



IFA ANNUAL CONVENTION

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How To Conduct a Whole Business Securitization

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What is a Securitization?

- Form of financing
- Pooling of assets
- Bankruptcy remoteness

Result: Access to capital at reduced interest rates



Why the Franchise Industry?

- Franchise fees are a predictable source of recurring revenue
- Large and diverse group of revenue sources



Management's Role – Pre-Closing

- Coordinating pre-closing due diligence
 - Legal entities duly formed and in good standing
 - Confirm assignability of agreements to be assigned to securitization entities
 - Assignment of real property
 - Prepare for transfer of liquor and other business licenses
 - Financial diligence
- Marketing and road shows
- Meetings with rating agencies and prospective investors

Legal Considerations

- Securities laws
 - Issuance of Notes governed by Securities Act of 1934
 - Rule 144A – Sophisticated Investor Exemption
 - Rule 10b-5
- Bankruptcy laws
- Franchise and business opportunity laws

Securitization Structure

1. Above the line entities contribute assets to wholly owned special-purpose subsidiaries (the **“Securitization Entities”**) in exchange for equity in the securitization.
2. Securitization Entities grant a security interest in the assets to the trustee for the benefit of the noteholders.
3. Securitization Entities issue notes backed by those assets and use the proceeds from the notes to make a distribution of excess proceeds to the parent for expenses and general corporate purposes.
4. Cash flow from the assets is owned by the Securitization Entities and must be used to make payments on the notes and cover expenses.
5. A parent entity, acting as manager, administers collections and manages the assets (i.e., perform certain marketing, franchising, IP, operational and reporting services) in exchange for a fee.
6. Securitization Entities and their assets are **“bankruptcy-remote”** and isolated from the bankruptcy risk of above the line entities.

