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LOANS VS. BONDS:

A Comparison of Serta Protection in Recent Secured Financings

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The Bottom Line:™

- Indentures and credit agreements contain provisions that address similar concepts, sometimes in very different ways.
- In our Loans vs. Bonds series, we compare and contrast how some of these concepts are treated differently in high yield bonds and leveraged loans.
- In this report, we compare how Serta Protection in recent leveraged loans compares against the corresponding provisions of parity lien bonds issued as part of the same financing transaction in the U.S.
- Separately, we also review how often first lien bonds defer to the first lien credit agreement on whether guarantees and collateral can be released.
- On payment subordination, leveraged loans and high yield bonds were essentially the same in half of the financings, but where the terms diverged, the bonds were looser slightly more than the loans were looser.
- On lien subordination, leveraged loans were generally tighter than their parity lien bond counterparts, with nearly 60% of leveraged loans requiring affected holder consent to lien subordinate.
- Nearly all of the first lien bonds we reviewed in this report defer to the first lien credit agreement, and will automatically release guarantees and collateral if the applicable first lien credit agreement does so.
- Our new template, which we launched in September 2024, makes it much easier for our subscribers to understand what Serta Protection is available under the terms of the leveraged loans or high yield bonds they are reviewing.

Overview

At Covenant Review, our subscribers often ask us the following question: “How do the terms of an issuer’s high yield bonds compare with the terms of its leveraged loans?” Unfortunately, the answer to this question is not straightforward, and it’s almost always unsatisfactory. As a general matter, comparing a credit agreement against an indenture is like comparing “apples to oranges.” This is because the architecture of a typical credit agreement contains significant structural differences from that of a high yield indenture.

However, since 2019, we’ve published several reports where we compared a number of discrete covenant provisions in both credit agreements and indentures that do lend themselves to a meaningful comparison on

an “apples to apples” basis. The most recent of these reports is available [here](#).

Recently, we’ve received a number of questions from our subscribers asking how Serta Protection compares among broadly syndicated first lien leveraged loans and first lien leveraged bonds. Separately, we’ve been asked how often first lien high yield bonds defer to the first lien credit agreement in the same capital structure on the issue of how guarantees and collateral can be released. We answer both these questions in this report, based on a review of 44 separate secured financings from July 2023 through September 2024, where both first lien term loans and first lien bonds were offered as part of the same financing transaction.

Previous Research on the Structural Differences Between Leveraged Loans and High Yield Bonds

Before we get into the results, we once again remind our readers that, even in instances where the loans and bonds are secured on a parity lien basis, leveraged loans and high yield bonds have many significant structural differences. Covenant Review has previously published extensive research on the structural differences between U.S. leveraged loan credit agreements and U.S. high yield indentures (the “Structural Reports”):

- [Loans vs. Bonds: An Overview of Structural Differences Between Credit Agreements and Indentures \(Part 1\)](#)
- [Loans vs. Bonds: An Overview of Structural Differences Between Credit Agreements and Indentures \(Part 2\)](#)
- [Loans vs. Bonds: An Overview of Structural Differences Between Credit Agreements and Indentures \(Part 3\)](#)
- [Loans vs. Bonds: An Overview of Structural Differences Between Credit Agreements and Indentures \(Part 4\)](#)

We assume that each reader of this report has read each of these Structural Reports, as they provide critical color on the many subtle (and not so subtle) distinctions between leveraged loan credit agreements and high yield indentures.¹

A Quick Note on Serta Protection

To briefly summarize the Serta liability management exercise, which was announced in June 2020, the existing Serta first lien term loans were contractually subordinated in right of payment and lien subordinated to new priority lien debt², and this was accomplished with the consent of only a majority of the face amount of the loans.³

When we assess whether an instrument has “Serta Protection” in this report, we assess each of two separate components:

- First, we examine the consent threshold to payment subordinate the existing debt to new debt: is the consent of each affected creditor required, a supermajority consent threshold required, or a mere majority consent threshold required (as was the case in Serta)?

¹ In addition, we’ve also published a four-part series on the structural differences between European credit agreements and European high yield indentures. Those reports are available on the Covenant Review website as part of our overall [Loans vs. Bonds series](#).

² For a brief overview of the different types of subordination, please see [Covenant Primer: Explaining Subordination](#).

³ Of course, this is a very simple summary of a very complex situation that we’ve covered extensively in previous research. For more details on the Serta liability management case study, please see our [Serta research](#).

- Second, we examine the consent threshold to lien subordinate the existing debt to new debt: is the consent of each affected creditor required, a supermajority consent threshold required, or a mere majority consent threshold required (as was the case in Serta)?⁴

Secured Financings We Reviewed

We examined the following 44 secured financings from July 1, 2023 through September 25, 2024, where both leveraged loans and parity lien bonds were incurred as part of the same financing transaction.

