

Insights



Zach Rosenbaum and Danielle Rose on Looming CLO Litigation post COVID-19

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Collateralized loan obligations (CLOs) managed to avoid the protracted legal battles faced by collateralized debt obligations (CDOs) after 2008, but the COVID-19 recession may change that. Kobre & Kim's Zach Rosenbaum and Danielle Rose sat down with *GlobalCapital* to explain why.

With a dramatic collapse in credit conditions and asset prices, many investors will lose money in CLOs. According to Rosenbaum, these investors "will be more focused than ever on who, and what, caused that to occur." The focus of scrutiny will be on collateral managers, Rosenbaum adds, "ranging from the managers' representation at the outset of the transaction about its qualifications and systems, the managers' post-closing reporting to investors, and the managers' ability to manage a distressed portfolio."

This could very well lead to an "uptick of CLO disputes," Rose predicts, including "disputes related to marketing CLOs to investors, the interpretation of various tests within a CLO that affect the flow of funds among investors and the resulting operation of the waterfall, and the conduct of collateral managers in acquiring, selling or reporting on the collateral."

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