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The Impact of Asymmetric Information, Trade Documentation, Form of Transfer and Additional Terms of Trade on Hedge Funds' Trade Risk in European Secondary Loans

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Access by secondary investors to the traditionally "club" world of European bank debt can come with challenges. This is especially true for investment funds looking to trade across a borrower's capital structure or seeking liquidity if they determine their trading strategy has not gone according to plan. Similar to the U.S. secondary loan markets, the Loan Market Association in Europe operates in accordance with the principle of a "trade is a trade," requiring trade parties to complete the trade once material terms are agreed. Consequently, investors must settle even if unfavorable issues come to light after the trade date. While careful post trade drafting can reduce and mitigate potentially unfavorable consequences, investors should endeavour to address material trade risks upfront. This article reviews issues relating to trading with confidential information, different purchase structures available for an investor, and the risks associated with each method of bank debt acquisition.

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