

International Comparative Legal Guides

Securitisation 2026

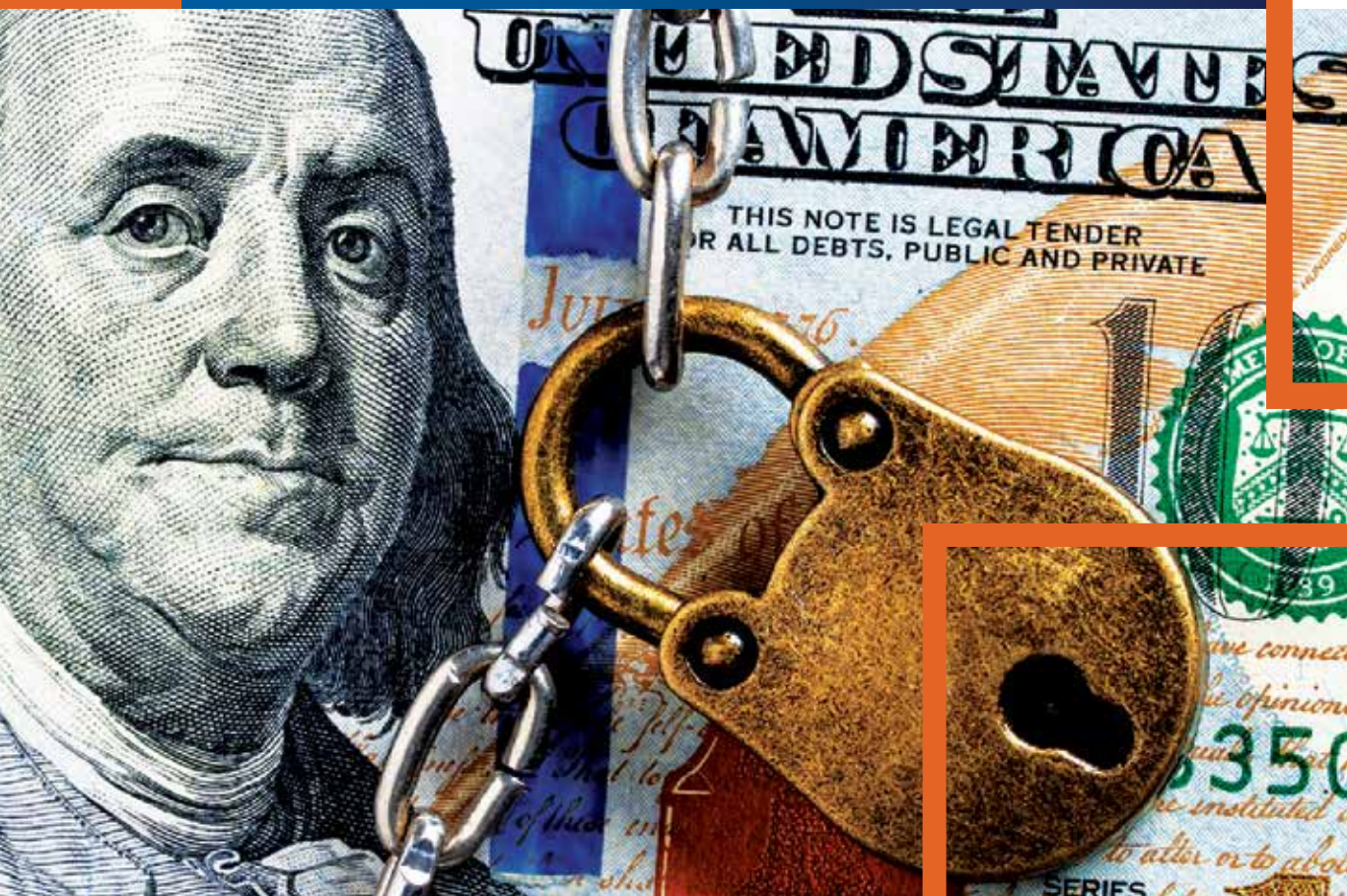
A practical cross-border resource to inform legal minds

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Expert Analysis Chapters

- 1** AIFMD2: Practical Considerations for Securitised ABL and ABF Structures
Rupert Wall, Arash Dashtgard, Francis Tang & Leonard Ng, Sidley Austin LLP
- 5** Key Regulatory Developments for Securitisation in the EU, the UK and the US
Merryn Craske, Karl Horvath & Brandon Figg, Morgan Lewis
- 13** Securitising the Company: Inside Whole Business Securitisation
Matthieu Wharmby, Patricia Lynch, Christopher Poggi & Amir Shmueli, Ropes & Gray LLP
- 21** The “Securitisation-isation” of Private Credit: Back Leverage and the Funding Architecture of Private Credit Platforms
Rick Hanson, Julius Rogenhofer, Eileen Tjhia & Daniel Bhalla, Simpson Thacher & Bartlett LLP

Q&A Chapters

- 30** **Brazil**
Luiz Roberto de Assis & Fernando de Azevedo Perazzoli, Levy & Salomão Advogados
- 44** **Bulgaria**
Nikolay Bebov & Petar Ivanov, Tsvetkova Bebov & Partners, member of Eversheds Sutherland
- 57** **Canada**
Don Waters, Yonatan (Yoni) Petel, Michael Burns & Spencer Klug, McMillan LLP
- 71** **Cayman Islands**
James Reeve, Amanda Lazier & Alicia Thompson, Maples Group
- 82** **Cyprus**
Thanasis Korfiotis, Loizos Papacharalambous, Eleni Korfiotis & Georgia Charalambous, Koushos Korfiotis Papacharalambous LLC
- 95** **England & Wales**
Rupert Wall & Morgan Jenkins, Sidley Austin LLP
- 120** **Finland**
Maria Lehtimäki, Niklas Thibblin & Onni Viljanen, Waselius Attorneys Ltd
- 131** **France**
Hervé Touraine & Olivier Bernard, Orrick, Herrington & Sutcliffe (Europe) LLP
- 147** **Germany**
Dr. Stefan Henkelmann & Martin Scharnke, Allen Overy Shearman Sterling LLP
- 165** **Greece**
Athanasia Tsene, Bernitsas
- 179** **Ireland**
Daragh O’Shea, Andrew Gill, Eoin Traynor & Jamie Macdonald, Mason Hayes & Curran LLP
- 195** **Luxembourg**
Andreas Heinzmann, Katharina Schramm & Hawa Mahamoud, GSK Stockmann
- 215** **Mexico**
Federico De Noriega Olea, Jaime Espinosa de los Monteros & Ulises Antonio Barrientos Ordúñez, Hogan Lovells
- 226** **Netherlands**
Mandeep Lotay & Dámaris Engelschman, Freshfields LLP
- 243** **Norway**
Kristoffer Hegdahl, Morten Emil Bergan, Markus Kjelløkken & Helge Aanensen Kleven, Advokatfirmaet Thommessen AS
- 256** **Portugal**
Paula Gomes Freire, Benedita Aires & Sebastião Nogueira, VdA
- 273** **Scotland**
Marion MacInnes, Bruce Stephen, Peter Brading & Lindsay Lee, Brodies LLP
- 291** **Sweden**
Carl Brodén & Björn Hård af Segerstad, Roschier Advokatbyrå AB
- 303** **Switzerland**
Lukas Wyss & Maurus Winzap, Walder Wyss Ltd
- 316** **USA**
T.J. Gordon & Pietro Fontana, Sidley Austin LLP

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1 Receivables Contracts

1.1 Formalities. In order to create an enforceable debt obligation of the obligor to the seller: (a) is it necessary that the sales of goods or services are evidenced by a formal receivables contract; (b) are invoices alone sufficient; and (c) can a binding contract arise as a result of the behaviour of the parties?

- Under Cyprus law, there is generally no explicit legal requirement that, in order to create an enforceable debt obligation, the sale of goods or services be evidenced by a formal receivables contract, except in certain exceptions (e.g. enforcement of mortgages). Article 10(1) of the Contract Law of Cyprus (Cap.149) provides that a contract may be made in writing, orally, partly in writing and partly orally, or may be inferred from the conduct of the parties.
- The unilateral issuance of an invoice by the seller does not constitute a legally binding contract *per se*. However, the acceptance by the recipient, particularly when the invoice has been signed by the obligor, would constitute sufficient evidence that a contractual relationship was formed.
- As mentioned above, a binding contract may also be inferred from the behaviour of the parties involved. Despite the above, it is advisable for good commercial practice as well as for evidential reasons, and in order to have the option of claiming specific performance of the arrangement before the court, that such transactions be evidenced in writing.