⁴ Note as well that in the Serta transaction, as well as in all most other uptier exchange offers, there must be sufficient flexibility in the borrower buyback provisions to allow for non-pro rata buybacks of existing loans under the credit agreement with the new priming debt obligations. We have not specifically reviewed the open market purchase provisions in these credit agreements, but it is the case that most such agreements, and particularly those issued by sponsor-backed companies, do allow for such non-pro rata debt exchanges to be structured. As always, however, the devil is in the details, and so we encourage our subscribers to review the specific terms of any credit agreement at issue.

Issuer	Month of Issuance	Issuer	Month of Issuance
BrandSafway	July 2023	Dye & Durham	April 2024
Veritext	August 2023	GEO Group	April 2024
Greystar Real Estate Partners	August 2023	Genesee & Wyoming	April 2024
Cushman Wakefield	August 2023	Endo International	April 2024
Bausch + Lomb	September 2023	Presidio	May 2024
Syneos	September 2023	Baldwin Group	May 2024
Forward Air	September 2023	Gray Television	May 2024
NCR Atleos	September 2023	Sotera Health	May 2024
Cetera Financial Group	October 2023	Univision	May 2024
TransDigm	November 2023	Acrisure	June 2024
Veritiv Corp.	November 2023	Solenis	June 2024
Hilton Grand Vacations	January 2024	B&G Foods	June 2024
Caliber Collision	January 2024	KIK Custom Products	June 2024
Caesars Entertainment	January 2024	McGraw Hill Global Education	August 2024
Husky Injection Holdings	January 2024	Lightning Power	August 2024
Shearer's Foods	January 2024	Ryan Specialty Group	September 2024
Howden Group Holdings	February 2024	Focus Financial	September 2024
Crash Champions	February 2024	Victra	September 2024
Artera	February 2024	Alliant Holdings	September 2024
Amer Sports	February 2024	Help at Home	September 2024
Clear Channel Outdoor	March 2024	S&S Activewear	September 2024
Miter Brands	March 2024	Windstream Services	September 2024
Truist Insurance Holdings	March 2024	NorthRiver Midstream	September 2024

Provisions That We Compared

For each of these financings, we examined what kind of Serta Protection was in place for both the leveraged loans and parity lien bonds, and we identified whether the applicable provisions were essentially the same for both instruments, were looser in the loans than in the corresponding provisions for the bonds, or were looser in the bonds than in the corresponding provisions for the loans.

For example, if we observed a bond issue that requires affected holder consent to payment subordinate, but the loans require only majority lender consent to payment subordinate, then we would identify the loans as being “looser” with respect to this category. On the other hand, if we observed a leveraged loan that requires affected lender consent to lien subordinate, but the bonds require a supermajority holder consent to lien subordinate, then we would identify the bonds as being “looser” with respect to this category.

In addition, for both payment subordination and lien subordination, we identified the percentage of the selected secured financings where the applicable provision was the same, where the loans were looser, or where the bonds were looser. For example, if the payment subordination provisions were the “same” in 22 of the 44 secured financings that we reviewed, that would result in a percentage of 50% for “same” in that category.⁵

The Results

Consent Threshold to Effect Payment Subordination:

- For leveraged loans, 59.1% of the loans required the consent of each affected lender to payment subordinate, while 54.5% of the bonds required the consent of each affected holder to payment subordinate.⁶
- None of the leveraged loans required supermajority consent of lenders to payment subordinate, and none of the bonds required supermajority consent of holders to payment subordinate.
- For leveraged loans, 40.9% of the loans required majority consent of lenders to payment subordinate, while 45.5% of the bonds required majority consent of holders to payment subordinate.

Consent Threshold to Effect Lien Subordination:

- For leveraged loans, 59.1% of the loans required the consent of each affected lender to lien subordinate, while 15.9% of the bonds required the consent of each affected holder to lien subordinate.

⁵ Where the terms of the Serta Protection were ambiguous as to what type of Serta Protection was provided, we omitted the deal in question from our dataset. For example, the language in the Copeland 6.625% Senior Secured Notes due 2030 contained Serta Protection language that requires affected holder consent as to payment subordination, but given other language in the amendment provisions, the operative language was ambiguous as to whether affected holder consent or majority holder consent was required to effect lien subordination. As a result, we did not include this Copeland deal in our dataset.

⁶ Many of the deals requiring affected creditor consent contain exceptions that allow (1) payment and/or lien subordination where there is a pro rata opportunity to participate in the new instrument, (2) payment and/or lien subordination by a DIP Facility, and (3) other negotiated exceptions. For purposes of this report, we have not considered these exceptions. However, readers should be aware that some exceptions may be drafted so broadly that, depending on the structure of a particular transaction, the general rule purporting to require affected creditor consent could actually be looser than a supermajority requirement.

