

PANORAMIC

**LOANS & SECURED
FINANCING**

Cyprus



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Loans & Secured Financing

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GENERAL FRAMEWORK

Jurisdictional pros and cons

What are the primary advantages and disadvantages in your jurisdiction of incurring indebtedness in the form of bank loans versus debt securities?

Credit institutions are subject to substantive regulatory requirements, including the assessment of borrowers' creditworthiness and maintaining robust and prudent standards for credit risk-taking, management and monitoring. As a result, credit institutions are typically not flexible in negotiating loans.

Therefore, debt securities typically afford increased flexibility in the negotiation of their terms and subsequent amendments, compared to bank loans. Debt securities are subject to interest rate limitations, save when certain exemptions apply.

Law stated - 3 May 2024

Market snapshot

How do borrowers approach the different options of debt products and sources available to them, including debt securities? With respect to bank loans, how is the debt market split between direct lenders and private credit funds on the one hand, and banks and institutional investors on the other?

When considering debt products, factors prospective borrowers typically take into account are the size of the loan, collateral requirements, creditworthiness requirements involved, interest rates and flexibility attached to debt.

Traditionally, banks have dominated the debt market in Cyprus. Banks hold a significant portion of government and corporate debt. Institutional investors, like pension funds and insurance companies, are also increasingly active in the bond market, particularly for government bonds.

The Cyprus Stock Exchange offers access to debt securities like government and corporate bonds. This market is smaller than bank lending but can provide competitive rates for qualified borrowers. There are also indications of Cypriot borrowers listing debt securities in regulated markets of other EU member states.

Direct lenders and private credit funds are also present in the market for debt, but are less established compared to banks.

Law stated - 3 May 2024

Forms

What are the most common forms of loan facilities? Discuss any other types of facilities commonly made available to the debtor in addition to, or as part of, the loan facilities.

The most common form of bank loan facilities in Cyprus are term loan facilities. Letters of credit and revolving credit facilities are also commonly used.

Law stated - 3 May 2024

Investors

Describe the types of investors that typically participate in loan financings and the types of investors that participate in various other types of debt products.

A distinction must be drawn between purely domestic loan financings and international loan financings involving Cypriot borrower vehicles or Cypriot security provider vehicles.

Domestically, Cypriot banks typically finance domestic corporate and real estate transactions. They also provide credit facilities for working capital and business operations.

The Cypriot corporate bond market is smaller but growing. Local institutional investors and some international participants might invest in bonds issued by established Cypriot companies, but the market caters primarily to larger, well-established issuers.

From an international finance perspective, cross-border financings involve diverse investors and syndicated financing. Global banks finance a plethora of acquisitions and project finance transactions that involve Cypriot companies.

Cypriot companies are widely used as intermediary or main financing vehicles in cross-border transactions for their versatility and features, including the availability of redeemable equity and tax-efficient restructurings and exits.

Law stated - 3 May 2024

Investors

How are the terms of a loan facility affected by the type of investors participating in such facility?

Cypriot banks rarely differentiate the terms of their facilities on the basis of investors.

Law stated - 3 May 2024

Bridge facilities

Are loan facilities used as 'bridges' to permanent debt security financings? How do the structure and terms of bridge facilities deviate from those of a typical loan facility?

Depending on the transaction being financed, bank loans can be used as bridges to debt security financings.

The terms of bridge lending by Cypriot banks vary depending on the purpose but are subject to the same regulatory requirements as other business loans, including with respect to the assessment of creditworthiness and the taking of security.

Law stated - 3 May 2024

Role of agents and trustees

What role do agents or trustees play in administering loan facilities with multiple investors?

Cyprus law accommodates agents and trustees in the administration of facilities with multiple investors, as well as in the taking of security (whereby an agent can act for multiple lenders in secured financing transactions).

The Cypriot law of agency is aligned with the common law of agency. Most common law principles are codified in statute in Cyprus.

The rights and obligations of a facility agent must be expressly stated in the finance documents.

A trustee can hold security over the assets of a debtor for more than one creditor, owing fiduciary duties to the lenders as beneficiaries of the trust property.