1.2 Consumer Protections. Do your jurisdiction's laws: (a) limit rates of interest on consumer credit, loans or other kinds of receivables; (b) provide a statutory right to interest on late payments; (c) permit consumers to cancel receivables for a specified period of time; or (d) provide other noteworthy rights to consumers with respect to receivables owing by them?

Regarding receivables that relate to credit facilities:

- The now repealed Interest Law, which is, however, applicable to credit facilities granted from 1977 until 1 January 2001, provides that the seller (in its capacity as lender) is not entitled to:
 - impose an interest rate higher than 9% annually, or without prejudice to the 9% cap, any percentage determined by the Minister of Finance or in the absence of the determination of any percentage by the Minister, any percentage set by the Central Bank of Cyprus ("CBC") from time to time; or

- via an action, recover an interest amount that exceeds the initial capital amount.

- The Liberalisation of Interest Law, L.160(I)/1999, currently in force, imposes (among others) the following main obligations on the seller (in its capacity as lender, where it is: an authorised credit institution under the Business of Credit Institutions Law, a credit acquiring company under the Sale of Credit Facilities Law, a credit purchaser under the Credit Servicers and Credit Purchasers Law, or a non-credit institution under the Mortgage Credit Law):
 - inform the debtors by written notice of any change relating to the base rate, as well as any change to the credit facility instalment whenever it is revised;
 - not capitalise interest more than twice a year; or
 - from 9 September 2014 onwards, not to charge default interest rate higher than 2%.

Furthermore, the Mortgage Credit Law and the Consumer Contracts Law afford the obligor, where it acts in its capacity as a consumer, to withdraw from the credit agreement within five working days (however, that right is lost if the consumer draws any amount) and 14 days (in which case the consumer must repay any withdrawn principal plus accrued interest within 30 days) from the conclusion of the agreement, respectively.

Lastly, under section 314A of the Penal Code (Cap.154), any person (other than a bank) who receives, collects, charges, agrees or takes (for its benefit or for the benefit of another person) financial benefit or assets that exceed the "reference rate", upon the granting of a loan, the extension of the repayment deadline, the renewal or early repayment of the loan, commits a criminal offence. The "reference rate" is calculated every three months by the CBC. The aforesaid does not apply to transactions between "connected persons" per the Income Tax Law or in the case of: (a) a loan to a legal entity where the capital from which the loan is provided originates directly or indirectly from abroad, provided that the loan amount exceeds €1 million and the minimum disbursement is €500,000; or (b) a loan to a legal entity disbursed abroad, provided that the loan amount exceeds €1 million and the minimum disbursement is €500,000.

Regarding receivables other than credit facilities: under the Consumer Protection Law, no limitations are imposed on the interest rate or default interest rate charged, except those agreed between the parties, provided the terms of the agreement are not rendered void after being deemed unfair. Unfair terms include those that provide for the charging of interest calculated on the basis of 360 days per year and not 365 days; furthermore, under certain conditions, the consumer has the right of withdrawal from an agreement within 14 days of its conclusion. With regard to non-credit receivables, arising out of commercial payment claims for goods or services, the Law on Combating

Late Payment in Commercial Transactions (“Late Payment in Commercial Transactions Law”) applies, pursuant to which the creditor is entitled to late-payment interest.

1.3 Government Receivables. Where the receivables contract has been entered into with the government or a government agency, are there different requirements and laws that apply to the sale or collection of those receivables?

The general position is that the contract law principles applicable to private persons are also applicable to entities governed by public law, such as governmental authorities. Nonetheless, both the procedure prior to entering into a contract, as well as the performance of contracts entered into, with a public body shall comply with procurement and public contracts-related legislation. Furthermore, the Late Payment in Commercial Transactions Law (as defined in the answer to question 1.2 above) introduces specific rules to the cases where a government/public body is the debtor.

2 Choice of Law – Receivables Contracts

2.1 No Law Specified. If the seller and the obligor do not specify a choice of law in their receivables contract, what are the main principles in your jurisdiction that will determine the governing law of the contract?

Where there is no choice of law in the contract, the Cyprus court will determine the governing law of the contract by reference to either Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (“Rome I Regulation”) or the repealed Rome Convention, which sets out default rules depending on the type of contract. If the contract does not fall within one of the specifically listed categories, the default rule is that the law of the country where the party required to effect the “characteristic performance” of the contract has its habitual residence, except where the contract is manifestly more closely connected with another country, in which case the law of that country shall apply. Where the foregoing Regulation (or, where relevant, the Rome Convention) is not applicable, the governing law is determined by reference to the applicable Cypriot conflict-of-laws rules. In that regard, Cyprus courts are guided by Cypriot case law and, in the absence of relevant Cypriot authority, by English common law under article 29(1)(c) of the Courts Act. According to established case law, in the absence of an express choice of law in the receivables contract, the Cyprus courts will seek to objectively ascertain whether an implied choice of law can be inferred from the terms of the contract and the relevant surrounding circumstances of the case.

2.2 Base Case. If the seller and the obligor are both resident in your jurisdiction, and the transactions giving rise to the receivables and the payment of the receivables take place in your jurisdiction, and the seller and the obligor choose the law of your jurisdiction to govern the receivables contract, is there any reason why a court in your jurisdiction would not give effect to their choice of law?

Under the Rome I Regulation, a contract is generally governed by the law chosen by the parties. That choice may nevertheless

be subject to the specific limitations recognised by the Regulation itself, including the application of non-derogable rules (which are preserved by article 3(3) and (4)), overriding mandatory provisions (as explained under article 9), and the forum’s public policy, since as noted under article 21, the provision of the chosen law would be inapplicable where its application would be manifestly incompatible with the public policy of the forum. As regards the circumstances laid down in the Base Case above, it can be concluded that the fact that a seller and obligor are both resident in Cyprus, the underlying transactions have taken place in Cyprus, and both parties have chosen Cyprus to govern their receivables contract, poses no apparent reason why a Cyprus court would refrain from giving effect to their choice of law.

2.3 Freedom to Choose Foreign Law of Non-Resident Seller or Obligor. If the seller is resident in your jurisdiction but the obligor is not, or if the obligor is resident in your jurisdiction but the seller is not, and the seller and the obligor choose the foreign law of the obligor/seller to govern their receivables contract, will a court in your jurisdiction give effect to the choice of foreign law? Are there any limitations to the recognition of foreign law (such as public policy or mandatory principles of law) that would typically apply in commercial relationships such as that between the seller and the obligor under the receivables contract?

As a general rule, Cyprus courts, after accepting jurisdiction, may enforce a choice-of-law clause irrespective of the nationality of the contracting parties, on the basis of either the relevant European legislative instruments, including the Rome I Regulation, or the common law principles of private international law adopted into Cyprus law via binding case law.

The foregoing remains subject to the limitations recognised by the Rome I Regulation itself (see examples in the answer to question 2.2 above) and, where Cyprus common law principles apply, subject to any public policy (e.g. where illegality is successfully alleged) or mandatory principles of law (e.g. insolvency rules which apply to the insolvency of a Cyprus company under the Companies Law (Cap.113)) that might entitle the Cyprus court to not follow the chosen applicable law. As a procedural matter, any party relying on foreign law before the Cyprus courts must plead and prove it and, failing that, Cyprus law may be applied in practice.

3 Choice of Law – Receivables Purchase Agreement

3.1 Base Case. Does your jurisdiction’s law generally require the sale of receivables to be governed by the same law as the law governing the receivables themselves? If so, does that general rule apply irrespective of which law governs the receivables (i.e., your jurisdiction’s laws or foreign laws)?

Cyprus law, does not, generally set out any rule requiring that the sale of receivables be governed by the same law as the law governing the receivables themselves. Specifically, as mentioned above, subject to the limitations imposed under the Rome I Regulation (where it applies), the parties to the contract are free to choose the law governing their receivables contract and, pursuant to articles 3 and 14 of the Rome I Regulation, the seller and the purchaser may choose a law applicable to the sale contract that differs from the law applying to the receivable itself.

