

Looking Back, Looking Ahead: A U.S. Perspective



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As we all know, 2021 has been a big comeback year in the real estate industry following the unprecedented COVID-driven challenges of 2020. There are still fundamental changes occurring – using a real estate metaphor, both at the foundation level or rising above the surface.

Let's take a closer look.

Looking Back (2021)

- **The Return of Real Estate:** The onset of the pandemic made for a shaky 2020 and analysts were predicting the worst, but the industry held up better than expected and 2021 had activity levels that were some of the highest since the financial crisis in 2008. Real estate powerhouses like Blackstone are posting their best quarters ever and are quoting real estate as the driver, and single borrower CMBS showed growth and activity at a level higher than the financial crisis.
- **Hospitality:** While the increase in activity has been fueled largely by industrial, life sciences and multifamily deals, hospitality deals are starting to make a comeback as well. Hotel loans are finding a way to get done, Lenders are finding a way to underwrite them and there is even some public to private activity again – Blackstone and Starwood acquired Extended Stay earlier this year, and Highgate and Cerberus announced a merger to purchase the CorePoint portfolio.
- **Industrial** – The most consistent of the asset classes through the height of COVID, industrial portfolios, outperformed expectations and drove profits for many large sponsors through the pandemic and most of 2021. Whether this continues in 2022 or there is a slowdown due to market saturation remains to be seen.

Looking Ahead (2022)

- **Hospitality:** As vaccination rates continue to rise and are now available for children, increased travel will fuel occupancy rates and should lead to increased activity in the hospitality sector. We are likely to see individual and leisure travel first, with group and corporate travel over time. Of course, this will depend upon whether the Omicron variant has a short- or long-term impact.
- **Office:** 2021 started to see some large office acquisition deals getting done, with 410 Tenth Avenue and One Vanderbilt topping the list, and there has

been increased activity in the refinance market. In 2022, there will continue to be an uptick in office building activity, but it will also continue to look different and continues to be some of the most unpredictable. High-quality projects in key markets with large sponsors will get done, but balancing some companies' reluctance to commit to widespread office returns and a similar hesitance of landlords to commit to hybrid plans for offices may drive leasing and other decisions in the office market. The record rate of return to the office in the first week of October in top 10 office markets was promising news, and the increase in post-pandemic activities will be top of mind. Again, the short and longer term impact of the current Omicron variant will dictate the pace at which office transactions rebound.

- **Single-Family Rentals:** This will continue to be a hot space, as large private equity funds are acquiring companies like Home Partners of America and investments in Global Atlantic.
- **Workouts:** Some troubled assets will still be working out, particularly as eviction moratoriums and other pandemic-related protections are lifted.

While we continue to be bullish on the real estate markets and their ability to adapt and thrive in the most volatile of times, we remain cautious in our optimism given the current Omicron variant and all the uncertainty its effects may have on the markets and our industry. More importantly, we remain humbled and cognizant of the devastating human impact and loss that the pandemic has had and extend our best wishes that all of our clients and friends remain safe and in good health in the coming year.

The Way Forward: A European Perspective



By **Duncan Hubbard**
Partner | Real Estate

In this the final edition of *REF News and Views* for 2021, we attempt to summarise the key movements and market activities we have seen within the European real estate finance sector – how this both impacted 2021 and how it is likely to continue/change in 2022 and moving forward in the short/medium term. This article also introduces a number of topics on which we intend to focus further legal commercial analysis in 2022 as liquidity continues to drive competitiveness and climate change continues to impact commercial decisions and the legal/regulatory environment.

