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BRIEFING

The Data Center Lease is the Bond:
Why the lease shapes the rating, and the cost of capital

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Data center developers increasingly look for funding in the capital markets, where the rating of the bond is, in substance, a rating of the underlying data center lease. This briefing maps how specific lease terms drive the rating band across the agencies, and where the agencies diverge. The practical implication: the lease should be drafted to the target rating from the outset. In this briefing, we set out the terms that matter most, and how to hold them.

Key points

1. **The lease is the primary cash flow input**. In a rated data center financing, the bond is sized against the contracted lease, so lease terms function as bond terms. The lease is not the only rating input, but it is the one where counsel can most significantly move the needle.

2. **Tenant and guarantee set the ceiling**. The bond rating is capped by tenant quality and the guarantee package.

3. **Where the bond sits versus the tenant follows a pattern**. Recent transactions fall into three buckets:
   - Bucket 1: The bond tracks the tenant
   - Bucket 2: The bond is investment grade (IG)-rated but notched down due to structural risks
   - Bucket 3: The bond is high yield because hyperscaler support is deferred or absent.

4. **The agencies do not treat the same lease term the same way**. A provision that is neutral for one agency may cap the rating for another. These divergences are specific and shape lease drafting.

5. **Draft the lease to the rating**. The terms that determine the achievable rating are mostly fixed at lease signing. We set out the most relevant terms, and how to hold them.

Why the lease is the credit

Data center financings increasingly run through the capital markets. A bank or private credit facility will typically fund construction and lease-up of the data center facility or campus, and a rated take-out repays it once the asset stabilizes. The take-out can be done in multiple formats: a 144A/Reg project bond, a 4(a)(2) US private placement, an asset-backed securitization or a single-asset commercial mortgage-backed issue. Each of these is rated, or priced by an institutional buyer, off the contracted lease cash flow. Therefore, the rating of the bond is, in substance, a rating of the lease.

It follows that negotiable lease terms are also bond terms because the tenant's payment obligation under the lease is the primary cash flow input in the ratings models. Negotiable lease terms are not the only factor; leases operate within a multi-factor framework that also weighs asset quality, location and, above all, tenant credit, so the lease does not set the rating on its own. But it is the input on which counsel can materially move the needle. A well-drafted lease that anticipates a capital markets take-out can lift the achievable rating band and, with it, the cost of capital for the developer.

The practical conclusion runs through this briefing. In a financing headed for the capital markets, the lease should be drafted backward from the target rating and the capital structure, at origination, so a single document carries through both the construction layer and the take-out without post-signing re-engineering.

Where the bond rating sits versus the tenant

Across the 2025-26 wave of data center capital markets financings, we have observed different patterns in how closely the bond rating tracks the tenant's own credit.

- **Bucket 1: The bond tracks the tenant**. An IG-rated hyperscaler takes a campus directly, on a date-certain lease running through the bond's maturity and stands behind the rent with a residual value guarantee or an absolute lease guaranty from the tenant or its parent. Under this structure, the bond tracks the tenant's own credit. Recent examples include two landmark transactions the Clifford Chance team advised on: a Meta-backed Hyperion campus financing in Louisiana, and an Oracle-backed Michigan campus financing.
- **Bucket 2: Structural risk notching**. The lease-level credit is IG-rated, either because an IG hyperscaler is the direct tenant or because a hyperscaler guarantees an unrated tenant, but the bond is notched down for structural reasons (e.g., completion risk or refinancing risk at a bullet maturity). The notch is about structure, not credit.
- **Bucket 3: High yield**. The tenant is unrated, or hyperscaler support is deferred to rent commencement, capped or absent, so the bond's rating tracks the project rather than the tenant. In these deals, construction and residual risk remain with the bondholders and the rating reflects that.

Market Read

Bucket 2 offers a useful public illustration. Two greenfield financings by the same sponsor, on the same fully amortizing guaranteed maximum price structure, came to market about six weeks apart. River Bend (Louisiana) was rated BBB minus by S&P and Fitch. Beacon Point (Texas) was rated Baa2 by Moody's and priced roughly 20 basis points inside River Bend. Because the two deals were rated by different agencies, the one-notch rating difference reflects the agencies' methodologies, not a clean read on the lease. The comparable signal is the pricing: investors placed Beacon Point inside River Bend, and the principal structural difference between the two was the lease credit, an IG hyperscaler taking the space directly rather than a hyperscaler guaranteeing an unrated tenant. Timing and construction mitigants also differed, so we read the pricing as consistent with investors rewarding the stronger lease credit, rather than as proof of it in isolation.

Tenant and guarantee come first

Lease drafting can improve the rating, but only up to a point. Two things set the ceiling on where the bond can be rated: the tenant's own credit and the guarantee that stands behind the rent. Every agency treats tenant credit quality as the most significant single input, expressed through a tenant-driven stress floor, a default probability derived from the tenant's rating, a guarantor rating floor, or favorable treatment for highly creditworthy tenants. Lease drafting can optimize the rating within that ceiling, but it does not lift it. Each agency also assesses the data center manager and operator independently, and a weak manager assessment can hold the rating down regardless of how well the lease is drafted.

