REGULATORY ROUNDUP

Industry Groups On Guard As Biden Pushes For Regulatory Changes

Nearly a year into **Joe Biden's** presidency, the Democrat-controlled **Congress** and White House have hit their stride on lawmaking, but attention will soon turn to midterm elections.

That has industry groups preparing for stepped-up regulatory pressure as Biden's appointees finally start to be confirmed and settle into their roles.

The commercial real estate industry has won a series of victories in Washington over the past year. It's avoided punitive tax measures and has received leniency from banking regulators that helped the market survive the pandemic. Along with the broader economy, it has dodged the bullets of threatened government shutdowns and debt ceiling collapses.

The $1.9 trillion Build Back Better social safety net legislation package, which promises support for affordable housing but nearly led to major tax hits, is the current subject of the industry's focus. The Biden initiative suffered a major setback on Dec. 19 when Sen. **Joe Manchin** (D-W.Va.) said he could not support the bill as written. Biden hasn't given up on the effort, and industry insiders believe it could still pass in a reduced form.

With control of Congress at stake in the midterms, there are concerns that Biden will appoint progressives to lead the **Office of the Comptroller of the Currency** and the **Consumer Financial Protection Bureau** as well as to the top supervisory position at the **Federal Reserve.** The concern is that their agendas could clash with those of the commercial real estate industry. One measure put forward at the CFPB is already raising concerns, and the market is anxiously awaiting an **SEC** proposal on disclosures related to climate change.

"As these appointments begin to take shape, and recognizing the president's need to play to his base ahead of the midterms, some of these regulators will follow the president's lead, suggesting the potential for a more challenging environment for the industry," said **Lisa Pendergast,** executive director of the **CRE Finance Council.** "We don't know all the things that may face us, but there are issues gathering on the regulatory front."

Lobbyists and industry groups have managed to shield the industry from bearing the brunt of recent spending legislation. Proposals that might have decimated parts of the market — such as a major rewrite of like-kind property exchanges permitted under Section 1031 of the **IRS** code — so far have been sidestepped.

"What's been really impressive is the ability of the industry to articulate its needs during the pandemic," said **Michael Flood,** the **Mortgage Bankers Association's** chief commercial real estate policy official, as he ticked off industry-group victories. "The industry also should be proud of itself for the way it managed its real estate holdings. The industry has certainly proven it learned lessons and improved its processes since the last financial crisis."

Bill Killmer, a senior vice president for legislative and political affairs at the MBA, said organizations can't afford to rest on their laurels, however.

"We are pleased that some of the elements of legislation concerning real estate were dealt with the way they have been," he said. "The cautionary note is that as the **Senate** examines tradeoffs in spending and revenue, any of these things can come back again. We are in the penultimate round."

Justin Ailes, CREFC's managing director for government relations, said the industry remains on guard.

The omicron Covid variant "is a good reminder of the unknowns," he said. "As we were sitting in Miami at the 2020 conference, there was talk of possible black swans, and less than two months later we had one. Is anything scaring us right now? There is nothing on the radar, but we are shifting from legislation to regulation."

That puts some in the market on edge.

"I do worry that the Biden regulatory state will continue to constrain capital formation as they rachet up supervision and meddle in capital-allocation decisions," said **Richard Jones,** who oversees the commercial real estate CLO practice at **Dechert.** "That's perhaps good news for our nonbank lenders as this will push more lending to the sector."

Despite what has been a remarkable recovery for real estate, the market also has its eye on inflation and how policy makers will address it. **Pat Sargent,** a partner with **Alston & Bird** who previously served as a CREFC board president, said the reappointment of Fed chief **Jerome Powell** had a steadying effect. Nonetheless, transitioning away from massive federal spending will be tricky.

"Inflation is rearing its head, and will they be able to keep it in check?" he said. "On the policy side, so far everything has been in the fairway, despite the push and shove from the extremes. But the political landscape continues to be frustrating when you see the antics and games rather than people working to get done what needs to be done."

There also is optimism in the market, not only for things like the infrastructure bill but for the focus on affordable housing by the administration and Congress.

"Any time you have the government focus on an issue and provide liquidity to fulfill the mission, it will be headline news," said **Michael Hurley,** a managing partner at New York law firm **Cassin & Cassin.** "I believe 2022 will be a significant year for affordable housing, with new construction taking advantage of enhanced tax credits. The stage is set for another good year for multi-family."

