

the opinion simply represents counsel's best judgment, and is not binding on the IRS or the courts. In this regard, there are no authorities that deal with situations substantially identical to the Issuer's, and the Issuer could be treated as engaged in the conduct of a trade or business as the result of unanticipated activities, changes in law, contrary conclusions by the IRS or other causes. The IRS periodically issues a priority guidance plan indicating areas in which it intends to issue guidance. The current plan identifies guidance projects that could affect the Issuer. In addition, you should be aware that the opinion referred to above will expressly rely on the Collateral Manager's compliance with the Operating Guidelines, which are intended to prevent the Issuer from engaging in activities which could give rise to a trade or business within the United States. Although the Collateral Manager has generally undertaken to comply with the Operating Guidelines, the Collateral Manager is permitted to depart from the Operating Guidelines if it obtains an opinion from nationally recognized tax counsel that the departure will not cause the Issuer to be treated as engaged in a trade or business within the United States. Any such departures would not be covered by the opinion of Cleary Gottlieb Steen & Hamilton LLP referred to above. If the Issuer were engaged in a trade or business in the United States, it would potentially be subject to substantial U.S. federal income taxes. The imposition of such taxes would materially affect the Issuer's financial ability to repay the Notes.

Pursuant to the Collateral Management Agreement, the Collateral Manager has agreed not to intentionally or with reckless disregard take or omit to take any action that is reasonably likely to cause the Issuer to be engaged in a trade or business in the United States. As discussed in more detail in "*The Collateral Manager and the Collateral Management Agreement—The Collateral Management Agreement*", the Collateral Manager will not be liable to the Issuer or the Holders of the Notes for any loss incurred as a result of the actions taken or omitted by the Collateral Manager under the Collateral Management Agreement, except as may result from acts or omissions constituting bad faith, fraud, willful misconduct or gross negligence in the performance of, or reckless disregard of, its duties and obligations. Accordingly, the Collateral Manager's liability to the Issuer and the Holders of the Securities will be limited in the event the Issuer is, or is deemed to be, engaged in a trade or business in the United States.

With respect to Cayman Islands taxation, see the discussion below in "*—Cayman Islands Tax Considerations.*"

Withholding Taxes. Although the Issuer does not intend to be subject to U.S. federal income tax with respect to its net income, income derived by the Issuer may be subject to withholding taxes imposed by non-U.S. countries, and certain fee income may be subject to U.S. withholding tax. In this regard, the Issuer may only acquire a particular Collateral Obligation if the obligation will not subject the Issuer, with respect to payments due under its terms or proceeds of its disposal, to a withholding tax or the obligor or issuer of the obligation is required to make "gross-up" payments. Any commitment fees received by the Issuer in respect of a revolving Collateral Obligation may be subject to U.S. withholding tax, which would reduce the Issuer's net income from such activities.

Tax Treatment of U.S. Holders of the Senior Notes

Status of, and Interest and Discount on, the Class A Notes. The Class A Notes will be treated as debt for U.S. federal income tax purposes. U.S. holders of Class A Notes generally will include payments of stated interest received on the Class A Notes, in accordance with their tax method of accounting, as ordinary interest income from sources outside the United States. In general, if the issue price of a Class A Note (the first price at which a substantial amount of Class A Notes of the same Class were sold to investors) is less than its principal amount by more than a de minimis amount, the Class A Note will be considered to have original issue discount ("OID"). If a U.S. holder acquires a Class A Note with OID, then regardless of such holder's method of accounting, the holder will be required to include such OID in income as it accrues under a constant yield method. Accruals of OID will be based on the weighted average life of the Class A Notes rather than their Maturity Date. In the case of the Class A Notes, accruals of OID, if any, should be calculated by assuming that interest will be paid over the life of the Class A Notes based on the value of LIBOR used in setting interest for the first Periodic Interest Accrual Period, and then adjusting the income for each subsequent Periodic Interest Accrual Period for any difference between the actual value of LIBOR used in setting interest for that subsequent Periodic Interest Accrual Period and the assumed rate. It is not anticipated that the Class A Notes will be issued with OID.