

THE INTENSIVE SHORT COURSE IN SECURED LENDING AND DEBT FINANCE

“Very engaging and intimate, great speakers and important practical skills and real-life examples.”

Iana Namestnikova, Caravel Law

Enhance your knowledge and skills in commercial lending.

Commercial and debt financing transactions are increasingly complex. To maximize your value to clients, you must have a solid grasp on how to navigate the **core legal and business issues**. In this intensive and interactive program, you will:

- Review the Canadian debt financing market and products and comprehend how they reflect the current business climate
- Learn the essential steps and legal components of a financing transaction, with a focus on strategic and tactical concerns
- Acquire practical advice and tips from lawyers and bankers on negotiating and drafting legal documents effectively
- Gain expert insights and the latest best practices on hot topics and emerging trends

Register today at:

osgoodepd.ca/securedlending

PROGRAM CHAIRS

Eric Belli-Bivar
DLA Piper (Canada) LLP

Don Waters
McMillan LLP

REGISTRATION OPTIONS

November 22 – 23, 2022
In-Person OR Online (Live)
9:00 a.m. – 4:30 p.m. ET

January 19 – 20, 2023
Online (Replay)
9:00 a.m. – 4:30 p.m. ET

LOCATION

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

Can't attend live?

Registration includes 120-day unlimited, online access to the recorded program.

THE INTENSIVE SHORT COURSE IN Secured Lending and Debt Finance

In today's uncertain economy, it is **critical that counsel and financial services professionals** have a solid understanding of the key legal issues and risks in commercial loan and debt transactions and acquire the necessary tools to address them.

Join the ranks of 450+ professionals who completed this OsgoodePD program and get the **practice-ready knowledge and skills** you need to succeed in current market conditions. A faculty of legal and banking experts will share their knowledge, techniques and tips to help you to make more effective decisions with greater confidence.

You will:

- Gain a firm grasp of the most challenging legal risks in a financing or debt transaction, along with best practices for handling them in competitive business conditions
- Review a range of alternative financing vehicles, including equipment lease financing
- Comprehend which loan and credit agreement clauses are the most important and why
- Deepen your understanding of the ISDA Master Agreement and Schedules
- Explore the evolving landscape of Fintech and SaaS secured lending
- Analyze critical issues to ensure proper perfection, and when considering enforcement
- Review key considerations and sticking points when drafting or interpreting opinions

PLUS! Registration includes online module *What Corporate Commercial Lawyers Need to Know About Enforcing Security: A Litigators' Perspective*, designed to provide you with a practical overview of how to navigate the enforcement of security.

Who Should Attend

- Junior to mid-level lawyers in corporate/commercial or financial services law
- Professionals who want a solid understanding of loan agreements/transactions
- Professionals working with financial institutions, merchant banks, asset-based lenders and leasing companies
- Insolvency, litigation or government professionals seeking to gain a greater understanding of market conditions impacting commercial financing transactions
- Management involved in negotiating deals involving commercial financing
- Professionals involved with loan documentation, lending and credit facilities
- Consultants

Register today at:

osgoodepd.ca/securedlending

Agenda

DAY 1 – NOVEMBER 22, 2022

9:00 a.m.

Chairs' Welcome and Opening Remarks

9:10 a.m.

The Canadian Debt Financing Market –
An Overview

Aman Cheema, TD Securities

Tim Murray, RBC Capital Markets

Tracey Vernelli, BMO Capital Markets

Join senior bankers for an essential overview of the structure and operations of the Canadian debt financing market, including:

- The impact of international lending concerns from the Canadian perspective
- Who are the key players and what are the differences in how they approach the market?
- Which types of products are being offered?
- Which elements of the deal are critical to lenders now?

10:10 a.m.

Health Break

10:20 a.m.

Working with the Commitment Letter and
Term Sheet

Michelle Boodhoo, McMillan LLP

Noah Schein, Norton Rose Fulbright Canada LLP

- Roles and objectives of lender, borrower and counsel in a deal – who does what?
- Essential terms and requirements: binding vs. non-binding commitment letters, fees letter, term sheet, etc.
- Considerations when structuring the deal
- Key issues for borrowers and lenders
- Jurisdiction – the practical issues

11:20 a.m.