- None of the leveraged loans required supermajority consent of lenders to lien subordinate, while 72.7% of the bonds required supermajority consent of holders to lien subordinate.
- For leveraged loans, 40.9% of the loans required majority consent of lenders to lien subordinate, while 11.4% of the bonds required majority consent of holders to lien subordinate.

Loans vs. Bonds on Payment Subordination and Lien Subordination

Of the 44 financings we reviewed for this report, with respect to payment subordination, the deals were the same 50% of the time, the loans were looser 22.7% of the time, and the bonds were looser 27.3% of the time.

With respect to lien subordination, the deals were the same 20.5% of the time, the loans were looser 34.1% of the time, and the bonds were looser 45.5% of the time.

Leveraged loans remain in the driver's seat on guarantees and collateral in nearly every deal we reviewed.

Separately, we've been asked how often first lien high yield bonds defer to the first lien credit agreement in the same capital structure as to how guarantees and collateral can be released. The answer, based on the 44 financings we reviewed, is "nearly always."

Of the 44 financings we reviewed, 43 of them (or nearly 98%)⁷ provided that the guarantees and collateral for the high yield bonds would be automatically released if the guarantees and collateral were released under the first lien credit agreement. Accordingly, the data we reviewed supports the general rule that lenders under the credit agreement remain in the driver's seat on guarantees and collateral in nearly every secured financing where loans and bonds are issued as parity lien instruments.

Conclusions

So, what conclusions (if any) can we draw from this data set?

- When assessing Serta Protection for these instruments, it's important to consider both Serta Protection components (payment subordination and lien subordination) separately. While the 44 leveraged loans in our dataset uniformly applied the same consent threshold (i.e., affected lender consent, supermajority consent, or mere majority consent) to both payment subordination and lien subordination, the consent thresholds for the high yield bonds in our dataset were frequently different for payment subordination and lien subordination. In fact, the consent thresholds for high yield bonds were typically less restrictive on lien subordination than on payment subordination.
- With respect to payment subordination, leveraged loans and high yield bonds were essentially the same in half of the financings, but where the terms diverged, the bonds were looser slightly more than the loans were looser.
- With respect to lien subordination, leveraged loans were generally tighter than their parity lien bond counterparts. A much higher percentage of leveraged loans (at 59.1%) required affected creditor consent to lien subordinate than did the bonds (only 15.9%). That said, a meaningfully higher

⁷ The only exception to this general rule was found in the [B&G Foods 8% Senior Secured Notes due 2028](#), where the indenture does not automatically release guarantees and/or Collateral upon release of the same under the first lien credit agreement.

percentage of leveraged loans would allow lien subordination with a mere majority consent (at 40.9%) than the bonds (at 11.4%). For leveraged loans, the most prevalent consent threshold to lien subordinate was affected lender consent (at 59.1%), while the most prevalent consent threshold for parity lien bonds to lien subordinate was supermajority consent (at 72.7%).

- Leveraged loans continue to be in the driver's seat on what guarantees and collateral are included, as the first lien bonds deferred to the leveraged loans in all but one of the 44 financings we reviewed.

We will continue to monitor these trends among loans and bonds issued as part of the same transaction, and plan to publish future research on this topic.

A Shameless Plug for our New Template

In September 2024, we launched our new template that is now included as part of our full reports for high yield bonds and leveraged loans. As part of this template update, we've included several material terms in easy-to-read tables at the very front of our Preliminary Terms Reports and Final Terms Reports.⁸

One of those material terms that is now included at the front of our reports is Serta Protection. Subscribers can now see what kind of Serta Protection (if any) is included in the new leveraged loan or high yield bond deal. An example of this table (from the Copeland Senior Secured Notes due 2030) is included below, with the Serta Protection section highlighted:

Key Terms	
J.Crew Blocker	No
Serta Protection	Lien priority: ambiguous Payment priority: affected holder
Chewy Release	N/A
COC leverage portability	Yes
Uncapped Synergies	Yes
Pick-Your-Poison	Yes
Builder Ratio Condition	No
Payments for Consent	No
High Watermark Growers	No
Ratios Exclude Drawn RCF	Yes
Uncapped Investments in Non-guarantor Restricted Subsidiaries	Yes

⁸ It's also important to note that the substance of our primary and secondary research reports remains essentially unchanged.

Accordingly, as a result of our new template update, subscribers are able to quickly and easily assess what kind of Serta Protection is available for that instrument.

— *Covenant Review*

Disclosures

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