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A Denver Based Commercial Real Estate Investment and Management Company
Contact Ken Gillis at 303-407-8715

Capmark's Troubles Highlight Plight of Many CRE Lenders

With more than \$1.6 billion in second-quarter losses and plans to sell off its most viable business operations, Capmark Financial Group Inc. provides a painful example of the turmoil plaguing many large lenders to the commercial real estate industry. In its second-quarter report published earlier this month, the Horsham, Pa.-based commercial real estate finance company disclosed an agreement to sell its mortgage banking origination and servicing businesses to Berkadia III, a partnership owned by Warren Buffett's Berkshire Hathaway Inc., and Leucadia National Corp., for \$450 million. Later that week, rating agencies lowered Capmark's credit ratings to reflect the company's likelihood of defaulting on its cumbersome debt. "This has been long coming," says Edward Mermelstein, managing partner at Manhattan-based law firm Edward A. Mermelstein & Associates. "Anyone who has a good overview of the market has been expecting Capmark, as well as other companies of the same size, to either head into bankruptcy or somehow be repositioned or acquired." Selling Capmark's mortgage-origination and loan-servicing units will enable those businesses to retain their viability while the remaining banking and investment business units wind down, according to analyst Jeff Zaun, associate director at Standard & Poor's. The rating agency left Capmark's commercial mortgage servicer rankings unchanged when it lowered Capmark's long-term credit rating to CC from B-minus on Sept. 4. "The originate-to-distribute model is still viable," Zaun says. "Large funds are going to want real estate exposure and they are not going to want their own origination shops." What happens to the rest of the company? Most likely, Capmark will either file for bankruptcy protection or will hammer out agreements with its lenders outside of bankruptcy court. Even if the company comes to an agreement with lenders, however, those lenders won't be getting their full return under original terms, so the company is expected to default on its debts to some degree in either scenario. That likelihood is reflected in recent downgrades by Standard & Poor's and by both Moody's Investors Service and Fitch Ratings. Although Capmark has made progress this year toward restructuring, deteriorating commercial real estate fundamentals and a spike in loan delinquency rates have overshadowed improvements in the company's structure. In its second-quarter report, Capmark explains that growing numbers of its borrowers have been unable to obtain replacement financing to satisfy their matured loans, resulting in a growing number of defaults. Commercial real estate fundamentals, too, are eating away at property values and accelerating the rate of default. Capmark isn't alone in its struggles to deal with crippling defaults. Just this month, on Sept. 11, government regulators closed down Chicago-based condominium construction lender Corus Bank. Earlier this year, parent company Corus Bankshares reported that it had roughly \$2 billion in non-performing loans. According to a Fitch report published Aug. 18, the agency assigns a negative credit outlook to nearly half of the 20 largest U.S. lenders it rates, and a major concern contributing to those negative outlooks is the potential of further deterioration in loan portfolios with a specific emphasis on commercial real estate. As lenders seek liquidity through distressed sales, and as bankruptcies mount, private buyers are circling to snatch up deals. Attorney Mermelstein has clients that are already poring over some of Corus' properties in Miami and other markets where condominium development burned hottest. Mermelstein offers a simple system for investors who want to determine which lenders are most likely to join the ranks of distressed sellers or be forced into bankruptcy liquidations. The writing is on the wall or on the fence, to be exact. "Lenders that are highly exposed

in Miami, New York and other areas of the country that have had a tremendous amount of new construction in the last couple of years are the lenders that are most exposed," he says. "You can drive from unfinished project to unfinished project, and looking at the names of the lenders on the gates, you basically know who's in jeopardy of going under." **(National Real Estate Investor/Matt Hudgins)**

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Policy Studies Inks 75,474-SF Lease at 1515 Wynkoop

Policy Studies Inc, an administrative case management services company for government-funded health and human services organizations, signed a 10-year lease for 75,474 square feet at 1515 Wynkoop. Occupancy is planned for first quarter 2010. Located in the trendy LoDo submarket of downtown Denver, the 318,088-square-foot, Class A office building completed construction in March and was awarded certified LEED Gold last month. Bruce Dodge of Jones Lang LaSalle represented Policy Studies. Jamie Gard and Nathan Johnson, both senior managing directors of Frederick Ross/ONCOR International, represented Hines, the landlord, and are the exclusive agents for the property. Gard and Johnson also represented Hines recently in two other notable leases bringing the building occupancy to 85 percent: Black Hills Exploration signed for 47,000 square feet with a fourth quarter occupancy planned. Robert Whittelsey, Jason Sheehy and Brad Calbert of Colliers Bennett & Kahn represented Black Hills. Law firm Polsinelli Shughart PC initially signed a lease for 25,000 square feet and recently signed a new 10-year lease for an additional 13,000 square feet bringing its total occupancy to 38,000 square feet. Fourth quarter occupancy is planned. The law firm was self-represented. **(CoStar)**

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IRS Gives Servicers Flexibility to Modify CMBS Loans

