

# EUROPE SERVICING 2006



## SESSION 2: 'BAMBI MEETS GODZILLA'

**When European privacy, flexibility and innovation meet American transparency, standardisation and commoditisation . . . can we engineer a positive outcome?**

**SESSION DESCRIPTION:** Transparency is the key to expand our discussion last year on the contrasting evolution and pace of the American CMBS vs. European CMBS and commercial real estate finance markets. The commoditization of the US market has achieved the transparency that investors expect; its standardization has enabled servicers to streamline and centralize operations to cut costs and outsource or offshore non-core functions, and the creditor-friendly American regulatory environment allows for an overt, hard-line approach toward borrowers. The complex jurisdictional nature of European markets demands innovation, flexibility and patience across multiple jurisdictions in which standardized regulations, practices and technology are only recently beginning to take shape. Furthermore, the relationship-banking and borrower-friendly regulatory environment throughout Europe requires a customized, relationship-oriented servicing approach toward borrowers that prevents scale or volume-driven approaches.

The increasing numbers of American players entering European markets from the outside through Greenfield operations and joint ventures or from within as key personnel in distinctly European initiatives have raised concerns over the "Americanisation" of European real estate markets. While the context for any national market today is a global one that requires all market practices to be differentiated by those that are "local" vs. those that are "world-class", it is impossible to benchmark direct parallels between US and European markets. However, as European markets take shape, we now see how some servicers are finding the right balance between adapting best U.S. practices and applying them – where possible – to optimise European operations and the overall development of European markets. Lest Americans feel too over-confident, we'll take a deeper look into covered bonds and other areas in which Europeans have a distinct advantage. Should the same impulse strike Europeans, we'll point out areas in which they are not yet fully exploiting those natural advantages and some fresh ideas that have not yet been considered as the development of loan tranching in Europe takes flight.

### HOST

TONI MOSS, CEO, EuroCatalyst BV

### GUEST HOST

CHARLES ROBERTS, Partner,  
Cadwalader, Wickersham & Taft LLP

### PANEL

SCOTT GOEDKEN, Investment  
Director - Acquisitions, LNR Partners  
Europe

MICHAEL GUTIERREZ, Director,  
Servicer Evaluations, Structured  
Finance, Standard & Poor's

RODNEY PELLETIER, Senior  
Director, FitchRatings

HANS VRENSEN, Director,  
Securitisation Research, Barclays  
Capital

### DIRECTOR'S CUT

#### 'BAMBI MEETS GODZILLA'

'Bambi Meets Godzilla' is an all-time classic animated film from 1969 that is less than 3 minutes long. The short plot shows Bambi peacefully nibbling on grass, hopelessly unaware of an impending encounter with Godzilla. The title itself tells you everything you need to know, and the result will leave you laughing hysterically. But there is a message in there once the laughter dies down. Should Bambi have prepared a bit better for his destined meeting with Godzilla? After all, the whole point of the euro was to create a coordinated and well-scaled economic block of competition to level the playing field against other global economic blocks. We don't want to see Bambi get hurt. We want Bambi to be strong. Besides, it was tragic enough to lose Bambi in the original Disney film (rumour has it Dick Cheney was the hunter). Let's hope for better outcomes!

*The "director's cut" or "notes" were written by EuropeServicing's chief architect and host, Toni Moss, CEO of EuroCatalyst. Because the event was held at the famous 195 Piccadilly, home of the British Academy of Film and Television Arts, EuroCatalyst chose to use movie titles to theme each session. While some see films as entertainment, others recognise the art of cinema as a record of the human condition. EuroCatalyst chose titles and short clips of films to theme and inspire discussion as we brought the triumph and struggles of the European servicing sector to life over the course EuropeServicing 2006. Even if you have not seen any of the films mentioned, the simple titles should tell you everything you need to know. Moss and her guest hosts look forward to interviewing the lineup of panellists who represent the best that the European servicing industry has to offer, and hope to change your perspectives about the role and importance of servicing as the stage upon which the European mortgage industry is set.*

# 'Bambi Meets Godzilla'

(THE AUDIENCE HAS JUST WATCHED A FILM CLIP OF A CLASSIC 1969 ANIMATED SHORT FILM, 'BAMBI MEETS GODZILLA' IN WHICH BAMBI IS MEEKLY EATING GRASS AND GODZILLA COMES ALONG AND STEPS ON BAMBI. THE CLIP CAN BE SEEN ON YOUTUBE.COM)

(LAUGHTER)

**TONI MOSS:** So, there you have it – that's my editorial theme for this session on the differences between the US and European CMBS markets. With that I'll introduce to you my guest host, Charles Roberts from Cadwalader, who has had a lengthy and unusually distinguished career in the industry, both in the United States as well as in Europe, and who will open the session and introduce the panel.

**CHARLES ROBERTS:** . Thank you. With us today we have a few members of the CMBS industry - although interestingly, nobody on the servicing side - but quite a good representation of people who have been in the market for some time. To my left is Scott Goedken who an investor with LNR Partners, plus I have Rodney Pelletier from Fitch. Mike Gutierrez is from S&P and Hans Vrensen is from Barclays Capital.

**TONI MOSS:** The opening question that I have for the panel is, what do you guys think of the session title, and if you had to choose a film title to name this session - considering the rather potent issues that exist between the US and Europe regarding the "Americanization" of European markets, what title would you have chosen? And we'll start with you Mike.

**MIKE GUTIERREZ:** Well, it's certainly difficult to think of another title than "Bambi meets Godzilla". For me, there's certainly reasons why Godzilla grew in the US to be the way it is. I run Servicer Evaluations for S&P in the US strictly, since '94 - but I think one of the interesting take-aways from the last panel describes these differences. We have to remember the US CMBS market really grew out of the RTC (Resolution Trust Corporation) loan debacle. The first real CMBS were pools that were not performing well



that were put together by the government to try to liquidize the failed Thrifts, so all of the pressure to get information in all the system's infrastructures that built over time was really because they needed to draw investors into these new structures from those failed thrifts. So some of the reasons that Godzilla has become so over-complex and a little bit slow in its pace, is because over the years, demands from lower tranche buyers in these securities have really increased the demands for servicers to provide data.

One example. Briefly the last panel mentioned the IRP (Investor Reporting Package) coming in on a quarterly basis. In the US, from the get-go it was monthly. I remember before the CMSA was involved, there was a group called the Capital Consortium, which put together the initial data requirements, and I remember hours of in-fighting between issuers and investors as to, "Shall we get financial statements monthly? Shall we get them normalized monthly, instead of quarterly?" This is one of the main background reasons as to why – to use the Godzilla metaphor – the issue grew so large, and the gap so wide.

