

# Asset Finance Legal Update

September 2024

## CLIFFORD CHANCE BRIEFINGS



[Basel 3.1 – ten key takeaways on UK implementation proposals](#)



[Addressing the difficulties – ISDA approves an online Notices Hub for delivering notices](#)



[The antitrust priorities of the new European Commission](#)



[Ukraine – the latest global sanctions and export controls](#)



[Supreme Court provides guidance on English court's jurisdiction to issue anti-suit injunctions in support of foreign seated arbitrations](#)



[The Privy Council has rejected the English approach toward insolvency petitions where there is an arbitration agreement](#)

## LEGAL AND REGULATORY



[Australian Government publishes Aviation White Paper](#)



[FCA publishes final statement on forthcoming end of LIBOR](#)



[LMA publishes blog on credit risk insurance and significant transfer risk](#)



[New strict liability civil penalties for UK trade sanctions – what you need to know](#)



[OECD Arrangement on Officially Supported Export Credits – update](#)

---

## CLIFFORD CHANCE BRIEFINGS



### [Basel 3.1 – ten key takeaways on UK implementation proposals](#)

On 12 September 2024, the Prudential Regulation Authority (PRA) published its Policy Statement PS9/24 Implementation of the Basel 3.1 Standards, accompanied by a set of near-final rules and new and revised supervisory statements, and confirmed January 2026 as the UK implementation date. Taken together, these publications amount to a sizeable package of around 1000 pages and form the second of two instalments of the PRA's Basel 3.1 implementation package.

Clifford Chance has prepared a briefing paper setting out our initial reactions on the top ten themes that we find most interesting, with a focus on some of the particular features of the PRA's implementation – how the PRA's approach has changed from its opening consultation position, and how it varies from the EU's CRR3 regime.

To view a copy of the briefing paper, 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](#)

[Back to top](#)



### [Addressing the difficulties – ISDA approves an online Notices Hub for delivering notices](#)

ISDA's Board has recently approved the construction of a Notices Hub. This initiative will establish an online platform for the sending and receiving of termination and close-out related notices under the ISDA Master Agreement and (potentially) other Master Agreements.

The proposal to develop a Notices Hub arose in response to the difficulties experienced in delivering notices during the financial crisis, the Covid pandemic and the imposition of sanctions, where parties were dealing with a mix of issues including differing time zones, difficulties with notice details not being up to date, disruptions to courier or postal services, limited or no access to particular locations and the closure of offices or only limited hours for delivery. The notices hub takes advantage of latest technology to provide an alternative method of serving notice via a secure and confidential online platform.

Clifford Chance has prepared a briefing paper considering how the Notices Hub will operate and some of the key issues that market participants should be aware of. To view a copy of the briefing paper, 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](#)

[Back to top](#)



## **The antitrust priorities of the new European Commission**

Spanish politician Teresa Ribera has been nominated for the role of EU Competition Commissioner. If the appointment is confirmed by the European Parliament, she will assume her role later this year.

Ribera's 'mission letter' from the Commission's President, Ursula von der Leyen, signals some important changes to competition policy in the EU including, potentially, greater permissiveness of certain mergers that increase innovation, security or supply chain resilience. These priorities have been strongly influenced by the report of Mario Draghi on how to improve European competitiveness, as well as a recent staff working document of the Commission on the functioning of the current antitrust enforcement regime.

Clifford Chance has prepared a briefing paper discussing the contents and implications of the mission letter. To view a copy of the briefing paper, please click on the PDF link below. Alternatively, you can access the paper via the Clifford Chance website at the link below.

Links:

- [Clifford Chance website version](#)
- [PDF version](#)

[Back to top](#)



## **Ukraine – the latest global sanctions and export controls**

The US, EU, UK, Poland, Japan, Singapore, Australia and Ukraine have imposed sanctions and export controls on Russia. These new sanctions are complex, multilateral and continue to be incrementally changing in real time in response to the developments on the ground in Ukraine. Our team of sanctions experts is monitoring the situation closely and we will endeavour to keep our briefings up to date.