A shift to more regulatory proposals would pile on what is already a full plate. The transition away from Libor is finally in full swing; the National Flood Insurance Program will require

See ROUNDUP on Page 22

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REGULATORY ROUNDUP

... From Page 21

another short-term extension, and the SEC will propose new disclosure rules governing environmental, social and governance investment principles. **Fannie Mae** and **Freddie Mac** are navigating and implementing changing rules from a new leader.

Lobbyists and policy staffers will be kept hopping, as they have been for the past two years since the onset of the pandemic. Here is a closer look at the regulatory and governmental issues facing the commercial real estate finance industry.

Libor Exit — Fed, Mortgage Agencies

In the waning weeks of 2021, banks finally began to shift away from Libor and — largely, but not uniformly — to the Secured Overnight Financing Rate.

Bridge lenders had been on notice from their warehouse lenders for months that the change was coming, but it wasn't until December that banks began making it official. December also saw the first single-borrower CMBS deals tied to the Federal Reserve's preferred benchmark. It was clear that not all institutions were on board with a move to SOFR, and there also were varying iterations of the benchmark.

For warehouse lines, some banks were using term SOFR supplied by **CME Group,** while others were using simpler, backward-looking 30-day averages. Some banks were applying a 10-bp to 11-bp adjustment to make up the difference in values, others were forgoing it. Still others appeared to be balking at SOFR altogether and working with alternatives such as the Bloomberg Short-Term Bank Yield Index, or BSBY.

Issuers of fixed-rate securitizations, meanwhile, also were grappling with a shift away from the Libor swaps they have used for more than two decades, with most moving to a SOFR swap but some opting for Treasurys.

In short, as many market players predicted, the ongoing transition is a bit messy, though expectations are that it won't do much to slow down a surging market.

"It's all over the map," said one bridge lender. "It's a mess."

That could make for some interesting deal structures this month as loan portfolios featuring Libor and different iterations of SOFR get bundled and sold. The same might be true for conduit deals.

One veteran market player predicted the market will shift largely to SOFR across the board.

"You might see deals that do things differently, but I don't know if there is much benefit to not using swaps when Fannie and Freddie will be doing $140 billion to $150 billion that way," she said. "I personally think we lost an opportunity to switch to Treasurys and align our benchmarks to the corporate market."

U.S. banking regulators had put the industry on notice that use of Libor after Dec. 31 would be unsafe and unsound, but they had backed off ordering them to use SOFR, allowing some wiggle room to use BSBY or other alternatives. That contributed to confusion, as did delays with unveiling a term option.

Meanwhile, industry groups supported a bill that should resolve many problems for legacy securities with insufficient "fallback" language designed to smooth the transition.

On Dec. 8, the **House of Representatives** passed the Adjustable Interest Rate (Libor) Act of 2021 by a vote of 415 to 9, with the Senate expected to take it up early this year. The bill, sponsored by Rep. **Brad Sherman** (D-Calif.), allows for a rapid transition to a new benchmark approved by the Fed and other regulators after Libor stops being published in June 2023.

Industry groups expect the measure's "safe harbor" provision to protect issuers and trustees from potential lawsuits by investors who feel cheated by the shift.

"Without federal legislation to address these contracts, investors, consumers, and issuers of securities may face years of uncertainty, litigation, and a change in value," CREFC and 21 other organizations said in a Dec. 7 letter to lawmakers.

Troubled Debt Restructuring — Congress

A provision passed last year to help lenders and borrowers weather the pandemic-induced economic crisis was allowed to expire quietly on Jan. 1.

In the early part of the crisis, banking regulators including the Federal Reserve, the Comptroller of the Currency and the **FDIC,** as well as the **National Association of Insurance Commissioners,** relaxed capital-reserve requirements so lenders wouldn't be penalized for granting payment extensions or other relief to borrowers suffering deep revenue reductions stemming from the pandemic. Congress memorialized those concessions in the Cares Act, passed in March 2020, granting relief until the earlier of Dec. 31, 2020, or 60 days after the national health emergency was lifted.

As the crisis continued, lenders grew concerned that the relief would expire and leave them with a heavy load of properties that would have to be classified as troubled. Industry groups including CREFC and the MBA launched a massive effort to have relief from Troubled Debt Restructuring accounting requirements extended for one year, which Congress did as part of the second stimulus bill. The measure, signed into law Dec. 27, 2020, is considered to have saved countless properties from being sold at deep discounts by banks and insurers.