In such cases, according to article 14(2) of the Rome I Regulation, the law governing the receivable shall determine its assignability, the relationship between the assignee and the obligor, the conditions under which the assignment may be invoked against the obligor and whether the obligor's obligations have been discharged.

3.2 Example 1: If (a) the seller and the obligor are located in your jurisdiction, (b) the receivable is governed by the law of your jurisdiction, (c) the seller sells the receivable to a purchaser located in a third country, (d) the seller and the purchaser choose the law of your jurisdiction to govern the receivables purchase agreement, and (e) the sale complies with the requirements of your jurisdiction, will a court in your jurisdiction recognise that sale as being effective against the seller, the obligor and other third parties (such as creditors or insolvency administrators of the seller and the obligor)?

If the contracting parties have chosen Cyprus law to govern their receivables purchase agreement, both the seller and the obligor are located in Cyprus, and the receivable itself is governed by Cyprus law, a Cyprus court would generally recognise the sale as effective as between seller and purchaser, provided that the transfer agreement is valid under Cyprus law. The foregoing depends on the nature of the transaction and on whether such transaction might require additional formalities, in accordance with the Cypriot legal framework, in order to be recognised as effective. For instance, if the Sale of Credit Facilities Law applies, please refer to the answer to question 4.2 below. Furthermore, in order to ensure that the transfer is valid against the obligor, it shall be confirmed that the underlying receivables agreement does not contain any transfer/assignment restrictions.

3.3 Example 2: Assuming that the facts are the same as Example 1, but either the obligor or the purchaser or both are located outside your jurisdiction, will a court in your jurisdiction recognise that sale as being effective against the seller and other third parties (such as creditors or insolvency administrators of the seller), or must the foreign law requirements of the obligor's country or the purchaser's country (or both) be taken into account?

Generally, assuming Cyprus law governs both the receivable and the receivables purchase agreement, the mere fact that the obligor or the purchaser, or both, are located outside Cyprus does not in itself prevent a Cyprus court from recognising the sale as effective as between seller and purchaser. Nor does the foreign location of the obligor or purchaser automatically require compliance with the law of that foreign country solely because of that location. However, the position as against third parties, including the seller's creditors or insolvency administrator, should also be assessed by reference to the laws applicable to the seller, the purchaser and the obligor. Specifically, under the case law of the Court of Justice, article 14 of the Rome I Regulation does not determine the third-party effects of an assignment. Accordingly, the effectiveness of the sale against third parties may require a separate analysis under the applicable conflict-of-laws, insolvency and any relevant domestic or sector-specific rules. For more details of some of the said rules under Cyprus law, please refer to the answers to questions 4.10, 6.2 and 6.5 below.

3.4 Example 3: If (a) the seller is located in your jurisdiction but the obligor is located in another country, (b) the receivable is governed by the law of the obligor's country, (c) the seller sells the receivable to a purchaser located in a third country, (d) the seller and the purchaser choose the law of the obligor's country to govern the receivables purchase agreement, and (e) the sale complies with the requirements of the obligor's country, will a court in your jurisdiction recognise that sale as being effective against the seller and other third parties (such as creditors or insolvency administrators of the seller) without the need to comply with your jurisdiction's own sale requirements?

If the seller and purchaser choose the law of the obligor's country to govern the receivables purchase agreement, and the receivable is likewise governed by that law, a Cyprus court would generally recognise the sale as effective as between seller and purchaser, provided the foreign law is properly pleaded and proved. However, the position should not be stated as a blanket rule as against third parties, including the seller's creditors or insolvency administrator. Under the Rome I Regulation, the law governing the assigned claim determines certain debtor-facing matters, but article 14 does not itself determine the third-party effects of the assignment. Accordingly, where the seller is a Cyprus company or bankrupt in Cyprus, Cyprus insolvency and related domestic rules may still need to be considered, including rules on void dispositions after commencement of winding-up, fraudulent preferences, and the invalidity against a liquidator or creditors of certain unregistered security interests (please refer, for example, to the answers to questions 4.10, 6.2 and 6.5 below).

3.5 Example 4: If (a) the obligor is located in your jurisdiction but the seller is located in another country, (b) the receivable is governed by the law of the seller's country, (c) the seller and the purchaser choose the law of the seller's country to govern the receivables purchase agreement, and (d) the sale complies with the requirements of the seller's country, will a court in your jurisdiction recognise that sale as being effective against the obligor and other third parties (such as creditors or insolvency administrators of the obligor) without the need to comply with your jurisdiction's own sale requirements?

As mentioned above, a Cyprus court may, subject to any limitations referred to in the answer to question 3.3 above, enforce a sales agreement governed by foreign law without the need to comply with Cyprus sale requirements insofar as the contracting parties choose that foreign country's law, the sale complies with that country's law and the Cyprus court is satisfied by the pleadings and the evidence before it regarding any foreign element of the sale in question.

3.6 Example 5: If (a) the seller is located in your jurisdiction (irrespective of the obligor's location), (b) the receivable is governed by the law of your jurisdiction, (c) the seller sells the receivable to a purchaser located in a third country, (d) the seller and the purchaser choose the law of the purchaser's country to govern the receivables purchase agreement, and (e) the sale complies with the requirements of the purchaser's country, will a court in your jurisdiction recognise that sale as being effective against the seller and other third parties (such as

creditors or insolvency administrators of the seller, any obligor located in your jurisdiction and any third party creditor or insolvency administrator of any such obligor)?

With reference to the answer to question 3.1 above and question 4.1 below, there is no general rule under the Cypriot legal framework requiring that the sale of receivables be governed by the same law as the law governing the receivables themselves. A Cyprus court, subject to any limitations referred to in the answer to question 3.3 above that might affect its judgment, may recognise the above sale as being effective against the seller and third parties insofar as the contracting parties choose the law of the purchaser's country, the sale complies with that country's law and the Cyprus court is satisfied by the pleadings and the evidence before it regarding any foreign element of the sale in question.

4 Asset Sales

4.1 Sale Methods Generally. In your jurisdiction what are the customary methods for a seller to sell receivables to a purchaser? What is the customary terminology – is it called a sale, transfer, assignment or something else?

Assuming that the receivables concern credit facilities, including all the rights and obligations of the credit facility agreement of the account thus transferred, the wording of the Sale of Credit Facilities Law suggests that it is more customary for a seller to sell or transfer, as opposed to assigning, receivables to a purchaser. That said, governing documents will often use the above terminology (i.e. sale, transfer, assignment) interchangeably.

Furthermore, the factors discussed in the answer to question 4.9 below shall be considered in respect of whether a transfer would be recognised as an outright sale or carry the risk of being re-characterised as a loan with (or without) security. Nonetheless, regardless of whether the transaction is characterised as an outright sale or a loan, certain transactions, such as the sale of certain credit facilities, will require additional formalities to be met in order for the transfer to be enforceable against third parties. In particular, under the Sale of Credit Facilities Law as amended to date, certain categories of sellers (including banks) may only transfer credit facilities to specific categories of “purchasers”, including credit acquiring companies.

4.2 Perfection Generally. What formalities are required generally for perfecting a sale of receivables? Are there any additional or other formalities required for the sale of receivables to be perfected against any subsequent good faith purchasers for value of the same receivables from the seller?

Generally, the Cypriot legal framework does not prescribe a single universal statutory formality for perfecting a sale of receivables. Rather, the position depends on the nature of the receivables and the applicable statutory regime.

Under article 18 of the Sale of Credit Facilities Law, prior to the sale of the whole or part of the credit facilities, the seller shall:

- (a) either notify the obligor of its intention to sell the whole or part of its portfolio of credit facilities provided that

the said notification is published in the Official Gazette of the Republic of Cyprus and in three newspapers and further provided that, the borrowers and the guarantors, if they so wish, may submit, within a period of 45 days, a proposal to purchase the credit facility under sale; and

- (b) if only part of the portfolio will be sold, the seller shall also, in addition to the obligation described in point (a) above, (the publication of which will, however, only include a general description of the intention to sell), notify in writing the borrower and any guarantors of the intention to sell and call on them to submit, if they so wish, within the above-mentioned period, a proposal to acquire the credit facility under sale.

