



Clifford Chance

Asset Finance Legal Update December 2025

The next edition of the Asset Finance Legal Update will be published at the end of January 2026. Happy holidays and best wishes for the new year!

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Crossing borders – US public company successfully implements UK restructuring plan in US through Chapter 15 recognition.



Supreme Court rules no deemed fulfilment of conditions precedent in English law – *King Crude Carriers and others v Ridgebury November and others* ([2025] UKSC 39)



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CLIFFORD CHANCE BRIEFINGS



Crossing borders – US public company successfully implements UK restructuring plan in US through Chapter 15 recognition.

Judge Christopher Lopez of the US Bankruptcy Court for the Southern District of Texas has recognised Fossil (UK) Global Services Ltd.'s English Part 26A restructuring plan as a foreign main proceeding under Chapter 15 of the Bankruptcy Code and granted full force and effect to it in the US. The High Court of Justice of England & Wales had sanctioned the plan two days earlier at an uncontested hearing. Fossil UK's expert on US recognition in the English proceeding, retired US Bankruptcy Judge James Peck, described the case as an example of 'good forum shopping', highlighting the English plan's surgical focus on a single tranche of funded debt and the procedural fairness of the process.

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](#)

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Supreme Court rules no deemed fulfilment of conditions precedent in English law – *King Crude Carriers and others v Ridgebury November and others* ([2025] UKSC 39)

On 12 November 2025, the UK Supreme Court handed down judgment in *King Crude Carriers and others v Ridgebury November and others* ([2025] UKSC 39), holding that the principle in the Scottish case of *Mackay v Dick* – that where a party wrongfully prevents the fulfilment of a condition precedent to its own debt obligation, that condition is deemed fulfilled – does not exist in English law.

Clifford Chance has prepared a briefing paper discussing the implications of the judgment. 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.

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Supreme Court finds director owes fiduciary duties even after liquidation and awards liquidators substantial equitable compensation

In what circumstances will a director whose powers have ceased continue to owe fiduciary duties to the company? When will a vendor's lien be excluded from a sale? And how should a beneficiary's losses be assessed in a claim for equitable compensation for misappropriation of its property? These are the questions the UK Supreme Court was concerned with in its recent decision in *Mitchell and another v Al Jaber* ([2025] UKSC 43).

Clifford Chance has prepared a briefing paper examining the circumstances in which fiduciary duties arise for directors and how equitable compensation is assessed in misappropriation cases. 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.

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LEGAL AND REGULATORY



ICAO publishes calculation triggering first airline carbon offset requirements under CORSIA

The International Civil Aviation Organization (ICAO) has published a calculation that will enable governments to inform airlines of their first carbon offsetting requirements under the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).

The calculation is based on 2024 international aviation growth data and will allow governments to determine the specific amount of carbon dioxide each airline must offset to ensure carbon neutral growth in compliance with the 1944 Convention on International Civil Aviation. ICAO notes that it received emissions data covering 99% of CO₂ emissions in 2024 from 128 States, and that it estimated emissions for the ten States that did not provide data. The sector's 'Growth Factor' for 2024 has been set at 0.15405257.

Links:

- [ICAO homepage](#)
- [Press release](#)

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Gulf countries announce plans to establish single Civil Aviation Authority

The Gulf Cooperation Council (GCC), comprising representatives from Bahrain, Kuwait, Saudi Arabia, the United Arab Emirates, Qatar, and Oman, has approved plans to establish a joint Civil Aviation Authority for all six member states.

In a joint communiqué following a GCC meeting, the organisation said that the CAA will be based out of the United Arab Emirates. No further details were disclosed, and it is not currently clear whether the authority will replace the existing national bodies or work alongside them.

Links:

- [GCC homepage](#)
- [Press release \(in Arabic\)](#)

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City of London Law Society and LMA publish notes on the 'face value' requirement for deeds

The Financial Law Committee (FLC) of the City of London Law Society (CLLS) has published a note on the 'face value' requirement for deeds in section 1(2)(a) of the Law of Property (Miscellaneous Provisions) Act 1989 in the context of financing transactions where some parties sign as a deed and others under hand.

The FLC's view is informed by the legislative background to the face value requirement, the English common law framework in respect of the execution deeds and case law considering the face value requirement. The note, which is dated 27 November 2025 and has been endorsed by the CLLS Company Law Committee, sets out the FLC's view that:

- the face value requirement is not intended to be construed prescriptively and does not require an express statement of intention but can be satisfied in numerous ways;
- the requirement can be met by the document stating that it is executed as a deed by those parties signing it as a deed; and
- not all parties to a deed need to execute it as a deed, but for all purposes, including the applicable limitation period, a deed which meets all the requirements for a deed will take effect as a deed only for those parties executing it as a deed and for parties signing under hand, it will take effect as a simple contract.

