



→ Michael P. O'Brien

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Michael O'Brien is a partner on the Energy Team within the Real Estate, Energy, Land Use & Environmental Practice Group and is based in the firm's Chicago office.

Areas of Practice

Michael has more than 30 years of first chair experience representing providers and users of debt capital in financing transactions in the primary and secondary markets. His work includes secured and unsecured credit facilities, private placement financings, project finance transactions, asset-based and cash flow-based financing transactions, financial asset securitizations, equipment leasing transactions, letters of credit and other credit enhancements, and derivative products. Michael is adept at structuring transactions to optimize available US federal income tax benefits. He also leads the firm's Derivatives and Structured Products group and is a nationally recognized leader in this space.

Renewable Energy Projects

Michael focuses on representing developers, sponsors, lenders and investors in transactions to finance the development, construction and operation of renewable energy projects, including battery storage, solar and wind facilities. His recent work includes:

- Representing the sponsor in the tax equity financing of a 350 MW solar power facility in New England.
- Representing the sponsor in the construction, tax equity bridge and back leverage financing of a 500 MW solar power facility in upstate New York.
- Representing the sponsor in the construction, tax equity bridge and back leverage financing of a 250 MW solar power facility in Ohio.

Michael also advises on secondary market transactions to provide additional financing sources and monetize tax benefits of renewable energy facilities. He represents clients in synthetic power offtake agreements (including VPPAs), trading of environmental attributes and carbon credits and power hedging and optimization transactions, particularly with respect to BESS facilities. Michael advises on the structuring and documentation of these transactions, as well as on the enforcement of rights within and outside of bankruptcy.

Derivatives and Structured Products

Michael represents clients beyond the power sector, including major banks, money managers, hedge funds, and end-users, in derivatives and structured products transactions, including: financial and commodity swaps; exchange traded derivatives; credit derivatives; synthetic CDOs; tender option bonds; municipal derivatives; and

structured repo and securities lending transactions. In the secondary market for municipal securities, Michael represents several market leaders in all aspects of the tender option bond structure. He advises clients on compliance with the regulatory aspects of derivatives, including the complexities of Title VII of the Dodd Frank Act and of EMIR.

Michael has particular experience with structuring and documenting off-exchange derivative transactions, and handling the controversies that may arise from these transactions. His experience in this area dates back to 1987 and includes lead counsel roles in litigation matters that established market precedent. Many of his transactions involve restructuring and protection of rights involving a bankrupt counterparty.

In the area of exchange traded derivatives, Michael has significant experience working through applicable regulatory regimes, including the rules of the principal U.S. exchanges, regulations applicable to SEFs and the applicability of, and compliance with, regulations concerning Commodity Pool Operators and Commodity Trading Advisors.

Commercial Aircraft

Michael has significant experience representing major operating lessors, lenders, equity investors, sellers and buyers in a broad range of financing, leasing and sale transactions involving commercial aircraft, engines, spare parts and other aviation sector assets such as ticket receivables and frequent flyer programs and rolling stock. He has handled every type of leasing and financing structure employed in the market in the past three decades, structures transactions to achieve certain tax characterizations. Many of his transactions involve the protection of rights and the restructuring of transactions involving bankrupt users of equipment.

Honors

Recommended Lawyer, The Legal 500

Articles

- U.S. Policymakers Examine the Role of Blockchain Technology in Energy Transitions
New York Law Journal, 08.04.2022

Finance and Bankruptcy Law Blog Posts

- "Synthetic USD LIBOR," December 20, 2022
- "Security-Based Swap Rules for End-Users," November 3, 2021
- "LSTA Publishes Term SOFR Concept Document," September 7, 2021
- "ARRC Formally Recommends Term SOFR," August 2, 2021
- "Latest Milestone in LIBOR Replacement Passed," July 28, 2021

Speaking Engagements

Moderator and Panelist, "Current Issues in Derivatives," quarterly webinar 2017 to present

Speaker, "Exploring Investment Alternatives in the Loan Market," IMN 3rd Annual Investors' Conference on CLOs and Leveraged Loans, New York

Moderator and Speaker, "Current Developments in Title VII of Dodd-Frank – A Buy Side Perspective," Webcast, West Legal Edcenter

Speaker, "Financial Derivative Reform: Welcome to the New World," Chicago Bar Association, Chicago

Speaker, "The Resurgence of the Total Return Swap as an Investment Alternative in the Loan Market," IMN 2nd Annual Investors' Conference on CLOs and Leveraged Loans, New York

Events

Energy Derivatives Update

Hedging Renewable Power in the Aftermath of Uri – Not Just an ERCOT Issue - Where we were, where we are, where we are going

Webinar, 09.15.2021

Podcasts & Webinars

Current Issues in Derivatives

12.08.2021

Hedging Renewable Power in the Aftermath of Uri – Not Just an ERCOT Issue - Where we were, where we are, where we are going

09.15.2021

Practices

Commercial Lending and Financial Transactions

Derivatives and Structured Products

Energy, Infrastructure and Project Finance

Industries

Energy, Infrastructure and Project Finance

Financial Services

Education

J.D., Northwestern University, 1985

BBA, Loyola University, 1982, *magna cum laude*

Admissions

Illinois

New York