

Securitization: the Panamanian Experience in a Nutshell

By: Francisco Pérez Ferreira¹

Introduction

Despite its mature role as a financing technique in the US and European capital markets, and its fast-growing nature in emerging markets (v.g., Latin America), securitization has not been the main choice for finance in the Panamanian capital market. A quick view of the listings with the Panama Securities Exchange (“Bolsa de Valores de Panamá”, www.panabolsa.com) reveals that most debt public offerings constitute straight debt instruments (either corporate bonds or debentures), demonstrating that highly sophisticated structured financings is not the rule for the local market yet. Some may argue that this phenomenon might be the result of different combined factors including:

- the lack of significant growth of the underlying Panamanian economy;
- corporate access to cheap banking credit facilities;
- still maturing capital markets;
- market size; and
- lack of special regulations fostering this type of financing.

Nevertheless, securitization deals have been structured in the local market, and Panamanian vehicles have been used or involved in cross-border or international structured financings of this kind. Examples of the latter have involved internally operating Panamanian corporations that have attempted to securitize receivables and lease portfolios. In addition, the securitization of maritime loan portfolios secured by mortgages over Panamanian vessels is becoming common. In the mid '90s the former Banco del Istmo, S.A. (currently Primer Banco del Istmo, S.A.), one of the largest domestic banks in terms of assets, securitized a pool of credit card receivables.²

Previous Securities Law:

The Chase Manhattan Bank Deal

The Offering

¹ Partner with **Watson & Associates**. Areas of Practice: Commercial, Corporate and Securities Law, Corporate and Structured Finance; Aviation Law and Aircraft Finance; Mergers and Acquisitions; Commercial, Maritime, Constitutional and Administrative Litigation. Contact at fperez@watsonpanama.com

² Although not a plain vanilla or standard securitization structure, it is worth mentioning that in 1997 Pycsa Panama, S.A., a Panamanian corporation controlled by Mexican developer Grupo Pycsa, financed the Corredor Norte toll highway construction with a US\$131 million bond issue backed by future receivables from the operation and exploitation of the toll road. The rights to receive tolls under the relevant concession were segregated from the originator (Pycsa) through a trust in order to secure repayment of the notes.

With the aim of increasing the credit offer for home building (and developing the local capital market), the Chase Manhattan Bank NA Panama Branch structured a programme for the issuance of debt instruments, transferring to the investors of such notes the risks of financing homes in the Republic of Panama. On January 21 1994 Chase Investment Bank (Panama), S.A. (CIBP) issued and offered -in its capacity as trustee- US\$15 million in floating rate home mortgage bonds in the local market by listing the same with the Bolsa de Valores de Panamá. Maturity was established in September 2012.

The Bonds

The offering had a face value of US\$15 million instrumented through zero coupon bonds, issued in registered form and in series of US\$10,000 and multiples thereof. Floating interest rates were determinable at each payment period as defined in the transaction documentation. The notes were offered at 100% of their face value in the initial public offering. Interests were established to be payable quarterly and the principal payment at maturity on September 25, 2012 (unless prepayment occurs). The issuer assumed a prepayment risk rate of 8%.

The Structure

In its capacity as settlor, Chase Manhattan Bank set up the Home Mortgage Trust (November 1993) and appointed CIBP as trustee. Pursuant to the terms of the deed of trust CIBP issued and sold the exchange-listed bonds. The proceeds were used to buy a selected group of residential mortgage loans from Chase Manhattan Bank (as the originator and pursuant to the Assignment of Credits Agreement). The cash flow originating from the loans was to be used to pay the principal and interests of the bonds. Chase Manhattan Bank became the exclusive beneficiary of the trust, receiving a residual interest and, upon termination of the trust, the remaining trust assets. CIBP, as indenture trustee, appointed Chase as the manager and servicer for the loans, and its register, payment and transfer agent. Pursuant to a standby firm commitment underwriting agreement, CIBP (acting in its own and personal capacity) agreed to underwrite 100% of the face value of all issued and offered bonds that have not been bought in the local market.

According to the documentation for the transaction, the deal is governed by Panamanian law and the parties are subject to the Panamanian courts' jurisdiction.

Later in 1994 and in 1995 Chase continued its home mortgage portfolio securitization programme with additional offerings using similar structures.

