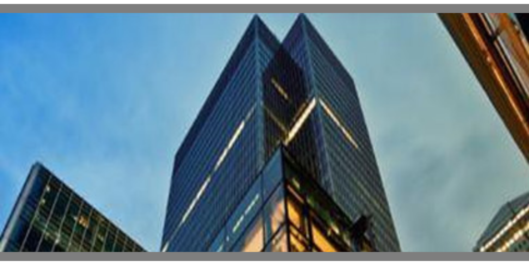
CMBS Credit Focus

Control Rights: Track the Interplay of Co-Lender and Intercreditor Agreements



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Worldwide Plaza and NYT Building B-Note/Mezz Dynamics

The recent loan events in Worldwide Plaza and the New York Times Building illustrate the nuances of control in complex capital structures. Both Worldwide Plaza ($940 million, WPT 2017-WWP and a few conduits) and the New York Times Building ($515 million, NYT 2019-NYT) now are in special servicing. Worldwide Plaza saw a sharp valuation drop. The New York Times Building loan faces its final maturity next week.

Both properties have relatively complicated debt structures, including B-notes and mezzanine loans (Figure 1). In Worldwide Plaza a new buyer just purchased the mezz debt, according to press reports. The new mezz lender potentially can take control of the property's ownership in a UCC foreclosure auction on January 15, 2026, muddling the loan's workout.[1] In the New York Times Building, the presence of a non-trust B-note can blur who the control party is, amid loan modification negotiations with the borrower, and ahead of a potential new appraisal.[2]

Figure 1. New York Times Building and Worldwide Plaza - Loan and Property Parameters

Asset	New York Times Building		Worldwide Plaza	
Deals	NYT 2019-NYT		WPT 2017-WWP, GSMS 2017-GS8, GSMS 2018-GS9, BMARK 2018-B1, BMARK 2018-B2	
Securitized Balance	$515,000,000		$940,000,000	
Maturity	December 2025		November 2027	
Coupon	TSFR1M + 2.15%		3.60%	
Loan Status	Current - Specially Serviced		Current - Specially Serviced	
Property Size	738,385 square feet		2,049,553 square feet	
Occupancy	99% as of 6/30/2025		63% as of 6/30/2025	
DSCR	1.06x as of 6/30/2025		0.35x as of 6/30/2025	
Location	New York, NY		New York, NY	
Appraisal History	$1,010,000,000 as of August 2018		$390,000,000 as of April 2025 $1,740,000,000 as of October 2017	
Capital Structure (Senior / B-Note / Mezz)	Senior Mortgage B-Note (Outside Trust) Mezz Loan	$515,000,000 $120,000,000 $115,000,000	Senior Mortgage B-Note (Inside Trust) Mezz Loan	$616,286,000 $323,714,000 $260,000,000

Source: Deal documents and Academy Securities

1 "Mezz Loan Sales: A Potential Headache for CMBS Workouts," CMBS Credit Focus, Academy Securities, March 22, 2023
2 "PILOT: Check Another Wrinkle of Ground Leases," CMBS Credit Focus, Academy Securities, July 1, 2024

Distinct Co-lender and Intercreditor Agreements

Co-lender and intercreditor agreements govern the interplay of the various positions across the capital structure. These agreements are not the same. The *intercreditor agreement* between the mortgage lender and the mezzanine lender deals with parties that hold different collateral. Mezz lenders have security interest in the real estate's owner entity as their collateral, enforceable via UCC foreclosure.[3] Mortgage lenders have a security interest on the property itself. An *A/B co-lender agreement* deals with the rights and remedies of a senior lender and a junior lender "sharing" the same mortgage collateral (Figure 2).

Figure 2. Co-lender and Intercreditor Agreements - Simplified Comparison

	Co-lender Agreement	Intercreditor Agreement
Parties	Mortgage lenders sharing the same collateral	Mortgage and mezz lenders, with different collateral
Collateral	The property itself	Mortgage - property itself; Mezz - property ownership equity
Foreclosure Type	Mortgage foreclosure	Mortgage foreclosure; Mezz - UCC foreclosure
Key Provisions	• Control Rights • Consultation Rights • Cure and purchase rights	• Control Rights • Consultation Rights • Cure and purchase rights • UCC foreclosure • Extension options

Source: Legal memoranda and Academy Securities

B-note and mezz lenders conceptually still can have similar key rights, despite holding different collateral types. Notably, we see both lenders typically having a "cure right" and a "purchase right" in events of default. The subordinate lenders can choose to cure the default or purchase the loan senior to them. Either lenders can be incentivized to exercise their cure or purchase right to avoid losing their position in foreclosures, or prevent other default-driven consequences. As such, the presence of both mezz and non-trust B-note positions in situations such as the New York Times Building can foretell various workout approaches.

