

# Alternative Lending: What Role Do Attorneys Play?

PRESENTED BY **PAUL HASTINGS**



Alternative lending is a growing industry and an increasingly significant player in corporate finance. Attorneys are integral to every step of the transaction process – from creating the lending entity, to devising and resolving legal, structured and financial issues related to a deal, to approaching the situation with a commercial and practical approach. Moreover, being proactive in preventing or limiting potential issues is perhaps the greatest value that attorneys bring to a deal.

Bill Brady, partner at Paul Hastings, Head of the firm's Alternative Lender and Private Credit Group and member of its special situations group, concurs. Brady says one of the most important services that attorneys bring to the table on front-end financings is focusing on the areas where there is real credit exposure, differentiating the “must-haves” from the “nice-to-haves.” On workouts, restructurings and other “special situations,” the key is to always be one or two steps ahead.

“In many restructurings, clients make the mistake of being reactive, instead of proactive,” Brady says. “Sometimes we are far down the path; we get a call from the client, then we do our best to make things right. It is very important to be in front of what might be coming and be as proactive as possible.”

## Global transactions, multi-national clients and the capability to meet the challenges

Alternative lending deals are often complex and can involve multinational parties. For this reason, attorney involvement in an alternative lending transaction can be hugely beneficial in tangible ways. Brady and his team are well versed in providing solutions tailored to a particular situation and the needs of the lender and the borrower. As part of a transaction, among other things, the team will negotiate the structure as well as the terms of the loan documents. These documents set the rules for the parties, including what can be done with the loan proceeds as well as which activities will or will not be permitted. Brady's team protects their client's interests with a focus on the provisions that matter most in a downside scenario, which can be key when the debtor is undergoing a restructuring – a common situation for alternative lenders.

For example, Brady and his team recently assisted a client in a restructuring deal. The client had provided a loan to U.S. and European corporate entities. The expected credit for the client didn't materialize, Brady says, and he was able to assemble resources from Paul Hastings' New York, Paris and London offices.

“We found an out-of-court solution for the client, forced a sale of the French subsidiary to pay down our debt, then sold the U.S. debt for a recovery close to par,” explains Brady. “We were able to turn the situation around in the U.S. and Europe and make something out of nothing. We really pushed to find a creative solution that allowed our client to regain its investment.”

In another situation, Brady's team completed a global buyout worth \$4 billion – involving multiple jurisdictions and a complicated capital structure – with the result being a solid investment for the client.. “We had lawyers in Tokyo, Los Angeles, London, Paris, New York and Hong Kong so the sun never set on the deal,” says Brady.

In today's global marketplace, having access to global resources, as does Paul Hastings, is crucial to facilitating an efficient, successful deal – whether it be a healthy front-end transaction, a restructuring, or another “special situation.” The ability to tap into areas that go beyond borrowing and lending is equally imperative. As alternative lenders rise as major players in corporate finance – with that trend only expected to increase in the face of the next recession – attorneys whose services mitigate any negative consequences of a deal will be critical to a transaction's success and a client's profitability.

For more information on alternative lending, please contact [Bill Brady](#), Partner at Paul Hastings or visit [PaulHastings.com](#).

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