

Kramer in Bloomberg Law: Private Credit Lending and Documentation

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PRACTICES Private Credit Finance

Private credit lending has evolved into a mainstream financing option, offering tailored, efficient and borrower-specific documentation that enables fast execution, flexible terms and strong protections for lenders. In an article for *Bloomberg Law*, Partner [Greg Kramer](#) discusses seven key principles for private credit documentation.

Read an excerpt below.

Private credit, primarily consisting of direct lending and asset-based lending amongst other strategies, has transformed from a niche alternative to traditional bank financing and broadly syndicated loans (BSLs) to a prevalent and permanent asset class. Typically, a private credit transaction takes the form of a privately negotiated loan between a borrower and either a single lender or a small lending group, often composed of private investment funds, and which will be held to maturity by the original lenders. Notwithstanding the increasing convergence of the private credit market with BSLs and bank loans, there are still significant differences between these types of lending transactions that do not favor a convergence of documentation styles.

BSL style documentation may offer standardized and familiar structures for credit agreements. For private credit transactions, however, significant tailoring will be required. Below is a practical overview of seven key principles that should be kept in mind in drafting and negotiating private credit documentation:

Seven Key Principles for Private Credit Documentation

1. Speed. Due to the lender and borrower sitting directly at the table without an arranger/underwriter in the middle or the need for a large lending syndicate to be assembled, the lender and borrower expect the deal to be consummated quickly. Commitment papers, which are typical of syndicated deals, are generally skipped entirely with an agreed upon non-binding term sheet taking their place. Once a non-binding term sheet is in agreed form, the lender may be expected to deliver full legal documentation to the borrower within five business days or less. The drafting and negotiation of legal documentation will often move in a parallel path with credit underwriting and due diligence. The breakneck pace of the typical private credit transaction makes “duping and revising” of a comprehensive form from different lending contexts tempting but may ultimately result in inefficiency.

[Read the full article from *Bloomberg Law* here.](#)