Health Break

11:30 a.m.

Conducting Effective Due Diligence

David Ferris, Fasken Martineau DuMoulin LLP

- Checklist of critical items
- The objectives of due diligence in a financing transaction
- Getting started – addressing key areas of concern
- Use of diligence certificates
- How to best advise clients when issues arise

12:30 p.m.

Lunch Break

1:30 p.m.

Negotiating and Drafting the Credit Agreement

Eric Belli-Bivar, DLA Piper (Canada) LLP

Don Waters, McMillan LLP

In a hands-on fashion, your program chairs will walk you through the key clauses of a loan agreement and offer practical advice on negotiating and drafting the agreement.

- Establishing the facility – revolving vs. term; swingline; fixed versus floating; Canadian prime, US base rate, LIBOR/SOFR; banker's acceptances; Letters of Credit subfacilities
- Conditions precedent
- Representations and warranties
- Covenants – positive and negative
- Events of default, grace periods, cross-default
- Payout letters
- Agency and lending provisions – yank-a-bank provisions; market disruption, increased costs
- Drafting techniques and interpretation of contract clauses
- Effective use of boilerplates in credit agreements
- Practice management and handling risks

NOTE: there will be a 15 minute break during this session.

3:30 p.m.

Taking Effective Security

Darcy Ammerman, McMillan LLP

- Key legal issues and concerns from both lenders' and borrowers' perspectives
- The importance of running searches
- Types of security and how they are perfected
 - "All Assets" Liens
 - Pledges of securities
 - Control agreements for uncertificated securities and the *Ontario Securities Transfer Act, 2006*
 - Real property security – an overview
- Other types of security-related issues
 - PPSA Acknowledgements
 - Implied subordination under the PPSA
 - Landlord agreements
 - Blocked Account Agreements
- Registration issues and pitfalls and enforcement issues

4:30 p.m.

DAY 1 CONCLUDES

“Presentations were engaging and well-organized. Appreciated receiving perspective from financial institutions. Very enjoyable overall.”

Leandro Zylberman
Counsel, Corporate, Great-West Life

DAY 2 – NOVEMBER 23, 2022

9:00 a.m.

Asset-Based Lending (ABL)

Jason Arbuck, Cassels Brock & Blackwell LLP

Nick Bassi, Frontwell Capital Partners

Karen Patey, BMO Financial Group

- Pros and cons of ABL versus traditional financing
- Survey of ABL structures in Canada
- Business issues relating to eligible collateral
- Documenting and taking security for an ABL deal
- Industry developments and their impact on transactions
- Cross-border issues you need to be aware of
- Recent legal developments impacting ABL

10:00 a.m.

Health Break

10:10 a.m.

Equipment Lease Financing in Today's Loan Transactions

John Estey, Stonebridge Lease Financing Corporation

Jill Fraser, Aird & Berlis LLP

The equipment finance industry provides companies with alternative finance options. Get a business-focused understanding to help with advising clients on equipment financing and on entering into leases generally, including:

- What are the key business factors that equipment financiers focus on and how do these find expression in the finance documentation?
- Drafting considerations for dovetailing equipment finance into a firm's debt strategy
- Understanding the common credit requirements, identifying new trends in the industry
- Negotiation strategies for borrowers
- Current PPSA requirements
- Problems posed by aircraft, motor vehicles and trucking fleets
- Conflicts of law arising where assets move between jurisdictions
- Where to perfect the relevant security interests

11:10 a.m.

Health Break

11:15 a.m.

Priorities, Subordination Agreements and Intercreditor Agreements

Chris Burr, Blake, Cassels & Graydon LLP

Pat Forgione, McMillan LLP

- Key differences between mezzanine, second lien and other forms of lending
- Recent developments in the Canadian market
- Understanding the contractual and statutory rights of the parties
- Enforceability of waivers
- Issues arising from financing cross-border entities
- Security issues and protecting priority
- Strategies to improve recovery prospects
- Purpose and goal of the agreements
- Critical negotiation points and key structuring issues
- Enforcement actions and triggering events
- Payment blockage and sales of collateral

12:15 p.m.

