REGULATORY ROUNDUP

Industry Groups Prepare For Bumpy Ride Amid a Divided Congress

Facing a potential recession and a divided **Congress,** industry groups are preparing to do yeoman's work in Washington over the next six months.

Republicans took control of the **House of Representatives** in the midterm elections, though by a narrower margin than they had hoped, while Democrats retained a slim lead in the **Senate.** In the absence of a "red wave," market players are preparing for **Biden Administration** regulators to step up risk requirements for banks and insurers. The drumbeat against so-called shadow banks — non-bank lenders that have grabbed market share in the bridge-lending and single-family rental markets — also is growing louder as expectations of a downturn rise.

Although industry groups achieved a last-minute victory in December when the **SEC** agreed to postpone for two years enforcement of a rule that would require public disclosures for securities sold under Rule 144A, a host of other proposals are on the horizon. While a divided Congress likely reduces the odds of major policy initiatives that would come with higher taxes, it also may make it more difficult to win increased funding for issues like affordable housing or energy-efficiency improvements.

"Market participants enter 2023 with a good amount of trepidation," said **Lisa Pendergast,** executive director of the **CRE Finance Council.** "[**Federal Reserve**] rate hikes have pushed mortgage rates higher, and an overshoot likely spells recession — two factors that historically impacted mortgage businesses negatively. Like in all previous market disruptions, CREFC will work with our members, legislators and regulators to ensure that liquidity to the CRE markets is not unduly compromised."

Michael Flood, chief commercial real estate policy official at the **Mortgage Bankers Association,** said the group will be on guard to ensure that initiatives such as the Community Reinvestment Act — which is being revamped by the **Federal Reserve, FDIC** and **Comptroller of the Currency** — give banks the necessary credit to get more affordable housing built.

"If your goal is to increase the amount of affordable housing, you have to make sure banks that are the largest source of it are in the game," he said. "At the same time, it's fair to say that progressive administrations have typically believed that capital solves all ills when it comes to banks. All of us will be shocked if the next time the Fed looks at stress tests it isn't recalibrating them given the interest-rate environment and potential recession."

Now that Republicans control the House, **Bill Killmer,** a senior vice president for legislative and political affairs at MBA, expects them to be more vocal on issues such as environmental, social and governance principles and shine a spotlight on activities at the **Consumer Financial Protection Bureau.**

"One thing we always stressed to members [going into the midterms] was that with absolute certainty, we will have two more years of a Biden Administration," Killmer said. "I never bought into the red wave scenario, but the majority does allow them to conduct oversight."

David McCarthy, CREFC's head of policy, said the failure of Republicans to capitalize in the midterms will embolden regulators. "We were already starting to see that muscle, so they may continue down that road unless it angers moderate Democrats," he said. "And the regulators will have to deal with the courts. That is the true governor."

Attorneys general in conservative states, notably West Virginia, have vowed to sue over ESG disclosures, potentially weakening a climate-change disclosure rule the SEC is expected to release in the first quarter.

Justin Ailes, CREFC's managing director for government relations, said the most important thing about the Republican majority in the House is it negates Democrats' ability to mount additional campaigns on rent control or enact further spending proposals. Industry groups successfully staved off changes to like-kind exchanges under Section 1031 of the **IRS** code, targeted by President **Joe Biden** during his campaign.

"It takes taxes off the table," Ailes said. "1031 exchanges are probably safe for the next two years. Divided government does mean less bad stuff can happen to you."

Here is a closer look at some of the key regulatory and governmental issues facing the commercial real estate finance industry in the coming months.

REGULATORY ROUNDUP

22 Climate Risk Disclosures — SEC, Congress
24 Data Reporting — CFPB
26 Corporate Transparency Act — Treasury
26 Low-Income Tax Credits — Congress
28 Tenant Protections — White House, Agencies
28 Radon Testing — FHFA, HUD, EPA
28 European Regulation — EC, ESMA
29 Rent Reporting — Agencies
29 Development Lending — 421-a Program

Climate Risk Disclosures — SEC, Congress

The SEC is expected to finally release its delayed climate-change disclosure rule in the first quarter.

The measure is intended to improve transparency for investors seeking to deploy capital using environmental, social and

See ROUNDUP on Page 24

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ALL MULTIFAMILY. ALL THE TIME.

What does the "1" stand for?