**TONI MOSS:** Rodney, what would your title be?

**RODNEY PELLETIER:** Well, Mike, regarding my point about "Bambi meets Godzilla", I wouldn't consider Europe Bambi by any stretch of the imagination right now. What I think of movies, I kind of think about it in two different time frames. For you Michelle Pfeiffer fans, what I think of is "What Lies Beneath" (A "THRILLER" MADE IN 2000 IN WHICH PRE-

SUMED IMAGINARY FEARS BECOME REAL). When we were first looking at the first high volume in Europe... The first high volume transactions that came out originally were German synthetics transactions,

---

If you had to choose a film title to name this session, considering all the potent issues that exist between the US and European spheres about the Americanization of the European market, what title would you choose?

---

and if you think that information is poor today, you haven't seen anything yet! That was *really* bad, and I think you really didn't know what you had underneath, you were pretty much working with portfolio level information.

I think now the more apt movie title would be an old Robin Williams movie called, "Awakenings" (A 1990 FILM ABOUT AN ADULT AWAKENING FROM A COMA IN HIS EARLY TEENS ONLY TO RETURN TO A CATATNOIC STATE IN THE END). Now, the title itself has some positive undertones to it, it's just that we're seeing a lot of positive movement now, the CMSA has come out with their IRP reporting standards, they're all very positive things, but if you recall that

movie, there was kind of a negative undertone to it, there was a positive part to it, everybody came in with some fanfare, but the ending wasn't quite that good, so I'm hoping that's not the case here, I'm hoping that information continues on its pace. It's gotten better, we're very optimistic and very positive about that, but hoping that it continues on the pace of openness that it's started.

**TONI MOSS:** Hans?

**HANS VRENSEN:** I like the theme of "Awakenings", and I think it's a mixed message of rapid growth in the European market - as well as some issues that are still lingering on including disclosure, which is the subject of this panel. I don't have a smart answer, but I do like your choice, so I'll stick with that. Going back to the theme of "Bambi Meets Godzilla", I think that the European market is not really stationary, it's developing and growing - if Godzilla was to put his foot down, he would be hard-pressed to know where to step, because the European market is a moving target! So, I think that despite outstanding issues, there's a lot of positive sentiment in the market. The market is growing very rapidly, but there are problems and issues that investors encounter including structural and collateral issues, and I think those need to be sorted out.

**TONI MOSS:** Scott, can you say the last one?

**SCOTT GOEDKEN:** I thought long and hard about the title, and I couldn't think of one - certainly not as creative as loan originators and deal structurers... I deal with the reality, and I think the reality is that this market, as Hans said, is growing rapidly. I believe it has the potential to be as large, if not larger than the US at some point in the not-too-distant future, so if I were to hold this panel 3 or 4 years from now, I might entitle it "King Kong versus Godzilla", and for those who have not seen that movie, King Kong wins in the end, so...

**TONI MOSS:** Cool, then we can play the sequel, "Son of Bambi Meets Godzilla"! In that version Bambi's son has become a technical weapons specialist and Godzilla meets a different

fate. Charles, what would you title this session?



**CHARLES ROBERTS:** I would title this session "Things to Come," a science fiction movie that's very appropriate because it was one of the early science fiction movies (1936) and focused on all the wonderful things, the amazing things that will happen in the future and also focused on some of the doom and gloom that would happen in the future as well. And I think from our perspective, there's all of that. You anticipate the better things, and sometimes get concerned that there might be some bad things lurking, so I don't think it's all Godzilla and Bambi, I think there's also a very optimistic outlook. Some days I would call it "Mission Impossible" but other days you feel it's more "Bill and Ted's Excellent Adventure"; it's got a bit of both, so it's been an amazing market in Europe for the past few years, watching what it's been doing and I think that's going to continue, you know, we'll go through the bad times, but I'm sure we'll deal with it just fine.

**TONI MOSS:** Okay, moving on from themes let's focus on the main differences between the US and European CMBS markets, Mike - can you give us a brief history of US market developments and the relevance to how Europe seems to be evolving in a similar manner?

**MIKE GUTIERREZ:** Some of the key drivers in the US, as I said earlier, came out of the RTC when the disclosure of information was very important due to the delinquent status. The other important aspect is that we were competing CMBS against the major avenue for commercial loans, which was the life companies - and it was perceived that CMBS loans were of a lesser quality than the life companies' and CMBS did not want to be seen as

a lender of last resort. That was yet another impetus for providing more information to investors and improving transparency. As the conduits started getting more originator contributors, the relationship of the borrowers became very important. It may not be seen as important in the US as in Europe, but it's particularly important for companies that were former life company correspondents - they want to maintain a daily contact with the borrower. This is when the master servicer emerged. The master servicer in any given pool can oversee a dozen or more sub-servicers with very distinct responsibilities. When you throw into the mix a special servicer - who typically is the owner of the B piece of the unrated tranches - you now have a complex relationship between many parties requiring more communication, and that complexity may not be something that the European markets want to emulate. There have been substantial problems with the complexity. One brief example: at a certain point a couple of years ago, it turned out that a lack of communication between the master a special servicer created over-advancing situations on loans where, in some cases, millions of dollars have been over-advanced on liquidated loans. And that couldn't be recaptured from the cash flow of the deal in the given month, which is when the shortfalls went quite high up the capital structure. That was subsequently remedied with PSAs (Pooling and Servicing Agreements) but again, the complexity may not be something to emulate in the way they evolved in US markets.

**TONI MOSS:** Charles, would you agree with that? Has that been your experience with the US market?

**CHARLES ROBERTS:** No. It's easier said than done in the end. Part of what's driving the market is the fact that the better, more capable originators - as far as dealing with complexities on the balance-sheet - typically don't want to deal, or can't deal with what CMBS originators address and do quite well. I think it's going to be hard to stay away from complex structures, because they seem to be more of the case every time, and we see with every transaction. I think, if anything, that it has always been a by-product of

CMBS to some degree, that we create structures that deal with the demands of the market. Sometimes, both for the investors and the borrowers, as far as meeting the two and what they both require, it does get very complicated.

**RODNEY PELLETIER:** Would you say it's negative, Charles, or positive?

**CHARLES ROBERTS:** That the complexity is negative? The complexity *is* negative, but I think it's going to be very difficult to keep it out of the transactions, unfortunately.

**RODNEY PELLETIER:** You brought up the fact that investors are meeting up with arrangers and creating these structures, that are hopefully meeting more needs in the market - maybe it isn't negative, but it's certainly something that's difficult to get your arms around, by all means, I think the fact that you have a securitization market that brings these players together in a more open environment is certainly not negative.