Market players said there are two reasons the relief was allowed to run out. First, hotels and retail properties — among the most troubled sectors in the early days of the pandemic — have bounced back. In addition, the bill contains a leniency clause that gave banks and insurers until the last day of 2021 to grant specific properties additional relief that can last up to six months.

Bruce Oliver, associate vice president for commercial real

See ROUNDUP on Page 23

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REGULATORY ROUNDUP

... From Page 22

estate policy at the MBA, said the effort was a huge success because the relief granted to borrowers has so far not led to any serious repercussions to institutions. That means regulators weren't left with egg on their face.

"The premise was based on this being a temporary need, and it turned out to have been sound," he said. "It enabled lenders to do what they needed as a business measure without being punished in the accounting or capital requirements. In hindsight, it proved to be as wonderful an idea as we had hoped it would be."

He and other market players said that when they asked banks about another extension, there didn't seem to be much need.

"TDR relief was great when it happened," said CREFC's Pendergast. "You could hear the sigh of relief from balance-sheet lenders as they were granted the latitude they needed. They didn't go overboard and managed to avert some of the heavy losses that many anticipated. To the good, today the emergency has passed, and the need for TDR relief is limited."

Tenant Relief — Treasury, Congress, States

Nearly two years into the pandemic, landlords are still fighting for their property rights.

Eviction moratoriums in nearly all states have expired, and on Aug. 26, the **U.S. Supreme Court** handed landlords a rare victory when it overturned a national ban. That freeze had been ordered in April 2020 by President **Donald Trump** and later was extended by Biden.

There are some exceptions. New York Gov. **Kathy Hochul** signed a bill on Sept. 2 extending the moratorium for residents and small businesses in her state through Jan. 15. A similar measure passed in Boston, and several states, including Michigan, Minnesota, New Jersey and Oregon, maintain limited bans, mostly for low-income tenants who have sought rent relief.

Congress approved $46.6 billion for rent relief in two stimulus bills, but distribution by state and local officials continues to be plodding. Only $12.5 billion of the money has been disbursed, the **U.S. Treasury Department** reported on Nov. 29.

Last month, the department advised those states and cities that had distributed less than 30% of their money that it would begin reallocating funds to the few programs that are disbursing more quickly. **Texas,** for example, closed its application process on Nov. 5 because it had spent its allocation, though landlords there say a need still exists, according to industry groups.

"It will be interesting to see how Treasury redistributes the money," said **Cindy Chetti,** senior vice president of government affairs for the **National Multifamily Housing Council.** "We remain concerned that money is going out the door slower than we'd like, even though many of our members are being paid."

Industry groups are continuing to work with **House Financial Services Committee** chair **Maxine Waters** (D-Calif.) on her Expediting Assistance to Renters and Landlords Act, which passed out of committee on Sept. 17 by a vote of 28-22.

While market players like some of the bill's provisions, such as the ability for landlords to apply for relief on behalf of tenants, it also would impose a four-month moratorium on evictions as a condition of receiving aid. That's caused the bill to stall, and it is unclear whether it will move.

Meanwhile, the **National Apartment Association** sued the government on July 27 seeking $27 billion in damages, the difference between what it says landlords are owed and the rent relief allocations. That case is making its way through the court, and no hearing on the merits has been scheduled.

Greg Brown, the group's senior vice president of government affairs, said that in addition to securing what property owners lost, the group is attempting to head off "the long-term ability of the federal government to enact this kind of restriction."

David McCarthy, a managing director and head of policy and government relations at CREFC, said such lawsuits will be important at the state and national level, as property owners seek clarity on how much of their property rights remain.

"It will be interesting to see how the courts shape the limits for future emergencies," he said. "Can the government just wave a magic wand and delay things indefinitely? It will be good if solutions emerge that don't allow everyone to just pass the buck to lenders."

Mortgage Agencies — FHFA, Treasury

Acting **Federal Housing Finance Agency** director **Sandra Thompson** has taken decisive action during her short tenure to reorient Fannie Mae and Freddie Mac back toward the goal of supporting the creation of affordable housing.

Under Thompson, whom Biden nominated to lead the agency on a permanent basis on Dec. 14, the FHFA has dialed back steps taken to get the agencies out of conservatorship, increased caps on multi-family loan production and broadened the parameters of affordable housing. Industry groups and agency lenders say the moves have had a steadying effect on the market, though they note that momentum toward handing market share back to the private sector has been lost.

