Asset Finance Legal Update
June 2026

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CLIFFORD CHANCE BRIEFINGS

Sanctions Clauses: Lessons from the Court of Appeal

The Court of Appeal has considered the effect of a sanctions clause that excused a party from performance where, in that party's reasonable judgement, it would otherwise be at risk of sanctions liability. The unanimous judgment is commercial and pragmatic: it supports the use of desktop searches to identify potential risks; 'common sense' when assessing those risks; and healthy scepticism of attempts to explain the risks away.

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- Clifford Chance briefing

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LEGAL AND REGULATORY

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

The Loan Syndications and Trading Association (LSTA) has published a final market advisory on cross-border lending into the EU in light of Article 21c of the revised Capital Requirements Directive (CRD VI). Article 21c (due to take effect from 11 January 2027) prohibits third country institutions from providing cross-border core banking services, including lending, into the EU, unless the service is provided from a locally licenced branch, or an exemption, such as reverse solicitation, applies. A transitional ("grandfathering") provision applies to existing contracts entered into on or before 11 July 2026.

The advisory provides guidance on the material points of the legislation for loan market participants and proposes practical solutions for compliance. It 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.

Please note that the document is only available to LSTA members.

Links:

- LSTA homepage
- Market advisory

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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 Capital Requirements Directive (CRD). 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
- Members FAQ section
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