

Real Estate Financing and Capital Market Refinancing

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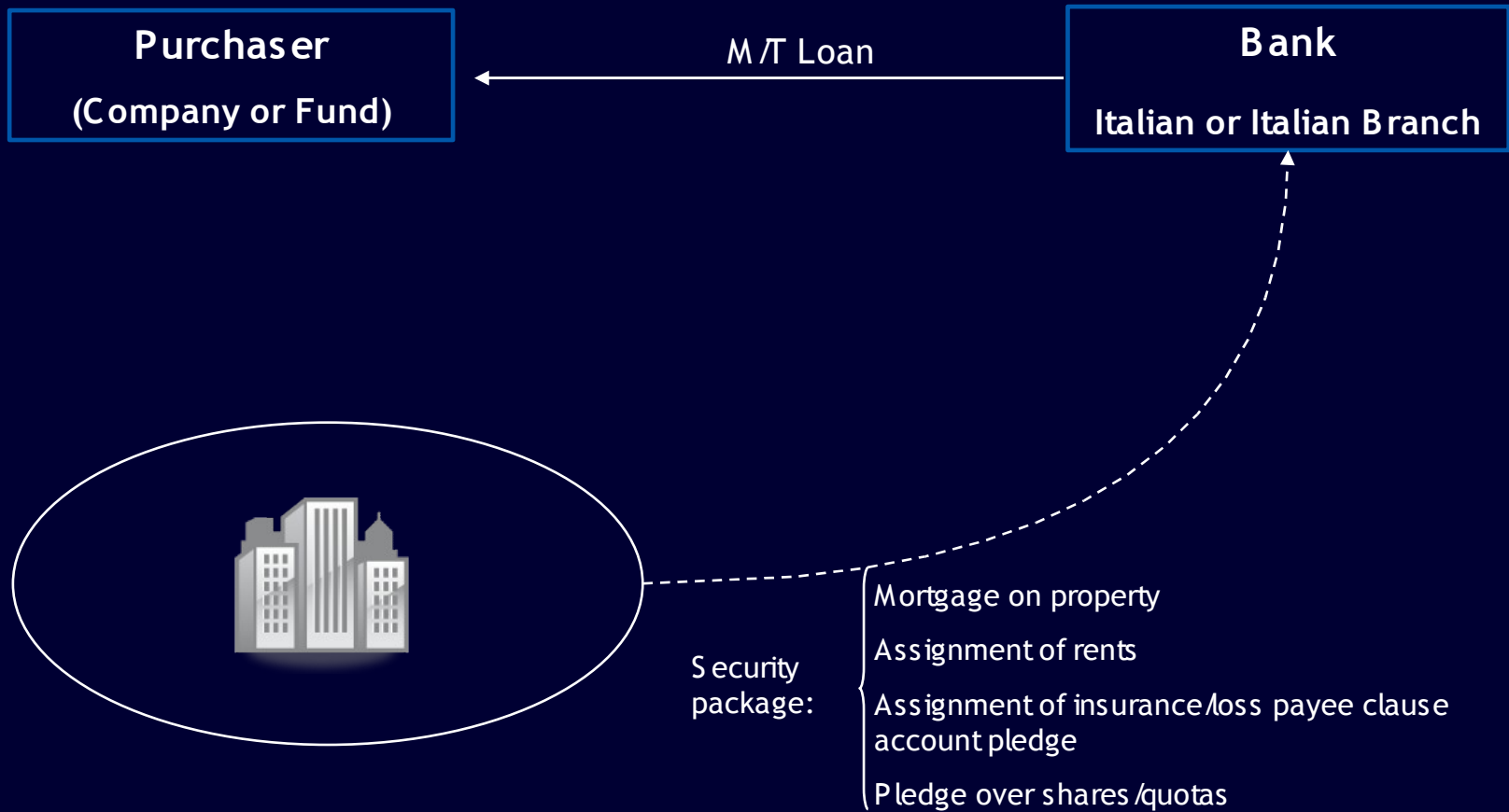
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Asset deals