Anyone who has attended, either physically or remotely, some of the keynote speeches at flagship Real Estate conferences around Europe in 2021 (such as the INREV conference in Stockholm) will have heard a lot of information about the “bounce back” we have seen both in Europe and internationally further afield in our sector – a bounce-back fueled by unprecedented liquidity and capital investment chasing product. At every level, whether it is consumer spending on the High Street or capital deployment of savings funds, the activity has been frenetic. Sale of durable retail goods (essentially, people spending on their homes) rose on average around 25% in 2021, an increase that has not been seen since 1946, as people have started to spend again. As the High Street reopened, spending came back quickly in certain areas. A lot of analysts have been quick to say that this was not a “recovery” because there was no true recession in 2020 but rather the world economy simply went on a European-style “grande vacance” during 2020, shut down by the fear of COVID, and simply re-opened.

High Street spending will undoubtedly help our ailing retail sector. The question is whether the spend on durable retail goods will further cascade into general retail spend. We have seen a lot of retail park loans being placed within commercial lenders’ special servicing teams, and whilst there has been a recovery within the sector, there is a need for Funds to look at repurposing assets. After all, there are only a certain amount of shopping centres that can be converted into residential. We believe Borrowers and Lenders will need to work together in consensual exit strategies to maximise recoveries and performance.

The good news is that, from the new lending perspective, there is a lot of capital being deployed into strongly performing Real Estate, including significant specialist sectors like Life Science, Data Centres, and Specialist Healthcare, as well as certain undervalued/oversold Retail, with new Funds coming from around the world. Bond issuance has been strong also. The coupon attached to unsecured corporate Bonds (working off slightly lower leverages and higher income covenants) is often more attractive than traditional Senior Lending mortgage finance. It may seem counter-intuitive and, in many cases, too good to be true, but these deals are out there. The cost to Funds/Borrowers in issuing these Bonds is not only lower, but often results in a lot less internal reporting and maintenance, as the covenant packages attaching to Bond finance are essentially more “covenant light,” with financial

covenants and negative pledges being relied upon and less Lender involvement at the individual property asset level. Given the majority of traditional senior debt mortgage lending into European deals is still done on a limited recourse “special purpose” basis, it is often quite straightforward to issue bonds to refinance existing structures without substantial costs in creating new standalone structures. We would be delighted to discuss with our clients ways in which this can be achieved.

It would be remiss to sign off on 2021 from a REF perspective without touching on climate change. Legal requirements/regulation will undoubtedly increase and must shape part of our decision-making processes in the REF sector. De-carbonisation will have an impact on yield. More stringent regulation on de-carbonisation is inevitable given that Real Estate accounts for roughly 40% of global greenhouse emissions. Relying on carbon taxes is short term. It is fair to say that the overwhelming consensus is that carbon taxing will just slow down the same destruction of our climate, so essentially the time for these measures is over. There has been much talk about the 2020s being the period for effecting sustainable investment strategies now. Essentially, the message seems to be that the time for talk is over – we must act. Importantly, this seems likely to have an impact on valuations in the near future, since few buildings are currently valued on a basis that includes de-carbonisation costs. Another trend we expect to see is an increased focus on repurposing existing buildings rather than new build.

In particular, we believe that Lenders and Borrowers need to look at the cost of transition so that they are not left behind with stranded assets due to climate change. This means diversifying risk within portfolios, looking at ameliorating insurance obstacles, etc. and looking at ESG plans. Funds are likely to have more stringent action plans demanded by their investors/government and regulation, and failure to comply could have very damaging impacts. European funds and investors in particular are reallocating capital towards climate- and ESG-friendly funds and strategies at a significant pace, and the EU’s sustainable finance regulations and taxonomy are already making their impact felt.

Finally, we would like to wish our readers a happy and prosperous 2022 and look forward to continuing to work with you.

Congratulations



Nicholas Brandfon

Kevin Sholette

Molly Lovedale

Matthew McManus

We are very pleased to announce that our most recent round of **firm promotions** includes a number of key members of our Real Estate Finance team. Nicholas Brandfon and Kevin Sholette have been elected to the partnership, and Molly Lovedale and Matthew McManus have been promoted to Special Counsel.