The above obligations are not applicable to certain intra-group sales. These obligations are better characterised as special pre-sale notification requirements under that statute, rather than as general perfection requirements or additional steps required generally to perfect the transfer against subsequent good faith purchasers for value of the same receivables.

Furthermore, under article 19 of the Sale of Credit Facilities Law, the relevant borrower must be informed no later than five working days after the acquisition that the credit facility agreement and the related security have been transferred to another person. In addition, under the Credit Servicers and Credit Purchasers Law, after the transfer the borrower and each guarantor must be notified in paper form or another durable medium before the first collection of any debt or, at the latest, within 15 working days from the transfer, whichever occurs earlier. Further, under Credit Servicers and Credit Purchasers Law, the seller and the purchaser must, as soon as possible after the transfer date, notify the transfer and the transfer date in the Official Gazette and must notify the competent registries on the transfer date or by the next business day. These are post-transfer statutory notification requirements and should not be described as general pre-transfer perfection steps.

The Securitisation Law also provides that a transferor entity intending to transfer exposures to a securitisation vehicle must notify its intention:

- (a) at least 30 calendar days before the transfer, using either publication in three daily newspapers or written notice to the underlying borrowers, security providers and guarantors; and
- (b) to the CBC before the securitisation special purpose vehicle commences operations. Where, moreover, the transfer is effected by way of transfer or assignment to a securitisation special purpose vehicle, the transfer must be absolute, relate to the whole exposure, and be in writing, signed and duly witnessed; the law further provides that such transfer is valid and effective against third parties irrespective of compliance with other legal formalities.

4.3 Perfection for Promissory Notes, etc. What additional or different requirements for sale and perfection apply to sales of promissory notes, mortgage loans, consumer loans or marketable debt securities?

As regards the transfer of promissory notes, the provisions of the Bills of Exchange Law (Cap.262, as amended), apply, with any necessary amendments, to promissory notes. The aforementioned law provides that a promissory note would be incomplete until necessary delivery to the holder or bearer thereof is effected and that for any subsequent transfer to be valid it must be endorsed and delivered to the next holder or bearer thereof.

In respect of the sale of consumer loans and loans secured by mortgage, the sale or transfer of such loans shall be made in accordance with the Sale of Credit Facilities Law or the Credit Servicers and Credit Purchasers Law mentioned in the answer to question 4.2 above. According to those laws, upon transfer of the credit facility, all rights and obligations arising from the credit facility agreement of the account thus transferred, including any securities of the account thus transferred, such as a mortgage over land, are automatically transferred to the relationship between the obligor and the purchaser.

Despite the fact that securities are considered to be transferred automatically with the transfer of the credit facility, in the event of any pending proceedings before a court, such as foreclosure proceedings concerning mortgage loans, relevant notice of the sale or transfer shall be given to the District Court Registry and/or the District Land Registry Office.

Furthermore, as regards charges on property owned by companies incorporated under Cyprus law, a similar notice and registration shall be filed to the Cyprus Registry of Companies, as provided by article 90(2) of the Companies Law, in order for them to become perfected.

Any transfer related to, or pledge over, dematerialised securities that are listed on the Cyprus Stock Exchange should be recorded at the central registry, in order to be valid.

4.4 Obligor Notification or Consent. Must the seller or the purchaser notify obligors of the sale of receivables in order for the sale to be effective against the obligors and/or creditors of the seller? Must the seller or the purchaser obtain the obligors' consent to the sale of receivables in order for the sale to be an effective sale against the obligors? Whether or not notice is required to perfect a sale, are there any benefits to giving notice – such as cutting off obligor set-off rights and other obligor defences?

As a general rule, an equitable assignment of debt may be effected, irrespective of whether notice has been given to the obligor. Depending on the transaction in question, and the terms of the underlying contract, notice may be required in order to perfect the sale.

Please refer to the answer to question 4.2 above as regards the requirements for obligor notification in respect of the sale of credit facilities. Under the Sale of Credit Facilities Law, the obligor should be notified of the intention to sell the receivables within the time period prescribed therein.

Consent of the obligor is generally not required to perfect a valid transfer of receivables, unless otherwise agreed by the parties to the original agreement. Neither the Sale of Credit Facilities Law nor the Credit Servicers and Credit Purchasers Law impose a requirement as to the obligor's consent. The obligor may, however, under the time period prescribed, submit a proposal to purchase the credit facility for sale, where the Sale of Credit Facilities Law applies.

The additional benefit of giving notice of sale to the obligor (in cases other than those covered under the Sale of Credit Facilities Law) might include cutting off any set-off rights of the obligor, in case that such set-off rights have been agreed upon between the parties.

4.5 Notice Mechanics. If notice is to be delivered to obligors, whether at the time of sale or later, are there any requirements regarding the form the notice must take or how it must be delivered? Is there any time limit beyond which notice is ineffective – for example, can a notice of sale be delivered after the

sale, and can notice be delivered after insolvency proceedings have commenced against the obligor or the seller? Does the notice apply only to specific receivables or can it apply to any and all (including future) receivables? Are there any other limitations or considerations?

Regarding the transfer of credit facilities, please refer to the answer to question 4.2 above as regards the requirements prescribed by the Sale of Credit Facilities Law and the Credit Servicers and Credit Purchasers Law as to the form of notice or how it must be delivered, as well as the relevant notice periods within which notice is considered to be effective.

As regards delivery of notice after insolvency proceedings have commenced against the obligor, and subject also to the answer to question 4.10 below, the liquidator or trustee in bankruptcy must be notified within the time periods prescribed by the Companies Law for the purposes of proof of debt and the ranking of claims.

Subject to any limitations referred to in the answer to question 4.11 below, the obligor may be notified of the transfer of future receivables arising from an existing contract.

4.6 Restrictions on Assignment – General Interpretation. Will a restriction in a receivables contract to the effect that “None of the [seller’s] rights or obligations under this Agreement may be transferred or assigned without the consent of the [obligor]” be interpreted as prohibiting a transfer of receivables by the seller to the purchaser? Is the result the same if the restriction says “This Agreement may not be transferred or assigned by the [seller] without the consent of the [obligor]” (i.e., the restriction does not refer to rights or obligations)? Is the result the same if the restriction says “The obligations of the [seller] under this Agreement may not be transferred or assigned by the [seller] without the consent of the [obligor]” (i.e., the restriction does not refer to rights)?

The effect of the three proposed clauses mentioned above would most likely not be interpreted in the same way by a Cyprus court.

As regards the first and second clause, it would most likely be interpreted as prohibiting the transfer of receivables by the seller to the purchaser under the agreement, without the consent of the obligor, as the wording of both suggests that neither the rights nor obligations shall be transferred under the agreement.

On the other hand, the third clause does not prohibit the transfer or assignment of receivables. Hence, the consent of the obligor would not be required to transfer receivables under the agreement.

4.7 Restrictions on Assignment; Liability to Obligor. If any of the restrictions in question 4.6 are binding, or if the receivables contract explicitly prohibits an assignment of receivables or “seller’s rights” under the receivables contract, are such restrictions generally enforceable in your jurisdiction? Are there exceptions to this rule (e.g., for contracts between commercial entities)? If your jurisdiction recognises restrictions on sale or assignment of receivables and the seller nevertheless sells receivables to the purchaser, will either the seller or the purchaser be liable to the obligor for breach of contract or tort, or on any other basis?

If there are restrictions on assignment contained in an agreement, these would generally be enforceable in Cyprus, unless

such a restriction is explicitly prohibited by law. Unless such limitations are expressly prohibited, there is no reason why general contract law principles would not apply. Therefore, in the event that a seller sells receivables to the purchaser, notwithstanding an express contractual clause prohibiting such sale, the seller may be found liable to the obligor for breach of contract. Furthermore, where the purchaser knew of the restriction included in the receivables contract, it might be liable for the tort of inducing a breach of contract.

4.8 Identification. Must the sale document specifically identify each of the receivables to be sold? If so, what specific information is required (e.g., obligor name, invoice number, invoice date, payment date, etc.)? Do the receivables being sold have to share objective characteristics? Alternatively, if the seller sells all of its receivables to the purchaser, is this sufficient identification of receivables? Finally, if the seller sells all of its receivables other than receivables owing by one or more specifically identified obligors, is this sufficient identification of receivables?