**CHARLES ROBERTS:** You're right. There are good things and there are bad things, but it's obviously having a positive influence on the European market generally because it's making loans possible that might not be possible otherwise, so that obviously impacts everything from value to just creating a larger lending market - which is always a positive thing for commercial real estate.

**HANS VRENSSEN:** I think it is exactly what you're saying, because you're balancing two different interests - the investor interest against the borrower's interest - and there's some new data that just came out from a survey that shows that lenders who are securitizing their loans are able to offer borrowers, this is cutting to the chase, lower loan margins on average, as well as higher LTVs, on average. So these are *benefits* for borrowers that we're able to offer through CMBS lending vehicles, compared to balance-sheet lenders. That comes at a price, and the price is disclosure. Now, exactly how high that price is, the level of disclosure you need, that is a wide range of topic, and that's what is really going on right now in the sector, as Charles and I are both involved in that.

**CHARLES ROBERTS:** And all I need to do now is reign in prepayments, the golden factor. That's the "Mission Impossible".

**HANS VRENSSEN:** Well, I don't know with prepayments, because prepayments have actually gone up over the last couple of years due to the increase of value over the last 3 or 4 years, as well as the interest rates have been coming down. If we look ahead, it's hard to envision that values will actually keep going up as they have been over the last few years, and I think a stabilization period is more likely perhaps. And the interest rates, well they look more likely to go up. So if those are the predictors of prepayments in European CMBS, which we have done some work around, then perhaps prepayments will be stabilizing going forward, as well as investors would care less about prepayments with more stability in the spread environment. If a 3 year old deal made a 50 basis point triple A spread that prepays a 25 bp environment - that hurts. But, if a more recent deal where the spread difference is not so large, it's not going to matter that much for investors, so I have a more positive



outlook on prepayments going forward.

**RODNEY PELLETIER:** To foster another point which you just mentioned - and Scott, I think that you've seen this working the last couple of years in the States - there are a lot more onerous lock-out provisions in the US. But that didn't stop prepayments from occurring in a fairly sig-

nificant number. When markets were increasing tremendously, when deals were coming down and value going up, borrowers were happy to pay that prepayment lock-out just to get the loan terms.

**HANS VRENSSEN:** I think it's also very interesting to see how the market deals with prepayments. We've seen a few examples of this in recent deals, where some deals get pushed through even if there's notification of prepayment - ie, the arranger knows that there's going to be a prepayment on one of the largest loans in the deal, but they still push it through the investor market. Maybe they disclose it, I mean that would be a good thing - and other arrangers actually pull deals away from the market, because they have had prepayment, and I think that's an interesting phenomenon. As an investor, I would probably prefer the second route, because then I can think about the new pool of loan, but this recent transaction launched, and I think we all know which one we're talking about, the Talisman 3 transaction, 4 out of the 8 loans prepaid, and we're not in the new pool. All of those loans have prepayment penalties, so again, it's a tricky issue and it's not always predictable either. There's always event risk, I think at the borrower level, that doesn't... is not explainable by value increases or interest rate declines, it could be all kinds of other factors that triggered those prepayments.

**SCOTT GOEDKEN:** I agree with you on that, I think prepayments will slow down as interest rates go up. I don't think values can continue to increase. In the US we're seeing negative leverage on our transactions, which is leading to increasing income rates in the US, I'm sure we'll see similar things happening here. Ultimately, I think it's much better for the arrangers and for the rating agencies to take the lead on this issue of complexity in deal structures, and manage that risk, ultimately I think it falls on the shoulders of the investors. You have a *vote*, that vote is your money - and I think the important thing, certainly from a disclosure perspective, and from rating agency perspective as well, is to highlight those areas of risk and to allow the investors

to make educated decisions. I think there is a lot of risk in these pools that are coming out. I'm not sure everyone is aware of some of the inherent risk. Well, you think, maybe they haven't been through a cycle to see where the potential problems could pop up and it's easy to overlook those things in a good market, but they're going to come back to bite you in a down market.

**HANS VRENSEN:** That's a bit of the Godzilla in the investor market, people are...



**T**rying to present the information, in as similar and consistent a format as possible is something that also helps the investor base

**MIKE GUTIERREZ:** In the US, the prepayment history obviously was addressed in a large part by the defeasance tool, but that led us to the other problem which is current in CMBS transactions, is borrower satisfaction's become a big focus, because it was seen as being relatively low. A recent MBA (Mortgage Banker's Association) survey that compares CMBS with non-CMBS avenues for borrowers showed that borrower satisfaction

was the area that they scored the lowest - even though they did get lower rates and better LTVs on CMBS than on non-, the borrower satisfaction findings were atrocious. I mean, you get a borrower who comes in and wants to prepay a loan, all of a sudden he's told, "Well, you have to spend \$100,000 on legal and accounting opinions, and by the way you have to buy a bunch of treasury securities that will guarantee the yield to investors for the life of the loan," and his response is, "Gee, my broker never told me that, what does this mean?" Right now, they're focusing on satisfaction issues where borrowers send in requests for partial leases, for assumptions, for modifications and because of the number of parties involved in a single transaction, it could take months for a simple thing like a lease approval to be signed off, and we're focusing in the States by measuring servicers by how well do they respond to these issues, how quickly they turn around requests from borrowers, so in the US that's the big area focus, for the first time looking at the borrower.

**HANS VRENSEN:** I think on the borrower side, there's already been quite a interest in development in Europe because a lot of our deals, in fact almost half of our market, is to single borrower deals, and a lot of those deals actually build in flexibility, build into them when they're originated that allow such things as to sell assets, to substitute assets, and all of these other things that, in the US, you've kind of locked that in and need to go back and communicate changes, well, in a lot of these actions you don't need to do that, in some of these you might not even need rating agency confirmation, depending on how the criteria are set up, they are agreed on ahead of time.

**MIKE GUTIERREZ:** Not that we slow things down, of course.

**RODNEY PELLETIER:** That's certainly the case here in Europe. I think one other point to make, if you think about the US and the low rating they get from borrowers, it's inevitable that that will happen, because when you parse out the mortgage loans now into individual pieces, and the person who's running special servicing is the person that has that first dollar, pound,

Euro of loss, well, they're obviously going to be tougher negotiating, the relationship is not so much the issue any more, it's survival, and keeping the bond viable, and... I was involved in 1993 in probably one of the first non-RTC transactions on the master servicing side and to me that was one of the biggest issues that we faced when we brought that over into that vehicle. There's a very well-known special servicer that's still around today, a very good one I might add, that was a special servicer on our deal, and when files were transferred to them, we were getting incredible amounts of phone calls from borrowers, and they- they're very difficult to deal with, of course, because they don't want to negotiate on certain terms, but that's the way it is- and that's the reality, it's going to have to be that way if borrowers want to have that lower cost of tempo.