Asset Deals

- The *Imposta Sostitutiva* regime (0.25% on amount of facility)
 - Substitute for all other taxes which would otherwise be applicable
 - (e.g. 0.50% registration taxes and 2% mortgage tax on secured amount)
- Requirements:
 - Bank lender (Italian bank or Italian branch to avoid withholding tax on interest)
 - Tenor of facility in excess of 18 months
 - Execution of agreement in Italy
 - *Finalità produttive* - the pending tax assessment
- Capitalisation requirements: thin cap rules (relevant if lease income more than Euro 5,116,000)

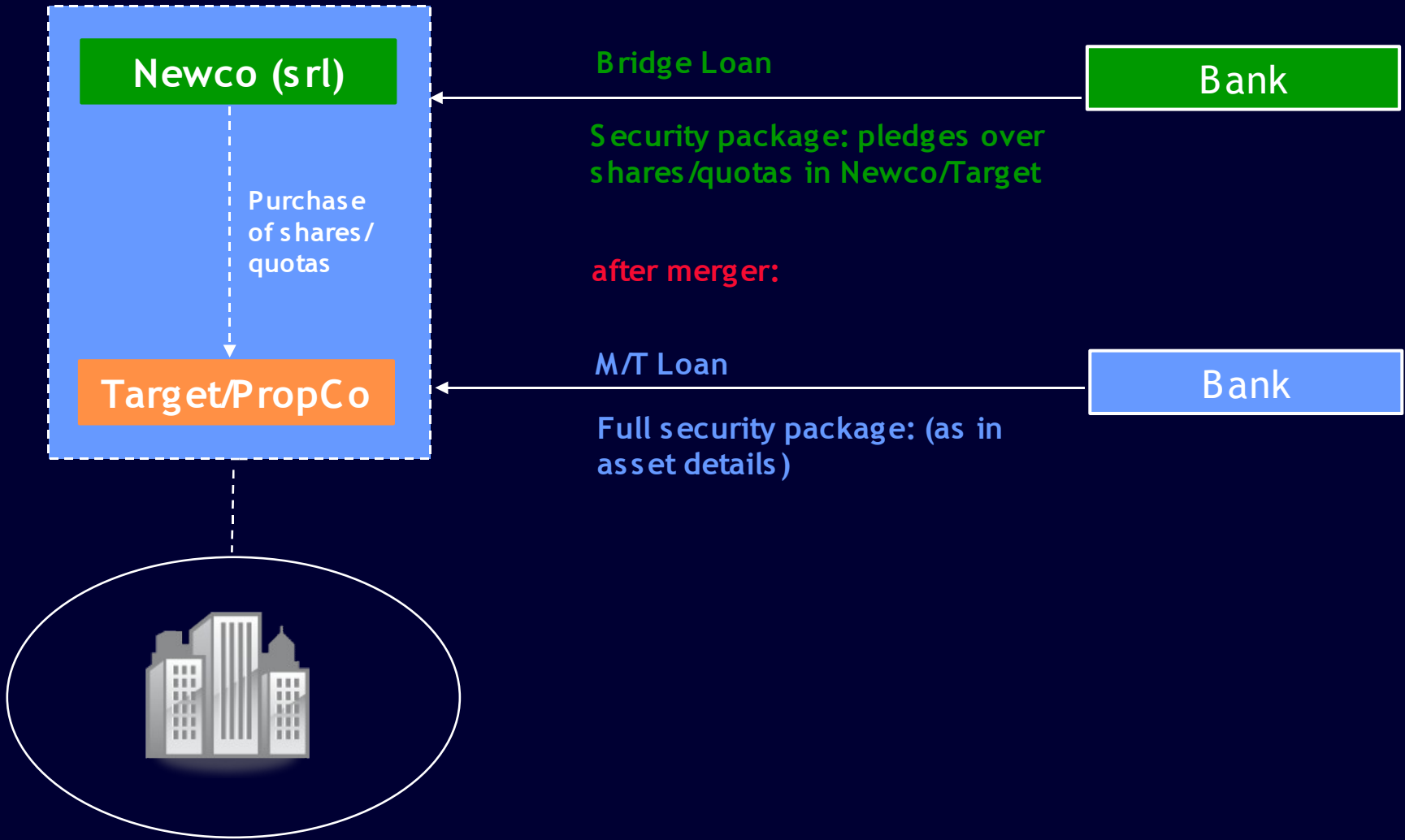


Asset Deals

- Typical security package:
 - Mortgage on property
 - Assignment of rent receivables by way of security
 - Assignment of insurance proceeds by way of security
 - Loss payee clause - insurance contracts
 - Pledge over bank accounts of borrower
 - Pledge over quotas / shares of borrower (if not a RE fund)
- Development loans:
 - Assignment of contractual rights against contractors
 - Project monitor



Share Deals



Share Deals

- Bridge Loan:
 - Not covered by substitute tax
 - Limited security package (pledges over shares /quotas of Newco and Target - pledge over Newco's bank accounts)
 - No asset security by Target due to financial assistance prohibition
- Merger of Newco and Target
 - Upstream or reverse merger? (licenses, etc)
 - Timing and formalities (2501-bis - S.r.l. vs. S.p.A.)
- Medium term refinancing loan:
 - Covered by substitute tax
 - Full security package (as in asset deal)



Fondario vs ordinary mortgage loans

- A special type of mortgage loans:
 - Loans in excess of 18 months
 - Granted by banks
 - Secured by first ranking mortgage