Law stated - 3 May 2024

Role of lenders

Describe the primary roles of, and typical fees charged by, the financial institutions that arrange and syndicate bank loan facilities, as well as lenders that participate in the private credit market.

Syndicated facilities do not typically involve Cypriot banks. Where a Cypriot bank is involved in cross-border syndicated loans, it will likely have a secondary role to that of an arranger.

Where more than one bank is involved in a financing arrangement, one of the banks among them (possibly the one with the largest exposure) must take the lead.

The lead arranger initiates the deal by structuring the loan terms and conditions based on borrower needs, negotiates with the borrower on behalf of the syndicate, manages the due diligence process and oversees the syndication process.

In terms of fees, an arrangement fee would typically apply as a percentage of the total loan amount paid by the borrower for structuring and managing the syndication. An upfront commitment fee from participants for reserving a portion of the loan may also apply (which may be waived or rolled into the interest rate). A management fee may also be a consideration for the post-syndication management of the facility.

Law stated - 3 May 2024

Governing law

1.8.1. In cross-border transactions or secured transactions involving guarantees or collateral from entities organised in multiple jurisdictions, which jurisdiction's laws govern the loan and intercreditor documentation?

Cross-border transactions involving Cypriot parties are often governed by English law.

Security documentation relating to collateral provided by a Cypriot entity (whether acting as borrower, guarantor or otherwise as a security provider) is typically governed by Cyprus law.

Where the collateral asset is located in another jurisdiction (eg, a charge over a bank account at a foreign bank), it would be expected that such security documentation will be governed by the laws of the jurisdiction in which the asset is located.

Law stated - 3 May 2024

REGULATION

Capital and liquidity requirements

Describe how capital and liquidity requirements impact the structure of loan facilities, including the availability of related facilities and the differing impact of such requirements on different types of investors.

The capital adequacy framework for credit institutions comprises:

- the Capital Requirements Regulation 575/2013, as amended (CRR), which is directly applicable in Cyprus;
- and the Capital Requirements Directive 2013/36/EU (CRD IV) and Directive 2014/59/EU on Bank Recovery and Resolution, which have been transposed into Cypriot law.

The prudential framework set out in the CRR and the CRD IV implements the standards set by the Basel Commission on Banking Supervision. A substantial body of implementing legal instruments on technical standards and guidelines is in place.

The CRR provides for two liquidity ratios:

- liquidity coverage ratio (LCR), which measures whether a bank holds an adequate level of unencumbered, high-quality liquid assets to meet net cash outflows under a stress scenario lasting for 30 days. Except in crisis situations, firms must maintain an LCR of at least 100 per cent (that is, the firm's liquidity buffer should at least equal total net liquidity outflows over the stress period); and
- net stable funding ratio (NSFR), which measures whether a bank maintains an acceptable amount of stable funding based on the liquidity characteristics of the firm's assets and activities over one year. Under the NSFR, banks are subject to a general requirement to ensure that long-term obligations are adequately met with a diversity of stable funding requirements under both normal and stressed conditions.

Under subsidiary legislation issued by the Central Bank of Cyprus, a key principle applicable to the assessment of whether a facility will be granted is the determination of the repayment ability of the borrower. The value of collateral should not be a decisive factor in the assessment of an application for a credit facility, as collateral may only serve as a secondary source of repayment. Banks must ensure that the level of the borrower's own contribution is satisfactory and reflects the level of risk of the credit facility.

Law stated - 3 May 2024

Disclosure requirements

For public company debtors, are there disclosure requirements applicable to loan facilities?

Public listed companies are subject to disclosure requirements in their financial statements under the Cyprus Companies Law, Cap 113, as amended. Cyprus public listed companies may also be required to disclose certain credit facilities, depending on the transparency framework applicable to these companies, depending on their listing.

Law stated - 3 May 2024

Use of loan proceeds

How is the use of loan proceeds by the debtor regulated? What liability could investors be exposed to if the debtor uses the proceeds contrary to regulations? Can investors mitigate their liability?

Facility proceeds must be used by the borrower for legitimate purposes and in accordance with the terms and conditions of the facility documentation.

In terms of mitigating liability, lenders must carry out full due diligence on the borrower and the purpose the borrower will use loan proceeds. Contractual terms (including warranties) could involve limitations on using funds to buy specific assets or restrictions on selling existing assets.