**CHARLES ROBERTS:** And taking that a step further, we should point out that in Europe we don't really see bonds go below investment grade, and in the US, there's a substantial part of the market that goes below investment grade, and therefore that's why you see a lot more aggressive behaviour that comes from the sub-bond investor, which is the controlling class, or the controlling party, and the special servicer who is reporting to that entity, if not actually affiliated with that entity.

One area that we should discuss is where we see that market evolving in Europe, because there has been more introduction of the below investment grade bonds in Europe, and we see, obviously with the tremendous demand for B tranche paper, you have to ask the question, what is the pricing right for below investment bonds? Soon, that's probably around the corner, it would be interesting to know form everybody's perspective on the panel, starting from Scott, where we now, in respect to the types of rights- I mean, we're obviously better than where we were a year ago- where are we now in respect to the types of rights in controlling class or sub-bond investor has, and where do you want to be, and what do you want to see in terms of movement? And I would say both on approval rights, also on struc-

ture. What do you want to see as far as changes in structure?

**SCOTT GOEDKEN:** I think you're right, Charles, we're definitely better than we were a year, or eighteen months ago and as a B piece investor for LNR, I'm in favour of giving that B piece investor sufficient rights to protect their investment. However I think that needs to be balanced with the viewpoint that we don't want to give that investor so many rights as you actually choke off the growth of this market, then no one really benefits. I think if you put enough rights in there it were to oppose the ratings, we will see the arrangers going off, as we're seeing today, and syndicating and that's an easier avenue for them to get execution. With regard to where I want it to go, I think it really depends on the type of loan that's being originated. Ultimately, if someone's coming to me and saying, "We have a 75% LTV loan on a 20 year let to a double A credit" some of the things that I might ask for on a 90% loan with a lot of lease roll-over, maybe it's an off the run property type, they're going to be different as, particularly today, we're seeing a lot of liquidating, pools that need a lot of active management. In those sort of situations, I think it's imperative for the investors to have the appropriate tools to monitor their position, and that would be approval rights over such things as significant leases modifications, those sort of things, so I really can't draw a quick line and say, but I think it really depends on where the collateral comes out, and as most of these are coming out higher LTVs, lower coverages, right now I'm kind of airing on the side of more rights.

**CHARLES ROBERTS:** And I guess the question for you guys is, OK, obviously he is concerned about the impact on levels to some degree, at what point do you get concerned? I mean, if they can already appoint the special servicer, why are you concerned about consent rights, major improvements, and so forth?

**RODNEY PELLETIER:** Not that we're totally concerned about it, I think right now, B notes generally have, from a crediting perspective, from a rating agency perspective, have a slightly better structural features across in the States. There are some pieces of it that are slightly worse, but in aggregate I think it still is better, and I think in time the market will evolve and we will look at each development on a case by case basis, and we don't think it's overly onerous, it's open-minded, it's not like we're suddenly slamming a door on everybody. Right now, we look at B notes as they come in, and we react to them and we're able to provide ratings based on what we see. We're not the ones who are driving this process by any stretch of the imagination. There are obviously some general parameters people need to follow, but they're not breaching them by any strange or strong way.

**MIKE GUTIERREZ:** To the extent that below investment grade seem to be growing as investments, in Europe, some lessons to be learnt from the US. It's been a mixed blessing in the US market - the B piece investors, by and large, watched by the drivers were allowed disclosure requirements and the driver standardization in the market place. On the other hand, there's been a lot of push back by players in the marketplace, where they feel small clusters of B piece investors/special servicers really have much more clout than their numbers would warrant, in terms of shaping details of



the pool in servicing agreements. For example, we have a couple of special servicers now that are demanding that they have sole authority to sign off on borrower consents and assumptions modifications, and actually we're getting pushed back by master servicers who say, "Well, you know, at the end of the day we're on the hook for advancing on these, and you're saying that now we can't have any credit decisions to make

on situations that could potentially lead to default," and we don't know who's going to win on that one yet, but the so-called super primaries are certainly pushing for it in some of these PSAs we've been seeing. So, it's a mixed blessing. You have to be careful you don't create a small cluster of investors that are strong on their way through these structures.

Maybe just following up on that, I think there's actually very little risk of that happening, just because of the numbers of investors that are coming into this space and it's, I know the RSB active in this area for a long time, but we now also are increasingly getting calls from ordinary property developers, people that are fund managers, in the commercial property area and so I think this was my point in general, that a lot of these rights are negotiable, so if there's a lot of investor demand and you want to deal really badly, you're probably going to give up a few rights here and there, and you'll be able to live with that, and it's a commercial issue as well, it's not just a risk issue.

**SCOTT GOEDKEN:** I mean, LNR's been around a very long time - I haven't been with LNR for all that long - but I was investor bonds above LNR, and one of the things that really brought me to LNR is I really looked at LNR and other special servicers, particularly strong special servicers in the market, as a partner for me, because I knew - I'm not out there looking, particularly as an investment grade buyer, at every asset, I wasn't going through every loan document, I wasn't double checking that the originator did the best job, to the best of their ability. In the US, special servicers had the ability to kick out loans, without questions, just, "We get to kick out X number of loans" and that creates some benefits so, and also when you do have an advance situation, because a special servicer, who is a holder at the bottom, is highly incentivised to maximize recoveries. As long as you can't go into too structured, I mean in the US approach versus the European approach, is to how long those rights stay out there. So long as you're not out there, mucking things up when you have no economical interest, I would think, at least when I was an investment verifier, I was happy to have them at the bottom, doing the dirty work, playing tough with the borrower. If the borrower wants high leverage loan and a very low margin, then there's a price to be paid for that.

**RODNEY PELLETIER:** Certainly, no one more strongly incentivised to maximize property value, and at the end of

the day, it's something you shouldn't be overly concerned about.

**HANS VRENSSEN:** But the interests are not completely aligned, so I want to just point that out, and I appreciate that the experience in the US has been a positive one in most cases, the problem is that there hasn't been anything to work out in Europe. Sorry to say so, but... that's really the problem. We don't know what we're going to do when a B note is going to have some problems, unless we get a clear view as to what the total track record is from the US for those situations, it's hard to draw conclusions from that.