The Internal Revenue Service has granted servicers of securitized commercial mortgages greater flexibility to extend those loans and otherwise modify their terms. Effective Wednesday, servicers can extend and change the interest rates and other payment terms on securitized mortgages more than a year in advance of their maturity dates, if they foresee that the loan will not be paid off at maturity. The IRS revised a rule that had limited servicers from modifying loans that are performing even though the paralyzed debt markets would make it unlikely for the borrower to get the new financing needed to take out the loan at maturity. Doing so would have caused the trusts that own the loans to lose their real estate investment mortgage conduits, or Remic, status, which exempts their entity-level profits from taxes. Servicers have not been able to modify performing loans until after determining the borrower would be unable to find new financing or other alternatives to avoid defaulting at maturity. Under the IRS rule that changes Wednesday, that determination has been difficult to reach in time to grant the extension that could avert default. In its rule change, the IRS noted, "It may be possible to foresee the risk of foreclosure even when no payment default has yet occurred." In addition to extending securitized loans more than a year in advance of their maturities, the ruling also allows servicers to change loans' interest rates and amortization schedules, and forgive some of their principal payment. It also sets detailed criteria that servicers must meet in determining that a loan requires modifications. The Real Estate Roundtable had been lobbying for the change since last year, noting the stalled credit markets has significantly reduced borrowers' access to new financing to

take out maturing loans. Extending the maturity of securitized loans was not a major concern while debt markets were free-flowing before 2008. In addition to the obvious benefit to the CMBS market, the IRS change is also a property-sales issue since the additional flexibility should help servicers avoid being forced to foreclose on loans and ultimately offer the loans or the properties backing them at discounted prices. "This change removes a significant disincentive for the revision of commercial mortgages," said Sam Chandan, head of the New York research firm Real Estate Econometrics. "By reducing the cost of managing distress in mortgage portfolios, the adjustment has the potential to ameliorate outcomes for legacy CMBS, in particular." The IRS revision does not address another Remic change sought by special servicers - the ability to originate loans from within existing trusts to facilitate the sale of foreclosed properties that had backed loans that were securitized through those deals. **(CRE News)**

Denver-Based Qwest Eyeing Office Spaces

With the lease on its existing office space expiring in 2012, Qwest said it is evaluating its real-estate options. The company must notify its landlord, Resource Capital Management, by Dec. 31 whether it intends to remain in the 850,000 square feet it occupies at 1801 California St. Between now and then, the company is exploring options throughout the metro area. The Denver-based telecommunications giant has other offices scattered throughout the metro area where it could move some of the 2,500 employees working at the California building. The company also is looking at existing office space to accommodate the remaining workers, as well as staying put in a smaller space in the California building. "They're just maximizing the occupancy within their own portfolio, which is something every smart corporation is doing," said Tim Harrington of Grubb & Ellis, who is consulting with Qwest on its real-estate needs. "We're not exactly sure what their square footage will be, but it is substantially less than what they currently occupy." Among the locations Qwest is considering is the 400,000-square-foot building at 1900 16th St. developed by Trammell Crow Co. Trammell Crow has an adjacent site that can be developed with another 260,000-square-foot office building, said Bill Mosher, Trammell Crow's area director and principal. A third phase of the project includes 100 residential units on top of the parking garage on 15th Street. "The No. 1 thing is making sure it fits the needs of our employees," said Qwest spokesman Nicholas Sweers. "I think there are still a lot of options we have to look at. Cost is also going to be a factor." In a commercial-real-estate market where competition for tenants is fierce, landlords are getting aggressive in their efforts to attract and retain businesses, said Todd Roebken, managing director of Jones Lang LaSalle. "It's tough to lose a tenant when there's not a lot of velocity in the marketplace," Roebken said. "We're seeing landlords get very aggressive for any activity." Looking for new space isn't uncommon in today's uncertain market. Late last year, Newmont Mining left downtown for developer John Madden's Palazzo Verdi project in Greenwood Village. A handful of law firms considered relocating to new projects in Lower Downtown before staying put. **(Denver Post)**

Denver-Area Jobless Rate Falls to 7.4%

Unemployment in the Denver area was 7.4 percent in August, down sharply from July's 8 percent rate, according to raw county-level job data released Friday by the Colorado Department of Labor and Employment. The jobless rate for the Denver-Aurora area stood at 5.1 percent in August 2008. The numbers are not seasonally adjusted, meaning a month-to-month comparison is less valid than year-to-year because of normal seasonal employment changes. Total employment in the Denver-Aurora area was 1,274,908 in August, down a bit from July's 1,281,294 and also down from August 2008's total of 1,334,013, according to the unadjusted state data. **(Denver Business Journal)**

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	CURRENT	1 MONTH PRIOR	1 YEAR PRIOR
FED FUNDS RATE	.25	.25	2.00
3 MONTH LIBOR	.29	.42	3.20
PRIME RATE	3.25	3.25	5.00
10 YEAR TREASURY	3.49	3.46	3.42
30 YEAR TREASURY	4.24	4.29	4.10