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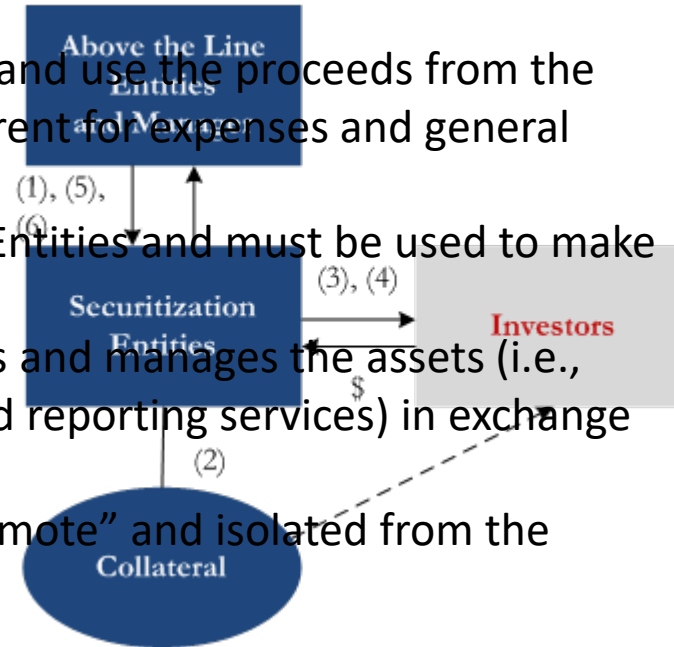
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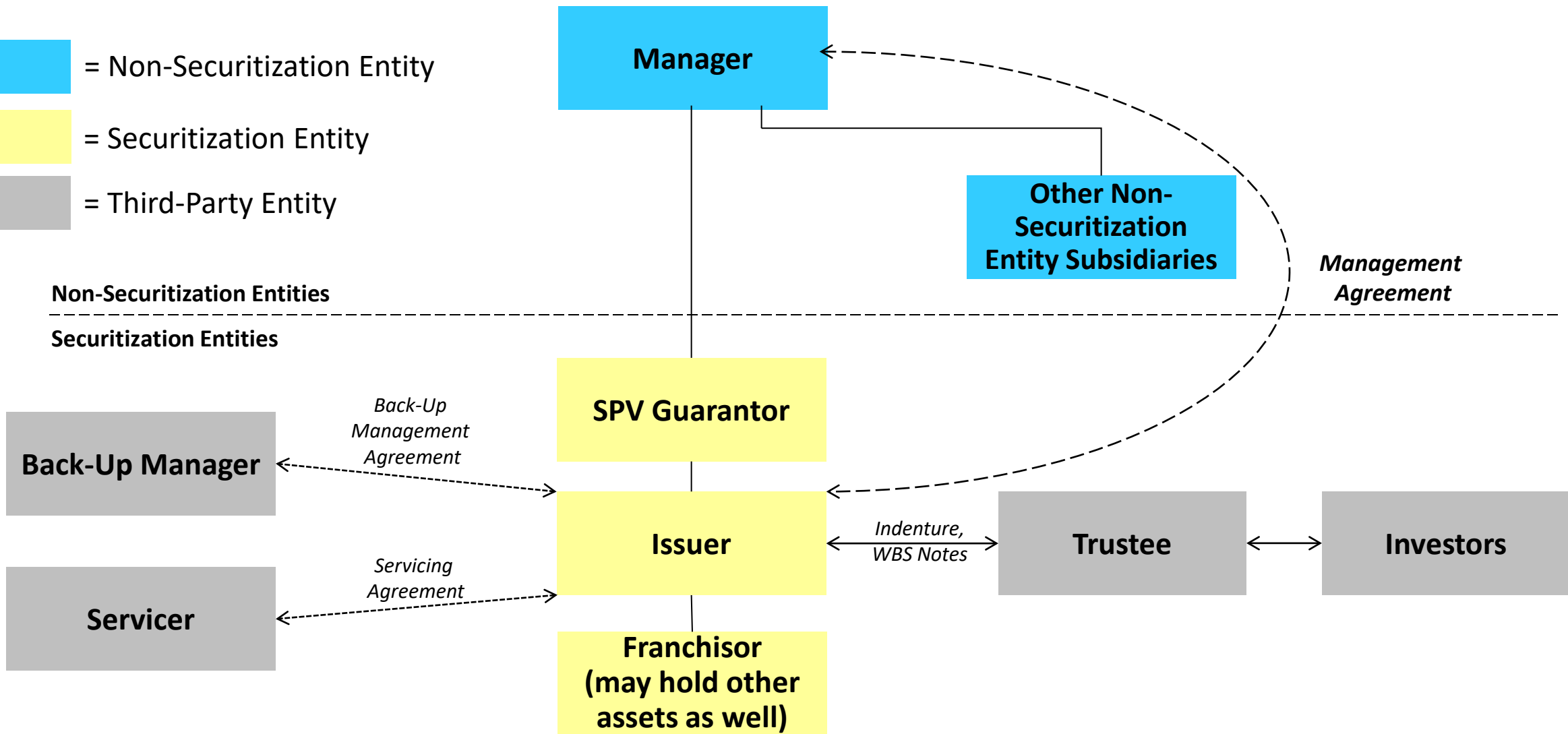
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Description of the Transaction

- Formation of securitization entities
- Contribution of assets
- Indenture and notes
- Appointment of the manager

- = Non-Securitization Entity
- = Securitization Entity
- = Third-Party Entity



Role of Key Parties

- Manager
 - Arm's length relationship with securitization entities
 - Administer collection of cash
 - Perform services on behalf of the franchisor
- Servicer
 - Monitor and review the reports and information provided to it by the Manager
- Back-up Manager
- Trustee
- Issuer
- Franchisor

Key Transaction Documents

- Indenture
- Management agreement
- License agreements
- Opinions
- Offering memorandum

Indenture

- Agreement between the Issuer and Trustee
 - Governs terms of securitization notes
- Key provisions
 - Priority of payments
 - Reps, warranties and covenants of Securitization Entities
 - Events of default
 - Permitted asset dispositions
 - Additional notes

Management Agreement

- Agreement between the Manager, Trustee and Securitization Entities
- Key provisions
 - An “above the line” entity manages the business of the securitization entities
 - Management must be in accordance with the “managing standard”
- No disruption of operations of the business in the ordinary course
 - Entry into and renewal and replacement of franchise agreements and development agreements
 - Performs franchise services required to be provided to franchisees
 - All other business-related activities performed on behalf of Issuer
 - Employees remain employed by Manager (not Securitization Entities)

Management Agreement (cont'd)