Lunch Break

1:00 p.m.

Alternative Reference Rates: What's Happening in the Interest Rate Market?

Catherine Doyle, Blake, Cassels & Graydon LLP

- Overview of the Alternative Reference Rates Committee (ARRC) language
- Summary of the London Interbank Offered Rate (LIBOR). What happened and what's the plan? Implications of LIBOR's scheduled phase-out
- Potential alternatives to LIBOR: Secured Overnight Financing Rate (SOFR), Canadian benchmarks, incorporating revised floating rate loans, GBP SONIA, Euro-rate
- A distinctly Canadian concern: what's happening with CDOR and what will replace it (CORRA)?
- Considerations when drafting loan documents – "amendment approach" vs. "hardwired approach" and what to watch out for

1:45 p.m.

Fintech and SaaS Secured Lending

James Padwick, Wildeboer Dellelce LLP

Trevor Simpson, FirePower Capital

- Overview of lending to start-ups and Fintechs
- How lending to Fintech and SaaS compares to traditional lending – all IP, nothing tangible to take security over
- Canadian vs. US practices and trends
- How you take security
- What banks are looking for
- Key issues and pitfalls to watch out for

2:30 p.m.

Health Break

2:40 p.m.

A Practical Understanding of the ISDA Master Agreement and Schedules

Emily O'Donohue, Ontario Teachers' Pension Plan

Candace Pallone, McCarthy Tétrault LLP

- Uses of Derivatives for Borrowers
- Architecture of the ISDA Master Agreement, Schedules, Confirmations and the Credit Support Annex
- ISDA's relationship to the Credit Agreement
- Key provisions to be negotiated

3:25 p.m.

Health Break

3:30 p.m.

Providing Opinions: Tips and Traps – What Works, What Doesn't

Auriol Marasco, Blake, Cassels & Graydon LLP

Meaghan Obee Tower, Stikeman Elliott LLP

- Get a practical overview of the essential function of opinions in commercial lending, including the most common types of opinions, the most-frequently negotiated points and crucial topics including:
- Key issues in multi-jurisdictional opinions

- Special issues involving PPSA opinions, including: investment property – perfection by control; cash collateral; special property (licenses, intellectual property, etc.); anti-assignment clauses
- True sale and non-consolidation opinions
- Opinion issues in virtual closings
- Negotiating qualifications and assumptions: how much is too much?
- The process of negotiating and drafting opinions, includes tips and best practices

4:30 p.m.

PROGRAM CONCLUDES

Online Module

Included with your registration, this online module features experienced litigators who will provide you with a practical overview of how to navigate the enforcement of security. *We recommend viewing this Online Module after the program concludes.*

What Corporate Commercial Lawyers Need to Know About Enforcing Security: A Litigators' Perspective (90 mins, on-demand, recorded in 2020)

Chris Burr, Blake, Cassels & Graydon LLP

Leanne Williams, Thornton Grout Finnigan LLP

- Practical overview of this ever-evolving and complex area of law
- Troubleshooting tips to identify key issues, strategic responses and tactics
- Walk-through of key legal risks and concerns you have to be ready to manage
- Best practices when negotiating or drafting forbearance agreements
- Strategies for identifying and responding to indicators of pending insolvency, restructuring, or troublesome indebtedness

Register today at:

[osgoodepd.ca/
securedlending](https://osgoodepd.ca/securedlending)

Drawing on the expertise and experience of leading lawyers and experts, including:

Program Chairs



Eric Belli-Bivar

Partner, DLA Piper (Canada) LLP

Eric practises in the Debt Finance Group with an emphasis on debt finance, secured lending, FinTech, structured finance and payment systems and products. Eric advises lenders, borrowers, funds and sponsors, including regulated financial institutions and international financial market participants. Eric has been recognized as a leading finance and banking lawyer by Lexpert, Best Lawyers (Canada), Chambers, Legal 500 Canada Guide, International Financial Law Review and, for several years, as an Acritas Star.



