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Publications
The Carveout

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CREF Roundup | Week 40, 2026

The CREF Roundup is a periodic digest of noteworthy developments, insights, and commentary in the world of commercial real estate finance (CREF). Curated for industry professionals, this ongoing series seeks to highlight key trends and news shaping the market. For more CREF intel and analysis, visit our blog, The Carveout.

Economy, the Fed, and Rates…

CRE Finance Council reports that the 10-year Treasury closed September 25 at 5.16%, its highest close since 2007, while the 30-year reached 5.49%, its highest since 2004. One-month Term SOFR remained at 3.90%, so the immediate repricing was concentrated in fixed-rate debt, with each additional 25 basis points equating to about $125,000 in annual interest on an unchanged $50 million balance. **Key takeaway:** Borrowers and lenders should refresh fixed-rate proceeds, debt yield, valuation, and refinance-gap assumptions against a 5%-plus 10-year rather than anticipated near-term rate relief.

CRE Securitized Debt Update

CRE Finance Council reports that four private-label transactions totaling $3.9 billion priced during the prior week, including a $2.125 billion self-storage loan with a single-asset/single-borrower (SASB), an $800 million mall SASB, and a $550 million office SASB. Year-to-date private-label commercial mortgage-backed securities (CMBS) and commercial real estate collateralized loan obligations (CRE CLO) issuance reached $133.1 billion, up 17% from the comparable 2025 period, while agency CMBS issuance reached $120.6 billion, up 15%. **Key takeaway:** Securitization liquidity remains available for strongly occupied, institutionally sponsored collateral, even as benchmark rates rise and weaker legacy loans move deeper into distress.

Pruning the Evergreen Clause: Southern District of New York Strictly Construes Evergreen Clause in *Starr Indemnity v. Midwest Mortgage*.

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FBT Gibbons

FBT Gibbons discusses a January 2026 Southern District of New York decision holding that disputed language extended a letter of credit for only one additional one-year term, rather than automatically for successive terms. The article recommends that issuers, applicants, and beneficiaries confirm that evergreen language unambiguously provides successive automatic extensions, especially given the prevalence of New York law in CRE transactions. **Key takeaway:** Parties relying on a letter of credit for reserves, tenant obligations, completion support, or credit enhancement should verify both evergreen wording and the operative expiration date.

AI's Data Center Boom Is Becoming U.S.'s Biggest Infrastructure Bet

CRE Daily reports that U.S. investment in data centers and AI infrastructure is projected to reach $10.3 trillion from 2025 through 2032, or roughly 3.6% of GDP annually, as data centers become a major driver of construction, employment, and economic growth. Private data-center construction spending reached $37 billion through July, up approximately $9 billion year over year, while Alphabet, Amazon, Meta, Microsoft, and Oracle are expected to spend a combined $4.2 trillion on capital expenditures through 2029, with increasing reliance on debt creating risk if AI revenues disappoint. The boom is also reshaping labor and energy markets, with AI and data centers adding hundreds of thousands of jobs while intensifying competition for skilled workers, land, electricity, chips, and equipment, contributing to higher development costs and power bills. **Key takeaway:** AI's rapid expansion is turning data centers into a defining CRE and infrastructure investment theme, creating enormous development opportunities while making power availability, costs, and the financial sustainability of AI spending increasingly critical considerations.

Student Housing's Hidden Credit Risk: Low Defaults Mask $1.25 Billion in Sub-1.0x DSCR Loans

Trepp reports that the $29.26 billion securitized student-housing market has a relatively low 1.4% balance-weighted non-performing rate, but $1.25 billion of loans remain current despite reporting debt

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service coverage ratios (DSCR) below 1.00x, signaling potential underlying payment risk. Agency loans, which represent 74.5% of the market, appear comparatively strong with a 1.74x median DSCR and 0.5% non-performing rate, while private-label CMBS has a higher 4.3% non-performing rate but much of its weaker credit has already defaulted. CRE CLOs present a different risk profile, with 17.2% of balances below a 1.00x DSCR but 97.3% of balances still current, making future performance particularly dependent on borrowers successfully executing transitional business plans and refinancing their properties. **Key takeaway:** Although headline student-housing credit performance remains relatively healthy, Trepp identifies CRE CLO loans as the principal source of potential future stress because of their weaker coverage, short-term floating-rate structures, and reliance on successful property repositioning.

The Carveout

A legal blog geared toward sophisticated capital market participants, The Carveout provides insight into current trends and developments in commercial real estate finance (CREF)—with a particular focus on non-recourse carveouts and CREF loan platforms including CMBS, debt funds, private capital, REITs, life insurance companies, and other complex sources of capital.

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