- Manager prepares periodic reports under transaction documents:
 - Weekly Manager's Certificate for allocation and application of funds in accordance with priority of payments
- Weekly Management Fee paid in consideration of services provided:
 - G&A expenses incurred paid out of Weekly Management Fee
- Supplemental Management Fee available to extent expenses incurred as Manager exceed Weekly Management Fee
- Manager Advances made at election of Manager if expected to be reimbursed
- Manager makes reps, warranties and covenants pursuant to Management Agreement
- Management has indemnification obligation to other parties for breaches of reps, warranties and covenants
- Manager subject to termination upon Manager Termination Events

Opinions of Counsel (Franchise)

- Franchise Opinion
 - Reasoned opinion regarding the franchise documents (agreements and FDD) and the franchise specific provisions of the preliminary offering memorandum
 - Accuracy of the franchise related provisions contained in the preliminary offering memorandum
 - Assignability of the franchise agreements
 - Description of franchise laws and requirements to comply with such laws

Offering Memorandum

- Key provisions
 - Summary of offering
 - Description of the business
 - Financial disclosures
 - Risk factors
 - Franchise-specific provisions (franchise arrangements and legal aspects)

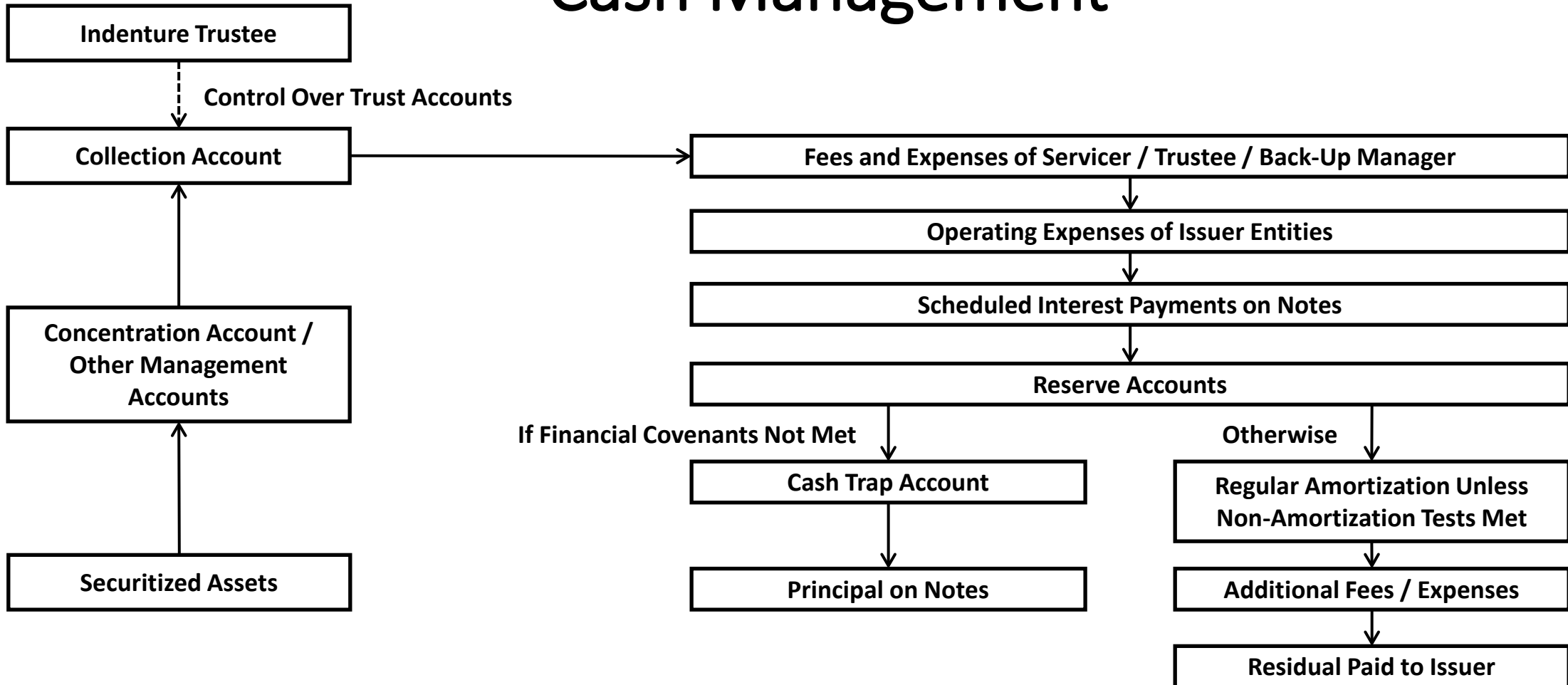
Franchise Regulatory Considerations

- Impact on registrations and exemptions
- The Manager is your Franchise Broker
- Revamped FDD
 - Describe the financing transaction
 - Disclose the role of the Manager throughout
 - Financial statements
 - Revisions required throughout the FDD

