

Fannie Mae: Expanding Securities Offerings

Case Study

When Fannie Mae undertook to offer REMIC-eligible credit risk transfer securities, it turned to an international and interdisciplinary team of Katten professionals to accomplish that goal.

In 2017, Fannie Mae announced a plan that would permit real estate investment trusts (REITs) to purchase its Connecticut Avenue Securities (CAS®). The CAS program is Fannie Mae's benchmark issuance program for sharing credit risk on its single-family conventional mortgage loan guaranty book of business. Until recently, CAS issuances were structured in a way that did not provide for the real estate mortgage investment conduit (REMIC) elections commonly used to pool mortgage loans and issue mortgage-backed securities. Without such an election, participation from REITs in the CAS program had historically been limited. The election, moreover, would benefit Fannie Mae by qualifying the securities as debt for US federal income tax purposes, removing the need for tax withholding and increasing the appeal of CAS in international markets.

Katten attorneys in the United States and in the London affiliate Katten Muchin Rosenman UK LLP teamed up throughout 2017 and 2018 to advise Fannie Mae on multiple aspects of structuring, negotiating and executing substantial revisions to the CAS program structure. The team worked through complex, novel issues involving securities laws, the Investment Company Act, federal income tax, ERISA, legal isolation, whole pool securities treatment and EU securitization regulations. The team consisted primarily of attorneys who specialize in structured finance and financial services and also included attorneys from the tax, employee benefits and executive compensation practice areas. Attorneys located in the New York, Chicago, Washington, DC, London and Charlotte offices assisted in the matter. The Katten team was led by partners Stephen Esko and Chris DiAngelo and associate David Matthews.

The first REMIC-eligible CAS issuance settled on November 7, 2018, leading to increased investment from REITs and international purchasers, as well as issuer-favorable pricing. With this successful launch, Fannie Mae is committed to expanding the new program with multiple transactions in 2019 and beyond.