Asset Finance Legal Update
July/August 2026

The next edition of the Asset Finance Legal Update will be in September 2026

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CLIFFORD CHANCE BRIEFINGS

Clifford Chance Comment: New Fortress Energy – strategic jurisdiction selection and cross-border restructuring solutions

The New Fortress Energy (NFE) group has successfully restructured USD 9.6 billion of debt utilising a Restructuring Plan under Part 26A of the Companies Act 2006, with recognition of the plan under Chapter 15 of the US Bankruptcy Code.

The two English plan companies, NFE Global Holdings Limited and NFE Brazil NewCo Limited, are part of the NFE group, headed by Nasdaq-listed New Fortress Energy Inc. This decision marks the second instance where a US publicly listed company has opted to restructure its debt in the UK using a Part 26A Restructuring Plan with recognition in the US under Chapter 15 of the Bankruptcy Code, following Fossil Group, Inc in late 2025 (as we highlighted in *Crossing borders – US public company successfully implements UK restructuring plan in the US through Chapter 15 recognition*).

The NFE restructuring used features not available under Chapter 11, underscoring the advantages available to groups from strategic forum selection, and the need for companies to consider the full menu of global rescue tools and the interplay between them in designing any restructuring.

Clifford Chance has prepared a briefing considering the implications of the restructuring. To view a copy of the briefing, please click on the link to the PDF version. Alternatively, you can access the paper via the Clifford Chance website.

Links:
- Clifford Chance website version
- PDF version
- Crossing borders – US public company successfully implements UK restructuring plan in the US through Chapter 15 recognition

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Clifford Chance Comment: Implementing Basel 3 final (EU, UK and US) — impact on undrawn credit facilities

The EU, UK and US implementation of the remaining Basel 3 standards (Basel 3 final or Basel 3.1) impacts many banks' regulatory capital requirements for undrawn corporate credit facilities by increasing credit conversion factors (CCFs) for shorter-term facilities, while reducing CCFs for longer-term facilities.

Clifford Chance has prepared a briefing paper reviewing how the new rules change the regulatory capital treatment of undrawn facilities and highlighting differences of approach between the adopted EU rules, the planned UK rules and the US Basel endgame proposals.

Links:
- Clifford Chance website version
- PDF version

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LEGAL AND REGULATORY

Article 21c CRD VI

LMA launches new Member FAQs section and publishes Q&A on Article 21c CRD

The Loan Market Association (LMA) has launched a new Member FAQs section, which will be used to publish practical guidance on commonly raised questions in an effort to help members understand the LMA's approach to common market queries.

The first FAQ published in the new section is on Article 21c of the revised Capital Requirements Directive (CRD VI). Specifically, it outlines the LMA's rationale as to why it does not, at the present time, intend to make changes to its loan documentation or mandate letters as a result of the requirements introduced by Article 21c.

Please note these documents are only available to LMA members.

Links:
- LMA homepage
- New Member FAQ
- First FAQ

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LSTA updates market advisory on cross-border lending in light of Article 21c of CRD VI

The Loan Syndications and Trading Association (LSTA) has published an updated market advisory on for cross-border lending into the EU in light of Article 21c of CRD VI, along with a blackline against the version published in May 2026.

The advisory focuses on the effects of Article 21c on cross-border corporate lending activity, the principal implementation and structuring issues for affected US loan market participants, and documentation changes to facilitate the addition of EU banks to commitment and loan agreements with EU borrowers. The updated version includes further clarification on the proposed credit agreement provision and a form of EU notice for illustrative purposes. The EU notice enables EU lender(s) to be designated as responsible for making any commitments and credit extensions/loans to EU borrower(s).

The LSTA has reminded members that the transitional ("grandfathering") provision cut-off for lending contracts was 11 July 2026.

Please note that the documents are only available to LSTA members.

Links
- LSTA homepage
- Market advisory
- Blackline

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LSTA publishes exposure draft of guidance note on reverse solicitation

The Loan Syndications and Trading Association (LSTA) has published an exposure draft of its guidance note on reverse solicitation, which contains language for parties to consider including in draft loan documentation when seeking to rely on the reverse solicitation exemption for the purposes of CRD VI. The LSTA allowed a seven-day comment period on the draft, after which it removed the note from its website.

The draft note followed the LSTA's market advisory on CRD VI which explained the reverse solicitation exemption. The draft note included various forms of language for consideration in different loan market documentation and proposes a form of special notice for inclusion in confidential information memoranda and lender presentations, together with forms of optional representation for inclusion in company authorisation letters and engagement and/or commitment documentation.

The comment period closed on 29 July 2026.

Links:

- LSTA homepage

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LEGAL AND REGULATORY

LSTA publishes final form MCAPs for private corporate credit deals

The Loan Syndications and Trading Association (LSTA) has published the final form of its model credit agreement provisions for private corporate credit deals (PCC MCAPs), along with a blackline to the current broadly syndicated loan leveraged finance (BSL LevFin) MCAPs, on which the PCC MCAPs is based.

The PCC MCAPs are intended to act as a harmonised, market-informed set of model credit agreement terms for a broad spectrum of private credit transactions, which may serve to facilitate a wide set of financing structures. They also incorporate language relevant to the fund finance space.

Please note the document is only available to LSTA members.

Links:
- LSTA homepage
- Final form

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LSTA publishes final form MCAPs for broadly syndicated loans

The Loan Syndications and Trading Association (LSTA) has published the final form of its updated model credit agreement provisions (MCAPs) for broadly syndicated loan (BSL) transactions, along with a blackline to the previous version published in May 2023.

The updates incorporate new language in Article 17 (Treatment of Certain Information; Confidentiality) to ensure parties' compliance with the whistleblower rules issued by the Commodity Futures Trading Commission (CFTC) and codified at 17 C.F.R. pt. 165, as well as minor drafting amendments. According to the LSTA, the document aims to replicate the statutory text of the whistleblower rules and to reflect market practice. The language incorporates a drafting note to clarify that inclusion of the new provision is subject to the discretion of the parties.

The LSTA intends to move forward with consideration of drafting updates to the form agency and benchmark transition provisions.

Please note the documents are only available to LSTA members.

Links:
- LSTA homepage
- Final form
- Blackline

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