The FLC also notes that the approach adopted in the Loan Market Authority's (LMA's) recommended forms of intercreditor documentation is 'sufficient to comply with the [face value requirement] and that it is not necessary to amend the document'.

In response, the LMA confirmed that it does not intend to make a change to the testimonium provision in its intercreditor documentation following the *obiter* comments in *Macdonald Hotels Ltd v Bank of Scotland PLC* ([2025] EWHC 32 (Comm)) that a form of testimonium provision (reportedly modelled on the LMA's recommended forms of intercreditor agreement) did not meet the face value requirement.

Links:

- [CLLS homepage](#)
- [FLC note](#)
- [LMA homepage](#)
- [LMA note](#)

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LSTA publishes exposure draft of model credit agreement provisions for private corporate credit deals

The Loan Syndications and Trading Association (LSTA) has published an exposure draft of its model credit agreement provisions for private corporate credit deals (PCC MCAPs). A blackline showing the changes made to the LevFin MCAPs, which served as the starting point for the PCC MCAPs, has also been published.

The LSTA envisages that the PCC MCAPs will be used in credit agreements for deals that, for example, are senior secured credit facilities provided by a handful or fewer direct lenders to a private equity-sponsored company with EBITDA of around USD 15 million to USD 150 million.

The LSTA intends to publish the final form of the PCC MCAPs by the end of 2025.

Please note the document is only available to LSTA members.

Links:

- [LSTA homepage](#)
- [Exposure draft](#)

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CASES



UniCredit Bank AG, London Branch (Respondent) v Celestial Aviation Services Limited (Appellant); and UniCredit Bank AG, London Branch (Respondent) v Constitution Aircraft Leasing (Ireland) 3 Limited and another (Appellants)

On 8 and 9 December 2025, the UK Supreme Court heard arguments from aircraft lessors appealing a Court of Appeal decision in favour of UniCredit relating to the impact of UK Russia related sanctions on payments under letters of credit to certain beneficiaries. The lessors contend that there is no 'causal connection' between such payments and the sanctioned supply of commercial aircraft to Russian airlines.

Issue

The main issue to be determined by the Court is whether Regulation 28(3) of the Russia (Sanctions) (EU Exit) Regulations 2019/855 (the 'Regulations') prohibit the London branch of a German confirming bank from discharging payment obligations owed to Irish companies under letters of credit issued as security for agreements to lease aircraft

to Russian operators, where those lease agreements were lawful when entered into and then terminated before the payment obligations fell due.

Background

Both appeals involve materially identical facts and were heard together. Constitution Aircraft Leasing (Ireland) 3 Limited and Constitution Aircraft Leasing (Ireland) 5 Limited (together, 'Constitution') and Celestial Aviation Services Limited ('Celestial') are Irish aircraft leasing companies that entered, either directly or indirectly, through other group companies, into commercial aircraft leasing agreements with certain Russian airlines between 2005 and 2014. As security for performance of the lessees' obligations under the leases, Sberbank, a state-owned Russian bank, issued a total of twelve letters of credit between 2017 and 2020, of which Constitution and Celestial were between them the beneficiaries. UniCredit Bank GmbH ('UniCredit'), a German bank acting through its London branch, acted as the confirming bank for each letter of credit.

Following the Russian invasion of Ukraine in February 2022, the United Kingdom amended the Regulations to expand the scope of the sanctions it imposed on Russia. The leases were all terminated by the lessors for default in March 2022 and Constitution and Celestial made demands against UniCredit for payment under the letters of credit. UniCredit countered that the Regulations, in particular Regulation 28(3), as amended, prohibited it from making those payments until and unless it obtained a licence from the UK authorities, which it applied for in the same month.

Constitution and Celestial each brought claims against UniCredit in the English court. Notably, after the first instance hearing but before judgment, UniCredit obtained a licence and paid the principal amounts due under the letters of credit. The dispute was thereafter confined to interest and costs. The High Court found in favour of Constitution and Celestial. However, UniCredit successfully appealed to the Court of Appeal.

Lessor counsel submitted that because the leasing of the aircraft had been terminated before any demand, the payments under the independent letters of credit were not part of an arrangement to supply civil aircraft to Russia (which is prohibited under the Regulations). UniCredit's counsel argued that the Regulations were drafted broadly, in order to capture financial services and funding in respect of such prohibited supplies.

Judgment is expected to be handed down shortly.

Links:

- [Supreme Court webpage - UKSC/2024/0102](#)
- [Supreme Court webpage - UKSC/2024/0103](#)

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