**CHARLES ROBERTS:** All I can tell you- I mean, my experience in dealing, I mean I've seen a lot of loans that have gone into special servicing over the years- the biggest tension, there's one place where there's tensions, and it relates to: do you liquidate it now, or do you hold onto the property? And that is really it, and so, that point, like Scott says, as long as your valuation kicks in at the right moment, so you've got enough space to liquidate once they're out of control, I think that's a fair place, go right there, stop them at that point, if you decide, liquidate them at that point, but until that, it's kind of hard, when they are the first loans, to not give them the opportunity to loosen it, I guess, isn't that the reason why these bonds price a little different, there's time there, they might need to work the loan, they might need time to collect. You will receive it, but it might be a delay in ultimate receipt, but at the same time, we're trying to collect 100% in the deal.

**HANS VRENSSEN:** Right. But then what has the experience been as positive for the rated note holders as by the B piece holders?

**RODNEY PELLETIER:** I think they come out whole anyway.

**HANS VRENSSEN:** So they haven't experienced any losses as a result of these loans?

**CHARLES ROBERTS:** Have I ever heard of a transaction where the As have lost because the Bs have delayed and enforced liquidation, I have never heard that, no-

**RODNEY PELLETIER:** I think one point to make, and maybe we should bring it back to an historical perspective here, if you look back at the mid 1990's- '93, '94- I was with this precise insurance company and the portfolio of real estate that we had looked dire, I mean it was terrible, and everybody was trying to sell at that point, and everybody felt that almost all of the portfolio properties were permanently impaired. A lot of those properties were sold at that point, and 3 years later they were all well north of what their loan balances were, and certainly well north of that, and so what happens is they're trying to regulate against that sky-is-falling mentality when issuers panic, and that's what we're always going to be focusing on in the B notes side, is that tension. Listen to me, a rating agency guy, we need to have control, you need to have a point where you do go about, because there is some permanent impairment that will occur sometimes, and you need to get out, but you need to balance it.

**MIKE GUTIERREZ:** In most cases, the bottom.

**CHARLES ROBERTS:** How much value to in a building is attributed to the fact that it has a lease in place? You have an insolvency of a major tenant, that impacts the value tremendously, but you've got a servicing structure in place that should be able to deal with that.

**MIKE GUTIERREZ:** In most cases the model works, and mostly, we follow a model in the States, and the perfect example: they do an action plan on every single distressed asset, they do a net present value analysis, they'll look at all of the options and they'll come out with the best value or role, the asset manager isn't sitting there looking at, "Well, who's the triple A, who's the double A," the asset manager's just looking at the sticks and bricks to figure out what's the most dollars he can squeeze out of it. That said, there was a case of a large, well-known special servicer that engaged in numerous amounts of litigation and repurchase attempts with these pools of distressed assets that were arguably not in the best interests of the senior class holders, and there was a whole big to-do about that. And the documents were such that he could do that, so there is a possibility for abuse.

**CHARLES ROBERTS:** You know what, this takes us to our next question, because it's something that it has been a lot of discussion, it's the AB market, and you're up first because it has taken on a completely new life of its own compared to the experience we've had in the US, and I think if anything in "Bambi and Godzilla", that's one that's got me a little bit concerned sometimes. We've seen the market evolve to the point where there's really two types of- I'm generalizing- two types of structures and they've been labelled, somehow, along the way the US and the European models, which obviously is not the best way to sell a method that's possibly a little better for securitization than the other. I mean, the US method is based purely on the evolution of having secured sub-debt in the US CMBS market. The European structure has evolved from one of the many MES structures in Europe, and one that involves as MES investor is always going to be entitled to certain rights regarding to amendments and modification of the loan. Now, since this loan's being split so that they both have the same interests in the same loan, if you're giving that kind of right to a subordinate investor, I guess the question is, why don't we start with Scott, I mean obviously the market's been pretty busy in the past year as far as CABs, are you still seeing pretty much the two types of structure, and would you say there's a preference for one, by originators, over another?

**SCOTT GOEDKEN:** We are seeing both structures in the market, I think there has- again, we see a preference for one over the other- but you are still seeing some originators, arrangers, depending on their perspective, how they're going to bowl with the market, may still have a preference for the European approach, which is the rights don't burn off. They have a limited number of rights, but they don't burn off. As an investor, I would love to see having all the rights of the US approach and they don't burn off, but I don't think that's the best thing for the market. In the end, I guess my personal preference is the approach where you have enough tools in your box, enough rights that you can manage your system, but if you do not have an economic interest in that property, those rights should go away and it'll prevent situations- I

know the case you're talking about in the US, it was a huge mess, and there should come a time when your rights go away, and you can't hold the trust hostage. That's my biggest concern as an investor, that someone- maybe not as reputable as LNR - but someone comes around and holds a trust hostage.

**CHARLES ROBERTS:** What comes to mind is a structure- and one great thing about CMBS structures is it's a self-liquidating vehicle, you don't have to worry about bond holders voting on how to liquidate the assets. That's not the same situation with one bond structure in particular called Welcome Break, where basically the sub-bond came in and held that structure hostage, to the point where the equity paid them out 100% return basically, in a period of an investment of what I understand was little over a month, because they found leverage in the documents, they basically had to approve everything that was going through. From your perspectives, I guess what... it appears to me that the agencies are finally being very pronounced. Obviously, S&P came out with a paper more than a year ago, and I guess Fitch is going AB notes. Do you prefer one structure over another, as far as ABs at this point clearly, or are there aspects of both that are acceptable?

**RODNEY PELLETIER:** We still like what we're seeing more on the European side, but again, what we do is look at each one of them individually and rate them on their merits. Now, our piece talks about all the pieces that are involved in that will explain what are the pros and cons, but right now we're not seeing anything in the B notes that troubles us, regarding rights to the B note holder, and there's certainly limitations on the amount of cured payments, there's economic turn-offs and switches, I think, where you might get some slight changes would be maybe in some foreclosure rights, but foreclosure rights are generally limited to only when they have a significant investment of- sorry, a positive interest remaining in that property, so we've been OK in that perspective. So, right now there's nothing there that's overly problematic from my stand-point.

**MIKE GUTIERREZ:** From a servicing perspective, there haven't been any bumps on the road with these types of structures. We've come across pools in an AB situation, where the A is actually in the deal, but the B note resides outside the deal in those cases. There's an agreement in place that if the loan should go into default, the B note can point the special servicer and that particular loan is not handled by the deal special, but it's handled by separate special (servicer). I haven't seen that happen yet, because delinquencies are still fairly low, but it looks like it's fairly well documented within the agreements. I repeat his [Rodney Pelletier's] position, as well.

**HANS VRENSEN:** I guess, if I had my two cents', it's all been about disclosure and understanding how these rights work, and over the last 12 to 18 months, the industry's done a fantastic job in discussing this at various different conferences and forums and things like that. And I think that is a good thing, and maybe when we started we didn't fully understand what was all going on, and now we have a better understanding of European markets and of the US. Yes, there are differences, and there are similarities as well, but I

think fundamentally they are fairly similar to each other.