Under the Cypriot legal framework, no specific rule determines the form in which receivables should be identified in a sale of receivables contract. The sale document, however, like any sale and purchase agreement concerning an asset to be transferred, should specify the receivables to be sold in such a way that they are sufficiently identifiable and distinguishable from any other receivables not included in the sale in question.

4.9 Recharacterisation Risk. If the parties describe their transaction in the relevant documents as an outright sale and explicitly state their intention that it be treated as an outright sale, will this description and statement of intent automatically be respected or is there a risk that the transaction could be characterised by a court as a loan with (or without) security? If recharacterisation risk exists, what characteristics of the transaction might prevent the transfer from being treated as an outright sale? Among other things, to what extent may the seller retain any of the following without jeopardising treatment as an outright sale: (a) credit risk; (b) interest rate risk; (c) control of collections of receivables; (d) a right of repurchase/redemption; (e) a right to the residual profits within the purchaser; or (f) any other term?

As a general matter, Cypriot case law suggests that the title or characterisation given to the relevant documents relating to the transaction are not, *per se*, determinative as to the legal nature of the transaction in question. In order to characterise the transaction either as an outright sale or as a loan with (or without) security, the court will weigh all the relevant terms and attributes relating to the transaction, in order to ascertain its true legal nature, depending on the particular facts and circumstances of each case.

That said, the courts are somewhat reluctant to re-characterise a transaction when there is an explicit statement of intention by the parties, and may give presumptive weight to the intent of the parties.

Nevertheless, key elements in finding that a transaction resembles a sale, as opposed to a loan, are that recourse to the seller is limited or that the seller does not retain material benefits of ownership (e.g. right to the residual profits). If such elements exist, there is an increased risk that the court may view the transaction as being more indicative of a loan rather than a sale.

4.10 Continuous Sales of Receivables. Can the seller agree in an enforceable manner to continuous sales of receivables (i.e., sales of receivables as and when they arise)? Would such an agreement survive and continue to transfer receivables to the purchaser following the seller's insolvency?

The Cypriot legal framework does not set out restrictions regarding the enforcement of an agreement concerning the continuous sales of receivables; therefore, such an agreement could be enforced before Cyprus courts. However, the intention to sell future receivables shall be drafted in a careful manner, as discussed in the answer to question 4.11 below. Furthermore, such disposition of the property (including causes of action, such as receivables) of the seller under article 216 of the Companies Law would be void if entered into after commencement of the seller's winding-up. Furthermore, according to article 301 of the Companies Law, any act relating to property made or carried out by or against the seller, within six months before the commencement of its winding-up, is rendered invalid in case – had it been done by or against the seller as a natural person – it would be deemed a fraudulent preference under the Bankruptcy Law (Cap.5). Under articles 47 and 48 of the Bankruptcy Law, the transfer of the receivables, via assignment, could constitute a fraudulent preference transaction, unless (among others) the purchaser acted in good faith and offered consideration.

4.11 Future Receivables. Can the seller commit in an enforceable manner to sell receivables to the purchaser that come into existence after the date of the receivables purchase agreement (e.g., "future flow" securitisation)? If so, how must the sale of future receivables be structured to be valid and enforceable? Is there a distinction between future receivables that arise prior to versus after the seller's insolvency?

Yes, the seller can commit in an enforceable manner to sell receivables to the purchaser that come into existence after the date of the receivables purchase agreement, noting, however, that the purchaser will be able to raise a claim only after adding the seller as a party to the proceedings against the debtor since the transfer is equitable. It should also be noted that such a commitment could be challenged by the Insolvency Official, irrespective of whether it was entered into before or after the commencement of winding-up, on the grounds noted in the answer to question 4.10.

4.12 Related Security. Must any additional formalities be fulfilled in order for the related security to be transferred concurrently with the sale of receivables? If not all related security can be enforceably transferred, what methods are customarily adopted to provide the purchaser the benefits of such related security?

Please refer to the answer to question 4.2 above as regards the requirements for notification to the obligor of the sale of receivables.

Article 18 of the Sale of Credit Facilities Law and article 23 of the Credit Servicers and Credit Purchasers Law provide that the transfer of the credit facility agreement automatically entails the transfer of the rights and obligations ancillary to it, i.e., the related security interests.

Furthermore, with reference to the answer to questions 7.1 and 7.3 below, article 18 of the Securitisation Law provides that, if the purchaser is a securitisation special purpose entity

(“SSPE”), said SSPE, concurrently with the transfer of exposures to the SSPE, substitutes the originator as to all the rights and obligations relating to the collaterals attached to the exposure, and carried out notwithstanding the provisions of any other law or directives that apply to the originator and the SSPE.

The aforesaid transfer is reflected on the public registries, including the Registrar of Companies, via the submission of a notice without the payment of any fees.

4.13 Set-Off; Liability to Obligor. Assuming that a receivables contract does not contain a provision whereby the obligor waives its right to set-off against amounts it owes to the seller, do the obligor’s set-off rights terminate upon its receipt of notice of a sale? At any other time? If a receivables contract does not waive set-off but the obligor’s set-off rights are terminated due to notice or some other action, will either the seller or the purchaser be liable to the obligor for damages caused by such termination?

The Cypriot legal system, in principle and according to the case law, does not give the right to set-off against owed amounts, unless the contracting parties have agreed so. Consequently, in the case where a receivables contract does not contain the aforementioned provision, the obligor has no set-off rights. Even though the termination of set-off rights in case of assignment is not explicitly dealt with in binding case law, the Supreme Court has established the general position that the assignment/transfer of contractual rights is recognised under Cyprus law and does not violate the constitutional right to enter into a contract, where the rights and obligations arising under the agreement are not adversely affected pursuant to the assignment/transfer ([2010] 1 SCJ 1833). Indicatively, article 19 of the Securitisation Law provides that the transfer of the facilities does not affect the contractual and/or statutory rights and obligations of the borrower or the security provider over the transferred credit facility.

4.14 Profit Extraction. What methods are typically used in your jurisdiction to extract residual profits from the purchaser?

In the Cypriot jurisdiction context, there are numerous methods enabling the extraction of residual profits from the purchaser. The most typical ones include: first, the seller taking fees for administering the receivables contracts and collecting the receivables and/or arranging or managing the portfolio of receivables; second, the purchaser paying deferred consideration to the seller on the receivables purchased; and third the purchaser being an affiliate/connected person to the seller.

5 Security Issues

5.1 Back-up Security. Is it customary in your jurisdiction to take a “back-up” security interest over the seller’s ownership interest in the receivables and the related security, in the event that an outright sale is deemed by a court (for whatever reason) not to have occurred and have been perfected (see question 4.9 above)?

It is not customary to take a “back-up” security interest in the Cypriot jurisdiction, but rather additional contractual protection (which entitles the innocent party to claim damages in case of violation) is offered via the granting of relevant contractual representations and warranties by the seller.

5.2 Seller Security. If it is customary to take back-up security, what are the formalities for the seller granting a security interest in receivables and related security under the laws of your jurisdiction, and for such security interest to be perfected?

This is not applicable.

5.3 Purchaser Security. If the purchaser grants security over all of its assets (including purchased receivables) in favour of the providers of its funding, what formalities must the purchaser comply with in your jurisdiction to grant and perfect a security interest in purchased receivables governed by the laws of your jurisdiction and the related security?

It is possible to grant security over all of the purchaser’s assets by a fixed or floating charge, a share pledge over any of its subsidiaries, or in the form of an assignment; where the purchaser is a company incorporated under the Cyprus Law, all the aforementioned charges and assignments (with the exception of the share pledge and any financial collateral that falls under the scope of the Financial Collateral Arrangements Law) must be notified and then registered into the Cyprus Registry of Companies in order for them to become perfected, as provided by article 90 of the Companies Law. Additional formalities may be required depending on the nature of the receivables.

5.4 Recognition. If the purchaser grants a security interest in receivables governed by the laws of your jurisdiction, and that security interest is valid and perfected under the laws of the purchaser’s jurisdiction, will the security be treated as valid and perfected in your jurisdiction or must additional steps be taken in your jurisdiction?

