

**SOUTH EASTERN EUROPE MORTGAGE FINANCE NETWORK**

**(SEEMFN)**

**LEGAL ISSUES AFFECTING SECONDARY MORTGAGE  
MARKETS: ROMANIA & CROATIA**

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**DECEMBER 2, 2003**

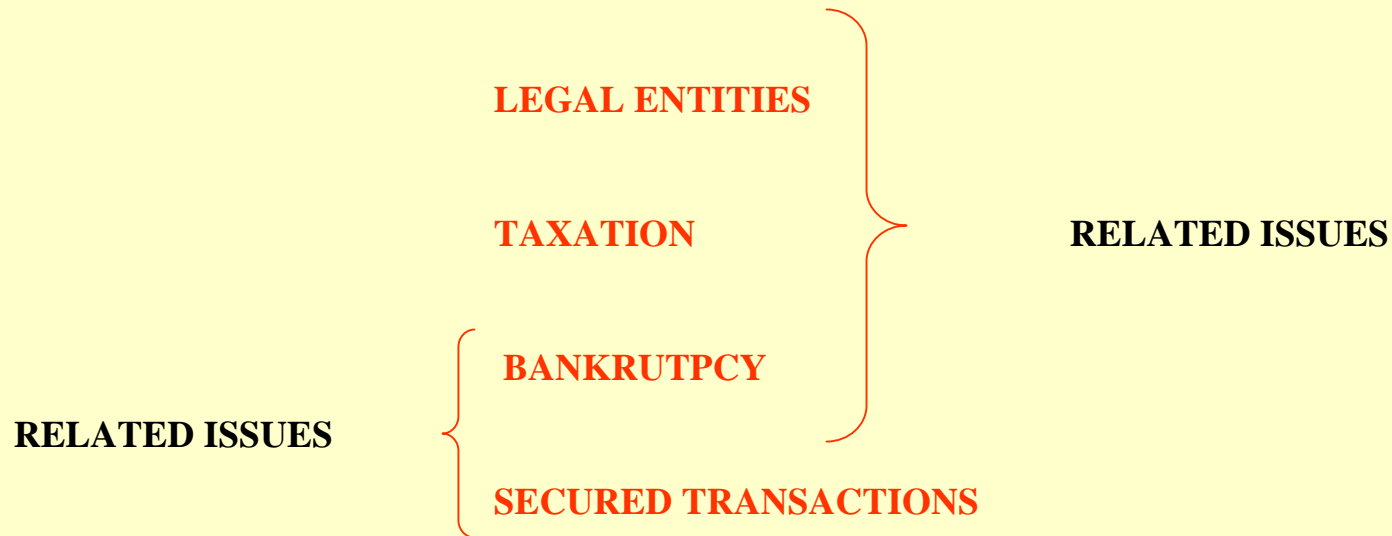
## OUTLINE

- **LEGAL ISSUES FOR SECONDARY MARKETS**
- **THE CASE OF ROMANIA**
  - **LEGAL ENTITIES**
  - **TAXATION**
  - **SECURED TRANSACTIONS**
  - **BANKRUPTCY**
  - **WHAT CAN BE DONE IN ROMANIA TODAY?**
  - **WHY IS LAW 190 NOT A COVERED MORTGAGE BOND LAW?**
  - **BULGARIAN MORTGAGE BOND LAW AS A MODEL?**
  - **RECOMMENDATIONS FOR ROMANIA**
- **COMPARING ROMANIA AND CROATIA**