**RODNEY PELLETIER:** There are similarities and differences there-

**HANS VRENSEN:** Yeah, exactly, so in the end, it doesn't really matter that much. I think from a rated bond point of view, more standardization would be good, and more disclosure would be good as well. Why not put the inter-creditor agreement, for example, into the OC. A lot of these kinds of issues relating to AB notes are documents in inter-creditor agreements, that agreement is not part of the offering-circular, typically, and the summary debt makes it into the OC, it's sometimes not all-inclusive of the relative provisions that I think investors would want to see, so either you have a bigger summary, or you just include the whole thing in the OC, and it all comes down to understanding and disclosure, to investors, which I think has been greatly improved over the last 12 months already.

**CHARLES ROBERTS:** Yeah, it does amount to better disclosure. I guess one of the things I'm always curious about, and it comes down to whether there's... what's going to happen when one of these things blows up? There's one scenario that I'm always conscious of, and it's this: if a sub-bond investor is given absolute rights with respect to modifications at any time during the term of that loan, and he doesn't lose those rights regardless of the valuation of the property, and that is beyond enforcement, we're talking just plain work out, and you have a situation where the property has basically blown up. Maybe it's a single tenant property, the tenant's become a solvent, the borrower has asked for an additional amount of time to lease up the building, a year extension, and maybe a deferral of interest during that period too-

**RODNEY PELLETIER:** Let's put the property in Italy, too, just to...

**CHARLES ROBERTS:** And so you've got the borrower coming to the servicer, "Please consent to this." The servicer's required to consent from the A and the B, if you do a valuation of the property, it's half the value, the mezz-debt (mezzanine debt) gets written off. If they lease up the building, estimate the value is maybe 60-75%, not enough, the mezz-debt at its position. The mezz-debt gets to approve the extension and the modification of that, wouldn't they just say, "Give me half of that, and I'll approve it" and how do we prevent that at this point? I mean, if we're introducing that kind of leverage then it all goes to the way the documents are drafted. If we've given them that absolute right, what is the servicer supposed to do? If they're meant to do the best thing for the investors, obviously that's the best thing for the investors, so the mezz piece has made money when they hadn't. I've brought this up before, and people have said, "Well, look what I'm selling ...and I say, "No, it's not mezz, it's the ones they're going to sell their position to." When the position is worthless, vultures come in and circle around, and see value, and they could pay nothing for that piece and make money. They could make a 100% or 200% return in a very short amount of time. I guess...do we think our structures are prepared, and that's a real "Godzilla" to enter into the picture - are they prepared to

deal with that? I'd like to address that here, starting with Scott's position.

**SCOTT GOEDKEN:** I think you're right, we've seen it - I'm sure your firm has represented some of the folks who are out there looking for loop-holes in the documents that they can apply leverage to the trust, and it happens. I think that a lot of these deals that were structured so those rights don't go away. If they blow up, we'll see folks step up. There are plenty of opportunity funds and hedge funds in the world who would be happy to take that up for cents on the dollar and try to make a profit out of it. I think we are biased to avoid that situation as to have those rights go away.

**MIKE GUTIERREZ:** There was a case in the US that Scott and I mentioned earlier where a special servicer more or less held the trust hostage. In actuality, they had bought a lot of B piece bonds at a discount, which is why they were making money *even if* they were spending millions of dollars on the trust on this litigation. Even if they negotiated a fraction of the settlement cost, they still made huge returns because the bonds had been bought at such cheap discounts - so there *is* opportunity for abuse in that kind of situation.

**TONI MOSS:** Charles, one of the best quotes I've ever heard the US versus Europe topic in CMBS came from you, when you said on the pre-session conference call, "In the US, investors capitalize on panic, in Europe they capitalize on poorly drafted documents."

**CHARLES ROBERTS:** I've seen that a lot more in Europe than I was used to, and I think, frankly, it's an evolution. It's always panic at the end anyway, because somebody has got to sell at a deep discount, and somebody has got to report to the documents. I'm just shocked because when I've seen it happen - and a few times I have seen it happen over here - you don't expect these vultures to know the documents as well as they do. They'll start peering into a deal before they have much on it. You don't even know where they got the information in the first place. They ask questions where you're just shocked that they even know that that's in there! That's how they make their money - the special opportunity groups - and they do quite well with it.

**HANS VRENSEN:** But I think if we look at the fundamentals of the European market, at this point, the chance of having a major blow up seems quite remote.

**CHARLES ROBERTS:** Well, I think that a major blow up is always fact-specific. It could be tied to a downturn in the economy, and to some degree, (the) Market Center (loan) was a very famous one. It could be tied very specifically to an individual, like the example I gave earlier of a single tenant becoming insolvent and putting a large building at risk, so it's hard to predict those kind of things. A blow up happens when a blow up happens; they're usually big and loud. But as far as saying it's not likely, I think it's just as likely in Europe as it is anywhere else in the world.

**HANS VRENSEN:** I'm not sure if I agree on that point, and the reason is that I see some fundamental differences in the US property market versus the European property market, and it all comes down to lack of stock in the end. So, if you have a tenant that blows up - terrible idea right - well CNA

actually closed all of its stores in the UK about 2 or 3 years ago. A year and a half after that, they actually did a very successful securitization after re-letting all of those stores. The point is, in the European market, with the planning and zoning regulations that we have, it's very difficult for occupiers to find space, which is a fundamental difference. In the US, you can build wherever you want - you just get rid of another cornfield and you have another shopping centre. Here in Europe, it's a little bit more difficult. I'm not saying if that's good or bad, it's just different and it gives some built-in protection, in my view, for stability of cash flow, as well as stability of values. That's not to say that values couldn't get out of control and get so aggressive that fundamentals don't support that at some point, but there is a fundamental difference there.

**SCOTT GOEDKEN:** I agree with Charles. I mean I agree that the property markets are fundamentally different, but I think the real risk is in the documentation side of it from a liquidity perspective. In the US we have tried numerous different structures over the years, but we've seen so many structures where everyone thinks they're great. Something happens and then everyone realizes, "Well, what were we thinking?" And all those bonds that were structured like that all of the sudden start trading way outside of where the rest of the market is trading. In a worst case scenario, you're lucky if you can get a bid for some of it, so it may not just be the property, I'm just saying...

**CHARLES ROBERTS:** It doesn't take much to launch a panic, basically.

**SCOTT GOEDKEN:** ...no, it doesn't take much, and I think folks really need to understand what they're buying into.

**CHARLES ROBERTS:** At the end of the day, while the dynamics are different as far as property is concerned, it doesn't change the fact that we have a high LTV on a property and if it can't sustain at that point - you could have a lot of properties at battle with each other.