 - Max. LTV 80% (unless mortgage insurance covers the excess)
- Advantages for Lenders:
 - reduced claw-back risk on insolvency:
 - Suspect period for the mortgage: 10 days (as opposed to 6 months)
 - Payments by borrower not subject to claw-back
 - Procedural advantages, especially on enforcement



Fondario vs . ordinary mortgage loans

- Advantages for Borrowers :
- More relaxed payment default:
 - (at least 7 defaults / 180 days grace period)
- Reduction of mortgage
- Fractioning of loans
- Early prepayment / refinancing
 - Now covered by Bersani Decree
- Fondario loans :
 - mainly used with individuals and corporate entities (rating agency preference for CMBS);
 - less used with RE Funds (which are not subject to ordinary insolvency)



Real Estate Financing: Main Common Features

- Financial Covenants:
 - Loan to Value (LTV)
 - Loan to Cost (LTC)
 - Interest Service Cover Ratio (ISCR)
 - Debt Service Cover Ratio (DSCR)
- Permitted disposals
 - Mandatory prepayment
 - Allocated Loan Amount (ALA)



Syndication

- Syndication:
 - Transfers not covered by substitute tax
 - Club deals: lenders' team ready at signing
- Doubtful alternatives:
 - Collateralised guarantee structures (IBLOR)
 - Tax avoidance risk
 - Risks on subrogation
 - Law 130 structures
 - Tax avoidance risk
 - Cost implications



Capital Market refinancing - Securitisation

- What is securitisation?
 - A manufacturing process managed by investment banks



Raw Materials
The Loans



The Factory
The Law 130 Co.



The Product
Rated Securities

- The role of Rating Agencies
 - Assessment of credit risk (frequency of default and severity of loss)
 - Tranching of risk
 - Not a measure of investment risk nor a recommendation to buy