New Securities Law:

La Hipotecaria Deal

In 2001 La Hipotecaria, S.A. structured the public offering of residential mortgage bonds for up to US\$10 million, to be issued by the Segundo Fideicomiso de Bonos de Préstamos Hipotecarios (the Mortgage Loans Bonds Second Trust) and listed in the Panamanian Securities Exchange. The bonds are zero coupons, registered and denominated in US\$1,000 or multiples thereof. They were issued in two series: Series A for US\$7.5 million and Series B for US\$2.5 million, both with maturity on March 27

2031. The Series A notes were rated paBBB+ by DCR Centroamericana, S.A. The Series B notes were not rated, being subordinate in principal and interests to the Series A bonds. La Hipotecaria (as originator-settlor) services the assigned mortgage loans, acting as manager for the trust assets, and has underwritten the offering of the Series A notes. ASSA Compañía de Seguros, S.A. underwrote the Series B bonds. Wall Street Securities, S.A. was appointed as the non-exclusive broker, and transfer and payment agent.

In this case Citibank NA (Panama Branch) acted as the security trustee for the bondholders' benefit.

In contrast to the Chase Manhattan Bank (Panama Branch) deal already described, here the bonds were issued in one or more nominative, registered, zero coupon global or 'jumbo' certificates in the name of Central Latinoamericana de Valores, S.A. ("LatinClear"), the local clearing house which keeps the records of ownership of the notes under the Securities Law indirect holding system for securities or financial assets.

Other Deals

Global Bank Corporation (a local bank) launched a US\$40 million offering in bonds backed by a pool of retirees' promissory notes, which was listed in the Panama Securities Exchange on April 17 2001. The bonds were rated by FITCH Centroamericana.

Recent Deals

The ICA Offering

Early in 2005, ICA Panama, S.A., a Panamanian corporation indirectly controlled by the Mexican developer Empresas ICA, raised funds to repay indebtedness held with the International Finance Corporation (IFC) and working capital for general corporate purposes by securitizing the Corredor Sur toll highway future receivables.

ICA packaged the future receivables generated from the exploitation of the toll road into a trust (the "Corredor Sur Trust"), which trustee, BG Trust Inc. (acting solely as trustee and not in individual capacity), issued US\$150 million of 6.95% p.a. notes due 2025.

The Corredor Sur Trust notes were offered for purchase in minimum authorized denominations of US\$1,000 and integral multiples of US\$1,000 in excess thereof.

Ratings of at least "BBB-" by S&P, "Baa2" by Moody's and "BBB" by Fitch were conditions to the issuance of the notes.

These notes were approved for public offering in the Republic of Panama by the National Securities Commission ("Comisión Nacional de Valores") and further listed for trading with the Bolsa de Valores de Panamá.

La Hipotecaria Again !

In mid December 2005 La Hipotecaria, S.A., acting as trustee (and not in individual capacity) of the “Séptimo Fideicomiso de Bonos de Préstamos Hipotecarios”, went to the market again with a public offering of notes issued by it for up to US\$10 million.

The public offering was authorized by the Comisión Nacional de Valores and the notes were listed for negotiation with the Bolsa de Valores de Panamá.

These residential mortgage bonds are zero coupons, registered and denominated in US\$1,000 or multiples thereof. Issuance was initially effected via one or more global notes in the name of LatinClear.

The notes were issued in two series: Series A for up to US\$8 million and Series B for US\$2 million, both with maturity on 2021. The Series A bondholders are entitled to indexed interests and the Series B notes have a variable interest rate to be fixed by the manager, La Hipotecaria, S.A., according to the terms of the prospectus. The Series B notes are subordinated both in principal and interests to the Series A bonds.

Mundial Valores, S.A. agreed to underwrite US\$3 million worth of the bonds, and Wall Street Securities, S.A. was appointed broker. Banco Continental de Panamá, S.A. acted both as payment agent and as security trustee under a security trust settled by La Hipotecaria, S.A. (acting as trustee), which assets are comprised of a pool of residential or home mortgage loans which guarantee repayment of the notes, for the benefit of the bondholders.

Final Comment

The Panamanian banking system provides ample opportunities for securitization. Despite the fact that few securitization deals have been structured in the local market, Panama has great potential for developing capital markets with a strong presence of structured financing.