**SCOTT GOEDKEN:** I'm not disputing that element.

**TONI MOSS:** Sorry for the interjection here, but if any of you in the audience have questions, it would be great to cue them now. I know from the hand signals that some of you have comments on property valuations and LTVs, so just signal when ready and we'll get your comments up here.

**MIKE GUTIERREZ:** Sure, I was just going to make one final point to Toni's topic of differences in the US and Europe. Recently, the Securities and Exchange Commission was called on Regulation AB, and that has forced a lot of disclosure requirements on servicers for data that didn't exist before across all asset classes. There you have a governmental authority that's actually putting some weight behind forcing disclosure - in some cases going way beyond what we have currently with the CMSA - in that the servicer has to disclose its actual policies and procedures, its areas of risk, and a whole new audit template has to be developed to attest to those standards annually. I think that's another important difference which was discussed earlier on the lack of (European) regulators coming in to enforce disclosure.

**CHARLES ROBERTS:** That probably gives us the next topic

we should be discussing, which is transparency and disclosure. I guess the question is really how much disclosure do we still have to do in our European deals, frankly? The US regulators are questioning whether or not there is enough disclosure in what we - over here in Europe - think is more than enough. It is an interesting topic that goes both to the offering document itself, down to reporting, which still remains a topic of discussion. Starting with Scott, where do you think we are currently, with both disclosure at offering and on-going reporting?

**SCOTT GOEDKEN:** I think it's improved but I still think we have quite a way to go. Obviously more information is better. For instance, because we actually go out and look at every property in a portfolio, we may find situations where the OC discloses there's a tenant in place, we go out, there's no tenant, or that tenant is, in a recent situation, going on a business sale and that tenant is the owner of that building. Some of those things should be disclosed. I certainly think if there's been a notice issued for a prepayment, the bond holders should be made aware of that. As far as reporting goes, I think we've taken some big steps with the European investor reporting package. I think the servicers are collecting what they're supposed to be collecting, I think they've done a good job of...I don't know if it's hounding or informing their borrowers of their responsibilities under the loan documents. I think they're getting a good percentage of the documents that they're supposed to be collecting. My problem is, because of the jurisdictions that we're operating in, they may not be able to disclose all that information. We have a lot of privacy and secrecy issues that we've got to deal with, and I don't know how we overcome that, necessarily.

**RODNEY PELLETIER:** We can only operate within what we have and considering where we started, I think the improvement has been quite dramatic. I think it will continue to do so, and something even as simple as the introduction of the issuer report grades, which we did about a year and a half ago, stokes those competitive juices amongst the servicers to really im-

prove the reporting - and all of those issuer report grades are going up because of that. I think other positive signs include that we are also seeing many, many issuers and servicers with multiple transactions, so they are building upon that expertise that is being created amongst themselves. That's helping out tremendously. But, I think *on the deal side*, there's room to go with disclosure... when you're doing initial transactions, all you do is look at and compare it - one in the US with one here - and often you find it's much, much different. In the US, for years they've been doing data tapes on individual loans. Now, I hate to just constantly go back to the US and say they're doing things better, and maybe they're not *necessarily* better. In some of these transactions there's hundreds of loans, so the data you're capturing in them is 15-20 data points on a particular loan, and that's good - but is that *everything* you need to underwrite a mortgage loan? Probably not. So they can get away with that because there are more loans in them. But here, you see a big transaction is 20 loans, and - I mean, all that information should still be captured - we do a lot more in-depth underwriting on a property by property basis, and I think people could take some solace from that fact, it's still the real estate than the bottom-up kind of approach and we get to know those assets pretty well.

**HANS VRENSEN:** On the disclosure, there has been some progress made, but I don't want to over-emphasize that progress because let's not forget that - the previous panel was actually quite good in that respect - where we can highlight the fact that Morgan Stanley, the single largest issuer of European CMBS with the longest track-record of issuing conduit transactions, is currently still not disclosing their investor reports publicly. Despite some changes in regulation - and we have some interesting changes in regulation here in Europe as well but very different from the US - in the previous panel I think it was Clive that said, "Well, the regulator might not be doing their job properly, but there's a change in the regulatory environment in the sense that it's becoming more centralized, in the sense that the peo-

ple in Brussels are making up more rules and trying to liberalize the financial markets in Europe. Some of those rules, such as the Market Abuse Directive have specific rules attached to them that need to be implemented by local regulators.

Now those rules, in my view, are very exciting, because they will open up the disclosure in a couple of different ways: the MAD rules state that public disclosure is necessary of any inside information, and the regulations were designed for the equity markets, but they actually apply for an listed security on a European exchange. So, these rules actually are quite useful in a way, because they do seem to apply to CMBS securities, and they will force some improvements, not just to the public nature of disclosure, but also to the level of disclosure, because what is really insider information is any information that moves the price - but which price? Because we have so many bonds inside the deal, yet information that moves the triple A price could be very different information that moves the triple B price, and that is really, in the end, the most important thing is the investors themselves, and this is brought up very frequently, because they have all the information they want, they already have too much information, they don't really want any more, and I think I would disagree with that, and a lot of the clients that I speak with would certainly not of that view. They might not use all of the information that is available to them, but that is their choice.

The fact that they currently don't have a choice, that in a lot of cases they don't have that information, is actually a structural problem, and could be a legal problem as well, if we find MAD rules supersede any bank secrecy law or any confidentiality agreements that might be in place, so it's a legal issue as well as a commercial issue, because the commercial issue being that the move information that's out there, the more trading that'll take place as well. It was mentioned earlier that there's a lot more real estate buyers buying into CMBS and I agree with that, and those buyers might at some point decide that the section they come from, called corporates for example, the Corporates actually offer a better return than

CMBS is able to, and they might want to sell. They will not be able to sell if the public information is out there, because no one will buy from them, no one will even give them a bid, if you don't have investor reports or other information available that allows you to assess the risk of that transaction as it has matured, so I think overall, yes there has been some improvement, but there's still a long way to go, and I am very encouraged by these new rules, because I think they will open up the market for more information becoming available.

**MIKE GUTIERREZ:** I think a large tool you need for disclosure is your system's infrastructure. When I rated European servicers back in the late '90's, most of the systems were proprietary, they were only programmed for their immediate needs as a back office, and I think in the US the IRP reporting package really drove standardization of systems, where some of the big vendors like came up and programmed all of the reporting requirements in that a lot of the servicers could purchase on a license basis and use to create myriad reports, whereas right now I think servicers are on a myriad of different proprietary systems that don't have the robustness of reporting requirements.