Rendering the security interest fully valid and perfected before a Cyprus court may require determination of whether the requirements of the related legal framework in Cyprus (including the presentation of certified copies of the security document before the Insolvency Official, as prescribed in article 251(12) of the Companies Law, as well as any additional formalities, depending on the nature of the receivables) were fulfilled as well.

5.5 Additional Formalities. What additional or different requirements apply to security interests in or connected to insurance policies, promissory notes, mortgage loans, consumer loans or marketable debt securities?

Except in certain limited cases, no formalities in addition to those generally applicable to security over receivables apply in connection to the above-mentioned security interests. As such, analogous formalities to those mentioned in the answer to the question 5.3 above would apply.

Security interests over marketable debt securities and promissory notes could require additional perfection requirements (please refer to the answer to question 4.3 above).

5.6 Trusts. Does your jurisdiction recognise trusts? If not, is there a mechanism whereby collections received by the seller in respect of sold receivables

can be held or be deemed to be held separate and apart from the seller's own assets (so that they are not part of the seller's insolvency estate) until turned over to the purchaser?

Yes, in the Cypriot jurisdiction, trusts are recognised and rendered enforceable through the Trustees Law (Cap.193) and the International Trusts Law of 1992 (Law 69(I)/1992), as well as through common law principles on trusts. Consequently, a trust over receivables, will, in principle, be enforced by a court in Cyprus.

5.7 Bank Accounts. Does your jurisdiction recognise escrow accounts? Can security be taken over a bank account located in your jurisdiction? If so, what is the typical method? Would courts in your jurisdiction recognise a foreign law grant of security taken over a bank account located in your jurisdiction?

Yes, in the Cypriot jurisdiction, escrow accounts are recognised. Typically, a fixed and/or floating charge is the practical method of taking security over a bank account. Although this is not market standard, a court in Cyprus would, in principle, recognise a foreign law grant of security taken over a bank account located in Cyprus, provided that the perfection requirements and/or formalities set out by the Cypriot legal framework in relation to the security provider, and any applicable foreign legal framework, are satisfied.

5.8 Enforcement over Bank Accounts. If security over a bank account is possible and the secured party enforces that security, does the secured party control all cash flowing into the bank account from enforcement forward until the secured party is repaid in full, or are there limitations? If there are limitations, what are they?

Normally, the secured party is afforded control over all cash flowing into the bank account from enforcement forward until the secured party is repaid in full. The foregoing control shall be carried out in compliance with the terms and/or conditions and/or requirements of the Related Security agreement. It should be noted that, practically, the account-holding bank shall be informed through a specific notice regarding the creation of the security and be requested to acknowledge its compliance with the Related Security agreement.

5.9 Use of Cash Bank Accounts. If security over a bank account is possible, can the owner of the account have access to the funds in the account prior to enforcement without affecting the security?

The owner of the account may be able to access the funds in the account prior to enforcement, in the manner and to the extent prescribed in the Related Security agreement. In the event that the owner of the account has access to the funds in the account without the consent of the chargee, the nature of the security might be affected through the reclassification of a fixed charge into a floating charge, thereby impacting the priority of the security *vis-à-vis* other creditors of the owner of the account.

6 Insolvency Laws

6.1 Stay of Action. If, after a sale of receivables that is otherwise perfected, the seller becomes subject to an insolvency proceeding, will your jurisdiction's insolvency laws automatically prohibit the purchaser from collecting, transferring or otherwise exercising ownership rights over the purchased receivables (a "stay of action")? If so, what generally is the length of that stay of action? Does the insolvency official have the ability to stay collection and enforcement actions until he determines that the sale is perfected? Would the answer be different if the purchaser is deemed to only be a secured party rather than the owner of the receivables?

In the event that the purchaser has become the owner of the receivables before the seller's winding-up commencement, then the purchaser's right to recover or otherwise deal with the receivables will only be affected if the circumstances described in the answers to question 4.10 above or question 6.2 below exist. In the event that the purchaser is a secured party rather than the owner of the receivables, then to the extent that the security has been registered accordingly, as explained in response to question 5.3 above, the purchaser will benefit from section 233A(6) of the Companies Law, which provides that the preferential creditors, do not have any right or priority in relation to any proceeds out of the secured property (which shall be used in order to repay the secured amounts). It is further noted that in this former case, the filing a proof of debt with the Official Receiver of the Registrar of Companies, in compliance with certain additional provisions regarding the value of the secured property, will also be needed.

6.2 Insolvency Official's Powers. If there is no stay of action, under what circumstances, if any, does the insolvency official have the power to prohibit the purchaser's exercise of its ownership rights over the receivables (by means of injunction, stay order or other action)?

In accordance with article 220 of the Companies Law, no action or proceeding may proceed or commence against the company under winding-up, except with the consent of the court. Furthermore, the Insolvency Official's powers as presented in article 233 of the Companies Law entitle the former to potentially take legal measures against the purchaser's actions and exercise its rights over the receivables (e.g. by means of injunction), on account of the court's or the Inspection Committee's approval, if the sales agreement is considered challengeable for the reasons explained in question 4.10 above.

6.3 Suspect Period (Clawback). Under what facts or circumstances could the insolvency official rescind or reverse transactions that took place during a "suspect" or "preference" period before the commencement of the seller's insolvency proceedings? What are the lengths of the "suspect" or "preference" periods in your jurisdiction for (a) transactions between unrelated parties, and (b) transactions between related parties? If the purchaser is majority-owned or controlled by the seller or an affiliate of the seller, does that render sales by the seller to the purchaser "related party transactions" for purposes of determining the length of the suspect period? If a parent company of the seller guarantee's

the performance by the seller of its obligations under contracts with the purchaser, does that render sales by the seller to the purchaser “related party transactions” for purposes of determining the length of the suspect period?

As explained in questions 4.10 and 6.2 above, any transaction regarding a company’s property that is entered into six months before the commencement of the winding-up with a view to giving a creditor a preference over other creditors, may be invalid as a fraudulent preference. The above also applies to cases where, the transaction is entered into with a purchaser that belongs in the same group of companies (defined under the Companies Law as a parent undertaking and all its subsidiary undertakings) as the seller, rendering it a “related party” transaction.

6.4 Substantive Consolidation. Under what facts or circumstances, if any, could the insolvency official consolidate the assets and liabilities of the purchaser with those of the seller or its affiliates in the insolvency proceeding? If the purchaser is owned by the seller or by an affiliate of the seller, does that affect the consolidation analysis?

Since the purchaser constitutes a distinct legal entity from the seller, the Insolvency Official (which is the liquidator or the Official Receiver of the Registrar of Companies) cannot, under any circumstances, consolidate the assets and liabilities of the purchaser and the seller in one insolvency proceeding. However, if the purchaser is owned by the seller, then the seller could, in practice, pass a shareholder resolution to voluntarily wind up the purchaser. The “consolidation” described above shall, however, not result in the circumvention of the liquidation principles prescribed under the Companies Law, including the priority of payments from the pool of the liquidation assets of the company under liquidation.

6.5 Effect of Insolvency on Receivables Sales. If insolvency proceedings are commenced against the seller in your jurisdiction, what effect do those proceedings have on (a) sales of receivables that would otherwise occur after the commencement of such proceedings, or (b) sales of receivables that only come into existence after the commencement of such proceedings?

Where the circumstances described in the answers to questions 4.10 and 6.2 above (under which the Insolvency Official has the power to challenge certain transactions) are not satisfied, the insolvency proceedings will not affect the rights of the purchaser as acquired under the receivables purchase agreement, despite the fact that the approval of the court must be obtained for the purchaser to initiate proceedings against the seller. Nonetheless, it should be added that, under section 304 of the Companies Law, a company’s liquidator has the right, after receiving the court’s permission and within 12 months of the commencement of winding-up (or from the date on which the liquidator became aware of the relevant transaction), to disclaim and therefore terminate the receivables agreement in the event that it is regarded as an “onerous contract”. Lastly, if the transfer/assignment of receivables based on the receivables purchase agreement requires further action by the seller in order to be perfected, the liquidator may decide not to take such action, resulting in the purchaser’s remedy being an unsecured claim (for breach of contract) in the insolvency proceedings.

6.6 Effect of Limited Recourse Provisions. If a debtor’s contract contains a limited recourse provision (see question 7.4 below), can the debtor nevertheless be declared insolvent on the grounds that it cannot pay its debts as they become due?