#1

2022 Private Multifamily Lender [1]

#1

2022 & 2019-2022 CRE CLO Issuer [2]

#1

Largest Multifamily Securitization [3]
Largest CRE CLO [3]

1. Fiscal year 2022, excludes Fannie Mae, Freddie Mac and FHA. Source: Commercial Mortgage Alert (December 2022); Based on total loan volume
2. Source: Commercial Mortgage Alert (December 2022); Based on securitization issuance
3. Source: Commercial Mortgage Alert (December 2022) and Morgan Stanley CMBS Comp Database (August 2022), excludes Fannie Mae, Freddie Mac, FHA and Re-REMICs; MF1 2021-FL7 is the largest CRE CLO issued between 2012-2022

Berkshire

Limekiln
Real Estate

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REGULATORY ROUNDUP

... From Page 22

governance principles but who are stymied by a lack of standardized information. Given the shifting political environment since the midterms, the rule likely won't include the controversial "scope 3" provisions that would have made lenders and REITs responsible for disclosing properties' downstream impacts, including greenhouse gas emissions.

CRE Finance Council also is working to update its investor reporting package to add ways of identifying a property's water efficiency, energy efficiency, greenhouse-gas emissions and resiliency — that is, its vulnerability to natural disasters. If the SEC later decides to include properties linked to CMBS loans in the disclosure rules, the hope is that it will adopt CREFC's reporting updates.

"Our message [to policymakers and the SEC] is that the commercial real estate industry obviously cares about the riskiness of the properties that are underlying the bonds," said **Sairah Burki,** who leads a CREFC sustainability task force. "Whether it is wildfires or flood zones, we have cared about resiliency long before ESG was ESG."

Jason Rozes, a **Dechert** attorney working with the CREFC task force, said properties that aren't upgraded or otherwise protected eventually will become undesirable and/or regulated out of existence.

"Whether or not you believe in the science of climate change, your regulators, your tenants, your borrowers, your investors, your competing lenders — nearly all of them are moving in the direction of sustainability as part of their business," he said. "Building owners are going to need help to meet these increasing client demands and legal requirements, and so the banks, debt funds, lifecos and other lenders that figure out a way to provide that capital will have a competitive advantage."

More cities and states are putting pressure on building owners with measures such as New York's Local Law 97. Beginning in 2024, the city will start levying fines against the 50,000 largest buildings that fail to reduce carbon emissions. Burki said such local requirements raise questions about what the investor reporting package should disclose.

"If you want to know from an investor perspective whether a building is complying with local laws, does paying a fine mean you are okay?" she said. "Or does it mean you have modified your building so it meets all the standards? Or what if the law is so stringent that not everyone can comply?"

Such laws also are in place or being proposed in Boston, San Francisco, Seattle, St. Louis, Washington, D.C., and states like Maryland and California. Not every program employs a stick over a carrot, and some provide grants to facilitate building improvements.

On the federal level, the Inflation Reduction Act, passed by Congress and signed by President Joe Biden in August, includes at least two tax breaks for developers of energy-efficient commercial and multifamily buildings.

Henry Chamberlain, president and chief operating officer of the **Building Owners and Managers Association,** said there is strong support within his community for meeting high efficiency standards.

"Our DNA is high-performance buildings," he said. "I think the horse is out of the stable on this movement. We are lobbying for rational bars to be set on carbon targets but also a recognition that A-plus buildings are in a wholly different place than B and C ones. We need to invest in them too."

As part of that initiative, BOMA supports the reintroduction of the Small Business Energy Loan Enhancement Act (H.R. 6921), which would nearly double to $10 million the size of loans available to improve energy efficiency.

Data Reporting — CFPB

Small lenders are applauding a decision by the Consumer Financial Protection Bureau to grant them temporary reprieve after a surprise court decision swept them into a data-reporting regimen.

The case involves a 2018 decision by the CFPB to increase the amount of loan and borrower data lenders must report annually under the Home Mortgage Disclosure Act. That legislation, enacted in 1975, was designed to end discriminatory lending practices and inform federal funding decisions for housing.

Originally, it required lenders that originated at least 25 loans in two consecutive years to report. Trade groups including CRE Finance Council and the Mortgage Bankers Association argued the requirement would be onerous for small lenders, and in April 2020, they convinced the CFPB to increase the threshold to 100 loans. That reduced the number of lenders to 2,581 from 4,263, while only reducing the amount of data collected by 4%, since large lenders are so dominant.