**MAJOR AREAS OF LEGAL CONCERN FOR MORTGAGE SECURITIES**

**PRIMARY MORTGAGE MARKETS – ENFORCEMENT OF SECURITY**

**SECONDARY MARKET ISSUES:**



## **AREAS OF CONCERN ...**

### **LESSER AREAS OF CONCERN (THOUGH STILL SIGNIFICANT)**

➤ **RESTRICTIONS ON OWNERSHIP, PLEDGE OR TRANSFER OF MORTGAGE LOANS – E.G. DEBTOR CONSENT**

➤ **BURDENSOME LAND REGISTRY REQUIREMENTS**

➤ **OTHER COSTS – VAT, TRANSFER TAXES, STAMP DUTIES, ETC.**

➤ **BANKING AND OTHER PRIVACY LAWS RESTRICTING TRANSFER/SERVICING OF LOANS**

➤ **RESTRICTIONS ON INVESTMENTS BY BANKS AND OTHER REGULATED INVESTORS**

➤ **RESTRICTIONS ON FOREIGN INVESTMENT – FX REGIME**

➤ **UNFAVORABLE SECURITIES REGULATIONS AND OTHER RESTRICTIONS ON ISSUANCE OF SECURITIES**

➤ **UNFAVORABLE BANKING REGULATION – E.G. OFF BALANCE SHEET FINANCING**

**WHAT IS THE MORTGAGE CREDIT COMPANY?**

**IS IT A MORTGAGE BANK?**

**SUBJECT TO SOME NBR REGULATION, BUT NO SIGNIFICANT REGULATION OF ITS MORTGAGE BONDS**

**NON-DEPOSITORY – EQUITY AND CAPITAL MARKETS SOLE SOURCE OF FUNDING**

**DIRECT LENDER**

**IS IT AN SPV?**

**OUTSOURCING OF MANAGEMENT FUNCTIONS**

**HIGH CAPITAL REQUIREMENTS**

**DIRECT LENDING – NOT A PASSIVE CONDUIT**

**PROBABLY BEST CHARACTERIZED AS A TYPE OF MORTGAGE BANK – WITH MINIMAL REGULATION**

**COULD ISSUE A TYPE OF BOND SECURED BY MORTGAGES, BUT NOT A “COVERED MORTGAGE BOND” AS UNDERSTOOD IN THE MARKET**

**NOT A SUITABLE VEHICLE FOR SECURITIZATION – TAXATION AND BANKRUPTCY**

**WHAT IS LACKING IS A CONCEPT OF THE SECONDARY MARKET SYSTEM – UNIVERSAL BANKING OR SPECIALIZED LENDING INSTITUTIONS? IF UNIVERSAL BANKING, THE MORTGAGE CREDIT COMPANY MAY BE AN UNNECESSARY ENTITY**

**WHAT IS THE “MORTGAGE FUND”**  
**(ART. 6 OF LAW 190 AND NSC REG. 2 OF 2000)**

**IS IT AN SPV?**

**CIVIL AGREEMENT ENTITY – BANKRUPTCY REMOTE AND TAX TRANSPARENT**  
**MANAGEMENT OUTSOURCING**  
**EXTERNAL AUDIT**

**BUT:**

**HUGE CAPITAL REQUIREMENT (\$5 MILLION US)**  
**ACTIVE DIRECT LENDER**  
**5 MEMBER MINIMUM**  
**EXCHANGE TRADED SHARES (NOT DESIRABLE FOR SPVs)**  
**MANDATORY 25%/40% OVERCOLLATERIZATION – NOT FINANCIALLY FEASIBLE FOR SPVs**

**MOVING IN THE RIGHT DIRECTION, BUT STILL SOME DISTANCE TO GO**

**THE INVESTMENT FUND/COMPANY**

**THE “CIVIL PARTNERSHIP” INVESTMENT FUND IS BANKRUPTCY REMOTE AND TAX NEUTRAL, **BUT** MUST BE AN OPEN END FUND – NOT SUITABLE FOR SECURITIZATION**

**THE INVESTMENT COMPANY (CLOSED END FUND) MUST BE A JOINT STOCK COMPANY – EXCHANGE TRADED EQUITY SHARES - NOT SUITABLE**

**NEITHER ENTITY IS SPECIFICALLY PERMITTED TO INVEST IN MORTGAGE LOANS - STRICT DIVERSIFICATION REQUIREMENTS – BUT WAIVERS MIGHT BE GIVEN BY THE NSC**

**NEITHER PERMITS STRUCTURED SECURITIES – ALL INTERESTS MUST BE EQUAL**

**NEW FUNDS LAW UNDER CONSIDERATION AT THIS TIME**

**MAY NEED TO LOOK AT THE FRENCH LAW – “FONDS COMMUNS DE CREANCE” – AN ADJUSTMENT TO THE MUTUAL FUND LAW TO CREATE A SECURITIZATION CONDUIT**