Don Waters

Partner, McMillan LLP

Don's practice focuses on corporate debt finance and structured finance transactions, including asset-based lending, syndicated lending, cross-border debt financings, securitization and project finance transactions. Having worked at a Japanese firm in Tokyo, Don co-chair's his firm's Japan practice group and acts for Japanese financial institutions and corporations. Don has been repeatedly recognized as a leading lawyer by Best Lawyers (Canada), Canadian Legal Lexpert Directory and IFLR1000.

Program Faculty

Darcy Ammerman

McMillan LLP

Jason Arbuck

Cassels Brock & Blackwell LLP

Nick Bassi

Vice President, Underwriting and Portfolio Management, Frontwell Capital Partners

Michelle Boodhoo

McMillan LLP

Chris Burr

Blake, Cassels & Graydon LLP

Aman Cheema

Vice President, Loan Syndications, TD Securities

Catherine Doyle

Blake, Cassels & Graydon LLP

John Estey

President, Stonebridge Lease Financing Corporation

David Ferris

Fasken Martineau DuMoulin LLP

Pat Forgione

McMillan LLP

Jill Fraser

Aird & Berlis LLP

Auriol Marasco

Blake, Cassels & Graydon LLP

Tim Murray

Managing Director, Corporate Banking, RBC Capital Markets

Emily O'Donohue

Director and Associate General Counsel, Derivatives, Ontario Teachers' Pension Plan

Meaghan Obee Tower

Stikeman Elliott LLP

James Padwick

Wilbeoer Dellelce LLP

Candace Pallone

McCarthy Tétrault LLP

Karen Patey

Managing Director – Asset Based Lending, North American Commercial Banking, BMO Financial Group

Noah Schein

Norton Rose Fulbright Canada LLP

Trevor Simpson

Partner, Private Debt, FirePower Capital

Tracey Vernelli

Managing Director & Head, Loan Syndications, BMO Capital Markets

Leanne Williams

Thornton Grout Finnigan LLP

“Excellent. Great instructors and excellent topics [which] were very well put together and interesting.”

Michael Gillis, Cox & Palmer LLP

“Excellent. Very informative.”

Luciano Butera, EVP & Chief Operating Officer, TRADE X

“Excellent. Very knowledgeable speakers. Covered a lot of material efficiently.”

Ari Shack
Affinity Law Group

“I found it very useful to have a comprehensive overview of the different types of facilities. Loved the credit agreement presentation [and] the opinions session was great/valuable. Great speakers for all sessions [including] the presence of industry speakers.”

Tracie Allan
AVP & Managing Counsel, Sun Life

“Very Good. Instructors were excellent. [S]essions were very useful [and] day 2 was great when there was a lawyer and a banker or in-house [person] – this gave great legal and business insight.”

Rachael Andrew
Lawyer, Cortland Credit Group Inc.

Registration Details

Fee per Delegate: \$1,495 + TAX

Newly Licensed*: \$747.50 + TAX

*This fee applies to newly licensed professionals within the past 2 years

Fee includes attendance, electronic materials, technical support and 120-day unlimited online access to program archive. Group discounts and financial assistance are available. Visit www.osgoodepd.ca/financial-assistance for details.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



Eligible CPD Hours – LSO (ON)

Program: LSO (ON): 13h 5m CPD (12h 5m Substantive; 1h Professionalism)

Online Module: LSO (ON): 1h 30m CPD (1h 30m Substantive)

Total: LSO (ON): 14h 35m CPD (13h 35m Substantive; 1h Professionalism)



OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca.

This program is approved for LAWPRO Risk Management Credit.

Register today at:

osgoodepd.ca/securedlending



Email: osgoodepd@osgoode.yorku.ca



Phone: 416 597 9724



Mail: 1 Dundas Street West, 26th Floor, Toronto, ON, M5G 1Z3



The Intensive Short Course in Secured Lending and Debt Finance

Register today at:

osgoodepd.ca/securedlending