Nonetheless, fair-housing advocates sued, and on Sept. 23, a federal appeals court in Washington overturned the change and set the bar back to 25 loans. The CFPB said on Dec. 6 that any lenders who originated more than 25 loans in 2021 and 2022 will need to begin collecting data this year for reporting at yearend.

Stephanie Milner, associate vice president of multifamily policy for the MBA, said the industry group is pleased that the CFPB won't pursue enforcement actions against small lenders caught offsides by the surprise court decision.

"We will continue to encourage the CFPB to exempt all multifamily lending from HMDA reporting, as multifamily loans are business-to-business transactions and not consumer in nature," she said.

The CFPB also plans to finalize a similar rule targeting small business loans, including commercial mortgages on properties with more than four units, by March. That rule, which also sets the reporting threshold at 25 loans in two consecutive years, is

See ROUNDUP on Page 26

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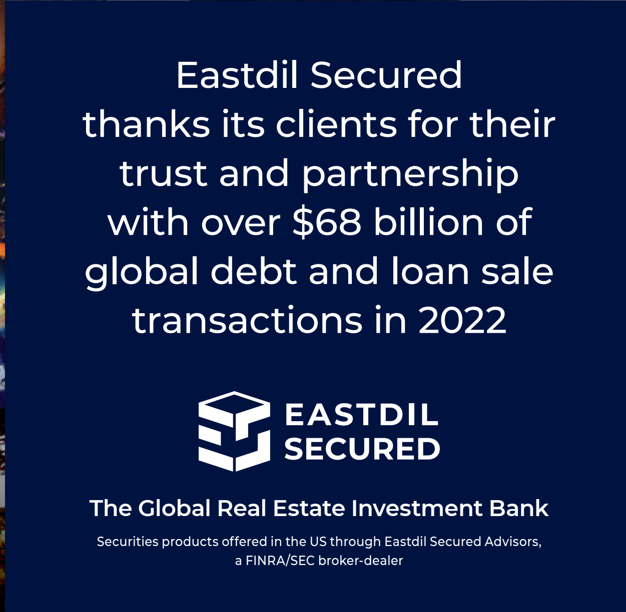

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REGULATORY ROUNDUP

... From Page 24

designed to test the availability of credit for small businesses and those owned by minorities and women.

Industry groups are lobbying for commercial mortgages to be exempt from the rule and for the reporting threshold to be raised to 500 loans annually. They also have long argued that a borrower's race and ethnicity is immaterial in business-to-business lending.

CREFC's David McCarthy said the court decision and subsequent change by the CFPB will cost small lenders money at a time when market conditions are already difficult. He said the industry group will continue to fight for an exemption from the small business rule.

Corporate Transparency Act — Treasury

The **U.S. Treasury's** Financial Crimes Enforcement Network on Sept. 29 finalized the first of three rules designed to crack down on money laundering and introduced a second.

The rules will implement the Corporate Transparency Act, approved in early 2021. Market players hope the measure eventually will shift responsibility for identifying criminals or others seeking to hide ownership of U.S. assets away from bank lenders and onto limited liability corporations and other financial structures.

The first rule defined which entities are responsible for registering with FinCEN and what information they must provide. Large companies and heavily regulated entities such as banks and insurers are exempt from the reporting requirements. However, small corporations, limited liability companies, foreign entities doing business in the U.S. and others must identify their so-called beneficial owners. Entities formed by Jan. 1, 2024, will have a year to file, while those formed later will have 30 days.

The focus on smaller companies and more obscure entities is designed to prevent criminals and other sanctioned people from hiding assets in shell companies they use to invest or launder money.

The industry is more focused on two pending rules, one of which was issued on Dec. 15. The second rule will outline the establishment and use of a database built on the information collected via the first rule. CRE Finance Council is analyzing the proposal, and public comments are due on Feb. 14.

The third rule will rewrite current customer due-diligence regulations that govern the information banks must collect, making them conform to the first rule. Crucially, the rule will determine the extent to which banks will be able rely on the database to fulfill these duties.

"If banks are not allowed to use the database to ease some of the burden of collecting the information themselves, then there will be real questions about the entire purpose," said CREFC's David McCarthy. "Will it create efficiencies, or just more paperwork?"

It is unclear when Treasury will issue the third rule, but Congress gave it until Jan. 1, 2025, to finalize it.