**OBJECTIVES:**

**CLOSED END CIVIL PARTNERSHIP/ASSOC IN PARTICIPATION STRUCTURE**

**AUTHORIZATION TO INVEST IN MORTGAGE LOANS**

**RELAXATION OF DIVERSIFICATION REQUIREMENTS**

**AUTHORIZATION OF MULTIPLE CLASSES OF PARTICIPATION INTERESTS**

**TAXATION AND MORTGAGE SECURITIES**

**BONDS SHOULD NOT BE A PROBLEM**

**CREATING THE TAX NEUTRAL VEHICLE**

**WHAT IS THE DIFFERENCE BETWEEN AN ENTITY THAT IS SUBJECT TO PROFIT TAX AND ONE THAT IS NOT? ARE THERE ANY CRUCIAL TESTS? TAX AVOIDANCE**

**NO SPECIAL TREATMENT OF CAPITAL GAINS IN EITHER ROMANIA OR CROATIA**

**EXAMPLES OF TAX ISSUES:**

**REALIZATION OF GAIN ON TRANSFER OF MORTGAGE RECEIVABLES TO THE ISSUER?**

**NEW FORMS OF SECURITIES – PARTICIPATION CERTIFICATES, ZERO COUPONS, STRIPS**

**DISTINGUISHING BETWEEN INTEREST AND DIVIDENDS (ONLY AN ISSUE IF THEY ARE TREATED DIFFERENTLY FOR TAX PURPOSES)**

**DISTINGUISHING BETWEEN PROFIT AND RETURN OF CAPITAL – A SIMPLE MATTER FOR PASS THROUGH SECURITIES, BUT NEEDS TO BE ADDRESSED**

