17:54 **COMI shift will save time and money on Vulcan's H&B loan workout, Mount Street says.**

The English High Court has ruled that the centre of main interest (COMI) of the H&B borrowers in the **Vulcan (ELoC 28)** CMBS is in England, even if the assets securing the loan are located in Germany. This is believed to be a first such ruling in the CMBS sector.

As a matter of European insolvency law, COMI is presumed to be in the country of registration, but the court accepted the argument of Mount Street - the Issuer Special Servicer- that the main supervision and management of the borrowers interests are carried out from the sponsors offices in England, according to a notice put out by Mount Street today (28 May).

Mount Street stressed that the ruling is one of a very small number of successful administration applications in the English courts brought by a creditor in respect of an overseas company; it will enable the Issuer Special Servicer to implement its strategy with a greater degree of control and without the additional costs associated with German insolvency proceedings.

"This is very significant as it breaks the usual principle of the COMI for insolvency proceedings being the country of registration," said Georgina Squire, Head of Dispute Resolution at Rosling King LLP. "From an administrative point of view, the decision will be welcome news to Special Servicers where the underlying asset pool is spread across different jurisdictions and outside the UK. There is a benefit to the noteholders as the added costs associated with such overseas proceedings are not taken out of the CMBS waterfall. Additionally, overseas processes are more complex or take longer than those in England, so there will be savings in time," she added.

"Time-saving and cost-saving were our key drivers," said Rachel Morgan, a Senior Director at Mount Street. "In the UK you have a greater degree of control over the process and this can have a positive impact on the timing and costs. Saving on the German administrator fee will also be beneficial to the transaction and ultimately to noteholders," she added.

Mount Street had decided not to renew the standstill agreement which expired on 7 May 2015 and initiated enforcement proceedings against each of the borrowers by making an application to the English High Court. Mount Street wanted the court to establish that the COMI of each of the borrowers was located in England and then they requested the English High Court to grant an order appointing two partners from Grant Thornton UK LLP as joint administrators of the borrower. These partners are now officially appointed administrators as part of the enforcement proceedings.

One legal source found the strategy to bring proceedings to the UK interesting but was unsure what the immediate benefits are since he felt German insolvencies are carefully run and are not a whole lot more difficult, or expensive than UK administration.

But Jonathan Banks, a director at Mount Street, noted that , "although German insolvency procedures are not unfriendly to creditors, administrator fees are higher than in the UK and some administrators may be less proactive than others; and in any case you have less control than in the UK".

Mr Banks was not sure that other loans would suddenly to brought back under English jurisdiction. "We look at transactions on a case by case base and right now we do not have loans that need to follow the same route. However if we felt we needed to take control of the insolvency process and reduce costs, we certainly could point to the H&B case and hope that a judge would take it into consideration," he added.

H&B retail II loan/Vulcan: In the case of the H&B retail II loan (securitised in Vulcan), the borrowers are German limited partnerships - DavidSingleton Eastern Blizzard GmbH & Co. KG, DavidSingleton Bad Camberg Zwei GmbH & Co. KG, and DavidSingleton Retail Nummer Vier GmbH & Co KG - and the sponsor is a UK-based investment company. The loan (EUR 20.6m outstanding) is secured by 14 discount retail assets located across Germany and they failed to repay the loan at maturity in May 2013.

On 18 May, Mount Street announced it had determined the bids received for the portfolio "were not at an acceptable level against the existing loan balance". One of the bidders had submitted a long-term workout solution rather than an immediate sale of the portfolio and discussions were held but no agreement between the Sponsor and the bidder had been reached at the time. Today (Thursday) Mount Street said they and the administrators are in advanced discussions with the preferred bidder in order to finalise a business plan; this includes various asset management initiatives and capex works across the portfolio.

"This has been a long process with an unpredictable outcome, but we ultimately had faith in our strategy and we are confident that we are now in a much stronger position to improve recoveries for noteholders," said Rachel Morgan.

H&B Retail loan/QUIRINUS: The H&B Retail loan (securitised in Quirinus) has the same sponsor as H&B in Vulcan but the borrowers - Frankenthal/Burghaun Limited Partnership and Frankenthal/Burghaun General Partnership Limited – are registered in the UK. The loan (EUR 23m outstanding) is secured by five retail properties located in Burghaun, Frankenthal, Haldensleben, Schladen and Voerde (Germany), and it failed to repay at the November 2012 maturity date.

On 18 May, Mount Street released a notice indicating that none of the bids were at an acceptable level against the existing loan balance. One of the bidders also submitted a long-term workout solution but the parties failed to reach a commercial agreement. Today (28 May) Mount Street said it and the administrators are in discussions with a number of asset managers, with one being the previously communicated preferred bidder, to determine the best workout solution going forward.

Interest rate: Today's notice indicated that the interest rate of the H&B loans has been modified, following discussions with the Note Trustee. Previously, interest accrued at an all-in rate of Bunds+5%. As from 7 May 2015, interest accrued at 3mE plus the original loan margin of 1.45%, with the remaining amount (representing the default interest amount) deferred until full repayment of the loan. The amendment to the interest rate will provide further funds from cashflow to facilitate the asset management initiatives and capex works in line with the proposed business plan.