Low-Income Tax Credits — Congress

Affordable-housing lenders were disappointed that Congress failed to extend a temporary increase to low-income housing tax credits, which could have created more lending opportunities.

There are hopes the provision could pass at some point in the year ahead, most likely as a rider on other tax-related legislation. As part of Covid-19 emergency legislation, Congress had lifted the low-income housing tax credit, or LIHTC, allocation by 12.5%. That increase expired at the end of 2021.

Restoring it has been a top priority for low-income housing advocates and some legislators. In late November, more than 50 members of Congress, representing both parties, urged congressional leaders to include the allocation increase in yearend omnibus spending legislation. That ultimately failed to materialize, as Congress did not include tax-extender provisions in the omnibus bill.

The allocation increase was one of several provisions of the Affordable Housing Credit Improvement Act, which has been introduced in both the Senate and the House of Representatives and carries a bipartisan roster of co-sponsors.

Politicians also have introduced bills for new tax credit programs. The Middle-Income Housing Tax Credit would create a tax incentive similar to LIHTC but targeting middle-income renters. The Neighborhood Homes Investment Act, meanwhile, would apply the LIHTC model to single-family home construction or renovation projects in distressed neighborhoods.

But advocates have little hope Congress will pass any new tax credit program, given the razor-thin margins in both chambers and an acrimonious political environment.

However, the 12.5% increase in LIHTC could hitch a ride should Congress extend various expiring tax breaks from the Tax Cuts and Jobs Act. As an increase to an existing, popular program — rather than introducing a new expenditure — it has greater chances of passing.

"If there is any new tax legislation, there's a very good chance that an extension of the 12.5% increase would make it," said **Peter Lawrence,** director of public policy and government relations for **Novogradac,** an accounting and consulting firm. If it does pass, he said it's possible politicians would make it retroactive to 2022, giving states a boost in tax credits that could be rolled over into 2023 and deployed into more projects, generating more loan opportunities.

Advocates also are **pushing** to tweak the so-called 50% test for bond-financed LIHTC, also known as 4% credits. In order to receive the credits, at least half of a project's cost must be financed by bonds. Advocates want to lower that threshold to 25%.

"The states that are bond cap-constrained include the

See ROUNDUP on Page 28

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- Comps reports
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- Downloadable property-level intelligence

Apartment

Industrial

Office

Strip Center

Address	Sector	Date As Of	Zip Code Grade	Size	Effective Rent*
1000 W Spring Valley Rd		1-Jul-2022	A	157 Units	$1,483/Unit
10001 N Fwy		1-Jul-2022	A-	277 Units	$1,5
1015 W Arkansas Ln		1-Jul-2022	B-	143 Units	
1019 Hilltop Dr		1-Jul-2022	B	65 Units	
1029 W Arkansas Ln		1-Jul-2022	B-	146 Units	
10700 Woodmeadow Pkwy		1-Jul-2022	B	364 Units	
10911 Woodmeadow Pkwy		1-Jul-2022	B	309 Units	
10950 Woodmeadow Pkwy		1-Jul-2022	B	241 Units	
110 W CityLine Dr		1-Jul-2022	A	351 Units	$1,7
1101 Longhorn Rd		1-Jul-2022	B+	240 Units	$1,493/Unit
1109 N Carrier Pkwy		1-Jul-2022	B	295 Units	$1,491/Unit

Legend: Sector

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REGULATORY ROUNDUP

... From Page 26
biggest states. So, if you lowered the 50% test, it would essentially double the production you could do under the 4% program," said **Emily Cadik,** chief executive of the **Affordable Housing Tax Credit Coalition.**

Novogradac estimates the change could generate 1.48 million additional low-income units over the next decade.

Tenant Protections – White House, Agencies

Industry groups are bracing for an expected White House action that could make agency loans less attractive.

Consumer advocacy groups have been lobbying for a tenant bill of rights, and the Biden Administration has held multiple meetings on the topic over the last six months. Lobbyists expect an executive order to be issued by the end of the first quarter that will affect multifamily loans purchased by **Fannie Mae** and **Freddie Mac.**

Topping the list of items expected to be included are requirements that multifamily property owners provide tenants prior written notice of rent increases or property sales and grace periods for late payments. Similar requirements were implemented in 2021 for manufactured-housing properties.

The order also could include restrictions on the use of background checks to screen tenants and source-of-income regulation, which would require owners to accept Section 8 vouchers, government subsidies that tenants use to pay rent. Rent control measures are not expected to be included in the order.