**TAXATION OF DERIVATIVES - SEE GROUP OF 30 GUIDELINES – ISA 39**

**RESIDUAL INTERESTS IN STRUCTURED TRANSACTIONS**



## **SECURED TRANSACTIONS**

**ISSUE: PLEDGE OF MORTGAGE COLLATERAL BY THE ISSUER (BANK, SPV) FOR THE BENEFIT OF THE HOLDERS OF MORTGAGE SECURITIES**

**LAW ON REAL GUARANTEES – VERY GOOD, MODERN LAW**

**FLOATING CHARGES (FUTURE ACQUIRED PROPERTY, REPLACEMENT PROPERTY, ETC.)**

**CHARGE ON BROADLY DEFINED CLASS OF ASSETS**

**SELF-HELP – NON-JUDICIAL SALE – RIGHT TO POSSESSION OF COLLATERAL AND COLLECTION OF PERIODIC PAYMENTS**

**ELECTRONIC REGISTRY**

**BANKRUPTCY EXCLUSION? NO, BUT A REQUEST CAN BE MADE TO THE BANKRUPTCY COURT – BETTER THAN THE BANKRUPTCY LAW ITSELF**

**IN MORTGAGE BOND LAWS THE PLEDGE TO BONDHOLDERS IS STATUTORY AND SUBJECT TO ITS OWN RULES**

**SECURED TRANSACTIONS**

**POSSIBLE PROBLEMS:**

**LACK OF EXPERIENCE WITH THE LAW – LACK OF PRECEDENT**

**PREFERENCES SUPERIOR TO SECURED CREDITORS? UNCLEAR (BUT ALMOST CERTAINLY IN A BANKRUPTCY PROCEEDING)**

**PLEDGE OF ACCOUNTS – SPECIFICITY REQUIRED**

**NOTIFICATION OF DEBTORS – DEMAND FOR PROOFS**

**CHARGE IN FAVOR OF BROADLY DEFINED CLASS OF CREDITORS (E.g.. ALL HOLDERS OF ABC BONDS)? UNCLEAR, BUT PROBABLY YES**

**PLEDGE TO A TRUSTEE OR AGENT ON BEHALF OF CLASS OF CREDITORS – NOT ADDRESSED – NOT LIKELY**

**NO CONCEPT OF A FIDUCIARY TRUST**

**EACH SECURITY HOLDER RETAINS INDEPENDENT RIGHT OF ACTION TO DECLARE A DEFAULT AND ENFORCE SECURITY**

**COMPARE LAW ON INVESTMENT FUNDS – THE ROLE OF THE DEPOSITORY**

**PERHAPS ACHIEVABLE THROUGH CONTRACTUAL PROVISIONS OF SECURITY OFFERING**

**DEFINITELY ACHIEVABLE IF NEW MORTGAGE BOND/SECURITIZATION LAW**

**BANKRUPTCY**

**BANKRUPTCY OF THE MORTGAGE LOAN ORIGINATOR: “TRUE SALE” AND CONSOLIDATION**

**BANKRUPTCY OF THE SECURITY ISSUER:**

**INTERVENTION OF THE BANKRUPTCY COURT**

**DELAY OF REALIZATION**

**OTHER CREDITOR CLAIMS AGAINST MORTGAGE COLLATERAL**

**MANDATORY LIQUIDATION OF COLLATERAL**

**THE ISSUE OF “BANKRUPTCY REMOTENESS”**

**GOOD NEWS:** MINIMUM TRUE SALE AND CONSOLIDATION RISKS *AT PRESENT* – BANKRUPTCY OF LOAN ORIGINATOR/SELLER PROBABLY NOT AN ISSUE

**BUT:** ROMANIAN BANKRUPTCY LAW VERY FAVORABLE TO UNSECURED CREDITORS – THE “AUTOMATIC STAY” OF EXECUTION PROCEEDINGS IS STRICT AND COMPREHENSIVE - MUST STRUCTURE A “BANKRUPTCY REMOTE” (OR EXEMPT!) ENTITY

## **BANKRUPTCY**

**CONCLUSION:** PLEDGE OF MORTGAGE COLLATERAL TO SECURITY HOLDERS WILL BE SUBJECT TO BANKRUPTCY PROCEEDINGS AND OTHER CLAIMS

THOUGH SECURED CREDITORS HAVE A PRIORITY OVER MOST OTHER CREDITORS, THERE ARE SUPER PRIORITIES THAT MAY HAVE PREFERENCE EVEN OVER SECURED CREDITORS

### **MAIN IMPLICATIONS:**

**DELAY OF REALIZATION**

**MANDATORY LIQUIDATION AND MARKET RISK (NO OPPORTUNITY TO CONTINUE THE MORTGAGE SECURITIES TO MATURITY)**

**THREAT OF CLAIMS BY UNSECURED CREDITORS, PARTICULARLY SUBORDINATED CREDITORS (60%-75% FINANCING LIMITATION MAKES LARGE AMOUNTS OF SUBORDINATED FINANCING INEVITABLE)**

**LOSS OF OVERCOLLATERALIZATION? OPERATION OF THE BANKRUPTCY LAW MAY MAKE THE MANDATORY OVERCOLLATERALIZATION (60% - 75% FINANCING LIMITATION) USELESS TO THE SECURITY HOLDER – UNINTENDED CONSEQUENCES**

**CONSIDER:** BANKRUPTCY AND THE CIVIL PARTNERSHIP OR “ASSOCIATION IN PARTICIPATION” – POSSIBLE BANKRUPTCY IMMUNE SECURITIZATION VEHICLE – **BUT:** PERSONAL LIABILITY?

## **LAND BOOK REGISTRATION UNDER LAW 7**

**DIRECT AND INDIRECT COSTS OF TRANSFERRING MORTGAGE SECURED DEBT IS A PROBLEM IN MOST PLACES**

**REGISTRATION IN LOCAL LAND BOOKS FOR ASSIGNMENT OR PLEDGE**

**ROMANIA IS NO DIFFERENT – EXCEPT THAT ITS REGISTRATION SYSTEM IS UNDERDEVELOPED IN MANY LOCALITIES – A PROBLEM THAT IS BEING ADDRESSED**

**SOME INDICATION IN LAW 7 THAT REGISTRATION OF A TRANSFER OF MORTGAGE IS NOT REQUIRED IF IT SECURES A NEGOTIABLE INSTRUMENT – UNCLEAR, AND MAY BE UNRELIABLE – IN ANY CASE, IT IS NOT THE PRACTICE IN ROMANIA TO USE NEGOTIABLE INSTRUMENTS FOR MORTGAGE LOANS**

**MODERN TREND IS TO DEVELOP CENTRAL REGISTRIES FOR TRANSFER AND PLEDGE OF MORTGAGES IN CONNECTION WITH SECURITIZATION**

**LESSER CONCERNS**

**NO -**

**APPARENT RESTRICTIONS ON PLEDGE, TRANSFER OR OWNERSHIP OF LOANS**

**DEBTOR CONSENT (BUT NOTIFICATION REQUIRED)**

**VAT (LAW 190) OR STAMP DUTIES ON TRANSFER OF LOANS OR PORTFOLIOS**

**SIGNIFICANT RESTRICTIONS ON FOREIGN INVESTORS**

***PRESENT* NBR POSITION ON OFF BALANCE SHEET FINANCING (NOT RELEVANT TO MORTGAGE BONDS), AND TREATMENT OF MORTGAGE BONDS FOR RESERVE AND CAPITAL REQUIREMENTS**