On Oct. 13, the FHFA announced that the 2022 purchase caps for Fannie and Freddie would increase to $78 billion each from $70 billion apiece in 2021. It maintained the requirement that 50% of loans be "mission-driven" affordable housing, but increased the percentage that must be very affordable — to

See ROUNDUP on Page 24

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REGULATORY ROUNDUP

... From Page 23

tenants earning 60% of area median income — to 25% from 20%.

"One positive thing is how quickly they came out," one lender said of the multi-family caps. "It allows lenders to know what the rules of the game are for next year, and having that clarity is very helpful."

The threshold for what is considered affordable in certain "cost-burdened" areas was increased from 80% of area median income to 100% and, in some cases, 120%. Loans funding water- or energy-efficiency upgrades in units at 60% area median income are also included in that category.

Sources said the changes should allow lenders to increase their presence in pricy coastal areas like the San Francisco Bay Area and Washington, D.C., because the agencies will have more leeway on what they can accept.

Lenders are pleased that Thompson didn't allow distractions swirling around her appointment to delay the announcement of the new parameters. It's always difficult for lenders to track how far along the agencies are in meeting their quotas, so any additional information about the direction they're heading with regard to loan buying is useful. Given the several-month delay common between loan closing and securitization, lenders get especially anxious at yearend, when some new loans may wind up getting counted in the first quarter.

With the Biden Administration pressing affordable-housing issues, and Congress poised to increase funding, the private sector is expanding its involvement. Former Freddie leader **David Brickman** jumped to startup **NewPoint Capital** earlier last year, and **Kayne Anderson Real Estate** hired away then-head of multi-family **Debby Jenkins.** Some agency lenders are concerned that the raiding of agency talent will continue and is already starting to have a negative impact.

"Profitability at Fannie and Freddie is off the charts, but bonuses are pretty mediocre," said another lender. "People have been asking themselves for years, 'Why am I killing myself?'"

Small-Business Reporting — CFPB

Smaller lenders are raising concerns about a sweeping reporting rule proposed by the Consumer Financial Protection Bureau on Sept. 1.

The measure, an amendment to the Equal Credit Opportunity Act mandated as part of the Dodd-Frank Act, would require all institutions that make more than 25 loans in two consecutive years to collect 21 data points on those loans and their borrowers. The goal is to improve transparency around the availability of credit to small businesses and/or are owned by minorities or women. Commercial mortgage loans are included in the requirement.

Market players argue that collecting the data would be especially burdensome for community banks and nonbank lenders. While the requirement also would apply to larger banks, such institutions already collect reams of borrower information under the Community Reinvestment Act and other federal laws.

Comments on the new rule were due Jan. 6 after the CFPB declined a request by numerous organizations including CREFC, the MBA and the **American Bankers Association** for an extension to Feb. 20.

"Smaller folks close to the threshold are going to be subject to an entirely different federal regulatory regime with major consequences," said CREFC's McCarthy. "You'll have to be a forensic accountant in some cases to determine whether the borrower is a small business."

Oliver, of the MBA, argued that loans financing income-producing investment properties are different than loans used to operate small businesses.

"Getting a loan to operate and grow your small business is a completely different animal," he said. "I'm not sure in putting the rule together they fully thought through the distinction."

Loans on one- to four-unit apartment buildings are exempt from the rule. Oliver said the MBA likely will seek an expansion of that exemption to catch all commercial real estate loans.

The argument recalls one CREFC and the MBA made two years ago to the CFPB regarding data collection on multi-family properties. Eventually, the CFPB raised the reporting threshold to 100 loans in each of the preceding two years from 25 loans, but it ignored the broader argument that borrowers' race and ethnicity isn't pertinent for business-to-business loans.

Climate Risk Disclosures — SEC, Congress

Market players remain on tenterhooks awaiting an SEC proposal to update required disclosures related to climate change.

Initially promised by yearend, the SEC now is expected to unveil its proposal in the first quarter. The agency is compiling recommendations regarding governance, strategy and risk management related to climate change as well as specific metrics, including greenhouse-gas emissions, that would help investors quantify climate risk.

The proposal will be vetted with the market, and industry groups are waiting to see if it dovetails with its own efforts to alter investor-reporting tools to address calls for a stronger corporate response to the changing climate.

The rules likely will be focused on corporate entities but could create difficulties for CMBS issuers grappling with how to document building features meant to mitigate climate risk and increase sustainability.

CREFC is making progress on its own proposal for updating its Investor Reporting Package, but the organization has not announced a timetable for presenting it to members. The hope is that by moving proactively, the industry will avoid the

See ROUNDUP on Page 25

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REGULATORY ROUNDUP

... From Page 24

imposition of more draconian reporting requirements.

