

# Credit, Derivatives, and Structured Products

Derivatives, structured products, and credit instruments are inherently complex and often difficult-to-value components of the financial system. Our experts have extensive expertise in this space, and are deeply engaged with market participants shaping the evolution of related products, market standards, and regulations across geographic jurisdictions.

## KEY AREAS OF EXPERTISE

- **Analysis and interpretation of agreements for structured finance products**
- **Use of financial engineering products in asset management, including suitability, fee structure, and disclosures to investors**
- **Evaluation of the full spectrum of credit securities, from investment grade to distressed, and from vanilla to structured credit instruments**
- **Alternative interest rate and credit benchmarks**
- **Valuation of illiquid derivative securities, credit instruments, and structured products**
- **Assessment of the use of derivatives in risk management**
- **Regulatory investigations**
- **Bilateral trading vs. exchange-cleared products and collateral considerations**
- **Structure and assessment of value for complex financial engineering products including assessment of damages**

Our clients engage us to consult and to provide expert opinions on a wide range of issues, including evaluating various types of financial engineering products, and investigating broader issues such as possible market failure and manipulation. We have examined several classes of structured products, such as mortgage and asset-backed securities; collateralized debt and loan obligations; exchange-traded and bespoke derivatives like futures,

options, swaps, and volatility products; and credit default swaps and tranches of credit indices. Brattle's experience with these transactions spans global financial markets and includes our expertise in transactional and trading disputes. We have also applied derivative securities valuation techniques to examine the dynamic relationship between physical or financial asset prices and their derivatives, with a particular focus on the energy sector.

We have a deep understanding of the complexity of the key economic concepts and models underpinning the pricing and risks of the disputed transactions. Our team of industry thought leaders include former traders, risk managers, compliance and other industry professionals, and academics. This, coupled with highly experienced and collaborative teams and a rigorous peer review process, means that our work, consulting or testifying, is always of the highest quality with clear and compelling explanations.

Our consultants are currently engaging with market participants on a number of emerging issues. We have been working closely with the International Swaps and Derivatives Association (ISDA) and their counsel to develop and implement a framework of fallback rates for derivatives tied to the London Interbank Offered Rate (LIBOR), which is expected to cease after 2021. This work, which encompasses a group of other IBOR benchmarks, impacts trillions of dollars across global derivatives markets.



## THE BRATTLE ADVANTAGE

### Seasoned Practitioners

Brattle experts have extensive, first-hand experience with credit, derivatives, and structured products. Together with our strong network of industry professionals and academic affiliates, we have assisted a wide group of market participants, including financial institutions, law firms, industry bodies, regulators, and third party service providers.

### Clear Explanations of Complex Financial Transactions

We pride ourselves on our ability to demystify some of the most complex financial concepts for our clients. We apply our skills in mathematics, finance, statistics, accounting, economic theory, and communications to develop an effective work product that translates difficult ideas into compelling and easy-to-understand consulting reports and expert testimony. Our experience analyzing these issues from numerous angles allows us to be better prepared to serve our clients.

### Strong Connection with the Market

Brattle experts maintain a strong connection to the credit, derivatives, and structured products market as well as with a wide swath of market participants. We know that our work is effective because of our deep experience within this space and our ability to track emerging issues and trends, including evolving regulatory frameworks across geographic jurisdictions. We are not only experienced practitioners within this industry; our internal and external experts also teach related coursework at top-tier academic institutions.

### Cutting-Edge Data Analytics

We often work with large datasets exported from different document and data management systems and in a variety of formats. We host large, complex datasets in-house or in secure, cloud-based environments to ensure data confidentiality. This enables us to respond quickly and cost-effectively, providing the answers to key questions that can only be determined through expert review and analysis of big data and large document productions.

## REPRESENTATIVE ENGAGEMENTS

### Alternative interest rate benchmarks

To prepare for a permanent discontinuation of certain key interbank offered rates and the subsequent amendment of standard documentation to implement fallback rates for derivatives, ISDA engaged Brattle to analyze market participant responses to ISDA's presented approaches and frameworks. Our team reported areas of consensus and identified areas of potential concerns, ensuring that ISDA and market participants have a comprehensive understanding and a transparent picture of the responses.

