

Commercial Lending

Related Industries

Financial Industry Group
 Financial Services Regulatory & Compliance
 Representation of Financial Institutions in Bankruptcy & Workout Matters

Related Practices

Energy Lending Transactions
 Real Estate Finance

Overview

Backed by an uncommon level of knowledge and experience in all aspects of lending, Dykema counsels lenders and borrowers on the full spectrum of loan transactions. We understand the technical requirements and pursue our clients' business objectives under an approach that recognizes both parties' legitimate needs and the fact that a loan transaction leads to an ongoing relationship where trust and confidence need to be maintained.

Commercial and Asset-Based Lending

For banks and institutional lenders, we provide guidance in structuring and documenting such transactions as bilateral and multilender loan facilities, asset-based loans, cash flow transactions, working capital facilities, leveraged buy-outs, ESOP loans, letters of credit and other credit enhancement devices, acceptance financing, competitive bid facilities and mezzanine financing. We also represent lenders in transactions that include financial hedging instruments such as interest rate and currency swap agreements. Our full-service approach to commercial and asset-based lending includes advice and guidance on loan extensions and modifications, subordination agreements and other intercreditor arrangements, including those with landlords, depository banks, securities intermediaries and other custodians, and bond trustees.

Our experience helps us understand the borrower's business and the associated risks in order to identify options and strategies for an appropriate loan structure. Often lending situations intersect with other legal specialties, such as environmental, intellectual property, tax, real estate, employee benefits and bankruptcy law. We know when to draw upon the experience of other Dykema attorneys in these practice areas to address efficiently these situations as they arise.

Real Estate and Construction Lending

Dykema has a highly experienced and widely recognized team of commercial real estate lending lawyers. We have significant experience performing due diligence, and documenting and closing real estate finance transactions throughout the United States. Further, we understand the requirements, standards, procedures and documentation of lenders involved in making such real estate loans.

We regularly represent clients in real estate finance matters in all sectors of the industry, including hotel developments, planned unit residential developments, subdivisions and timeshares, commercial mortgage securitizations, multifamily loan programs, retail, office, research and development, industrial and mixed-use projects, HUD financings, senior and assisted living developments, affordable housing projects, public/private projects, tax increment financing (TIFs), industrial revenue bonds and tax abatements and zoning, wetlands and other land use matters. We have also represented numerous special servicers of commercial mortgage backed securities (CMBS) portfolios in the resolution of defaulted loans.

Syndicated Loans and Club Deals

We regularly represent banks and institutional lenders in structuring and documenting syndicated and “club deal” loan facilities (as agent or as participant). Our attorneys know when and how to address the particular needs and concerns of a participating lender while protecting the interests of the lending group and the agent, in addition to the usual credit and documentation issues.

Restructuring, Workouts and Commercial Foreclosures

We pride ourselves in combining aggressiveness, efficiency and creativity in pursuing claims against borrowers and guarantors to assist lenders in collecting troubled credits. We understand the vast array of issues that lenders can face in such situations. Our services range from negotiating in or out-of-court workouts and refinancing of troubled loans, to aggressive litigation when advisable to best achieve the client's goals. Our lending experience allows us to help troubled borrowers fashion acceptable alternatives to bankruptcy and liquidation.

We have abundant experience in forbearance agreements, deed-in-lieu transactions, receiverships, receiver's sales, refinancing transactions, debtor-in-possession or exit financing and financing of troubled company acquisitions. We are also able to help borrowers raise equity capital or financing from other sources such as suppliers and customers.

Dykema also regularly pursues remedies against borrowers and guarantors, and has liquidated virtually every type of asset, whether pursuant to Article 9 of the Uniform Commercial Code, as part of a receivership, in connection with assignments for the benefit of creditors or otherwise, including equipment, accounts, intellectual property, shipping vessels, sailboats, locomotives, airplanes, metalworking plants, woodworking plants, perfume factories, bakeries, roofing material manufacturers, restaurants, cellular phone businesses, racetracks and other less common businesses. We also have foreclosed on virtually every type of real estate, including, commercial, retail, and office, apartment buildings, farms, partially completed residential developments, industrial, and specialty and mixed-use properties.

Often, troubled loans proceed into Chapter 11 and Chapter 7 bankruptcy cases. We provide many of our most valuable services to financial institutions facing the need to respond quickly to the numerous issues that arise in bankruptcy or other insolvencies. These may include protection of cash collateral, valuation, disposition of assets and dealing with counsel representing the disparate factions that may be involved in such situations.

Dykema also regularly represents banks, other lenders and loan servicers in defending lender liability claims. Dykema is one of the very few firms nationwide with a class action defense practice devoted to the defense of lenders. Approximately 40 Dykema attorneys concentrate on financial services litigation. We advise and defend clients in putative class actions, and on various federal and state laws affecting commercial and consumer lending and enforcement.

Speaking Engagements

The Future of Home Loans: eNotes and eMortgages
July 17, 2018

Crowdfunding and the IPO On-Ramp
June 5, 2012 (Los Angeles-area)

Crowdfunding and the IPO On-Ramp
May 23, 2012 (Detroit) and May 24, 2012 (Chicago)