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# World Aircraft Repossession Index

Third Edition  
November 2018

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Pillsbury Winthrop Shaw Pittman LLP

# World Aircraft Repossession Index

**THIRD EDITION**

covering 102 jurisdictions worldwide

November 2018

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# Preface

## **World Aircraft Repossession Index**

Third Edition

Pillsbury Winthrop Shaw Pittman LLP is pleased to publish this Third Edition of the World Aircraft Repossession Index.

This Third Edition builds on the success of our Second Edition and covers 31 “new” jurisdictions. In this edition we analyze a total of 102 popular jurisdictions worldwide in which aircraft are registered and operate. Utilizing seven primary criteria and a proprietary scoring methodology, this Third Edition synthesizes expert analysis provided by reputable local counsel and select data obtained from other third-party sources to numerically score the legal environment in each jurisdiction with respect to repossessing and exporting aircraft assets.

The attorneys in Pillsbury’s global Asset Finance team are well aware of the challenges inherent in leasing and financing aircraft in jurisdictions around the globe. When doing business in any location, it is advisable to understand the local issues that may affect your investment. Prudent lessors and financiers of aircraft should know in advance what issues they might encounter in the event they need to repossess their aircraft. Analyzing jurisdictional questionnaires from local counsel is often an important part of this educational process. However, reviewing narrative responses contained in traditional jurisdictional questionnaires and comparing them across various jurisdictions can be time consuming and costly. This publication represents a refinement of this process and serves as a desk-top resource. By utilizing an objective scoring methodology we highlight key challenges within, and differences among, jurisdictions.

The foundation of the World Aircraft Repossession index is Pillsbury’s unique “check-box” jurisdictional questionnaire, the form of which can be found in the Appendix. In addition to a one-page summary for each jurisdiction, the results of our analysis are represented in a global rankings chart and a world map, indicating the comparative ranking that each jurisdiction has achieved.

The Pillsbury team has been delighted to discuss the World Aircraft Repossession Index at numerous public events and private meetings around the world including those hosted by the American Bar Association, Aviation Working Group, Euromoney, Ishka and ISTAT. The overwhelmingly positive feedback we have received is an endorsement of our methodology and the hours of work devoted to this publication by each local counsel participant and the Pillsbury team. In addition, we have found that the World Aircraft Repossession Index has proven to be a welcome addition to the tools available to industry participants, particularly leasing companies and financial institutions, for analyzing jurisdictions at every stage of a transaction.

Please read the disclaimer on page 2 before using any of the information contained in this publication.

We gratefully acknowledge and would like to thank all of the local counsel contributors in each jurisdiction, as well as each of our third-party data providers, for dedicating their time and data, free of charge, to make this publication possible. Special thanks to Ms. Crystal Siu, a highly experienced transaction manager and prized Asset Finance team member, whose contributions to this publication were essential. We are most grateful to Ms. Sarah Humpleby, formerly of Pillsbury, who served as a co-editor of the Second Edition and who made a significant contribution to this Third Edition. We would also like to give due recognition to Mr. Dominic Pearson, formerly of Pillsbury, who created the World Aircraft Repossession Index and served as the general editor of the First Edition. Many thanks to you all!

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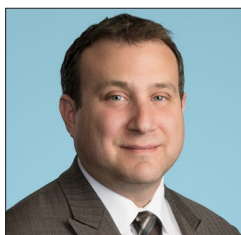


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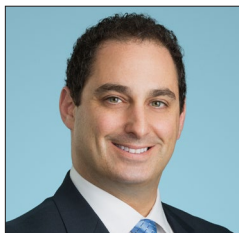
Mr. Jebely has been repeatedly recognized by *Chambers*, *Legal 500* and *Who's Who* as a "very highly rated" leading individual in aviation finance and has been singled out in *Chambers* as "extremely competent," "commercially aware," "responsive," "courteous," "technically skilled," "capable," "attentive" and "driven." He has been quoted by the *Financial Times*, the *Wall Street Journal*, *Bloomberg*, the *China Business Network* and various industry publications on the basis of his experience in the aviation markets in Asia and Africa in particular. He was the 2015 recipient of the "Outstanding Contribution to African Aviation Development" award—the only lawyer to receive the award since its inception in 1999, and was recognized by *Asian Legal Business* in October 2016 among "Asia 40 Under 40" top "brightest legal minds in the region." Mr. Jebely has earned a Band 1 ranking globally in *Chambers High Net Worth* for private aircraft-related legal counsel in 2018. Sources have noted that "he is one of the best lawyers [they] have ever met in [their] life, in terms of professionalism and knowledge in the field and patience explaining everything."