Nicholas Brandfon, New York – Nick represents clients in a variety of transactions, including the origination of mortgage and mezzanine loans, construction loans, syndication, and loan restructuring. His experience spans many segments of the marketplace, such as office, hotel, condominium and retail properties. Nick received his J.D. from Northwestern University School of Law and his B.A. from Williams College.

Kevin Sholette, Charlotte – Kevin's practice is concentrated in the areas of real estate finance and securitization. He primarily represents financial institutions in connection with the origination of mortgage loans secured by commercial office buildings, retail properties, hotels, warehouses and multifamily housing, including multi-state, multi-property pooled transactions. He also has experience in the origination of mezzanine loans, the servicing, syndication and sale of mortgage and mezzanine loans, and repurchase facilities. Kevin received his J.D., *cum laude*, from Cornell Law School and his B.S. from Ithaca College.

Molly Lovedale, Charlotte – Molly primarily represents financial institutions in connection with the origination of mortgage loans secured by commercial office buildings, retail properties, hotels, warehouses, and multifamily housing, including many multi-state, multi-property pooled transactions. She received her J.D., *summa cum laude*, from Case Western Reserve University School of Law and a B.A., *cum laude*, from Davidson College.

Matthew McManus, New York – Matt represents global investment banks and other large financial institutions in the origination of complex mortgage and mezzanine debt, loan acquisitions, construction loans, loan modifications and related secondary market transactions. He received his J.D. from Emory University School of Law and his B.A. from Vanderbilt University.

Congratulations to Nick, Kevin, Molly and Matt on these professional achievements and on their continued excellence on behalf of our clients.

Steven Herman and Eunji Jo Named Real Estate Thought Leaders

Real Estate Finance partner Steven Herman and associate Eunji Jo were named “Go-To Thought Leaders” for Real Estate by *The National Law Review*.

The recognition is based on their [CDC Eviction COVID Moratorium Updates](#). As *The National Law Review* writes, “In a time of great uncertainty, readers turned to Cadwalader for essential guidance on the varied federal and state eviction moratoriums, with the firm posting regular and timely updates on the topic.”

This is the second straight year that Herman has been recognized by *The National Law Review* for his thought leadership. He is a frequent writer of Cadwalader Clients & Friends Memos on a broad range of real estate topics and is also editor of the firm’s monthly [REF News and Views](#) newsletter. Herman concentrates his practice in the areas of real estate finance, development, joint ventures, acquisitions, dispositions, commercial leasing, restructurings, workouts, and commercial mortgage securitizations.

Every year *The National Law Review* team selects standout articles and authors from the current year and around [1% of its authors receive Go-To Thought Leadership awards](#). In 2021, *The National Law Review* team has awarded 87 awards from over 14,000 contributed pieces of thought leadership received.

Recent Transactions

Here is a rundown of some of Cadwalader's recent work on behalf of our clients.

Recent transactions include:

- Represented the lender in a \$220 million single asset, single borrower (SASB) securitized mortgage loan to refinance existing debt secured by the fee simple interest in a 592,476 sq. ft. Class-A office and retail building and a 343-space parking garage located at 2400 Market Street in Philadelphia.
- Represented the lender in a \$185 million refinancing of a hotel and casino in Atlantic City, New Jersey.
- Represented the lender in a \$258.9 million mortgage and mezzanine loan to refinance an office building located in New York City.
- Represented the lender in a \$955 million mortgage and mezzanine loan to refinance an office building located in Chicago.
- Represented the lender in originating a \$100 million loan with a senior/subordinate note structure secured by a newly constructed multifamily property in New Jersey.
- Represented the lender in originating a \$350 million loan secured by a newly constructed luxury high-rise apartment building located in New Jersey.
- Represented the lender in a \$1 billion single asset, single borrower securitized mortgage loan to refinance existing debt on a city landmark office building in New York.
- Represented the administrative agent, lead lender and arranger on a pooled transaction of 13 uncrossed loans consisting of approximately \$595 million of debt, secured by 13 multifamily apartment complexes located in 9 states.