Investors should ensure that the borrower using loan proceeds for an illegal purpose or in breach of the agreed purpose amounts to a breach that allows enforcement of security.

Law stated - 3 May 2024

Cross-border lending

Are there regulations that limit an investor's ability to extend credit to debtors organised or operating in particular jurisdictions? What liability are investors exposed to if they lend to such debtors? Can the investors mitigate their liability?

Cyprus implements UN and EU sanctions and restrictive measures.

The Law for the Implementation of the Provisions of the UN Security Council Resolutions (Sanctions) and the Decisions and Regulations of the Council of the European Union (Restrictive Measures) Law 58(I) of 2016, as amended, applies to Cypriot credit and financial institutions. Criminal liability may arise for parties infringing the legislation.

Banks are also required to apply the directive on sanctions issued by the Central Bank of Cyprus. Under this directive, banks are required to maintain and implement a sanctions policy, setting out compliance and risk mitigation mechanisms.

Law stated - 3 May 2024

Debtors' leverage profile

Are there limitations on an investors' ability to extend credit to debtors based on the debtors' leverage profile?

When granting credit facilities, banks are required to assess the applicant's financial position and, where applicable, financial indicators, for example, leverage ratio and cost-to-income ratio.

Law stated - 3 May 2024

Interest rates

Do regulations limit the rate of interest that can be charged on loans?

Interest rates in bank loans are liberalised, but the imposition of a default interest rate by more than two percentage points (2 per cent) is prohibited. The default rate is the rate computed on the amount of instalments of a loan that are in arrears.

Banks cannot capitalise interest more than twice a year and are required to transparently present the calculation method for the base rate to borrowers.

In respect of non-bank loans, a person is prohibited from receiving, collecting or charging interest at a rate that is higher than the interest rate set by the Central Bank of Cyprus. The reference rate set by the Central Bank of Cyprus as of 28 April 2023 is 10.94 per cent. Exceptions to the rule include loans between connected legal persons for tax purposes, loans to legal persons with overseas capital exceeding €1 million, and loans to legal persons withdrawn abroad exceeding €1 million.

Law stated - 3 May 2024

Currency restrictions

What limitations are there on investors funding loans in a currency other than the local currency?

There are no restrictions on the movement of capital (including with reference to countries outside the European Union), nor are there any exchange control restrictions. The CBC has

issued directives on sensible liquidity in all currencies and local debtors are not restricted from borrowing in any foreign currency.

Law stated - 3 May 2024

Other regulations

Describe any other regulatory requirements that have an impact on the structuring or the availability of loan facilities.

Loan sales

Cyprus has enacted legislation regulating the sale and purchase of credit facilities granted by credit institutions. Credit facilities falling under the scope of application of the Law are:

- any credit facility contract, including, inter alia, loans and credit card overdrafts, from which amounts remain outstanding, irrespective of whether such facility was terminated or has expired; and
- rights and obligations of a creditor against a primary debtor as these result from a civil court judgment in relation to a credit facility, provided amounts remain outstanding under such judgment.

Selling and acquiring loans can be carried out:

- by credit-acquiring companies authorised by the Central Bank of Cyprus;
- authorised credit institutions in Cyprus;
- credit institutions licensed and supervised by the competent authorities of an EU member state and entitled to establish a branch in Cyprus; and
- financial institutions that are subsidiaries of credit institutions licensed in an EU member state and which provide services or carry out business in Cyprus through a branch in Cyprus.

Loan securitisation

Securitisation involves transactions that enable a lender or a creditor to refinance a set of loans, exposures or receivables, by transforming them into tradable securities accessible by investors.

Cyprus law accommodates the securitisation of credit facilities, receivables or exposures that originated from or were acquired by credit institutions, financial institutions or credit-acquiring companies.

The applicable Cypriot framework on securitisations provides for:

- the requirements for due diligence, risk-retention, transparency and credit-granting criteria;
- the requirements for the sale of securitisations to retail clients;

- a ban on resecuritisation;
- rules for securitisation special purpose entities and securitisation repositories;
- a structure for simple, transparent and standardised securitisation;
- a system for administrative sanctions and remedial measures in cases of non-compliance.