Some of the possible measures would have greater ramifications for borrowers than others. While notice requirements likely won't affect whether a borrower chooses an agency loan, a mandate that collateral properties accept Section 8 vouchers on every apartment could weigh on that decision, one industry pro said.

Industry groups pointed to existing programs they hope the administration looks to as it crafts the order. For example, last year, Fannie launched a pilot program that offered more competitive pricing for property owners who accept Section 8 vouchers in North Carolina and Texas, states that don't have source-of-income legislation. Industry groups support that program since it uses a market incentive to nudge property owners, rather than mandating voucher acceptance.

Radon Testing — FHFA, HUD, EPA

The **Federal Housing Finance Agency** is expected to release a rule soon that would end a long-simmering debate over radon testing in multifamily buildings financed by agency loans.

Fannie Mae and Freddie Mac's regulator took up the issue in 2021 after **HUD** changed its standards to require testing on 100% of ground-level units. Radon is an odorless gas that is the second-leading cause of lung cancer, behind smoking. Agency lenders and industry groups have fought against the 100% standard, arguing it would not detect significantly more problems but would make agency loans costlier and slower.

Following HUD's change, deal delays have been a greater problem than the increased cost, said **Chip Moore,** president of HUD lender **Highland Commercial Mortgage.** Radon test kits must be left in units for at least two days. "People will move the cans around, or they smoke in the unit, so it increases the chance of a false positive and then you have to re-do it," he said.

HUD's decision followed a study it commissioned that found a 58% probability that a 10% testing standard — as currently required by Fannie and Freddie — would miss elevated radon levels.

"Radon is so random that it'll come up in one unit and then not in the one next door," said **Jane Malone,** national policy director for the **American Association of Radon Scientists and Technologists,** which conducted the HUD study alongside the **New York State Department of Health.** "It's a gas, and buildings are not uniform."

The **Environmental Protection Agency** produces a map of geographies most likely to have elevated radon levels, with zone 1 being highest risk and zone 3 showing the lowest risk.

"We could benefit from some additional testing, but there just doesn't seem to be a commensurate discovery of problems in zone 2 and zone 3," one lender said, citing a **Walker & Dunlop** study that found that broader testing did not find significant additional levels of the gas.

Executives at agency lenders are confident the FHFA will unveil a tailored solution that does not require 100% testing for all buildings in all geographies. They point to FHFA Director **Sandra Thompson's** track record of relying on data-driven analysis. On the other hand, the AARST expects the rule will require 100% testing.

European Regulation — EC, ESMA

Market players are hoping a review by the **European Securities and Markets Authority** of loan-reporting mechanisms will ease a stunning decision late last year that threatened investor participation in U.S. CMBS deals.

On Oct. 11, the **European Commission** ruled that investors from the European Union could not purchase securities that don't comply with loan-by-loan transparency requirements it implemented in 2019. ESMA's review focuses on the onerous templates that issuers must complete for each loan. Those templates contain hundreds of fields, including information that can be difficult to obtain or that might be proprietary.

The rules caught industry players flat-footed, particularly U.S. firms managing European pension-fund assets. They had long assumed regulators eventually would deem existing investor-reporting regimes in the U.S. to be sufficient.

While the ruling does not immediately require investors to sell bonds deemed to be non-compliant, it has prompted some

See ROUNDUP on Page 29

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REGULATORY ROUNDUP

... From Page 28

market players to pause new investments. Banks and industry groups, led by the **Association for Financial Markets in Europe,** wrote to European Commission officials on Nov. 3 to express their concerns.

"At the heart of the problem is a disconnect between the Commission's vision for securitisation in Europe … and aspects of the regulatory framework which remain miscalibrated and, in practice, disincentivize issuance and investment in securitisations," the group said.

Rent Reporting — Agencies

Fannie Mae is expected to finalize in the first quarter a rent-reporting pilot program that has proven popular among both borrowers and lenders.

Borrowers and lenders have flocked to agency programs introduced in the last few years that subsidize the cost of reporting tenants' rent payments to credit bureaus given evidence that suggests the programs improve credit performance at collateral properties. The efforts are part of broader agency loan initiatives aimed at advancing the well-being of tenants.

According to a **TransUnion** survey, 73% of renters are more likely to make on-time rent payments if those payments are reported to credit bureaus. Freddie Mac, meanwhile, reported that as of the first quarter of 2022, renters' credit scores improved by an average of 41 points after joining the program.