Pre and Post Closing Administration

- Assignment of agreements (franchise agreements and leases)
- Transfer of liquor and other business licenses
- Routine financial reporting obligations
- Communicating with franchisees
- Handling the money
- New assets (e.g., franchise agreements)
- Support to franchisees
- Amendments and consents

Managing the Business Post-Closing: Cash Management



Managing the Business Post-Closing: Cash Management (continued)

- Management Accounts
 - Concentration Account
 - Other Management Accounts
 - **Advertising Accounts maintained separately**
- Indenture Accounts
 - Accounts held in name of Issuer with the Trustee
 - Collection Account: amounts on deposit in Concentration Account swept weekly for deposit to Collection Account
 - Interest Reserve Account: amounts maintained on deposit in Interest Reserve Account to cover shortfalls in amounts available to pay scheduled interest on Notes
 - Cash Trap Account: additional amounts maintained on deposit in Cash Trap Account as additional reserve following trigger event

Managing the Business Post-Closing: Reporting Obligations

- Weekly Manager's Certificate
 - Prepared by Manager and reviewed by Back-Up Manager and Servicer
 - Sets forth application of funds on deposit in Collection
 - Delivered by Manager to Trustee a specified number of days prior to Weekly Allocation Date to permit Trustee to apply funds on deposit in Collection Account in accordance with the Priority of Payments
 - Not made available to Noteholders or Rating Agencies

Managing the Business Post-Closing: Reporting Obligations (cont'd)

- Quarterly Noteholders Report
 - Prepared by Manager and reviewed by Back-Up Manager and Servicer
 - Sets forth interest and principal payment amounts on Notes
 - Sets forth disbursements from reserve accounts if required
 - Also sets forth amounts on deposit in accounts
 - Delivered by Manager to Trustee a specified number of days prior to Quarterly Payment Date to permit Trustee to apply funds in accordance with the report
 - Made available to Noteholders and Rating Agencies pursuant to the Trustee's password protected website

Managing the Business Post-Closing: Reporting Obligations (cont'd)

- Quarterly Compliance Certificate
 - Within a specified number of days prior to each Quarterly Payment Date, the Manager will provide the Trustee and other parties with an Officer's Certificate disclosing whether any Event of Default, Rapid Amortization Event or other specified events has occurred
- Independent Accountants Report
 - Within a specified number of days after the end of each fiscal year, the Manager will provide the Trustee and other parties with a report of an Independent Auditor or the Back-Up Manager on agreed upon procedures applied to sample of Quarterly Noteholders' Reports
- Financial Statements: quarterly unaudited and annual audited financial statements of Manager and Securitization Entities to be provided

Amendments and Consents

- Amendments and consents to transaction documents
 - Amendments to Indenture and certain other Transaction Documents require consent of Servicer as Control Party (acting at direction of Controlling Class Representative)
 - Certain specified types of amendments require the consent of 100% of the affected noteholders
 - Amendments that are of a ministerial nature do not require the consent of the Control Party or noteholders

Impact of the Securitization Structure on Continuing Business Operations

- Franchisees in default
 - Who issues notices of default?
 - Who sues the franchisee?
- Entering into contracts
 - For company operated locations
 - For total system, including franchisees

Impact of the Securitization Structure on Continuing Business Operations

- Can the Franchisor create a brand extension (e.g., Express restaurants)?
- Can the Franchisor develop a new brand under different marks?
- Can the Franchisor acquire a competitive business?

Impact of the Securitization Structure on Continuing Business Operations

- Concessions to Franchisees
 - Can the Franchisor grant royalty relief to a single franchisee?
 - Can the Franchisor grant royalty relief for the entire franchise system?

Impact of the Securitization Structure on Continuing Business Operations

- Selling off assets
 - Can the Franchisor sell real estate, software, etc.?
 - Can the Franchisor engage in Refranchising?
 - Can the Franchisor offer Turnkey franchises?

Questions?