three), **Mayer Brown** (two)

and **Polsinelli** (one). In the underwriter-counsel category, Sidley was first with seven assignments, followed by Dechert (two) and Cadwalader (one).

Cadwalader also came out on top of the issuer-counsel competition for agency deals on the strength of its work on **Freddie Mac** K-Deals, grabbing 56 of the 58 offerings. **Cleary Gottlieb** was again second, with 54 of the 69 **Ginnie Mae** assignments last year, followed by **Morgan Lewis** with 11 Ginnie assignments, **Katten Muchin** (nine Fannie deals), Orrick (two Ginnie deals), **K&L Gates** (two Ginnie deals) and **Kutak Rock** (two Freddie deals).

Among law firms advising underwriters of agency deals, Cleary topped the table with 61 assignments from Fannie and Ginnie, while Cadwalader was second (58 Freddie transactions) and Morgan third (12). K&L (three) and Orrick (two) rounded out the category.

Dechert also served as loan-seller counsel on 49 Freddie K and small-balance deals, as well as all three Q-Deals, according to partner **Devin Swaney**. In 20 cases, it also prepared securitization

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Issuer Counsel for CMBS

	2023		2022	
	No. of Deals	Issuance (\$Mil.)	No. of Deals	Issuance (\$Mil.)
1 Cadwalader	29	\$18,289.4	44	\$30,225.4
2 Orrick Herrington	16	12,272.5	16	19,021.3
3 Sidley Austin	15	8,361.2	17	16,828.2
4 Dechert	1	410.0	3	3,879.4
Clifford Chance	0	0.0	1	276.8
TOTAL	61	39,333.1	81	70,231.1

Underwriter Counsel for CMBS

	2023		2022	
	No. of Deals	Issuance (\$Mil.)	No. of Deals	Issuance (\$Mil.)
1 Sidley Austin	31	\$20,610.2	32	\$35,002.8
2 Cadwalader	17	10,770.0	35	25,658.3
3 Dechert	8	5,407.9	10	7,815.9
4 Orrick Herrington	5	2,545.0	3	1,477.2
Mayer Brown	0	0.0	1	276.8
TOTAL	61	39,333.1	81	70,231.1

Issuer Counsel for CRE CLOs

	2023		2022	
	No. of Deals	Issuance (\$Mil.)	No. of Deals	Issuance (\$Mil.)
1 Cadwalader	4	\$2,528.6	11	\$8,316.0
2 Dechert	3	2,005.4	11	12,619.3
3 Mayer Brown	2	1,234.6	3	2,749.3
4 Polsinelli	1	901.7	1	901.9
Sidley Austin	0	0.0	4	5,714.9
TOTAL	10	6,670.3	30	30,301.5

Underwriter Counsel for CRE CLOs

	2023		2022	
	No. of Deals	Issuance (\$Mil.)	No. of Deals	Issuance (\$Mil.)
1 Sidley Austin	7	\$4,620.6	7	\$5,723.6
2 Dechert	2	1,515.5	12	9,932.2
3 Cadwalader	1	534.2	11	14,645.7
TOTAL	10	6,670.3	30	30,301.5

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documents. Those assignments are not captured by the CMBS database.

Dechert also topped the issuer-counsel table for single-family rental deals, where production fell to \$3.55 billion from \$12 billion the year before, according to a separate database maintained by sister publication **Asset-Backed Alert**. Dechert had five assignments, followed by Mayer Brown (four) and **Goulston & Storrs** (two). On the underwriter-counsel side, Dechert led with four deals, followed by Sidley (three) and **Dentons** and **Alston & Bird** (two apiece).

Partners at the firms expect issuance to accelerate this year.

“We are definitely seeing a continuation of the pickup we saw in December for CMBS,” said **Michael Gambro**, who co-heads Cadwalader’s capital-markets practice with **Stuart Goldstein**. “Freddie Mac is a bit slow out of the gate, but I am hopeful that they will do at least the same volume as, possibly greater than, last year.”