"If it reduces bad debt from 1% to 0.5%, that's an enormous pickup," said **Evan Williams,** senior vice president of agency finance at **Capital One.** "Owners are seeing a positive return on investments, which is what is driving participation in the programs."

The agencies generally do not offer more competitive loan pricing for borrowers who implement positive rent reporting, but market pros said their programs make the services essentially free for the first few years. Without subsidies, the monthly cost of a typical program is $2 per unit.

In December, **Arbor Realty Trust** and **NewPoint Real Estate Capital** co-funded a $636 million financing package for New York-based **Emerald Empire's** acquisition of a Chicago portfolio. The properties will be part of Fannie Mae's rent-reporting pilot.

Freddie began subsidizing the cost of using **Esusu,** a rent-reporting agency, in November 2021, and Fannie the following year introduced a pilot program that incentivized borrowers to adopt rent reporting from one of three vendors: Esusu, **Jetty Credit** and **Rent Dynamics.**

Beyond incentivizing renters to pay, the programs can also offer interest-free, rent-relief loans for tenants who fall behind. Esusu has access to more than $1 billion of rent relief, sourced from philanthropic partners, said co-founder **Samir Goel.** Borrowers and lenders alike see the programs as beneficial, he said.

"Fannie and Freddie are removing the largest impediments for borrowers, which are immediacy and cost," Goel said.

Freddie is aiming to make the service available to 100,000 new units in 2023, and may introduce new equity-building features, such as rent rebates or savings incentives for renters, into its loan programs. Freddie also has set a goal to make rent reporting the industry standard. If the benefits to renters, borrowers and lenders prove out, that could happen sooner rather than later.

Development Lending — 421-a Program

Market pros are concerned that demand for construction loans in New York will wane if the state fails to reimplement a tax break that encouraged affordable housing.

The 421-a program provides tax exemptions for apartment projects that include a certain number of affordable units. Its latest iteration expired last June. Last year, New York Gov. **Kathy Hochul** introduced a replacement, but it failed to pass the state legislature. Still, Hochul has continued to flag affordable-housing development as a goal for her administration. While 421-a only affects New York City, it requires legislation at the state level.

"This is something that's on everyone's mind, at least in the housing community," said **Evan Blau,** a partner at **Cassin & Cassin.** "I think that it's going to be heavily prioritized in 2023."

There are few indications what a new 421-a program could look like. In previous versions, program specifics such as number of affordable units and the level of affordability depended on the location of the project. The most recent version of the program drew some criticism for setting affordability at 130% of area median income. In New York, that translated to rents of up to $3,600.

New York City's comptroller, **Brad Lander,** campaigned against the program. His office estimates the program costs the city $1.77 billion in tax revenue annually.

In November, Lander put forward an alternative solution. His proposal would lower the tax rate on apartment buildings, which currently are taxed higher than condominium properties, while also offering some tax exemptions for developments if their affordability levels match other government programs. Lander's plan also suggested a new version of the Mitchell-Lama program, which encouraged affordable-housing development through government-subsidized loans to specially created cooperatives or corporations. ❖

Before Your Next CMBS Deal...

Zero in on comparable transactions completed over the last few years. Subscribers to Commercial Mortgage Alert get free online access to the CMBS Database, which presents the initial terms of all rated securities collateralized by commercial and multi-family properties since the market got started in the mid-1980s.

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CMBS ... From Page 1

managing director **Kenneth Cohen,** head of the real estate structured-finance group. The most bearish prognosticators are **Toby Cobb,** a managing partner at **3650 REIT,** and **Erin Stafford,** head of CMBS ratings at **DBRS Morningstar.** Both predict the volume of fresh U.S. offerings will decline to $45 billion this year.

The predominantly bearish forecasts reflect the widespread industry view that rising interest rates and a murky economic outlook will continue to undermine commercial real estate sales and lending activity for at least another six months or so.

In the CMBS market, "I expect volume to continue [declining] in early 2023 before picking back up, resulting in a more active second half," said senior managing director **Nitin Bhasin,** co-head of CMBS ratings at **KBRA.** He's calling for $54 billion of issuance this year.

Some forecasters noted that modeling future cashflow for office buildings has become far more difficult due to the pandemic-related work-from-home trend. That, in turn, has complicated lenders' efforts to write and price loans in what traditionally has been a stalwart property sector for securitization shops.