### Valuation of illiquid structured finance securities

Brattle experts consulted to and testified on behalf of the DOJ in the criminal case, U.S. v. Ahuja, et al. In this matter, hedge fund managers were accused of overstating the value of illiquid structured finance securities. We summarized and analyzed contemporaneous data, including data relative to various pricing benchmarks, to establish that the hedge fund managers selectively relied on a subset of available information about the value of the securities in question to over-value them. Brattle experts testified at trial and presented this analysis to the court and the jury. The hedge fund managers were found guilty, and the court cited Brattle's analysis and testimony as a key component in this determination and sentencing.

### Management of collateralized debt obligations

Brattle experts helped secure a favorable outcome at trial in a case involving the interpretation of governing agreements for a collateralized debt obligation (CDO). Most of the underlying assets were in default following the financial crisis. The issue was whether the language in the CDO indenture required the collateral manager responsible for managing the securities, Triaxx Asset Management LLC, to sell certain defaulted assets that it had not yet sold. A Brattle expert submitted written reports and testified at trial on the interpretation of the governing documents and the core features of the securities. The Court found the expert's testimony credible and supported a judgment in the client's favor that the defaulted assets must be sold.

### Leveraged hedge fund portfolio broker-customer dispute

Brattle was retained to testify at a FINRA arbitration in relation to a failed leveraged hedge fund investment that was liquidated by the leverage provider following a knockout event during the credit crisis. An individual investor switched from a margin account to use an options contract structure to bet on the performance of a customized portfolio of hedge fund investments. The dispute concerned whether the structure was suitable and

whether investors understood its operation and how it differed from a margin account. Testimony was developed in connection with causation and damages on differences in the operation of the option structure compared to a margin account; the effect of limitations on fund selection on performance; and how the knockout event was triggered.

#### **A financial institution's exposure to alleged LIBOR manipulation**

Brattle provided consulting and expert support on behalf of a financial institution related to the impact of alleged LIBOR manipulation. Our team analyzed exposures of the financial institution's global trading desks' positions across both derivatives and cash products, and performed sensitivity analyses with respect to LIBOR. Brattle's client favorably settled the matter.

#### **Analysis of a rating agency's credit models**

Brattle worked with the Department of Justice (DOJ) in a landmark suit involving whether Standard & Poor's knowingly published inflated ratings for large mortgage-backed securities that ultimately turned toxic, exacerbating the financial crisis. Brattle worked with the DOJ from the early stages of the case to analyze S&P's ratings methodology, potential changes to its ratings model

inputs, and their impact on investment decisions and financial markets. Brattle consultants advised the DOJ and, separately, worked with testifying experts on both the ratings models and their macroeconomic implications. Our work included rigorous analyses of S&P's internal documents and models to document the sensitivities of ratings on RMBS and CDOs to alternative assumptions, versions of the model, and the rationale for the qualitative adjustments to the quantitative model results. The case ultimately resulted in a \$1.4 billion settlement.

#### **Valuation of a portfolio of credit derivatives**

Brattle worked on behalf of a hedge fund manager in a case against the estate of Lehman Brothers related to the valuation of a portfolio of complex derivatives, following the latter's filing for Chapter 11 protection. Brattle supported an academic expert, who opined on the reasonableness of the methodology that the hedge fund manager (the non-defaulted counterparty) used to value its claims on the portfolio. Our team analyzed the contemporaneous credit market conditions at the time of the Lehman bankruptcy, and in the context of the relevant ISDA Master Agreements between the two parties. The court found favorably for our client.

---

## CONTACT US

For additional information about our work and expertise in this practice, please visit [brattle.com/practice/Credit-Derivatives-Structured-Products](https://brattle.com/practice/Credit-Derivatives-Structured-Products).

---

## ABOUT BRATTLE

**The Brattle Group answers complex economic, regulatory, and financial questions for corporations, law firms, and governments around the world. We aim for the highest level of client service and quality in our industry.**

We are distinguished by our credibility and the clarity of our insights, which arise from the stature of our experts; affiliations with leading international academics and industry specialists; and thoughtful, timely, and transparent work. Our clients value our commitment to providing clear, independent results that withstand critical review.

Brattle has over 350 talented professionals across three continents. For additional information about our experts and services, please visit [brattle.com](https://brattle.com).