***PRESENT* PRIVACY ISSUES WITH TRANSFER OF LOANS AMONG ELIGIBLE ENTITIES, BUT THE LAW IS BROAD AND POTENTIALLY TROUBLING**

**BUT -**

**RESTRICTIONS ON REGULATED INVESTORS – NEED TO AUTHORIZE HOLDINGS OF MORTGAGE BONDS AND RELAX DIVERSIFICATION RESTRICTIONS**

**RESTRICTIONS ON BOND ISSUANCE BY ANY COMPANY – PRESENTLY LIMITED TO 75% OF CAPITAL**

**CLARIFICATION OF PRIVACY REQUIREMENTS – COVER SPVs, SERVICERS, DEPOSITORIES, TRUSTEES, ETC.**

**DEVELOPMENT OF FAVORABLE NBR POSITIONS ON OFF BALANCE SHEET TRANSACTIONS (CAPITAL RELIEF) AND TREATMENT OF MORTGAGE BONDS FOR RESERVE AND CAPITAL REQUIREMENTS**

**WHAT CAN BE DONE TODAY...**

| <b>WHAT CAN BE ISSUED IN ROMANIA TODAY?</b> |   |                                    |  |  |
|---|---|------------------------------------|--|--|
| <b>SECURITY</b>                             | <b>BONDS</b>                                  |                                    | <b>MBS</b>   |  |
|   | <b>Mortgage Secured Bonds</b>                 | <b>Covered Bonds (Pfandbriefe)</b> | <b>Mortgage Participation Certificates</b>                           | <b>Structured Mortgage Securities</b>                                |
| <b>ISSUE</b>                                |   |                                    |  |  |
| <b>ENTITY</b>                               | <b>YES<br/>ANY BANK OR MORTGAGE CORP.</b>     | <b>NO</b>                          | <b>MAYBE<br/>CIVIL PARTNERSHIPS OR ASSOCIATIONS IN PARTICIPATION</b> | <b>MAYBE<br/>CIVIL PARTNERSHIPS OR ASSOCIATIONS IN PARTICIPATION</b> |
| <b>TAX</b>                                  | <b>YES<br/>FIXED RATE, BULLET INSTRUMENTS</b> | <b>NO</b>                          | <b>MAYBE</b>   | <b>MAYBE</b>   |
| <b>SECURED TRANSACTIONS</b>                 | <b>YES<br/>LAW ON REAL GUARANTEES</b>         | <b>NO</b>                          | <b>MAYBE<br/>LAW ON REAL GUARANTEES</b>                              | <b>MAYBE<br/>LAW ON REAL GUARANTEES</b>                              |
| <b>BANKRUPTCY</b>                           | <b>YES</b>                                    | <b>NO</b>                          | <b>MAYBE</b>   | <b>MAYBE</b>   |

**WHY ARE LAW 190 BONDS NOT COVERED MORTGAGE BONDS?**

**NO -**

**DEFINITION OF MORTGAGE COVER (ACCOUNTS, DERIVATIVES, ETC.)**  
**BANKRUPTCY PRIVILEGE**  
**BALANCE PRINCIPLE**  
**YIELD**  
**DURATION**  
**PRESENT VALUE**  
**APPRAISAL PRINCIPLE**  
**COVER REGISTER**  
**SUPERVISORY TRUSTEE**

**ARE ALL OF THESE PROVISIONS NECESSARY?**

- BONDS OR COVERED BONDS? FITTING INTO AN ESTABLISHED EUROPEAN SYSTEM**
- DOMESTIC OR INTERNATIONAL MARKETS? DIFFERENT DEMANDS, EXPECTATIONS**
- RATINGS**



