

# LOAN WORKOUTS AND MODIFICATIONS:

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**RENEW, EXTEND AND PRETEND**

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## Industry Challenges & Headwinds

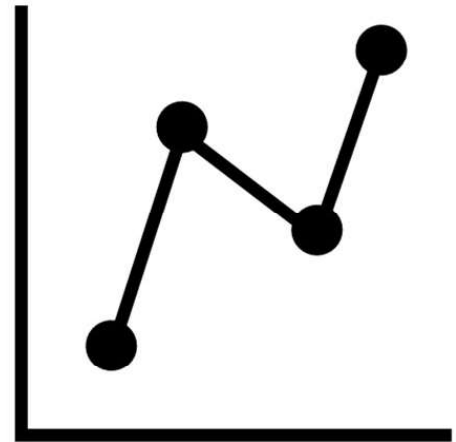
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- High Interest Rates
- COVID Impact On Real Estate Utilization/Hybrid and WFH
- Bank Failures
- Increased Costs
- Decreased lending
  - ↓ 53% overall
  - ↓ 69% for Depository Institutions
  - ↓ 60% for Investor Driven Lenders
  - ↓ 49% for Life Insurance Companies
  - ↓ 23% for CMBS
  - ↓ 11% for GSE Lenders

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# Maturities and Default

- \$750 Billion in loans maturing in the next 12 months
- \$60 Billion in CMBS, FNMA and Freddie Mac loans mature by end of 2024
- \$2.75 Trillion are set to mature by the end of 2027
  - ❖ Maturities are driving more defaults
  - ❖ CMBS delinquency is 4.41% as of July



# CMBS—Decision Making & Analytics

- REMIC Rules
- Roles:
  - Master Servicer
  - Special Servicer
  - Controlling Class Holder
- The Servicing Standard



## REMIC Compliance— Why Do We Care?

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Securitization—repackaging and pooling of loans in a trust to create marketable securities for investment

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REMIC—primary vehicle for conduit

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Other vehicles— grantor trust (used for SASB) and QRS (CLOs)

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REMIC—requires the trust to be passive to retain its tax status

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Servicers are obligated to maintain REMIC status and not subject the trust to “prohibited transaction” tax

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## Loan Modifications and REMIC

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### Pre-2009:

- Is the modification “significant”?
- If so, then it is a new loan and the modification would cause the trust to lose its REMIC status
- Exceptions:
  - Default or reasonably foreseeable default
  - Assumption of the loan
  - Waiver of Due on Sale or Due on Encumbrance
  - Interest rate conversions pursuant to terms of a convertible mortgage
  - Modification pursuant to the exercise of a “unilateral option”

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Title search: Loan Workouts and Modifications - Renew, Pretend, Extend

Also available as part of the eCourse

[2023 William W. Gibson, Jr. Mortgage Lending and Servicing eConference](#)

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"Loan Workouts and Modifications - Renew, Pretend, Extend"