Law stated - 3 May 2024

SECURITY INTERESTS AND GUARANTEES

Collateral and guarantee support

Which entities in the organisational structure typically provide collateral and guarantee support for loan financings? Are there certain types of entity that typically do not provide, or are restricted in their ability to provide, collateral and guarantee support for such financings?

Typically, parent companies provide collateral to creditors (directly or through a security agent) to secure obligations of their subsidiary, being the primary debtor. Other group companies may also provide collateral and guarantees.

Law stated - 3 May 2024

Collateral and guarantee support

What types of obligations typically share with the loan obligations in the collateral and guarantee support? If so, are all such obligations equally and ratably covered by the collateral and guarantee support?

Cyprus banks typically require collateral over the current and future assets of the debtor (or the security provider) as security for credit facilities. Such assets may include movable and immovable property.

Guarantees are also typically requested as security, which see the security provider guarantee the obligations of the primary debtor. Overall, typical securities given to secure obligations under bank loans comprise share pledges, fixed and floating charges, mortgages, assignments of receivables and guarantees.

Law stated - 3 May 2024

Commonly pledged assets

Which categories of assets are commonly pledged to secure loan financings? Describe any categories of asset that are typically not thus pledged, or are restricted from being so.

Pledges over the following assets are regulated under statute:

- share certificates;
- bonds (except as secured by mortgage of immovable property);
- promissory notes; and
- bills of exchange.

A pledge over share certificates can be created under statute. A secured creditor who has a pledge in a Cyprus law pledge over share certificates can enforce the pledge (to sell or appropriate the shares concerned) without recourse to court (namely, Cyprus law allows for out-of-court enforcement of a pledge over share certificates).

Law stated - 3 May 2024

Creating and perfecting a security interest

Describe the method of creating and perfecting a security interest on the main categories of assets. What are the consequences of failing to perfect a security interest?

Pledges over shares

Pledging share certificates is a common form of security in financing transactions in Cyprus. A share pledge aims to achieve actual or constructive delivery of possession over the share certificates. In the event of default by the debtor, the pledgee may obtain ownership of the shares pledged or proceed to sell the shares, without having to obtain a court order.

Regarding dematerialised securities, a charge can be taken over the special account of the investor's share account.

Fixed charges

Fixed and floating charges are also regularly used as collateral to secure obligations under an underlying facility. A charge does not grant proprietary rights or interests in the relevant assets but rather provides rights over the asset and proceeds derived from the asset, for the purpose of securing the underlying debt obligations. A fixed charge applies on specific assets with a view to preventing dealings with or disposal of such assets (such as, eg, bank accounts).

Floating charges

A floating charge is a security interest that 'floats' until an event of default occurs or the company goes into insolvent liquidation, at which time the floating charge 'crystallises' and attaches to the relevant assets. In practice, floating charges are usually placed over the entire assets and undertaking of the entity granting the security.

Assignments

Other types of security include the assignment of receivables or contractual rights.

Mortgages

Real estate can be mortgaged to secure the borrower's obligations.

Law stated - 3 May 2024

Future-acquired assets

Can security interests extend to future-acquired assets? Can security interests secure future-incurred obligations?

An equitable charge, assignment, lien or charge can be granted over future property.

A legal mortgage cannot be granted over future property.

A pledge can be granted over shares a company issues in the future, subject to satisfying certain requirements under Cyprus law.

Law stated - 3 May 2024

Maintenance

Describe any maintenance requirements to avoid the automatic termination or expiration of security interests.

Parties are free to contractually agree on specific maintenance terms.

Law stated - 3 May 2024

Release

What are typical steps to release security interests on assets? Is such a release automatic under any circumstances?

The terms of release of a security can be contractually agreed between the parties.

On release of a security, relevant entries should be made in the corporate registers of the entities concerned.

Where the security is also registered with the Registrar, a relevant notice must be filed with the Registrar to deregister the charge registered against the security provider.

To release a legal mortgage over immovable property, the parties must carry out certain formalities with the Land Registry.

Law stated - 3 May 2024

Non-fulfilment of guarantee obligations

What defences does a guarantor have against claims for non-fulfilment of guarantee obligations? Can such defences be waived?