“There are a lot of term sheets flying around to start the year,” said **Laura Swihart**, co-head of Dechert’s global finance and real estate practice. “Of course, there is still a lot of talk about defaults that could happen, but it’s not all doom and gloom.”

As distress picked up last year, lawyers said their advisory roles often shifted. Cadwalader’s Goldstein said there was more interest in risk-transfer deals, while Sidley partner **Jonathan Nunes** saw an increase in queries regarding the interplay between control parties and servicers on workouts. Unlike after the financial crisis, Nunes noted, some of those stakeholders now are issuers who retained bonds to satisfy the risk-retention rules.

Nunes, who along with partners **Rob Kao** and **Giles Kelly** leads Sidley’s CMBS team, said the stabilization of interest rates could lead to a rebound of conduit and single-borrower deals this year. Kao said single-borrower deals remain an efficient means of financing large loans.

Janet Barbieri, a partner in Orrick’s CMBS group, also sees falling interest rates and stability leading to a resurgence in floating-rate single-borrower deals. “There is definitely cautious optimism for 2024, which is exciting,” she said. “After the reduction in [single-borrower] deals in 2023, it would be nice

Issuer Counsel for Agency CMBS

	Fannie No. of Deals	Freddie No. of Deals	Ginnie No. of Deals	2023 No. of Deals	2023 Total (\$Mil.)	2022 No. of Deals	2022 Total (\$Mil.)
1 Cadwalader	0	56	0	56	\$36,913.2	68	\$52,434.3
2 Cleary Gottlieb	0	0	54	54	7,611.5	64	14,918.6
3 Morgan Lewis	0	0	11	11	1,452.7	26	7,889.7
4 Katten Muchin	9	0	0	9	3,825.5	16	9,369.0
5 Orrick Herrington	0	0	2	2	236.1	5	1,611.7
5 K&L Gates	0	0	2	2	356.8	1	151.7
5 Kutak Rock	0	2	0	2	474.6	1	410.0
(None)	0	0	0	0	0.0	3	760.4
TOTAL	9	58	69	136	50,870.4	184	87,545.4

Underwriter Counsel for Agency CMBS

	Fannie No. of Deals	Freddie No. of Deals	Ginnie No. of Deals	2023 No. of Deals	2023 Total (\$Mil.)	2022 No. of Deals	2022 Total (\$Mil.)
1 Cleary Gottlieb	7	0	54	61	\$10,425.9	76	\$22,192.4
2 Cadwalader	0	58	0	58	37,387.8	70	52,937.1
3 Morgan Lewis	1	0	11	12	2,093.7	29	9,384.0
4 K&L Gates	1	0	2	3	726.9	3	639.4
5 Orrick Herrington	0	0	2	2	236.1	6	2,392.5
TOTAL	9	58	69	136	50,870.4	184	87,545.4

to see more of them.”

In the CRE CLO market, **Stewart McQueen**, a Dechert partner focused on commercial real estate securitization and warehouse lending, said he is starting to see more bridge lending, which in turn could lead to increased CRE CLO issuance in the second quarter.

“Assuming rates do start to come down, the hope is we’ll get a lot more volume in the third and fourth quarters,” he added.

As distress has picked up in the bridge-loan space, so too has advisory work, as managers work to modify loans within trusts in a way that protects investors and preserves the value of assets, Swihart said.

“What is being proven is that the technology works,” McQueen said of CLO structures. “Investors are being protected, and managers are doing what they can to maximize values.”

Cadwalader’s Goldstein said the long-awaited pickup in CLO issuance volume may arrive toward the end of the first quarter or early in the second half of the year.

“I think we are going to see people go to market,” he said. “The issue will be origination activity, which will be helped by interest-rate stability and spread tightening. In addition, older deals that are no longer in reinvestment periods may lead to more new deals coming to market. We continue to work with clients on potential structures.” ❖