Two practical takeaways for the lease itself:

- *First*, an uncontrolled tenant right to assign the lease to a weaker credit undermines the entire underwriting, which is why assignment to non-affiliates should require landlord consent tied to an objective rating or net-worth test. The original guarantor should not be released unless the incoming tenant meets the transfer requirements.
- *Second*, the parent guarantee is the foundation of an IG-rated structure rather than a refinement. It should be delivered at lease execution as a condition for the financing, not deferred.

The lease terms that improve the rating

Within the achievable rating ceiling, a defined set of lease terms can improve the rating.

- **Tenor against debt maturity**. The bond is sized against the initial contracted term because rating agencies give little or no value to renewals left to the tenant's discretion. The lease should run long enough for the debt to amortize, or reach an agreed balloon, within that initial term, with a contracted tail beyond the balloon to support a refinancing. A common structure is a 15-year initial term with tenant extension options: the financing is sized to the 15-year term, and an extension receives credit only to the extent it is locked in at the outset rather than left to the tenant's discretion.
- **Termination and contraction rights**. Any early termination right, or reduction of the leased space or power, undercuts the cash flow the bond is built upon. Termination for convenience is a non-starter from a ratings perspective. Termination should be available only for chronic or material uncured landlord default or prolonged force majeure, if at all, and then only on a partial, phase-specific basis. Any termination option should be paired with a fee or make-whole sized to the outstanding debt.
- **Service levels and service credits**. Service credits abate rent, which makes the coupon variable. The cleanest structure includes service-level obligations in a separate operating agreement, distinct from the base rent the lenders underwrite. Where service credits remain in the lease, they need monthly caps, category-level caps and an overall cap so that credits from different sources cannot be stacked in a single

period. A further enhancement is a rent floor to preserve minimum cash flow, with excess credits carried to a later period.

- **Net lease structure and capital expenditure**. Who bears taxes, insurance and maintenance sets the predictability of the cash flow. An absolute triple-net (NNN) lease, under which the tenant bears taxes, insurance and maintenance, produces a fixed, bond-like rent and the tightest sizing. A modified-gross or service structure leaves costs with the landlord, which is punished by the rating methodology through higher coverage requirements and funded maintenance reserves. This results in reduced debt capacity.
- **Escalators**. A fixed annual increase in rent provides predictable growing cash flow, which supports coverage over time. A market reset during the financed term, or an inflation index with no floor, adds variability that undermines the rating. Extensions should run on the same fixed escalator, not a market reset.
- **Power, curtailment and clawback**. Power is the main data center risk. If delay, curtailment or a utility capacity clawback gives the tenant a termination right or open-ended abatement, it creates uncertainty the bond cannot absorb. The bankable approach treats grid curtailment as excused performance with proportional, capped abatement and no termination right, and addresses a contractual ramp-up period or clawback risk through cooperation covenants and bounded landlord mitigation. A subordinated rent-credit mechanic, under which the tenant pays full rent, debt service is paid first, and any credit is paid from residual cash before equity, eliminates the risk of coverage having to rely on reduced cash flows.
- **Assignment and step-in.** The take-out needs the lease and its collateral to survive enforcement and to be assignable to a lender or successor. The lender's collateral assignment and the transfer on enforcement should be limited to "qualified transferees" meeting a set of pre-established criteria, and the tenant should acknowledge the security, so that a restrictive assignment clause does not trip on a foreclosure transfer.
- **The subordination agreement**. The subordination, non-disturbance and attornment agreement (SNDA) carries the lender's protections into the bond by preserving the lease after a landlord default or foreclosure. It should be on lender-standard terms: non-disturbance conditioned on the tenant continuing to pay rent, no assumption of the landlord's pre-existing obligations or liabilities by a successor, surviving offsets capped or limited to claims already asserted, and any landlord insolvency termination trigger neutralized where a lender steps in.

Two practical takeaways:

- Agency selection is itself a structuring decision, because both the achievable ceiling and the treatment of the same lease term differ by rating agency, so a lease optimized for one is not automatically optimized for another.
- Several of these differences translate directly into drafting instructions. The clearest are the forward net-lease eligibility covenant, which preserves NNN treatment at rollover under the S&P methodology, and the subordination agreement, whose absence carries a quantified rating cost under Moody's methodology.

While the agencies consider lease-driven inputs, they also weigh other bond structure features that sit outside the lease and are outside the scope of this briefing (e.g., amortization profile, anticipated repayments, cash-trap triggers and reserves).

What this means in practice

Before signing, the lease can be shaped to the target rating at no incremental cost. Lease execution is the high-leverage moment, and the structural spine to hold is a short list: a tenor that amortizes within the initial term, no termination for convenience, limited service credits, an absolute NNN structure with a forward eligibility covenant, an IG parent guarantee delivered at execution, and a lender-standard subordination and assignment package.

After signing, the task is different and harder, because developers and their counsel no longer hold the pen. Taking an executed lease to a capital markets take-out is a problem of triage and structuring rather than drafting, and it is the subject of a companion briefing to follow.

Clifford Chance advises sponsors, initial purchasers, lenders and investors across the capital structure of these financings. Our recent work includes two of the landmark US data center capital markets financings of this cycle, the Meta-anchored Hyperion campus financing in Louisiana and the Oracle-anchored Michigan campus financing, alongside the first public data center asset-backed securitizations in Europe. We would be happy to discuss how the principles here apply to a specific lease or structure.

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