Cyprus law provides for certain defences for guarantors under which their contractual obligations are automatically discharged, which would depend on the precise circumstances.

Unless otherwise provided in the relevant agreement, mere failure by the creditor to initiate legal proceedings or take remedial measures against the principal debtor does not release the guarantor from its guarantee obligations.

In the case of co-guarantors, the discharge of one guarantor by the creditor does not presuppose the discharge of the others, nor the released guarantor is discharged from liability against the other guarantors.

Last, where a guarantee is declared void, the person who has gained any benefit under the guarantee is obliged to restore such benefit or pay damages to the person from whom such benefit was obtained. Circumstances that can lead to a guarantee being declared as void include fraudulent misrepresentation and non-disclosure of material facts to the guarantor in relation to the guaranteed transaction.

Law stated - 3 May 2024

Parallel debt requirements

Describe any parallel debt or similar requirements applicable in a secured loan financing where an agent acts for multiple investors.

Cyprus does not prevent an agent from acting for multiple investors in a financing where a Cyprus company is being financed. An agent can also conclude security arrangements with the borrower and security providers on the part of multiple investors.

Law stated - 3 May 2024

Enforcement

What are the most common methods of enforcing security interests? What are typical limitations on enforcement?

Typically, the financing and security documentation will regulate enforcement of securities in an event of default or otherwise.

A Cyprus law-governed pledge over share certificates can be enforced out of court and the pledgee has the right to sell the pledged share certificates and charged shares.

A floating charge will crystallise over the secured assets in the event of default. The secured lender (or its receiver) may then liquidate the securities in settlement of the owed debt. Unless crystallised prior to the commencement of the liquidation or under their terms, floating charges will rank for payment after liquidation costs and preferential payments. However, floating charges that are not crystallised would rank before other unsecured

creditors to the extent that the company's existing assets do not suffice to satisfy unsecured creditors.

A common enforcement mechanism is the appointment of a receiver over the assets of the debtor company, which can take place out of court. A receiver is typically envisaged under floating charges. An appointed receiver can sell the debtor's assets to satisfy the secured debt.

Law stated - 3 May 2024

Fraudulent conveyance and similar doctrines

Describe the impact of fraudulent conveyance, financial assistance, thin capitalisation, corporate benefit and similar doctrines on the structure of loan financings.

Fraudulent preference

Any conveyance, charge, mortgage, delivery of goods, payment, execution or similar act that took place within six months before the commencement of a winding-up may be considered as a fraudulent preference and be set aside. A preference is fraudulent if it is intended to put a creditor in a better position on liquidation of the company than they would have otherwise enjoyed. Creditors of a fraudulent preference must repay any benefit obtained.

Financial assistance

Financial assistance is prohibited by a company for the purchase of, or subscription for its own shares, or those of its holding company. English case law offers guidance on the definition of financial assistance, where it is apparent that the granting of any loan, guarantee or security falls within the meaning of financial assistance. The Cyprus Companies Law, Cap 113, as amended, provides for financial assistance whitewashing in respect of a private company.

Corporate benefit

Directors owe a duty to act in good faith for the benefit of the company. The company's benefit in acting as a guarantor is easier to prove when it concerns a subsidiary in a downstream guarantee, in contrast to a subsidiary providing guarantee to the parent in an upstream guarantee, or by a group company in a cross-stream guarantee. Corporate benefit may also be difficult to establish where the amount guaranteed exceeds or equals the asset value of the guarantor.

In addition, directors owe fiduciary duties to the company including the general duty to avoid conflicts of interest. A director of a company who is in any way, whether directly or indirectly, interested in a contract or a proposed contract with the company is under a duty to declare the nature of their interest.

Thin capitalisation

There are no thin capitalisation restrictions under Cyprus law. However, there are general anti-avoidance rules in place and professional tax advice should be obtained on a case-by-case basis.

Law stated - 3 May 2024

INTERCREDITOR MATTERS

Payment and lien subordination arrangements

What types of payment or lien subordination arrangements are common where the debtor has obligations owing to more than one class of creditors?

Intercreditor or subordination agreements are often used in transactions involving Cypriot companies, but are not commonly governed under Cyprus law. In terms of creditor ranking, the agreement may include relevant provisions, to which the courts tend to give effect.

