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INTERNATIONAL BANKING AND FINANCE LAW SERIES

# Structured Finance

On from the Credit Crunch - The Road  
to Recovery

Jan Job de Vries Robbé



Wolters Kluwer

Law & Business

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AUSTIN   BOSTON   CHICAGO   NEW YORK   THE NETHERLANDS

*Published by:*

Kluwer Law International  
PO Box 316  
2400 AH Alphen aan den Rijn  
The Netherlands  
Website: [www.kluwerlaw.com](http://www.kluwerlaw.com)

*Sold and distributed in North, Central and South America by:*

Aspen Publishers, Inc.  
7201 McKinney Circle  
Frederick, MD 21704  
United States of America  
Email: [customer.service@aspenpublishers.com](mailto:customer.service@aspenpublishers.com)

*Sold and distributed in all other countries by:*

Turpin Distribution Services Ltd.  
Stratton Business Park  
Pegasus Drive, Biggleswade  
Bedfordshire SG18 8TQ  
United Kingdom  
Email: [kluwerlaw@turpin-distribution.com](mailto:kluwerlaw@turpin-distribution.com)

*Printed on acid-free paper.*

ISBN 978-90-411-2787-7

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E-mail: [permissions@kluwerlaw.com](mailto:permissions@kluwerlaw.com)

Printed in Great Britain.

# **Structured Finance**

# International Banking and Finance Law Series

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## VOLUME 10

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## List of Abbreviations

ABCP	Asset-Backed Commercial Paper
ABS	Asset-Backed securities
AET	Automatic Early Termination
AFMA	Australian Financial Market Association
AMC	Asset Management Company
ARES	Association for Real Estate Securitization
ART	Alternative risk transfer
BBA	British Banker's Association
BIS	Bank for International Settlement
BMA	Bond Market Association
CBIC	Covered Bond Investor Council
CCP	Central Clearing Counterparty
CDO	Collateralized Debt Obligation
CDPC	Credit Derivative Product Company
CDS	Credit Default Swaps
CDX	Credit Default Index
CESR	Committee of European Securities Regulation
CFETS	China Foreign Exchange Trade System
CFO	Collateralized Fund Obligation
CITIC	China International Trust and Investment Company
CLO	Collateralized Loan Obligation
CMBX	Commercial Mortgage-Backed Securities Index
CPDO	Constant Proportion Debt Obligations
CPPI	Constant Proportion Portfolio Insurance

CRE	Commercial Real Estate
CSA	Credit Support Annex
DA	Distressed Assets
DPR	Diversified Payment Rights
DTCC	Depository Trust Clearing Commission
ECB	European Central Bank
EONIA	Euro Overnight Index Average
ESF	European Securitization Forum
FASB	Financial Accounting Standards Board
FSA	Financial Services Authority
GKO	<i>Gosudarstvennoe Kratkosrochnoe Obyazatelstvo</i> (Short-term Bonds issued by the state of Russia in the mid-1990s)
HKMA	Hong Kong Monetary Authority
HKU-REIS	Hong Kong Real Estate Index Series
ICBC	International and Commercial Bank of China
ICMA	International Capital Market Association
IIFM	International Islamic Financial Market
IOSCO	International Organization of Securities Commission
IRCEA	Interest Rate and Currency Exchange Agreement
ISDA	International Swaps and Derivatives Association
ISLA	International Securities Lending Association
KAMCO	Korea Asset Management Corporation
LIBA	London Investment Banking Association
LIBOR	London Interbank Offered Rate
LMA	Loan Market Association
LSS	Leveraged Senior Swap
MAC	Material Adverse Change
MBS	Mortgage Backed Securities
NAFMII	National Association of Financial Market Institutional Investors
NAIC	National Association of Insurance Commissioners
NCREIF	National Council of Real Estate Fiduciaries
NDF	Non Deliverable Forward
NPA	Non-Performing Assets
NPL	Non-performing Loans
NYSID	New York State Insurance Department
OECD	Organization for Economic Cooperation and Development
OFHEO-	Office of federal housing Enterprise Oversight
OWD	Originate-Warehouse Distribute
PCS	Property Claim Services
PILN	Property Index-Linked Note

REIT	Real Estate Investment Trusts
RMBS	Residential Mortgage Backed Securities
ROPA	Real Assets and Other Properties Acquired
RPX	Residential Property Index
SEC	Securities and Exchange Commission
SG	Société Générale
SIFMA	Securities Industry and Financial Markets Association
SIV	Structured Investment Vehicle
SMART	SuperFirst Mortgage Receivable Transaction
SME	Small and Medium Enterprises
SPC	Special Purpose Company
SPT	Special Purpose Trust
SPV	Special Purpose vehicle
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TRS	Total Return Swap
UCITS	Undertakings for Collective Investment in Transferable Securities
UKRPI	UK Retail Price Index
USA	Uniform Settlement Agreement
VAT	Value Added Tax
WFP	World Food Program
WRMA	Weather Risk Management Association



## About the Authors

**Jan Job de Vries Robbé** is senior counsel at the Netherlands Development Bank FMO. His experience in international finance has been earned in private practice in top-tier law firms in both the Netherlands and Australia, as well as through service as in-house counsel in investment banking in both countries. Jan Job lectures on securitization, derivatives and development finance at the universities of Amsterdam, Melbourne and Sydney. He has published extensively on financial law and practice, most recently with *Securitization Law and Practice in the Face of the Credit Crunch* and three edited books on securitization published between 2005 and 2007. Jan Job also has a keen interest in microfinance. More information on his work is available at <[www.jjdevriesrobbe.com](http://www.jjdevriesrobbe.com)>.

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## Foreword

In the wake of the credit crunch, 'structured finance' has become a dirty word, linked to bailed-out investment banks and overpaid executives. Meanwhile, participants in the financial markets have gone back to basics. Many structured finance instruments, including securitizations, derivatives and other structured products, are facing intense scrutiny from various directions, including regulators and supervisors. In some instances, markets have come to a grinding halt. Nevertheless, a book on structured finance is warranted.

This book serves a dual purpose. First, it continues the analysis of structured finance, and in this sense complements and updates my previous book *Securitization Law and Practice in the Face of the Credit Crunch*, with plenty of focus on derivatives. Where possible, it takes a step back to take stock and assess the lessons learnt. Second, it illustrates ways in which structured finance may well facilitate the road to recovery. This may appear ironic to some, due to the perception that structured finance was part of the problems that led to the credit crunch. But the advantages of structured finance may well ease the effects of the current economic environment. Example structures and actual deals are discussed and analyzed with this in mind.

The financial markets move towards a more regulated supervisory environment, and, more than ever, investors seek to obtain recourse from the deep pockets of the likes of rating agencies, arrangers and others. This has led to a series of court cases, of which the relevant are included. Please note that this book is not intended to rewrite financial law, but rather to use case law and structured transactions as an illustration of the practical concerns faced by market participants in structured products and how to solve these issues going forward.

Jan Job de Vries Robbé, The Hague, April 2009

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