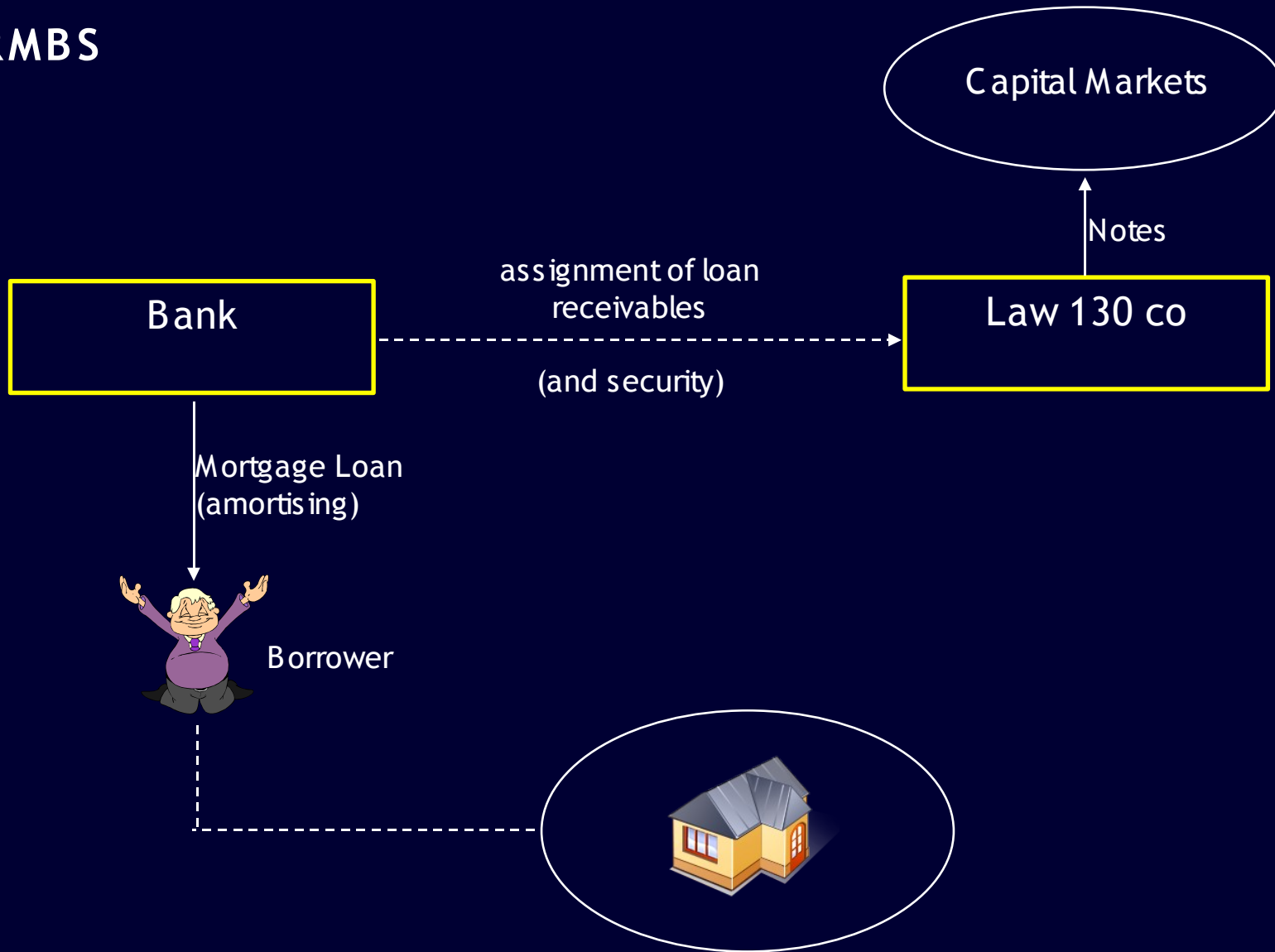


Capital Market Refinancing

- An issue for the lenders
 - Sponsors / borrowers may only get indirect benefit (lower spreads)
- A concern for borrowers?
 - Cost implications (early repayment charges in first 18 months)
 - Lesser flexibility going forward (waivers, refinancings, etc)
 - Administrative burdens (reports, etc)
- Three possible refinancing routes:
 - Residential Mortgage Backed Securities (RMBS)
 - Commercial Mortgage Backed Securities (CMBS)
 - Covered Bonds