There is limited guidance in the relevant case law and legislative context with regard to this matter. Nevertheless, it is possible to conclude that, in principle, a contractual provision that was freely negotiated and agreed upon between the contracting parties, is practically quite likely to be decided as being effective by the court. Therefore, a debtor whose debts fall under such limited recourse provision may not be declared insolvent on grounds that it cannot pay its debts as they become due, since the person to which the amounts are owed may not be qualify as a creditor until the liability converts from contingent to liquidated.

7 Special Rules

7.1 Securitisation Law. Is there a special securitisation law (and/or special provisions in other laws) in your jurisdiction establishing a legal framework for securitisation transactions? If so, what are the basics? Is there a regulatory authority responsible for regulating securitisation transactions in your jurisdiction? Does your jurisdiction define what type of transaction constitutes a securitisation?

The Cypriot legal framework for securitisation transactions is established under the Securitisation Law. The term securitisation is defined by reference to the Regulation (EU) 2017/2402 (“Securitisation Regulation”) and therefore captures any transaction or scheme whereby the credit risk associated with an exposure or a pool of exposures is tranching and, among others, payments regarding such transaction or scheme are dependent upon the performance of the relevant exposures. The national competent regulatory authority is the CBC.

The main participants in a securitisation structure are the: (i) originator (also defined by reference to the Securitisation Regulation as an entity that, either directly or indirectly, was involved in the original agreement that created the obligations of the debtor regarding the exposures being securitised, or purchases a third party’s exposures on its own account and then securitises them); and (ii) SSPE in the form of a legal entity, established for the mere purpose of carrying out one or more securitisations, and whose structure is intended to isolate the obligations of the said entity from those of the originator.

The basic elements of the securitisation regime consist of the originator’s obligation to:

- (a) submit to the CBC a notification of the former’s intention to operate an SSPE, accompanied by the supporting information and documentation proving that the requirements imposed under the law are satisfied;
- (b) notify the borrowers of the underlying facilities 30 days prior to the transfer of the credit facilities via the notification means prescribed in the law; and
- (c) appoint an entity to operate as the licensed servicer, which will, among others, manage the pool of the receivables or facility exposures on a day-to-day basis.

7.2 Securitisation Entities. Does your jurisdiction have laws specifically providing for establishment of special purpose entities for securitisation? If so, what does the law provide as to: (a) requirements for

establishment and management of such an entity; (b) legal attributes and benefits of the entity; and (c) any specific requirements as to the status of directors or shareholders?

As stated in question 7.1 above, the law provides for the establishment of an SSPE that shall comply, among others, with the following:

- (a) its memorandum of association or other constituting documents shall provide that the activities of the SSPE are limited to those reasonably required for conducting transactions that are intended or required to effect the securitisation and other related or ancillary activities;
- (b) the management body shall be made up of persons who have good character and good repute and who are not members of the management body of the originator; and
- (c) the appointment of the servicer, to which a power of attorney may be granted, including the right to enter into negotiations and take binding decisions with the underlying debtors with respect to the restructuring of exposures in accordance with the Arrears Management Directive, or pursuant to the Personal Insolvency (Personal Repayment Plans and Debt Relief Order) Law or Part IVA of the Companies Law, as appropriate.

7.3 Location and form of Securitisation Entities. Is it typical to establish the special purpose entity in your jurisdiction or offshore? If in your jurisdiction, what are the advantages to locating the special purpose entity in your jurisdiction? If offshore, where are special purpose entities typically located for securitisations in your jurisdiction? What are the forms that the special purpose entity would normally take in your jurisdiction and how would such entity usually be owned?

No market practice has been established to date. Nonetheless, the benefit of establishing an SSPE operating as a securitisation vehicle in or from Cyprus, is that articles 18 and 20 of the law apply. On the foregoing basis and provided the transfer or assignment relates to the total amount of each exposure, the SSPE simultaneously with the transfer of exposures to the SSPE, substitutes the originator as to all the rights and obligations relating to the collaterals attached to the exposure, notwithstanding the provisions of any other law or directives that apply to the originator and the SSPE. The above substitution is recorded and entered in the public registers kept by the competent national authorities for the respective collateral categories, including the registers of the Department of Lands and Surveys and the Department of Registrar of Companies and Official Receiver, without the payment of any tax, fee, levy or other charge.

7.4 Limited-Recourse Clause. Will a court in your jurisdiction give effect to a contractual provision in an agreement (even if that agreement's governing law is the law of another country) limiting the recourse of parties to that agreement to the available assets of the relevant debtor, and providing that to the extent of any shortfall the debt of the relevant debtor is extinguished?

Subject to the response to question 2.3 above, Cyprus courts will proceed to enforce agreements governed by foreign law, the effect and applicability of which must be proved as facts by the submission of expert evidence.

7.5 Non-Petition Clause. Will a court in your jurisdiction give effect to a contractual provision in an agreement (even if that agreement's governing law is the law of another country) prohibiting the parties from: (a) taking legal action against the purchaser or another person; or (b) commencing an insolvency proceeding against the purchaser or another person?

A Cyprus court is unlikely to give effect to a clause that simply says a party may not sue, or may not start insolvency proceedings, even if the contract is governed by foreign law. The reason is that section 28 of the Contract Law of Cyprus provides that a contract term is void to the extent that it absolutely restricts a party from enforcing its rights under or in respect of a contract by the usual legal proceedings in the courts or limits the time within which it may do so. However, in Admiralty Decision No. 178/78, the Cyprus court held, on the wording of the clause before it, that a clause may fall outside section 28 where it does not merely bar proceedings but extinguishes the underlying claim itself. Accordingly, the safer view is that a Cyprus court is unlikely to enforce a clause which merely restrains the bringing of court proceedings or insolvency proceedings while the underlying claim continues to exist.

7.6 Priority of Payments "Waterfall". Will a court in your jurisdiction give effect to a contractual provision in an agreement (even if that agreement's governing law is the law of another country) distributing payments to parties in a certain order specified in the contract?

The answer is affirmative, subject to the answer to question 2.3 above, and subject to the priority of payments set out under the Cypriot insolvency/bankruptcy laws and which the Cyprus court will apply where the person under bankruptcy/winding-up is established under Cyprus law.

7.7 Independent Director. Will a court in your jurisdiction give effect to a contractual provision in an agreement (even if that agreement's governing law is the law of another country) or a provision in a party's organisational documents prohibiting the directors from taking specified actions (including commencing an insolvency proceeding) without the affirmative vote of an independent director?

The answer is affirmative, subject to the answer to question 2.3 above, with regard to the contractual provision in an agreement. The inclusion of such restrictions in a party's organisational documents is permitted to the extent that it does not contravene the mandatory provisions of Companies Law applicable to insolvent Cypriot entities.

7.8 Location of Purchaser. Is it typical to establish the purchaser in your jurisdiction or offshore? If in your jurisdiction, what are the advantages to locating the purchaser in your jurisdiction? If offshore, where are purchasers typically located for securitisations in your jurisdiction?

Typically, the purchaser is established in Cyprus, since the relevant laws (such as the Sale of Credit Facilities Law, the Credit Servicers and Credit Purchasers Law as well as the Securitisation Law) afford the benefit of the automatic transfer of the related securities covering the receivables on the date

of transfer, as well as the replacement of the seller with the purchaser in the public registries without fees, as explained in questions 4.3 and 4.12 above.

8 Regulatory Issues

8.1 Required Authorisations, etc. Assuming that the purchaser does no other business in your jurisdiction, will its purchase and ownership or its collection and enforcement of receivables result in its being required to qualify to do business or to obtain any licence or its being subject to regulation as a financial institution in your jurisdiction? Does the answer to the preceding question change if the purchaser does business with more than one seller in your jurisdiction?

A foreign company that intends to operate as a purchaser of credit facilities will need to establish a branch in Cyprus in order to operate under the Sale of Credit Facilities Law. Alternatively, if the acquisition is carried out pursuant to the Credit Servicers and Credit Purchasers Law, then a foreign company that is established in a non-EU Member State or does not have its registered office or its head office in an EU Member State will need to designate in writing a representative that is domiciled in the EU or has its registered office or head office in the EU.