Investors have begun to request more specific information about how properties meet certain climate-related guidelines, and issuers have responded by tailoring offerings to emphasize building improvements designed to reduce a property's carbon footprint.

Those changes will be increasingly important as rules such as Local Law 97 in New York go into effect. That legislation requires New York City's 50,000 largest buildings to take steps to reduce carbon emissions by 2024 or face large fines.

Some building owners have grumbled, however, that the stepped-up requirements couldn't come at a worse time given that they are still recovering from the effects of the pandemic.

The disclosure rules are part of a broader push by the Biden Administration and progressive Democrats to pursue climate-focused initiatives and other social issues. The two Republican members of the five-member SEC board have pushed back against overly specific disclosures related to environmental, social and governance investment principles, arguing the SEC could be overstepping its mandate.

The House of Representatives on June 16 narrowly passed a bill requiring increased disclosures should the SEC prove unable to enact them within two years. The White House has voiced support for greater disclosures.

Cannabis Lending — Congress

After a failed Hail Mary attempt by Democrats in the House of Representatives to advance a bill that would allow banks to work with legal marijuana businesses, lobbying groups aren't holding out hope for fast action on the initiative.

The House has passed the Secure and Fair Enforcement Banking Act at least four times only to see it languish in the Senate. The bill, which has CREFC's support, would make it legal for federally chartered banks to lend in the space.

In September, the House attached the bill to its version of the 2022 National Defense Authorization Act, but a Senate committee removed it just ahead of a final House vote on Dec. 7.

A handful of firms have begun lending exclusively to commercial real estate owners who lease their buildings to state-licensed cannabis businesses. Small banks and credit unions also have been lending in the space, but those with FDIC charters are prohibited from doing so.

In the Senate, conservatives have long balked about anything that opens the door to further cannabis legalization, even as more states continue to loosen the reins on its usage. But in the most recent setback, it was progressive Democrats who blocked the attempt.

Senate Majority Leader **Chuck Schumer** (D-N.Y.), Senate Finance Committee Chairman **Ron Wyden** (D-Ore.) and Sen. **Cory Booker** (D-N.J.) oppose piecemeal efforts at reform. They argue that banks shouldn't benefit while minority communities continue to bear the brunt of enforcement efforts. The senators introduced legislation in July to legalize marijuana at the federal level and expunge nonviolent criminal records for marijuana-related federal convictions.

CREFC's McCarthy said that staunch opposition likely dooms any quick measure that would ease restrictions on bank lending.

"The thing about the SAFE Banking Act, it's not opposition to its provisions that are preventing it; it's the desire to do more," McCarthy said. "With Schumer, Booker and Wyden drawing a line in the sand … I'm skeptical it can get done in something like the [defense bill]. It could change as we head into [2022], but while there is a lot of support for changes in federal marijuana laws, it has yet to translate into a full federal regime."

Flood Insurance — Congress

After two short-term extensions in less than six months, the National Flood Insurance Program is no closer to reform or a long-term authorization.

When Congress on Dec. 2 extended appropriations through Feb. 18 to avoid a government shutdown, it gave the flood insurance program several more months of breathing room. The program has been renewed 19 times since 2017. Efforts to put it on a more permanent footing collapsed in 2019.

Industry groups aren't hopeful that a larger debate on the program will occur in the coming months given the all-consuming debate on the Build Back Better legislation and, beyond that, the distractions of midterm elections. That likely means yet another short-term extension — possibly for a year — will be made in February.

"We'd like to see reforms that lead to a five-year extension to push out the perpetual crisis, but I'm not holding my breath," said the MBA's Oliver.

With Congress continuing to dither, the **Federal Emergency Management Agency,** which manages the program, moved forward with its own reform effort.

As of Oct. 1, premiums on new policies are calculated using Risk Rating 2.0, which reflects risks to individual properties rather than using broad ranges based on antiquated flood-plain maps. Existing policyholders will come under the program in April 2022, though premium increases will be subject to existing caps.

Since its creation in 1968, the NFIP has provided insurance to homes and commercial properties in designated flood-hazard areas. Property owners in those zones must purchase the insurance if they take out mortgages from federally regulated or insured lenders.

The program continually runs at a deficit due to a series of devastating storms beginning with Hurricane Katrina in 2005. In 2017, Congress wiped out a little more than half of the NFIP's $30 billion debt with the latest in a series of bailouts, but

See ROUNDUP on Page 26

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REGULATORY ROUNDUP

... From Page 25

the shortfall has since ballooned back to $20 billion. The House of Representatives' version of Build Back Better that passed on Nov. 19 contained a provision to wipe the program's slate clean.