RMBS



RMBS

- Residential properties
- Individual borrowers
- Amortising loans
- Critical mass: large number of loans
- Law 130 - The Italian Securitisation Law
 - Transfer formalities - no taxes on transfer of loans and security
 - Segregation of assets
 - No income taxes for SPV (if transaction properly structured)
 - No withholding on interest on Notes (to eligible noteholders)
 - Long term notes (no repayment before 18 months from issue)
- The “Bersani Decree”
 - Prepayment and prepayment fees (*portability* of loans)

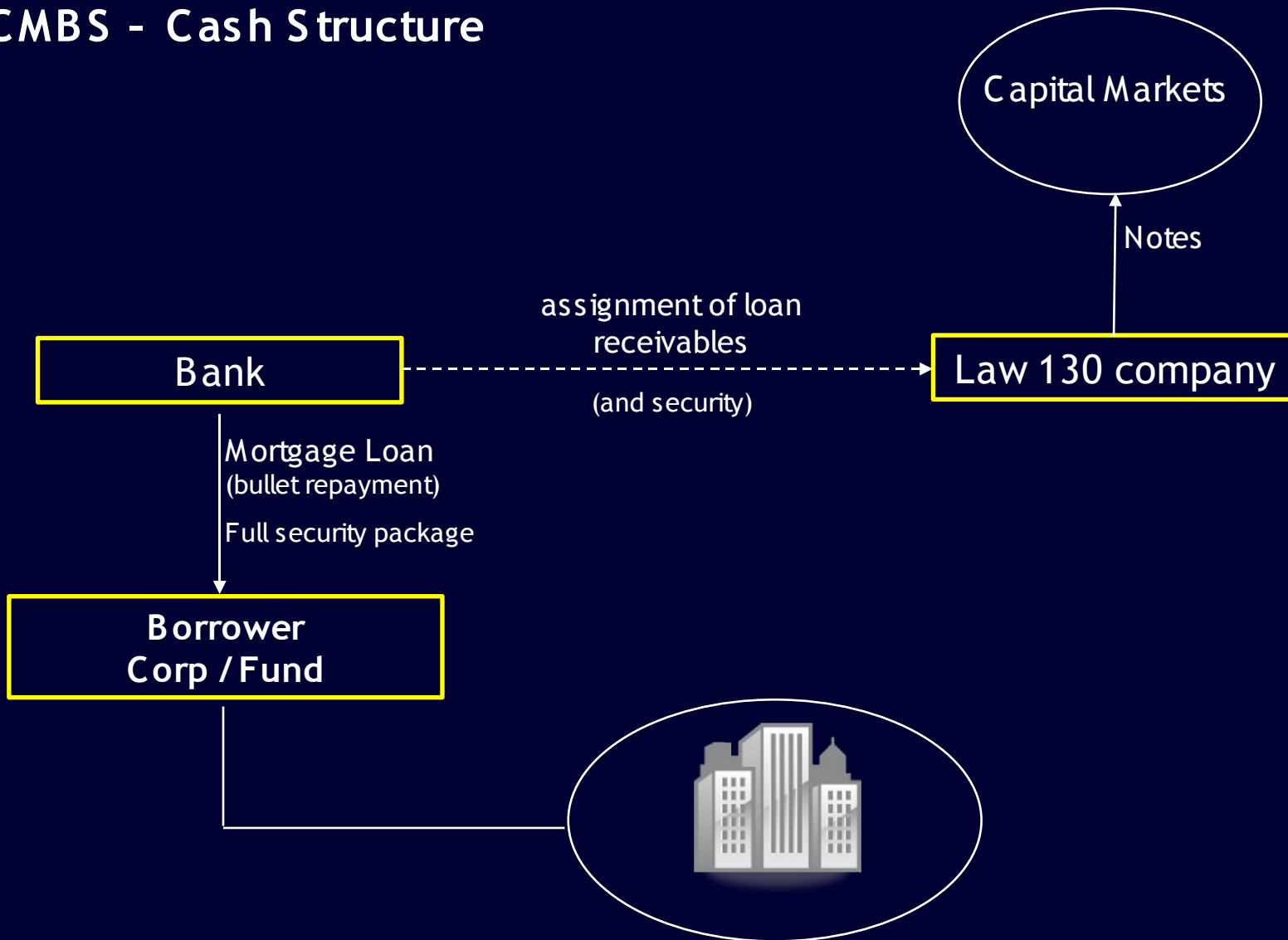


CMBS

- Features:
 - Commercial mortgages
 - Corporate / fund borrowers
 - Critical mass: limited number of loans
 - Bullet repayment
 - Disposal / refinancing risk
- Two alternative structures:
 - Cash structures - Law 130
 - Synthetic structures - cash collateralised CDS