"There are a number of multi-property office portfolios that were highly levered when they were originated, [and those] will be challenging to refinance in 2023," said **Joseph Geoghan,** head of CMBS originations at **JPMorgan Chase.** His overall prediction: $55 billion.

Several other industry pros said that while the flow of new deals could pick up in the second half, any meaningful revival of CMBS issuance will require some indication that the **Federal Reserve** will finally stop hiking interest rates. It also would help if CMBS new-issue spreads retrace some of the dramatic widening that was seen last year, they said.

Alternatively, it's possible that a "hawkish Fed could push us into a mild recession, which will likely pressure rates lower and potentially allow many loans to refinance," said **Lisa Pendergast,** executive director of the **CRE Finance Council.** "Of course, the risk is that a recession pressures property cashflows lower, making such refinancings more challenging, regardless of rate. For now, I'm taking the optimistic route." Pendergast's prediction for issuance this year is $86 billion.

Other market players said a looming wave of maturing CMBS debt will put increasing pressure on property owners to refinance, recapitalize or sell their properties as the year drags on. JPMorgan's Geoghan pointed out that some major REITs could shed big chunks of their commercial real estate portfolios this year, potentially generating substantial opportunities for CMBS lenders to provide acquisition financing.

Meanwhile, eight of the CMBS forecasters expect an increase this year in non-U.S. issuance, which totaled $1.46 billion in 2022. Their predictions, averaging $3 billion, range from no deals to a whopping $27.5 billion projection from BofA's Cohen. The only forecaster who did not offer a non-U.S. estimate was **Citigroup** researcher **Jeff Berenbaum,** the bank's head of CMBS strategy. ❖

CMBS Volume Predictions For 2023

	U.S. ($Bil.)	Non-U.S. ($Bil.)	Total ($Bil.)
Toby Cobb, 3650 REIT	$45.0	$0.0	$45.0
Erin Stafford, DBRS Morningstar	45.0	5.0	50.0
Joseph Geoghan, JPMorgan Chase	55.0	0.0	55.0
Nitin Bhasin, KBRA	54.0	2.0	56.0
Manus Clancy, Trepp	56.0	0.5	56.5
Rich Highfield, Greystone	57.0	3.0	60.0
Adam Ansaldi, Societe Generale	60.0	1.0	61.0
Ryan Horvath, Deutsche Bank	60.0	1.5	61.5
Harris Trifon, Lord Abbett	60.0	2.0	62.0
Adam Behlman, Starwood Mortgage Cap.	60.0	2.5	62.5
Doug Tiesi, Argentic Investment Mgmt.	62.5	0.8	63.3
James Manzi, S&P	60.0	5.0	65.0
Nitin Jagga, Goldman Sachs	65.0	1.0	66.0
A.J. Sfarra, Wells Fargo	68.0	1.0	69.0
Lea Overby, Barclays	70.0	1.0	71.0
Jeff Berenbaum, Citigroup	76.0		
Lisa Pendergast, CRE Finance Council	86.0	1.0	87.0
Stefanos Arethas, Credit Suisse	95.0	0.0	95.0
Kenneth Cohen, Bank of America	97.5	27.5	125.0
Average Prediction For 2023	**64.8**	**3.0**	**67.3**
Actual 2022 Volume	**70.2**	**1.5**	**71.4**

CMBS Forecasters Weren't Bearish Enough

Last year's plunge in CMBS issuance exceeded even the most conservative forecasts by a wide margin.

At yearend 2021, only five of 18 respondents to an annual **Commercial Mortgage Alert** survey predicted that nonagency CMBS issuance would decline in 2022. Overall, the group of industry pros projected that new-deal volume in the U.S. would rise by an average of 6.4%, to $118 billion.

Due to difficult market conditions, however, the latest annual total wound up plummeting by 36.4%, to $70.23 billion.

The most-bearish prognosticator, **Citigroup** researcher **Jeff Berenbaum,** wound up closest to the mark with his $90 billion prediction for U.S. CMBS issuance. The others offered 2022 projections ranging from $100 billion to $140 billion.

Meanwhile, the average forecast of $9.6 billion for non-U.S. issuance last year also reflected misplaced optimism. The actual 2022 volume in that category was $1.46 billion, down from $7.47 billion the year before. **Trepp's Manus Clancy** came closest with his $7 billion estimate, while the rest ranged from $8 billion to $15 billion.

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