On winding up, creditor's claims will be satisfied in accordance with the priority prescribed under the Cyprus Companies Law, Cap 113, as amended. Winding-up costs (including liquidator's fees) and preferential debts take precedence over the satisfaction of any creditor. Preferential debts include taxes and duties due 12 months prior to and at the date of liquidation, wages and salaries and other employment-related amounts.

Within each category of claim, creditors rank equally and abate in equal proportions if there are insufficient funds to pay them in full. Secured creditors are paid out of the proceeds of sale of the charged assets. If there is a surplus from the sale of the charged assets, this becomes part of the general pool of assets. If there is a shortfall, the creditor has an unsecured claim for that shortfall.

The ranking between fixed charge holders is determined by the timing of the registration of the charge with the Cyprus Registrar of Companies.

Law stated - 3 May 2024

Creditor groups

What creditor groups are typically included as parties to intercreditor agreements? Are all creditor groups treated the same under the intercreditor agreement?

Secured creditors and creditors whose rights are affected by an intercreditor agreement are typically parties to such agreements. The treatment of creditors is largely regulated by the provisions of the intercreditor agreement and will be subject to mandatory Cyprus law requirements on liquidation of the Cypriot company concerned.

Law stated - 3 May 2024

Rights of junior creditors

Are junior creditors typically stayed from enforcing remedies until senior creditors have been repaid? What enforcement rights do junior creditors have prior to the repayment of senior debt?

The treatment of creditors is largely regulated by the provisions of the intercreditor agreement and will be subject to mandatory Cyprus law requirements on liquidation of the Cypriot company concerned.

Law stated - 3 May 2024

Rights of junior creditors

What rights do junior creditors have during a bankruptcy or insolvency proceeding involving the debtor?

The concept of seniority of creditors is not applicable, as they will have the same rights among them in a winding-up (provided they prove their claim), where the priority of distribution is set under law and subject to the provisions of the relevant agreements in place.

Specifically, in a creditor's voluntary liquidation or other creditor decisions relating to winding-up proceedings, all creditors have equal voting rights.

Law stated - 3 May 2024

Pari passu creditors

How do the terms of the intercreditor arrangement change if creditor groups will be secured on a pari passu basis?

Secured creditors and creditors whose rights are affected by an intercreditor agreement are typically party to such agreements. The treatment of creditors is largely regulated by the provisions of the intercreditor agreement and will be subject to mandatory Cyprus law requirements on liquidation of the Cypriot company concerned.

Intercreditor agreements are drafted taking into account Cyprus law restrictions but can generally facilitate the ranking of creditor groups on a pari passu basis.

Law stated - 3 May 2024

LOAN DOCUMENT TERMS

Standard forms and documentation

What forms or standardised terms are commonly used to prepare the loan documentation?

Cypriot banks tend to use their own standardised terms for their credit facilities. These terms must comply with applicable Central Bank of Cyprus directives and guidelines.

Law stated - 3 May 2024

Pricing and interest rate structures

What are the customary pricing or interest rate structures for loans? Do the pricing or interest rate structures change if the loan is denominated in a currency other than the domestic currency?

Cyprus law defines ‘base rate’ as the base rate of an authorised credit institution, expressed in euros or any other currency, or the base rate of the European Central Bank, the Euro Interbank Offered Rate (EURIBOR)

rate or the London Inter-Bank Offered Rate (LIBOR) rate, or the base rate of the national central bank of a country that is issuing the currency or any other rate similar to EURIBOR.

The base rate methodologies applied by Cypriot banks vary.

Cypriot banks are required to stipulate the type of base rate applicable to the loan or credit facility from time to time, the method of its calculation and the time at which it is due to be collected or charged to the borrower’s account. Banks must also provide borrowers written notice over any change to the base rate or a change on the payment date of the interest, or generally for any other change related to the base rate. Banks are not able to capitalise interest more than twice a year and must transparently present the calculation method of their base rate on their website.

Where a credit facility is made in a foreign currency, the borrower has a right to convert the credit facility into an alternative currency, which must be a currency that the credit institution trades with and which is either:

- the currency in which the borrower primarily receives income or holds assets from which the credit is to be repaid; or
- the currency of the country in which the borrower was resident at the time the credit facility was granted or is currently resident.