The long-running reform debate hinges on calls to make the program self-sufficient, with environmentalists and progressives arguing it encourages unsustainable shore development via artificially low premiums subsidized by the federal government. But a bipartisan coalition of East Coast and Gulf Coast lawmakers argue it's unfair to burden existing property owners with the soaring premium hikes that would be necessary. That group reintroduced legislation in October that would cap annual premium increases at 9%, half the current limit, while calling on flood-mitigation efforts by the federal government.

CREFC and the MBA, meanwhile, have advocated for exempting commercial-property owners from the program's mandate, because most commercial mortgages require insurance that goes beyond the $500,000 coverage limit in the federally subsidized policies. Community banks and owners of small properties have opposed any such exemption, arguing that having fewer participants paying into the program could destabilize it further. ❖

CREFC

... From Page 1

no longer existed.

"For me it's a combination of things," said one investor who canceled this week. "The safety issues were always there, but once a critical mass of people with whom I'd set up meetings or expected to run into at evening events declined materially, it no longer made sense to go down."

Many firms said they still would send representatives, but fewer than initially planned. In some cases, people cited concern for small children at home who are unvaccinated. Some CREFC members said they plan to attend a handful of private meetings or small dinners in Miami Beach but will largely stay away from indoor conference sessions, either attending virtually from their rooms or skipping them altogether.

Nonetheless, CREFC is forging ahead, and according to a survey it conducted of its members, more than half of attendees still plan to head to the conference. "I still have 10-plus meetings with some pretty solid investors, so there is definitely a contingent going," one dealer said. "It will definitely be more subdued than expected."

Lisa Pendergast, CREFC's executive director, said the organization is confident it can put on a safe and meaningful conference. It has increased safety protocols, adding an indoor mask requirement to an existing proof-of-vaccination rule, as well as temperature checks and free Covid testing. End-of-day networking events will take place outdoors.

"Anyone who truly feels uncomfortable shouldn't come," she added. "If you feel healthy and you have been vaccinated and you are comfortable, come. We have spent nearly two years with no conference. … It's just time to try to do something."

Only a handful of speakers have canceled, she noted, and the keynote speaker, Hall of Fame baseball player and former Yankee **Derek Jeter,** confirmed he will attend. As for the decision to cancel parties, she said she understands the logic. "In my view, the conference will be safer without them," she said.

Whether to hold in-person events amid the surge in Covid-19 cases remains a tough question for a variety of organizations. The **Mortgage Bankers Association** plans to move forward with a full slate of conferences, including its Commercial/Multifamily Finance Convention and Expo at the Manchester Grand Hyatt in San Diego from Feb. 13 to 16.

"The health and safety of attendees and staff remains our priority," spokesman **Adam DeSanctis** said. He added that the organization would follow all local safety requirements and provide periodic updates to attendees.

However, the **Structured Finance Association** this week postponed its premier conference, scheduled to be held Feb. 27 to March 2 at the Aria Resort & Casino in Las Vegas, to July 17 to 20.

Several market players who have opted to stay home said they don't fault CREFC for moving forward. Because things shifted so suddenly with Covid, they said, the organization would have lost hundreds of thousands of dollars in deposits. Registration fees were non-refundable, but some members said it might have put the organization in a bind if it canceled the conference and didn't offer refunds.

"CREFC has no choice," said one. "It's full steam ahead. If they cancel, they would have to return registration money they don't have. It's best for them and everyone in the industry to just proceed, and whoever shows up, shows up."

"I'm not mad at anyone," said another. "I'm mad at Covid."

Many market players said a prevailing sentiment in the industry is that individuals shouldn't be judged whether they go or not. "These are very personal decisions based on very specific sets of circumstances," said one.

But one investor who plans to head to Miami said he based his decision, in part, on the health of the industry.

"Everyone in the commercial real estate business was very eager to see the return of a proper CREFC conference, and now here we are," he said. "It will be low-key, but if anyone is going to support the conference hotel business at some point, you would think it would be [the CMBS industry]."

Pendergast added that CREFC's executive committee believes holding the conference is the right thing to do for the industry.

"We're in the commercial real estate business," she said. "It's been two years. Let's do what we can to gather. We'll be vaccinated, we'll wear masks, we'll do temperature checks. But let's do what we can." ❖

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