8.2 Servicing. Does the seller require any licences, etc., in order to continue to enforce and collect receivables following their sale to the purchaser, including to appear before a court? Does a third-party replacement servicer require any licences, etc., in order to enforce and collect sold receivables?

The servicing of credit facilities in Cyprus, including the enforcement and collection of receivables, is a regulated activity and must only be performed by legal persons authorised by the CBC where any of the Sale of Credit Facilities Law or the Credit Servicers and Credit Purchasers Law or the Securitisation Law apply.

8.3 Data Protection. Does your jurisdiction have laws restricting the use or dissemination of data about or provided by obligors? If so, do these laws apply only to consumer obligors or also to enterprises?

The Law providing for the Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of such Data of 2018, No. 125(I)/2018) complements the protection of personal data of natural persons under the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (“GDPR”), which also forms part of Cyprus law. Furthermore, the Law on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure, No. 164(I)/2020, protects enterprises against the misuse of data.

8.4 Consumer Protection. If the obligors are consumers, will the purchaser (including a bank acting as purchaser) be required to comply with any consumer protection law of your jurisdiction? Briefly, what is required?

In addition to the protective provisions described in the answer to question 1.2 above, the Credit Agreements for Consumers relating to the Residential Immovable Property Law, the Consumer Contracts Law and the Consumer Protection Law aim to protect consumers (defined as natural persons who enter into an agreement for reasons irrelevant to the exercise of their business, trade or profession) who enter into specified categories of facilities, such as housing loans, hire purchase agreements, overdrafts, and credit facilities granted for specified amounts, under applicable conditions. Typical credit/consumer law violations include the inclusion of clauses that provide the seller (in its capacity as lender) with a right of immediate termination, including generic clauses for the imposition of charges, expenses and commissions, etc., as well as terms giving the seller the right unilaterally to vary the interest rate, default interest and other charges.

Furthermore, the purchaser (where it is a regulated entity, such as a bank or credit purchaser) will be required to comply with any applicable secondary legislative instruments, including the Arrears Management Directive issued by the CBC, and which provides for posting a minimum number of arrears notifications before termination of the credit facility agreement.

8.5 Currency Restrictions. Does your jurisdiction have laws restricting the exchange of your jurisdiction’s currency for other currencies or the making of payments in your jurisdiction’s currency to persons outside the country?

Following the accession of Cyprus to the EU in May 2004, the exchange control restrictions were lifted, with the only remaining payment restrictions relating to the applicable anti-money laundering and sanctions laws.

8.6 Risk Retention. Does your jurisdiction have laws or regulations relating to “risk retention”? How are securitisation transactions in your jurisdiction usually structured to satisfy those risk retention requirements?

Under the Securitisation Law (discussed in the answer to question 7.1 above) no risk-retention-related obligations are imposed therein. Nonetheless, the Securitisation Regulation (is directly applicable to Cypriot entities and shall therefore be complied with when required) provides that the originator, sponsor or original lender of a securitisation shall retain, on an ongoing basis, a material net economic interest in the securitisation of not less than 5%.

8.7 Regulatory Developments. Have there been any regulatory developments in your jurisdiction which are likely to have a material impact on securitisation transactions in your jurisdiction?

The latest regulatory change was the removal of the obligation of the credit purchaser to be authorised by the CBC, per the amendment of the Sale of Credit Facilities Law, which entered into force in November 2024.

9 Taxation

9.1 Withholding Taxes. Will any part of payments on receivables by the obligors to the seller or the purchaser be subject to withholding taxes in your jurisdiction? Does the answer depend on the nature of the receivables, whether they bear interest, their term to maturity, or where the seller or the purchaser is located? In the case of a sale of trade receivables at a discount, is there a risk that the discount will be recharacterised in whole or in part as interest? In the case of a sale of trade receivables where a portion of the purchase price is payable upon collection of the receivable, is there a risk that the deferred purchase price will be recharacterised in whole or in part as interest? If withholding taxes might apply, what are the typical methods for eliminating or reducing withholding taxes?

Cyprus law distinguishes between tax that must be withheld by the payer and the recipient's own Cyprus tax liability. As a general rule, payments of principal or ordinary interest on receivables by obligors to the seller or the purchaser should not be subject to Cyprus withholding tax merely because the receivables bear interest, have a particular maturity or are transferred at a discount, although limited statutory exceptions may apply. In the case of a person who is resident in Cyprus, tax is charged under the Income Tax Law on income accruing or arising from sources within and outside Cyprus. In the case of a non-Cyprus tax resident company, Cyprus tax will generally arise only if the relevant income is attributable to a "permanent establishment" in Cyprus. Cyprus tax resident companies are generally taxable on business-related interest income under the income tax rules, whereas passive interest income may be subject to Special Defence Contribution; Cyprus tax-resident and Cyprus-domiciled individuals are generally subject to Special Defence Contribution on interest. Non-residents are not automatically exempt from all Cyprus tax, but are taxable only in limited Cyprus cases. Accordingly, the Cyprus tax position should be confirmed in each case by reference to the particular facts of the transaction.

9.2 Seller Tax Accounting. Does your jurisdiction require that a specific accounting policy is adopted for tax purposes by the seller or purchaser in the context of a securitisation?

No such accounting policy is required.

9.3 Stamp Duty, etc. Does your jurisdiction impose stamp duty or other transfer or documentary taxes on sales of receivables?

The Cypriot Stamp Duty Law 1963 as amended was abolished on 31 December 2025. Furthermore, as noted in the answers above, no transfer fees are payable for transfers of credit facility receivables governed under the Sale of Credit Facilities Law, the Credit Servicers and Credit Purchasers Law or the Securitisation Law.

9.4 Value-Added Taxes. Does your jurisdiction impose value-added tax, sales tax or other similar taxes on sales of goods or services, on sales of receivables or on fees for collection agent services?

In accordance with the Cypriot VAT Law, No. 95(I)/2000 ("VAT Law"), VAT is charged (among others) on the delivery of goods and provision of services within Cyprus.

Therefore, both the seller and the purchaser will be required to either charge VAT or be charged VAT for any services, including collection agent services, that they receive, to the extent that the conditions for the imposition of tax under the VAT Law are satisfied.

Any tax that will arise pursuant to the sale/transfer of the receivables in compliance with the Securitisation Law shall not be borne by the underlying obligor. However, prior tax advice should be obtained for each individual case, since the factual details might change the position.

9.5 Purchaser Liability. If the seller is required to pay value-added tax, stamp duty or other taxes upon the sale of receivables (or on the sale of goods or services that give rise to the receivables) and the seller does not pay, then will the taxing authority be able to make claims for the unpaid tax against the purchaser or against the sold receivables or collections?

As a general rule, the law does not grant the taxation authorities the power to recover any outstanding tax from a third-party. However, prior tax advice should be obtained for each individual case, since the factual details might alter the position.

9.6 Doing Business. Assuming that the purchaser conducts no other business in your jurisdiction, would the purchaser's purchase of the receivables, its appointment of the seller as its servicer and collection agent, or its enforcement of the receivables against the obligors, make it liable to tax in your jurisdiction?

Subject to the Income Tax Law, in the case of a person who is not a resident of Cyprus, tax shall be imposed for each tax year at the applicable rate or rates on income earned or arising in connection with any profits or other benefits from a "permanent establishment" situated in Cyprus. Each transaction entailing a sale of receivables should be examined on its own facts in order to determine whether a "permanent establishment" is established, thus triggering the aforesaid tax obligations.

9.7 Taxable Income. If a purchaser located in your jurisdiction receives debt relief as the result of a limited recourse clause (see question 7.4 above), is that debt relief liable to tax in your jurisdiction?

This would need to be assessed from a tax perspective on a case-by-case basis, as it is a fact-specific query.



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Koushos Korfiotis Papacharalambous LLC ("KKP") comprises more than 20 lawyers based in our offices in Nicosia. KKP is a full-service law firm with an industry focus on financial services, including financial, insurance and banking institutions, intellectual property, real estate and construction, and corporate and securities law. The firm operates in multi-disciplinary teams, which allows us to provide clients with individualised and expert advice. Our team of lawyers has more than 30 years of experience, combining an extensive knowledge of the Cyprus legal system with an in-depth understanding of international and European law.

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