



CLO Insights Series

A Guide to CLO Documentation

May 2026

Introduction

CLO Documentation can seem daunting at first. There is a lot of material to grapple with.

Often full of complex language and cross references, CLO documents can appear inaccessible.

However, all the words are there for a reason.

What to Expect in this Article

In addition to the Offering Circular, which is the most visible CLO document, there are many other documents that drive a CLO and govern the relationships between the various CLO parties (for a description of these parties, please see CLO Insights “The Cast”).

This article considers the contents of the Offering Circular in some detail then goes on to look at the other main documents explaining where they fit in starting with the incorporation of the issuer followed by the choice of Arranging Bank and the execution of an Engagement Letter.

The Engagement Letter describes how the Arranging Bank will structure the CLO, engage with Rating Agencies and market the CLO notes to investors.

Once the Engagement Letter is agreed the warehouse is opened.

The warehouse is essentially a bank loan to the Issuer. Together with equity provided by the Retention Holder, this loan is used to purchase assets sourced by the Collateral Manager to build an initial portfolio.

The initial portfolio will eventually form the basis of the CLO portfolio and the issue proceeds of the CLO will repay the warehouse financing.

Having assets already in the portfolio serves two purposes:

- there will be income producing assets from the start of the CLO which reduces negative carry
- investors and rating agencies have visibility on the credit quality and diversity of the initial portfolio.



Warehouse Documents

The exact form of warehouse documents will depend on the identity of the Arranging Bank, but will typically consist of the following key documents:

- The Warehouse Deed - which contains the main terms of the warehouse, including:
 - the commitment size, drawdown mechanics, advance rate, pricing, priority of payments and maturity/termination provisions;
 - representations and undertakings from the Retention Holder for the purposes of compliance with EU/UK securitisation rules (see CLO Insights Risk Retention – Deep Dive);
 - the terms on which the Collateral Manager will act on behalf of the Issuer and the eligibility criteria for assets to be purchased under the warehouse (although this is sometimes covered in a separate warehouse collateral management agreement);
- The Master Administration and Agency Agreement – which governs how third-party agents such as Collateral Administrator, Account Bank, Paying Agent, Custodian and Registrar will act on behalf of the Issuer during the warehouse stage.
- The Deed of Charge and Assignment – which creates the security over the collateral in favour of the various secured parties and sets out the terms on which the security trustee will enforce the security upon any default.
- The Conditional Forward Purchase Agreement – which is the mechanism for “seasoning” assets transferred to the Issuer to ensure that the Retention Holder qualifies as an “originator” for the purposes of the EU/UK securitisation rules.

Once the warehouse portfolio has reached an appropriate level (usually 50-60%) of the target par amount of the ultimate CLO, it is time to start preparing to launch the CLO.

CLO Documents

Offering Circular

One of the key documents, although not a legal contract, is the Offering Circular (OC). This is the disclosure document used to market the CLO notes to investors and will be publicly available following the CLO issue date.

In European deals, the CLO notes are listed on a recognised stock exchange to benefit from the “quoted eurobond” withholding tax exemption on interest payments and the OC is also used as the listing document for this purpose.

The OC is intended to set out all key terms and considerations which investors should be aware of prior to an investment in the CLO notes.

The content of the OC is accordingly quite broad and will include:

- A risk factors section, which alerts investors to the investment risks relating to their ownership of the CLO notes.
- Terms and conditions of the CLO notes, such as the interest and redemption provisions (including how the CLO notes can be refinanced following the non-call period), details of how the bank accounts of the Issuer are operated, the order of priority in which interest and principal proceeds from the portfolio are applied (see CLO Insights “The Waterfall”) and rules governing modifications to the conditions and transaction documents, including investor protections and voting thresholds.
- A description of the various parties involved in the CLO (see CLO Insights “The Cast”) including what their roles and duties are, together with a summary of the key transaction documents.
- Details of the credit rating agencies and the ratings assigned to each class of rated CLO notes upon issuance.
- The rules governing the acquisition and management of assets by the collateral manager on behalf of the Issuer, including asset eligibility criteria, collateral quality tests and reinvestment criteria – and what happens if there are breaches of any of the tests (see CLO Insights “Collateral Quality Tests and Matrices”).
- A description of the content and timing of investor reports.
- A summary of tax and regulatory issues, including a description of the Retention Holder and retention covenants for the purposes of compliance with the EU/UK securitisation rules.
- Details of the legal form of the CLO notes and securities law restrictions on their sale and transfer.

The OC is assigned different colour names depending on the progress of the negotiation of the CLO.

The “**Pink**” Offering Circular refers to the first draft of the OC which is usually sent to prospective investors at the launch of the CLO.

The “**Red**” Offering Circular is the draft of the OC sent to investors at the “pricing” stage. This is when prospective investors confirm their commitments. The Red includes a number of negotiated changes based upon investor feedback or stipulations (“stips.”).