CMBS - Cash Structure

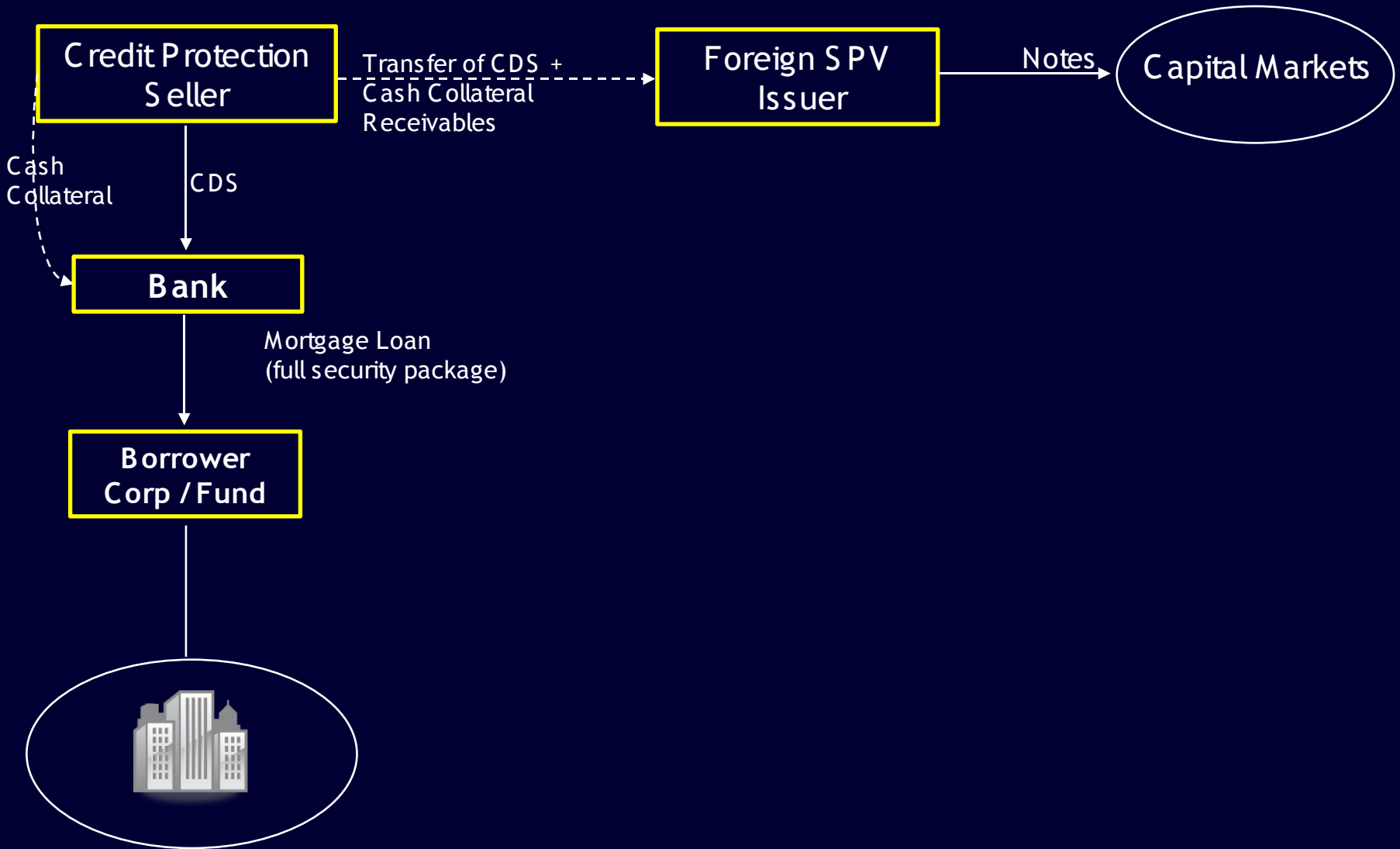


CMBS - Cash Structure

- Advantages:
 - Transfer of assets (derecognition)
 - Originator bank needs not retain role
- Disadvantages:
 - Cost
 - Timing (the need for Bank of Italy approval - 107)



CMBS - Synthetic structure



CMBS - Synthetic structure

- Advantages:
 - Timing:
 - Faster execution when compared to cash structure
 - Cost
 - A bit less expensive than cash structure
- Disadvantages:
 - Originator bank retains role
 - Only transfer of risks and rewards (for regulatory capital)
 - No off balance sheet treatment (for civil law purposes)