## **BULGARIA'S MORTGAGE BOND LEGISLATION AS A MODEL**

### **GOOD:**

**PARTIAL COVER PRINCIPAL - PRINCIPAL MATCHING OF BONDS AND MORTGAGE ASSETS**  
**STRONG LOAN TO VALUE RULES ON MORTGAGE COVER - LOWER LOAN TO VALUE RATIOS FOR NON-OWNER OCCUPIED AND NON-RESIDENTIAL PROPERTY**  
**SEPARATE MORTGAGE REGISTER**  
**FLEXIBLE MORTGAGE LOAN SUBSTITUTION - DYNAMIC MANAGEMENT OF COVER**  
**NAME PROTECTION**  
**APPRAISAL STANDARDS**  
**REMOVAL OF MORTGAGE COVER FROM THE BANKRUPTCY ESTATE**

### **QUESTIONABLE:**

**INCOMPLETE COVER - ONLY PRINCIPAL MATCHING, NO YIELD OR PRESENT VALUE MATCHING**  
**CURRENT MARKET VALUE APPRAISAL - NOT CONSERVATIVE "LONG TERM MORTGAGE VALUE"**  
**MANDATORY LIQUIDATION OF COVER POOL IN BANKRUPTCY - SOME MARKET RISK, DEPENDING ON OVERCOLLATERALIZATION**  
**MIXED COMMERCIAL AND RESIDENTIAL MORTGAGE POOLS; NO RESTRICTIONS ON CONSTRUCTION LOANS -- INCREASES RISK BUT ALSO CAN INCREASE ISSUE SIZE AND LIQUIDITY**  
**NO OUTSIDE AUDIT REQUIRED - NO POOL TRUSTEE UNTIL AFTER BANKRUPTCY**

**RECOMMENDATIONS - MORTGAGE BONDS**

**DECIDE ON A MORTGAGE BOND MODEL – UNIVERSAL BANKING OR SPECIALIZED ENTITIES?**

**IN EITHER CASE, NEED A BETTER COVERED MORTGAGE BOND LAW -**

**RECAST THE 40% MANDATORY OVERCOLLATERALIZATION AS AN LTV LIMITATION ON COVER LOANS OR ON THE PORTION OF ANY LOAN CREDITED TOWARD CALCULATION OF MORTGAGE COVER**

**IMPROVE THE BALANCE PRINCIPAL – YIELD AND DURATION – NET PRESENT VALUE**

**PROVIDE A BANKRUPTCY PRIVILEGE – COMPLETE EXEMPTION RECOMMENDED**

**REQUIRE A MORTGAGE COVER REGISTER**

**INDEPENDENT SUPERVISORY TRUSTEE**

**BETTER DEFINE COVER ASSETS**

**SPECIFICALLY PERMIT STRUCTURED ISSUES/TRANCHING**

**ELIMINATE CAPITAL RELATED LIMITATIONS ON BOND ISSUANCE**

**AUTHORIZE REGULATED INVESTORS TO PURCHASE (PENSION, INSURANCE, UCITS) – RELAX DISPERSION PRINCIPLE**

**PROVIDE APPROPRIATE CENTRAL BANK GUIDANCE ON RESERVE AND CAPITAL TREATMENT OF MORTGAGE BONDS**

## **RECOMMENDATIONS ...**

### **RECOMMENDATIONS - MBS**

**LEGALLY DEFINE SECURITIZATION AS A FINANCIAL TRANSACTION – DISTINGUISH FROM MORTGAGE BONDS (WHAT IS THE DIFFERENCE BETWEEN ART. 25 AND ART. 29?)**

**CREATE A SECURITIZATION VEHICLE/CONDUIT**

**POSSIBILITIES:**

**AMEND THE INVESTMENT FUND LAW (SEE FRENCH MODEL)**

**AMEND THE COMPANIES LAW**

**CREATE A SECURITIZATION LAW (SEE INDIA, KOREA, THAILAND, ETC.)**

**ELIMINATE THE 75% OF MORTGAGE VALUE LIMITATION – LET THE MARKET DECIDE**

**TRY TO USE WHAT YOU HAVE – CIVIL PARTNERSHIP OR ASSOCIATION IN PARTICIPATION – TAX NEUTRAL AND IMMUNE FROM BANKRUPTCY PROCEEDING, LOW CAPITAL REQUIREMENTS, SIMPLE REPORTING**