The “**Black**” Offering Circular is the final version of the OC after it has been fully negotiated and includes final pricing details and ISIN codes. The Black OC is filed on Euronext Dublin for the purposes of listing of the CLO notes.

Other Key Documents

The OC is the main public document but there exists a myriad of other documents that each play an important function behind the scenes.

Collateral Management Agreement

This is an omnibus document detailing the full scope of the obligations and responsibilities of the Collateral Manager. It deals with the management of the assets in the CLO portfolio by the Collateral Manager on behalf of Issuer and also the terms on which the Collateral Administrator will carry out certain administrative duties including the preparation of investor reports.

Trust Deed

This sets out the role and responsibilities of the Trustee working on behalf of the noteholders. The Trust Deed will also append the terms and conditions of the CLO notes (as contained in the final Offering Circular) and provisions regarding noteholder meetings and voting. It will also grant security over the assets of the Issuer in favour of the Trustee to be held on behalf of the noteholders and other secured parties.

The Agency Agreement

This appoints and sets out the obligations of the Paying Agent, Account Bank, Custodian and other Agents of the Issuer.

Risk Retention Letter

This is the document pursuant to which the Retention Holder commits to buy and hold 5% of the credit risk in the transaction and not hedge its credit risk in this respect, as required under the EU/UK securitisation rules. In addition, the retention holder will also typically make certain representations as to how it qualifies as an eligible retention holder for the purposes of such EU/UK rules (i.e. as an "originator").

Additional Documents

There are a range of additional documents entered into by the Issuer and other transaction parties, such as a Subscription or Placement Agency Agreement (where the Arranging Bank agrees to purchase the CLO notes from the Issuer at closing and distribute them to the investors). However, these additional documents are not typically included in the suite of core transaction documents (mentioned above) that need to be made available in substantially agreed form to investors at pricing of the CLO.

Pemberton's Approach

In contrast to some other CLO managers Pemberton has created a standardised suite of documents.

This approach serves multiple purposes:

- Investors know what to expect and can easily navigate the Offering Circular
- The Collateral Manager has a less complex task when managing multiple vehicles
- There are cost savings in preparation and negotiation which accrue to investors

Conclusion

Although often complex, CLO Documentation does not have to be scary.

The Offering Circular contains all relevant information necessary for Investors and once they become familiar with the format it becomes relatively straightforward.

Each of the other documents has a specific purpose and together the document suite serves to reinforce the rights and protections that Investors possess by outlining exactly how each party should behave.

Contact Us



Rob Reynolds

Managing Director

Head of CLO

Pemberton Capital Advisors LLP

rob.reynolds@pembertonam.com

T: 020 3841 8358

M: +44 (0)770 6338 302

Disclaimer

This document is intended only for the person to whom it has been delivered and is solely for discussion / information purposes.

Any third-party information (including any statements of opinion and/or belief) contained herein is provided by Pemberton Capital Advisors LLP ("we", "our" or "us") and has not been independently verified.

Statements of opinion, market or performance information and any forecasts or estimates contained in this document are prepared on the basis of assumptions and conclusions reached and are believed to be reasonable by us at the time.

No representation, warranty, assurance or undertaking (express or implied) is given (and can therefore not be relied upon as such), and no responsibility or liability is or will be accepted by us or any of our affiliates or our respective officers, employees or agents as to the adequacy, accuracy, completeness or reasonableness of the information, statements and opinions expressed in this document. Any opinions expressed in this document do not constitute legal, tax or investment advice and can therefore not be relied upon as such. Please consult your own legal or tax advisor concerning such matters.

The information contained in this document (which does not purport to be comprehensive) is believed to be accurate only at the date of this document and does not imply that the information herein is correct at any time subsequent to the date hereof and such information is subject to change at any time without notice. The views expressed herein are subject to change based on market and other conditions and we give no undertaking to update the information, to reflect actual events, circumstances or changes in expectations or to provide additional information after its distribution, even in the event that the information becomes materially inaccurate.

The recipient acknowledges and agrees that no person has, nor is held out as having, any authority to give any statement, warranty, representation, assurance or undertaking on our behalf. No part of this document may be reproduced in any manner without our written permission.

This document has been prepared and issued by Pemberton Capital Advisors LLP. Pemberton Capital Advisors LLP is authorised and regulated by the Financial Conduct Authority ("FCA") and entered on the FCA Register with the firm reference number 561640 and is registered in England and Wales at 5 Howick Place, London SW1P 1WG, United Kingdom. Registered with the US Securities and Exchange Commission as an investment adviser under the U.S. Investment Advisers Act of 1940 with CRD No. 282621 and SEC File No. 801-107757. Tel: +44(0) 207 993 9300.

The information in this document does not constitute legal or other professional advice of Weil, Gotshal & Manges (London) LLP.

www.pembertonam.com

Pemberton is a registered trademark. © Pemberton