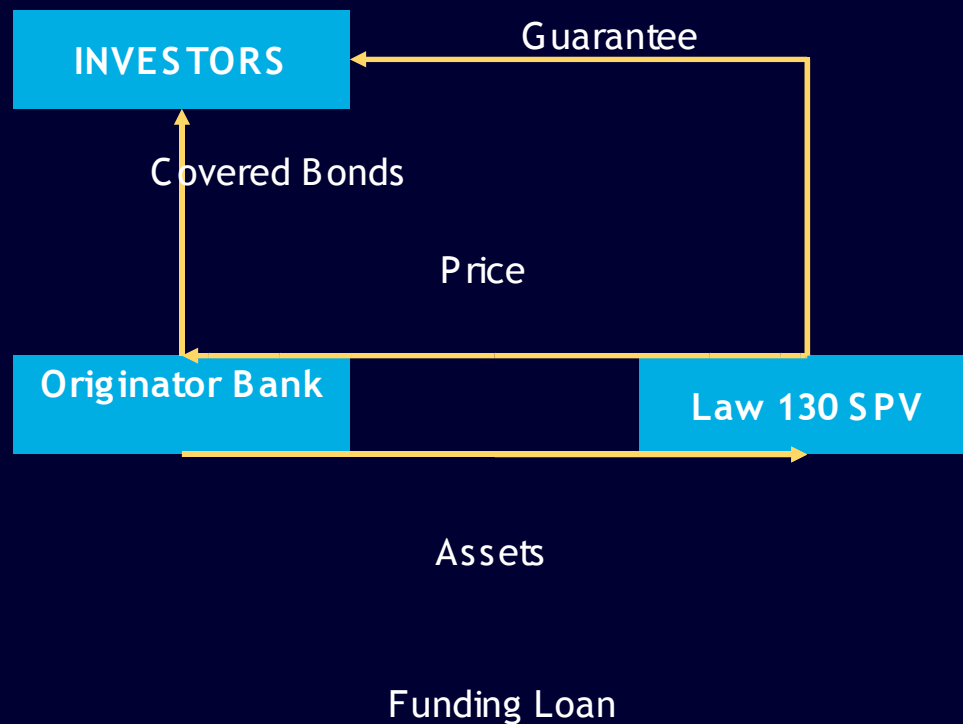
Covered Bonds

- Hybrid instrument:
 - Combination of securitisation and corporate bond
- A different market
- The Italian correspondent to *Pfandbriefen*, *Obligations Foncières* and *Cedulas Ipotecarias*
- Limited number of players (max. 10 possible Italian issuers)
 - Regulatory limitations
 - (regulatory capital, Tier 1 ratio, quality of assets, limitation on assignment of eligible assets)
- Better regulatory capital treatment for investor (10% vs 50%)
- Two possible structures



Covered Bonds

- Basic Structure



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