**IF OTHER ENTITY IS AUTHORIZED, NEED TO ESTABLISH TAX NEUTRALITY AND BANKRUPTCY PROTECTIONS BY LAW**

**SPECIFICALLY PERMIT STRUCTURED ISSUES/“TRANCHING”**

**NEED SIMPLE TAX INSTRUCTIONS ON “PASS THROUGH” AND STRUCTURED SECURITIES (MAY BE NECESSARY FOR STRUCTURED BOND ISSUES AS WELL)**

**WHAT IS A PORTFOLIO THAT HAS “COMMON CHARACTERICS IN TERM SOF THEIR NATURE, ORIGIN AND RISK”? WHY IS THIS LANGUAGE NECESSARY? (ARTICLE 24 (2))**

**RECOMMENDATIONS - REGISTRATION**

**OPPORTUNITY TO ADDRESS LOGISTICAL PROBLEMS OF LAND BOOK REGISTRATION –  
REDUCE DIRECT AND INDIRECT COSTS**

**RECENT EXPERIENCE WITH THE ELECTRONIC REGISTRY OF MOVEABLE PLEDGES**

**PROPOSAL:**

- 1. TRANSFER (ASSIGNMENT) OR PLEDGE OF A CLAIM FOR PURPOSES OF SECURITIZATION(BONDS OR MBS) TO BE REGISTERED IN CENTRALIZED REGISTER**
- 2. ASSIGNMENT OF RIGHT TO A CLAIM FOR PURPOSES OF SECURITIZATION (BONDS OR MBS) CARRIES WITH IT THE RIGHT TO THE MORTGAGE SECURITY**
- 3. NOT NECESSARY TO MAKE ENTRY INTO INDIVIDUAL LAND BOOKS SO LONG AS ENTRY IS MADE IN CENTRAL REGISTER**
- 4. ENTRY OF ASSIGNMENT OR PLEDGE OF CLAIM IN THE CENTRAL REGISTER IS SUFFICIENT TO ESTABLISH RIGHT OF THE ASSIGNEE/PLEDGEE TO ENFORCE RIGHT TO THE MORTGAGE SECURITY**
- 5. LAND BOOKS MUST MAKE A MARGINAL NOTATION OF ASSIGNMENT OR PLEDGE FOR PURPOSES OF SECURITIZATION UPON SIMPLE WRITTEN REQUEST OF REGISTERED MORTGAGE HOLDER**

**SECONDARY MARKETS IN CROATIA**

**THERE IS NO EQUIVALENT OF LAW 190 – STARTING FROM AN EARLIER POINT**

**NO SPECIFIC LEGAL AUTHORIZATION FOR SALE OF MORTGAGE PORTFOLIOS, POOLING,  
AND ISSUANCE OF MORTGAGE SECURITIES**

**MOST OF THE SAME SHORTCOMINGS AS ROMANIA, AND FEWER OF THE POSITIVE ELEMENTS**

**LEGAL ENTITIES:**

**NO SPECIFIC AUTHORIZATION FOR MORTGAGE COMPANIES OR MORTGAGE FUNDS**

**MUTUAL FUNDS USE THE “SEPARATE PROPERTY” OR “SEPARATE ESTATE” CONCEPT TO  
CREATE A TAX NEUTRAL AND BANKRUPTCY IMMUNE ENTITY (NOT A LEGAL ENTITY)**

**SECONDARY MARKETS IN CROATIA**

**SECURED TRANSACTIONS:**

**UNSUITABLE – TRADITIONAL CIVIL LAW RULES**

**NO FLOATING CHARGES, SPECIFIC IDENTIFICATION OF PLEDGED ASSETS AND SECURED PARTIES, ETC.**

**BANKRUPTCY:**

**VERY FAVORABLE TO SECURED CREDITORS – CONTRAST WITH THE ROMANIAN LAW**

**PLEDGED PROPERTY IS VIRTUALLY REMOVED FROM THE BANKRUPTCY ESTATE FOR PURPOSES OF INDEPENDENT EXECUTION BY THE SECURED PARTY**

**OTHER BANKRUPTCY ISSUES REMAIN, HOWEVER**

**REGISTRATION:**

**SAME EFFICIENCY AND COST ISSUES WITH LAND BOOK REGISTRATION**

**INSTITUTIONALLY, REGISTRATION SYSTEM IS PROBABLY IN WORSE SHAPE THAN IN ROMANIA**

**RECOMMENDATIONS:**

**SEE ROMANIA**