Law stated - 3 May 2024

Pricing and interest rate structures

Does loan documentation in your jurisdiction incorporate any mechanisms to replace an established, floating benchmark rate in case such benchmark rate becomes, or is expected to become, unavailable?

Cypriot banks have proactively taken measures in light of the discontinuation of LIBOR.

Law stated - 3 May 2024

Other yield determinants

What other loan yield determinants are commonly used?

Pricing floors may be applied in respect of the determination of interest rates.

Premature repayment premiums are normally limited to breakage costs in the case of prepayments made before the expiry of the loan (in respect of fixed-rate loans).

Law stated - 3 May 2024

Yield protection provisions

Describe any yield protection provisions typically included in the loan documentation.

In bank loans using LMA-based agreements, typical yield protection provisions include:

- increased cost provisions to cover the costs that the lenders may incur as a result of:
 - the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation; or
 - compliance with any law or regulation made after the date of the financing agreement;
- make-whole amounts or prepayment fees;
- tax gross-up provisions; and
- break-up costs.

Law stated - 3 May 2024

Accordion provisions and side-car financings

Do loan agreements typically allow additional debt that is secured on a pari passu basis with the senior secured loans?

Cypriot banks demonstrate a preference for first-ranking priority security and may at times insist on restricting the debtor from incurring additional indebtedness. Provisions of pari passu ranking may be included in the bank loan agreements and the senior secured bank loans, or relevant intercreditor or subordination agreements.

Law stated - 3 May 2024

Financial maintenance covenants

What types of financial maintenance covenants are commonly included in loan documentation, and how are such covenants calculated?

Cyprus law-governed loan agreements may include financial maintenance covenants such as loan-to-value ratio, indicating the maximum percentage of the loan towards the value of a pool of assets, and an interest cover ratio, indicating the minimum ability of the borrower to pay its interest obligations for a certain interest period.

A foreign law-governed LMA-based loan agreement would typically include the following financial maintenance covenants:

- equity-to-debt ratio;
- loan-to-value ratio, indicating the maximum percentage of the loan towards the value of a pool of assets;
- an interest cover ratio, indicating the minimum ability of the debtor to pay its interest obligations for a certain interest period; and
- capital expenditure indicating the maximum amount for capital expenditures.

Law stated - 3 May 2024

Other negative covenants

Describe any other negative covenants restricting the operation of the debtor's business commonly included in the loan documentation.

Loan agreements will commonly endeavour to restrict the debtor's ability to (indicatively):

- incur further indebtedness or grant security without the lender's consent;
- amend the objects of its business;
- dispose of any assets or vote in a certain way; and
- proceed with changes of officers or management.

Law stated - 3 May 2024

Mandatory prepayment

What types of events typically trigger mandatory prepayment requirements? May the debtor reinvest asset sale or casualty event proceeds in its business in lieu of prepaying the loans? Describe other common exceptions to the mandatory prepayment requirements.

Change of control, change of constitutional documents, the alienation of assets or other events may trigger mandatory prepayment mechanisms, subject to the precise terms of the loan agreement.

Law stated - 3 May 2024

Debtor's indemnification and expense reimbursement

Describe generally the debtor's indemnification and expense reimbursement obligations, referencing any common exceptions to these obligations.

Debtor's indemnification and expense reimbursement obligations will typically follow LMA standards, subject to any mandatory Cyprus law restrictions.

Law stated - 3 May 2024

UPDATE AND TRENDS

Key developments

Are there any current developments or emerging trends that should be noted?

Improving economic conditions are attracting investors to participate in syndicated loans and potentially the corporate bond market. This can provide borrowers with more competitive rates and lenders with a wider range of investment opportunities.

The Cypriot banking sector is healthier compared to previous years, with better capital adequacy and lower non-performing loans. This could lead to increased lending capacity and potentially more competitive loan terms.

On the national economy front, the European Commission forecasts real GDP growth for Cyprus of 2.8 per cent and 3 per cent in 2024 and 2025, respectively, indicating a continuation of the expansion seen in recent years.

Law stated - 3 May 2024