Loan
Market
Association

the authoritative voice
of the European market

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LMA launches documentation to address Finance Party default and recent market disruption

In response to the bank failures and market turmoil encountered in late 2008, the LMA has published new clauses for primary documents to address the difficulties that lenders and borrowers may have encountered in the syndicated loan market as a result of market events. These changes have focussed on four main areas: lender default; the effects of an Agent becoming subject to distress; protection for issuing banks; and the mechanics of dealing with market disruption in the interbank funding market. The changes are intended to mitigate the effect on syndicate members and lenders of a Finance Party failure. New concepts have been introduced to facilitate this, including that of a Defaulting Lender, an Impaired Agent, and Non-Acceptable L/C lender, and the Cashless Rollover, whereby rollover loans under a Revolving Facility can be effected by way of netting and book entry.

The LMA's existing cost of funds provisions and market disruption clause have been also amended. The definition of LIBOR/EURIBOR has been altered to allow parties to choose whether to specify a Screen Rate or a Reference Bank rate as the primary means for establishing the relevant LIBOR/EURIBOR. In the market disruption clause, an additional stage has been included, so that the rate of interest will only be determined on a lender-by-lender basis after obtaining a reference bank rate from a wider range of Alternative Reference Banks, and if the cost of funds of a specified proportion (intended to be greater than the proportion required to trigger a Market Disruption Event) of lenders exceeds that rate.

Clare Dawson, Managing Director of the LMA, commented, "Traditionally, syndicated loan primary market documentation has not contemplated lender or Agent failure, but has focussed on the possibility of Borrower default. After the events of last autumn, the LMA has done considerable work on addressing the problems that failure of a major financial institution could give rise to in the syndicated loan market. We hope that the new documentation will offer additional confidence that the market would be able to handle similar events effectively should they recur."

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For further information, please contact:

Loan Market Association

Clare Dawson, Managing Director	020 7006 6007 clare.dawson@lma.eu.com
Mike Johnstone, Director	020 7006 2267 mike.johnstone@lma.eu.com

Penrose Financial

Andrew Nicolls/John Sarsfield	020 7786 4881/ 66 andrewn/johns@penrose.co.uk

Loan Market Association

The Loan Market Association was founded in December 1996 by seven leading international banks in London. Its aim was to encourage liquidity and efficiency in both the primary and secondary loan markets by promoting market depth and transparency, as well as by developing standard forms of documentation and codes of market practice. Banks, law firms and other market practitioners/participants are welcome to apply to join the LMA.

The Association was established in anticipation of changing market conditions and of a perceived willingness on the part of the banking community to bring greater clarity, efficiency and liquidity to the relatively under-developed secondary market.

The initiative was clearly well timed, as there was sustained growth in secondary loan activity in the Euromarkets over the following ten years. Unsurprisingly, this trend reversed in 2008, when volumes for the year went down to EUR 80 billion from EUR 173 billion in 2007.

The LMA has gained recognition in the market and has expanded its activities to include all aspects of the primary and secondary syndicated loan markets. It sees its overall mission as acting as the authoritative voice of the syndicated loan market in Europe vis à vis banks, borrowers, regulators and other affected parties.

For more information, please visit www.lma.eu.com.