Trust and Non-Trust B-Notes

Evaluating whether the B-note is part of the CMBS trust or not can be consequential, given the various rights B-note positions have. In Worldwide Plaza, the B-note position is part of the securitization exposures. In the New York Times Building deal, it is not. A few other large CMBS properties also feature a variety of trust and non-trust subordinate positions (Figure 3).

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3 "Equity Pledges: Hotel Bossert Spotlights Dual Collateralized Loans," CMBS Credit Focus, Academy Securities, February 23, 2023

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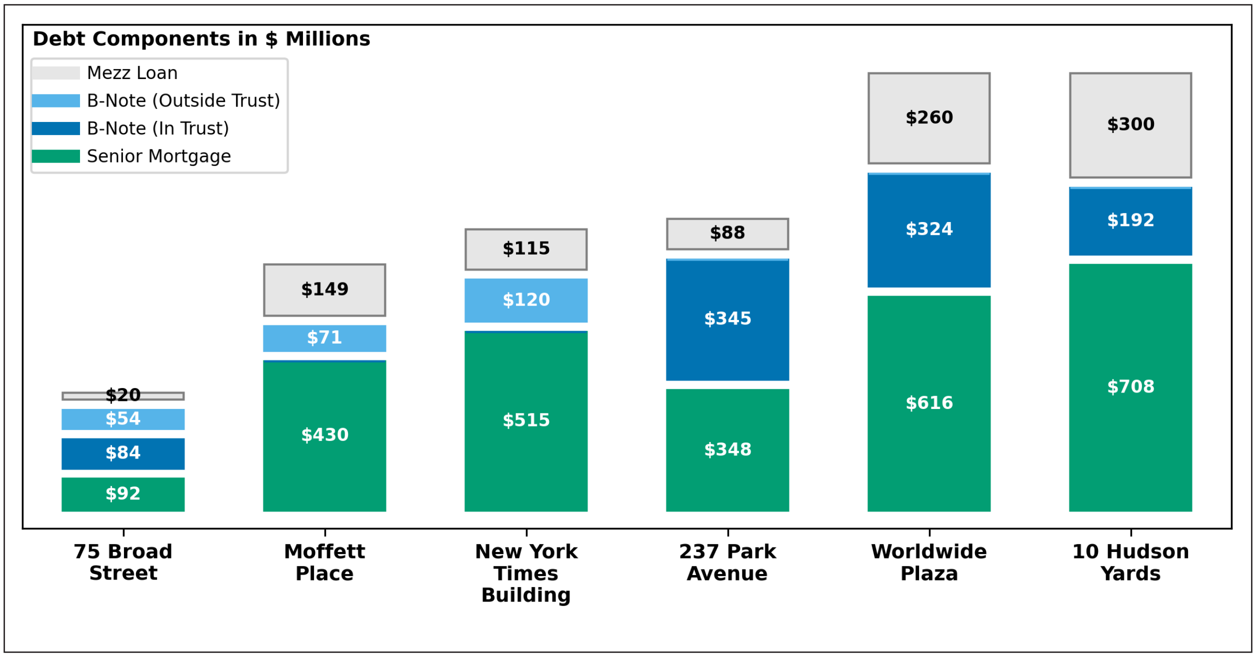
Figure 3. Large CMBS Loan Capital Structures



Source: Morningstar Credit and Academy Securities

Non-trust B-notes can have control rights that supersede the control rights of the CMBS directing holder. For example, in the New York Times Building deal documents we see provisions that grant control and consultation rights to the non-trust B-note positions. The provisions are nuanced. But they appear to put the B-note in control of the structure, before any appraisal reduction event happens. As such, the B-note holder identity is relevant. In the New York Times Building an entity called "SRA NYT" was expected to be the controlling noteholder at issuance, based on the deal's prospectus. Recent servicer commentary alludes to a different entity as the controlling noteholder. It is possible the B-note position has been sold and transferred, similar to mezz loan sales we identify on occasion.

Still, it remains challenging to track transfers of non-trust positions, or their current holders. Recent deal commentary in NYT 2019-NYT accentuated the ambiguity over the precise entity that holds control of the structure. The commentary suggested that an institutional investor that reportedly is the mezz lender, is the controlling noteholder. All of this is taking place while the New York Times Building borrower is still part of the picture. The borrower is looking to have a "structured, good-faith dialogue" with its "lenders" to determine the best outcome for all stakeholders, according to the servicer commentary. It remains to be seen which precise lender is in control, and what rights if any the subordinate lenders can exercise.

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