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Ticking Fees Trends in the U.S. Loan Market

By The Global Finance Practice

Ticking fees for extended commitment periods (often over at least 4 to 6-months) have long been a feature of committed financings in the U.S. loan market. Such fee structures were initially most common in syndicated deals, particularly for acquisitions in highly regulated industries where anticipated closing dates could be hard to definitively predict at the outset of a transaction. Following the onset of COVID, market participants were understandably hesitant to agree to extended commitment timeframes and ticking fees essentially vanished from committed financings in the U.S. for a few quarters. As the U.S. began to find some semblance of equilibrium (and/or rolled back certain early COVID restrictions), extended commitment periods and ticking fees slowly began to return in the second half of 2021. Into late 2022 and early 2023, amid persisting inflation, economic volatility and geopolitical instability, ticking fees structures evolved to provide additional compensation to financing sources in exchange for perceived increased risk and as borrower and sponsors confronted challenges in obtaining financing commitments for such transaction structures otherwise.

I. Fees for Extended Commitment Periods

In US credit facilities with extended commitment periods, typically both ticking fees and an alternate transaction fee are included. The alternate transaction fee is almost always set at 50% of the initial arrangement or commitment fees and may have a 12-month time limit on when such fee is payable. Select deals have additionally required payment of the full amount of the ticking fee on the date of any "Alternate Transaction". In syndicated deals, ticking fee structures, amounts and accrual timeframes generally fit within a common range of broadly accepted constructs. Contrastingly, in the direct lender space where historically deals were not driven primarily by syndication timelines and related pressures, ticking fees have been specifically negotiated, and, as such, are much more varied in nearly all respects. Beyond such fees, some committed financings with extended commitment periods have included additional lender-protective terms and constructs as further described below.

II. Accrual

Most often the initial period prior to which the ticking fee begins to accrue or "kicks in" varies from 90 days to 180 days (in syndicated deals, post-allocations) with fees most often set at 0% for the first 30 days thereafter; prior to COVID, most such accrual timeframes were typically 150-180 days. Private credit deals tend to have shorter accrual timeframes, which may be as early as 30-45 days after signing in select deals. Recently the syndicated market has followed suit; with some deals hung in syndication, a handful of syndicated committed financings provided for ticking fees that began accruing at 50% of the margin at 30 days post-allocations (and there was even a deal that started at 15 days after allocations).

III. Fee Structures

Ticking fees typically start at 0% for the first 30 day period, then 50% of the margin for the next 31-60 days thereafter, then 100% of the margin thereafter. Occasionally, the fee may begin to accrue immediately either at 25% or 50% of the margin. Some deals also include the floating rate component (e.g., LIBOR/SOFR), either from the start, or, more commonly, only once the fee reaches 100% of the margin or 31-60 days thereafter; however, this remains rare recently with reference rates at record highs. Some private credit deals have instead included a single flat fee once the ticking fee begins to accrue, ranging from 50-250 bps to 50% of the margin, which is most often included in deals with shorter accrual timeframes.

IV. When Payable

Prior to COVID, ticking fees were most often payable at the earlier of closing and the termination of the commitments. In late 2021, as ticking fees returned in some committed financings, payment requirements were frequently negotiated, with a notable portion of deals only mandating payment if the deal closed. Over the last six (6) months or so, with extended commitment periods once again perceived as riskier, more deals are requiring that ticking fees be paid regardless of whether closing occurs, and, in some syndicated deals, following allocations. Some such deals have required ticking fees be paid at the earlier of (x) termination of the commitments (or 30+ days thereafter) and (y) closing. Additionally, as mentioned above, select deals may also require the ticking fee be paid upon entry into an "Alternate Transaction" together with a typical alternate transaction fee.

V. Additional Protections

In addition to ticking fees, some committed financings with extended commitment periods have included additional protections for the financing sources, such as:

1. Pricing Flex: Some (primarily syndicated) deals have included 25+ basis point step-ups in the margin if the deal does not close within 180 days after signing, occasionally with multiple step-ups for successive periods.
2. Signing Fees: Select deals have included fees payable (at least in part) at signing; however, this construct is not prevalent or broadly accepted.
3. Exit/Termination Fees: Some deals have included flat fees (most often, 2-3%) payable only if the deal fails to close within a specified timeframe; however, such fees remain rare and are most likely to be included in distressed scenarios.

Concluding Thoughts

In 2023, with extended commitment periods (in some cases of up to two years) being proposed in some deals given current market conditions, ticking fees will likely remain a key feature of such financing commitments. Additional lender protections for extended commitment periods beyond ticking fees and pricing flex may be less likely to gain traction, as borrowers and sponsors remain resistant to providing for such additional compensation. Ticking fees will likely remain highly negotiated, and, in the short term, amid ongoing uncertainty and volatility in the U.S. loan market, such fees may include shorter accrual timeframes and require payment regardless of whether closing occurs.

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If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:

John H. Cobb
1.212.318.6959
johncobb@paulhastings.com

Jennifer St. John Yount
1.212.318.6008
jenniferyount@paulhastings.com

Kristopher S. Villarreal
1.212.318.6005
krisvillarreal@paulhastings.com

Serena G. Granger
1.212.318.6755
serenagranger@paulhastings.com

Jordan M. Hook
1.212.318.6604
jordanhook@paulhastings.com

Joyce Shin
1.312.499.6037
joyceshin@paulhastings.com