**TONI MOSS:** Recently, Hans did one of the first pieces I've ever seen a researcher actually do that was entirely dedicated to commercial servicers in Europe. Hans, I know that you spoke to a lot of people in that research, which must have been quite a process for you in terms of what servicers did and did not want to disclose. Some feedback that I heard on that piece were the discrepancies in the original version about the actual market share of servicer ratings among rating agencies. Can you comment on that?

**HANS VRENSSEN:** Yes, this is true...

**TONI MOSS:** In addition to addressing that particular issue, can you talk a bit about what that experience was like? After all, this entire event is about increasing the prominence of the servicing sector and the role of servicers in the overall value chain, and you actually jumped right in there to do a research piece before the event.

As someone previously unfamiliar with the servicing sector, what was that process like, and what was the overall market reception for the research?

**HANS VRENSSEN:** Well, it was very encouraging because the servicers are quite willing to share the kind of information that a researcher actually needs. The list that Helena Day put up earlier was very illustrative on the complexities of servicer roles and functions. From my own perspective, although not looking at servicers in as much detail as those who do a servicer rating, it was a bit of an eye-opener to do the piece, and to understand their roles and responsibilities... but it was also a little disappointing in the end. After seeing how much servicers actually do, and how important they are, and how crucial they are to the deal and to the investors- especially when investors are relying on servicers not just in collecting payments for principle and interest, but also in delivering the information that we are now discussing- (their importance) just didn't seem to matter or be reflected in the pricing. And that was the conclusion that we came to when looking at primary spreads - comparing not just deals that had a rated servicer versus an unrated servicer, but also comparing deals that had a highly rated servicer versus a lowly rated servicer. The problem is that there's a lot of other criteria that impact pricing other than the quality or rating of the servicer.

That does not necessarily mean that it's not important, it just means that other factors are more important, such as collateral and other structural features. But it was a real eye-opener, and I think I have a lot more respect now after doing this piece for the industry. Servicers have a very tough job, and it's a problem at the moment is that there won't be a real widespread respect for what's going on unless something goes wrong, and people deal with it either appropriately, or inappropriately. If they don't deal with it appropriately then there will be an outcry from the investor community saying, "Oh, how could you let that happen?" and then people will start thinking about this a little more.

**TONI MOSS:** It's a little bit of "damned when you do but damned if you don't". Servicers aren't typically even acknowledged unless things go wrong - which is what Session 5 today is all about. In the meantime, over the years I've had a lot of conversations with Ron Roark about differences between the US and Europe, particularly with regard to fears that the standardization and commoditization of the US market will impose excessive expectations on European servicers who are required to be far more innovative and flexible in markets that are essentially moving targets, unlike the US. Ron (Roark, who is in the audience), could make some comments on that? (TONI ASKS ASSISTANT TO SEND THE MICROPHONE TO RON). By the way, let that serve as a warning to all of you out there that if I see you - there may be a microphone headed your way! Of course, now you'll all hang out downstairs and watch on the monitors.

**RON ROARK:** Well, to compare and contrast, first of all the issue is of the conundrum between which comes first: the lack of secondary market, because there's no information, or there's no secondary market because the investors just won't buy it whole. Which comes first I'm just not sure, but I will say there are extreme difficulties. As many of you know we (Crown Mortgage Management) operate in 5 countries in Europe as well as the US, and the concept of putting 800 fields of information on the traders' desk on a quarterly basis is a long haul for Europe today, and we don't have the systems to support it. We don't have the investors demanding it yet, we don't have the issuers willing to pay us for it. So I would say, neither pessimistically or optimistically, that it's going to be a long time coming before (unable to determine sentence due to noise)...and I think we're going to spend a lot of time kicking around and pushing the price down, before there is value perceived either as part of the pricing, or as part of the secondary market trade ability, or as just a differentiation between rated servicers and our rating. The rating agencies themselves rate servicers, but when you go to the other side of the house - the ones rating the actual transactions

- they don't even give credit for it. So the servicers are asking the question, "Why are we paying for the rating if it doesn't have any value to the transaction?" I'm not making any criticism of the raters, but that's the reality in Europe today. In the US, it's inconceivable to have a transaction without a rated servicer, and I think there is some differentiation between those that have high ratings and those that have mid-ratings. We're 10 years off from that. I hope that's responding to your question.

**TONI MOSS:** It does. In the meantime there's a great window of opportunity among the third party servicers who are in European markets now – before more competition comes in - to differentiate themselves based on the quality of their investor reporting rather than complying with regulation that will enforce quantity. We need to wrap up here...

**RODNEY PELLETIER:** Can I add one more point to Ron's? Ron, you are correct, up until recently there were no servicers that had made it into the top tier category of our rating scale in Europe. Now with the addition of 2 of those to that rating scale, we are now giving credit to servicing on deals. Putting money where our mouth is, and showing that we think that it's important to have a good servicer in a transaction.

**TONI MOSS:** Giving credit figuratively or literally, Rodney?

**RODNEY PELLETIER:** Literally, yes. Literally. Don't ask me what the number is right now, I know what it is, but-

**MIKE GUTIERREZ:** The problem we've had so far in the States with giving credit to servicers is the fact that should something happen to the ranking of the servicer, and they get downgraded, it could impact on the value of the deal - even though the deal is performing well and there are no cash-glow implications. We're struggling to deal with that right now, and how the market will deal with that. That explains why we're still not doing that correlation at S&P, although we do factor in whether servicers are ranked or not. We require ranking for CMBS in the States, again due to the nature of industry evolution since the RTC. Obviously that's not the case here in Europe, for historical reasons.

**RODNEY PELLETIER:** I think, Michael, that's a good point - and that will keep that credit from being large, but the credit is still there. What we (FitchRatings) are hoping that credit will do is to encourage more servicers to come into the arena and get rated. On top of that, in creating this large pool of potential raters, if one does potentially leave a transaction, there's a pool of other highly rated servicers that you can use as back-up, or higher.

**TONI MOSS:** Thanks Rodney. I know that many don't always read conference programmes and just scan for names and session titles, I can't say that I blame you! However, *this* programme...(LAUGHTER) is written as a story, and we're about to move on to the next chapter. Perhaps the most crucial differences for servicers between US and European markets is the increasing imposition of American-style pricing in European markets - where performance and staying power is far more demanding and expensive, particularly when servicers must forge new paths along with new deal structures. Hans mentioned being overwhelmed by Helena Day's very illustrative slide on servicer roles and responsibilities and the entire audience gasped with the same reaction. The differences between US and European markets *really are* a "Catch-22" situation for servicers, and that's exactly what we'll be discussing in the next session "Catch-22: Power, Presumptions and Pricing". I'd like to thank Charles for being my guest host today as well as the panel for your comments and insight.