Clifford Chance has prepared a briefing paper discussing these sanctions and export controls, as well as measures adopted in response by Russia, as of 01:30 am GMT, 27 September 2024. To view a copy of the briefing paper, 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](#)

[Back to top](#)



## **Supreme Court provides guidance on English court's jurisdiction to issue anti-suit injunctions in support of foreign seated arbitrations**

On 18 September 2024, the Supreme Court handed down a judgment in *UniCredit Bank GmbH v. RusChemAlliance LLC* [2024] UKSC 30. The judgment sets out the reasons for a decision it made in April 2024 to grant final injunctive relief to restrain proceedings commenced in Russia, where the contract in issue is governed by English law and provides for ICC arbitration seated in Paris.

Clifford Chance has prepared a briefing paper discussing the case. To view a copy of the briefing paper, please click on the PDF link below. Alternatively, you can access the paper via the Clifford Chance website at the link below.

Links:

- [Clifford Chance website version](#)
- [PDF version](#)

[Back to top](#)



## **The Privy Council has rejected the English approach toward insolvency petitions where there is an arbitration agreement**

The Privy Council in *Sian Participation Corp (In Liquidation) v Halimeda International Ltd* [2024] UKPC 16 has held that the proper test when the court is deciding whether to make an order for the liquidation of a company is whether the debt on which the application is based is genuinely disputed on substantial grounds. In so deciding, the Court held that the English case of *Salford Estates*, on which the English position is premised, was wrongly decided, and that the courts of the British Virgin Islands and England should therefore not follow it.

Clifford Chance has prepared a briefing paper examining the repercussions of the decision and comparing the position in other major common law jurisdictions. To view a copy of the briefing paper, 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](#)

[Back to top](#)

## **LEGAL AND REGULATORY**



### **Australian Government publishes Aviation White Paper**

The Australian Government has published an Aviation White Paper, in which it sets out its vision for the sector up to 2050. The paper contains 56 new initiatives to be implemented by the Government, with a focus on supporting a safe, competitive, productive and sustainable aviation market.

Key initiatives include:

- the establishment of an aviation industry ombuds scheme, which will direct airlines and airports to provide remedies to consumers and investigate customer complaints about airlines' and airports' conduct, with penalties for non-compliance;
- reform of slot management arrangements at Sydney Airport to address anti-competitive activities;
- the establishment of a sustainable aviation fuel (SAF) certification scheme and introduction of various measures to explore and support the introduction of low carbon liquid fuel (LCLF);
- requiring the Civil Aviation Safety Authority (CASA) to refresh its General Aviation Workplan to prioritise changes to the civil aviation safety framework that reduce regulatory burden and support development of new technologies; and
- the reform of the administration and management of Australia's airspace to, among other things, allow for the increased use of drones and other new aviation technologies.

Links:

- [Government homepage](#)
- [White paper](#)
- [White paper webpage](#)

[Back to top](#)



## **FCA publishes final statement on forthcoming end of LIBOR**

The Financial Conduct Authority (FCA) has published its final announcement on the last remaining USD LIBOR settings and the forthcoming end of LIBOR.

The FCA has required ICE Benchmark Administration Limited (IBA) to continue to publish the 1-, 3- and 6-month US dollar LIBOR settings in synthetic form until 30 September 2024. The FCA has further stated that it will not use its powers to compel IBA to continue to publish the settings beyond this date. The synthetic US dollar LIBOR settings will cease permanently after their final publication on 30 September 2024.

The FCA has reminded firms with outstanding US dollar LIBOR exposures to continue their active transition efforts. The FCA has also stated that the cessation of the last remaining LIBOR settings is the final milestone in the transition away from LIBOR and will mark the end of LIBOR overall.

For more information and resources on the IBOR transition and risk-free rates, see the Topic Guide on the Clifford Chance Financial Markets Toolkit.

