Restructuring techniques could shake up CMBS

CMBS transactions are notoriously difficult to unwind, both because out-of-the-money investors in effect retain a veto on deals and because servicers remain focused on trying to reach consensual restructurings rather than trying to execute more radical strategies. But that could be set to change according to Brookland Partners, a new real estate advisory boutique founded by an ex-bulge-bracket real estate finance banker.

Brookland founder and managing partner Nassar Hussain believes insolvency schemes used to restructure multi-tranched debt structures in the leveraged finance market, such as a combination of scheme of arrangement and pre-pack administration, could work in some deadlocked CMBS transactions.

He reckons such arrangements, backed by management and approved by in-the-money investors as well as by the courts, could help unlock certain CMBS deals.

Among the solutions he has in mind is that used to restructure IMO Car Wash in August. In that case, the English High Court ruled in favour of a company-proposed scheme of arrangement that was backed by a majority of senior lenders that allowed the assets of the business to be sold under a pre-pack administration despite leaving junior creditors empty-handed.

In the CMBS market some deals have become zombies because the power to remove a servicer lies exclusively with junior lenders with no economics left in the deal, making it impossible for servicers to see through deals that cancel junior creditor claims.

"A more efficient restructuring may be achieved in deadlock situations through such schemes with the benefit of third-party investment which results in a lower debt stack that is more sustainable than by simply equitising all out-of-the money investors," Hussain said.

That could mean the most junior investors, such as junior B noteholders and PIK investors who may currently be at LTVs in excess of 150%, being left with positions that are worth little. Corporate restructurings are being watched warily by junior investors across different debt asset classes, he explained.

That creates anomalies such as higher secondary market prices for B notes than for Triple B CMBS, despite the latter ranking senior.