

Similar But Not The Same: Some Ways in Which Bonds and Loans Will Differ in a Restructuring

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Much ink has been spilled over the last several years about the ongoing convergence of the U.S. institutional Term Loan B market with the high-yield bond market, including by our firm. The attention has been justified and the predictions of a continuing trend have been borne out. Changes in market practice, sometimes gradual and occasionally sudden, have resulted in increasing similarity of covenants and other deal terms found in these debt instruments that were once quite distinct and – partly as a result of this greater common ground – of the sales, trading and distribution processes for these two products and the groups of buyers who hold them. However, market participants should not allow this convergence to blind them to the reality that bank loans and debt securities (and the associated credit agreements and indentures) remain different in important respects. Some of those differences may come to the fore in the crucible of a restructuring, workout or other distressed credit situation.

With the leveraged loan default rate at a two-year high (measured by number of defaults) at the beginning of 2016 – and no shortage of predictions of credit troubles in multiple industries – now is a good time to think about some of these differences and how they may impact tomorrow's restructurings.

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