Links:

- [FCA homepage](#)
- [Press release](#)
- [Topic Guide](#)

[Back to top](#)



## **LMA publishes blog on credit risk insurance and significant transfer risk**

The Loan Market Association (LMA) has published a blog post on its inaugural credit risk

insurance (CRI) and significant transfer risk (SRT) seminar.

Clifford Chance's Jessica Littlewood and Toby Mann spoke at the event, which demonstrated how important the CRI and SRT industries are becoming at providing liquidity and lending capacity to the loan market. The blog is intended to capture the key messages from the seminar, under the following headings:

- the supply: bank strategy indicates no one size fits all approach;
- the demand: opportunity knocks for both CRI and SRT;
- solving the challenges; and
- finding solutions.

Links:

- [LMA homepage](#)
- [Blog](#)

[Back to top](#)



## **[New strict liability civil penalties for UK trade sanctions – what you need to know](#)**

On 12 September 2024, The Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024 were published, together with statutory guidance.

The regulations come into force on 10 October 2024 and from that date, the newly formed Office of Trade Sanctions Implementation (OTSI) (within the Department for Business and Trade) will have civil enforcement powers to enforce breaches of certain UK trade sanctions, similar to OFSI's existing powers to impose civil monetary penalties in respect of UK financial sanctions and the G7 Russian oil price cap regime.

Clifford Chance has published a post on our Regulatory Investigations and Financial Crime Insights (RIFC) Blog on the scope and implications of these regulations.

Links:

- [Blog post](#)
- [RIFC Blog](#)

[Back to top](#)



## **[OECD Arrangement on Officially Supported Export Credits – update](#)**

The Organisation for Economic Co-operation and Development (OECD)'s Arrangement on Officially Supported Export Credits has been updated. The September 2024 version replaces the July 2023 version and is effective as of 2 September 2024.

Amendments to the Arrangement and Annexes include:

- replacing the sunset clauses relating to Project Classes G (Low emissions manufacturing) and I (Clean Energy Minerals and Ores) of the Climate Change Sector Understanding by a

review clause with a 30 June 2026 deadline (Annex I, footnotes 6 and 10); and

- extending the temporary 100 basis points margin of the CIRR for another year (Annex XII, footnote 3).

Links:

- [OECD homepage](#)
- [September 2024 version of the Arrangement](#)
- [Full list of amendments](#)

[Back to top](#)

#### *Additional Information*

This publication does not necessarily deal with every important topic nor cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. Clifford Chance is not responsible for third party content.

Please note that English language content may not be available for some content.

Some third-party content may only be available if your organisation possesses a licence for the relevant website.

All links to content were valid at the time of compilation, but urls may sometimes change. In the event of difficulty in accessing any of the content of this Alerter please reply to this e-mail, stating which item(s) you cannot access.

#### ► **Financial Markets Toolkit**

**LONDON**  
[Oliver Hipperson](#)

**NEW YORK**  
[Zarrar Sehgal](#)

**EUROPE**  
[Tobias Schulten](#)

**ASIA**  
[Fergus Evans](#)

**MIDDLE EAST**  
[Stephen Chance](#)

**Knowledge Director**  
[Marisa Chan](#)

**Follow us**

 [LinkedIn](#)

**Browse our podcasts**

 [View our library](#)

UK: We are sending this email on the assumption you do not live or work in New York State. If that is not the case, please [follow this link](#).

If you prefer, you can write to us with your marketing or monitoring request at Marketing Department, Clifford Chance, 10 Upper Bank Street, London, E14 5JJ, UK.

This email does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice. Prior results do not guarantee a similar outcome.

Clifford Chance LLP is a limited liability partnership registered in England & Wales under number OC323571. The firm's registered office and principal place of business is at 10 Upper Bank Street, London, E14 5JJ. The firm uses the word "partner" to refer to a member of Clifford Chance LLP or an employee or consultant with equivalent standing and qualifications. The firm is authorised and regulated by the [Solicitors Regulation Authority](#) (SRA) under SRA number 447778.

For further details about Clifford Chance, including our [Privacy Statement](#) see our [website](#).

Copyright: © Clifford Chance. 2024. All rights reserved.