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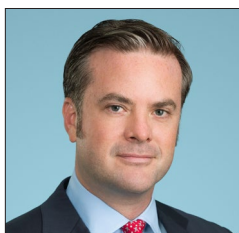
Jonathan Goldstein is a Pillsbury Finance partner based in the New York office whose transactions have won several awards, including *Airfinance Journal's* "Deal of the Year." He has also been recognized by *The Legal 500 US* in Structured Finance and as a "Leading Lawyer and Rising Star" by *Airfinance Journal* and IFLR 1000. He also was a team member on *Airfinance Journal* 2016 Editor's Deal of the Year for his contribution on the Labrador ABS transaction. Mr. Goldstein represents sponsors, lenders, hedge funds, commercial banks and leasing companies in connection with a broad spectrum of international financial and corporate transactions. He advises clients on public offerings and private placement of securities (equipment notes and portfolio securitizations), acquisitions, leveraged leasing, secured and unsecured lending, structured financings, syndicated credit facilities, pre-delivery payment and warehouse facilities. Mr. Goldstein's practice also addresses simple and complex bank loans, mergers and acquisitions, leverage financings, joint ventures, sale/resale transactions and bankruptcy workouts.



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Mr. Evans' notable commercial leasing clients include Aergen, AerCap, Air Lease Corporation, Aviation Capital Group, BBAM, Cusco Aviation, FPG Amentum, Jackson Square Aviation (JSA), Orix Aviation, Sky Leasing and Wings Capital Partners. In addition to his private practice experience, he was interim general counsel at JSA, a consultant at a startup aircraft leasing company, and in-house counsel at Airbus Group. His broad asset finance experience and connections to high net worth individuals on the West Coast and aviation industry players worldwide make him ideally-placed to coordinate and deliver the firm's expertise to private aviation clients in a wide range of practice areas, including: asset finance, employment, estates trusts & tax planning, executive benefits and regulatory.



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Sharon Nourani is an associate in the law firm's Asset Finance practice and is located in the Hong Kong office. Qualified as a solicitor of England & Wales, Ms. Nourani has closed over one hundred aircraft financing transactions, advising clients that represent the full range of industry participants in matters concerning all classes of commercial and business aircraft. She is experienced in negotiating and executing international aircraft and engine financing, leasing and trading transactions, including pre-delivery payment financings, sale and leasebacks and secured loan transactions.

Ms. Nourani speaks regularly at client briefings and industry conferences on trends in aviation finance, most recently at the AirFinance Journal's Africa 2018 Conference in Johannesburg.



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Abigail Carter is an associate based in Pillsbury's London office, focusing on aviation finance. She is experienced in acting on a range of cross-border aircraft finance transactions such as leasing, secured loan transactions and sale and acquisition transactions and related novations. Recently, Ms. Carter acted for Oaktree Capital and World Star Aviation on the purchase and financing of 18 aircraft, which was awarded the *Airline Economics* Overall Debt Deal of the Year 2018. Prior to joining Pillsbury, she completed a six month secondment to Singapore focusing on aviation finance transactions.



# About Pillsbury

Pillsbury's global Asset Finance practice is a leader in the field of structuring, negotiating and closing transactions for transportation assets, with particular emphasis on aircraft and other aviation equipment. For more than 65 years, we have been representing some of the most active international participants in the financing of transportation assets, including major banks, leasing companies, airlines, investors, traders and manufacturers.

Since 2000, Pillsbury attorneys have assisted their clients in the financing or refinancing of more than a thousand commercial and corporate jet aircraft with an aggregate value of more than \$40 billion—and in the financing or refinancing of more than 400 spare aircraft engines with an aggregate value of more than \$2.5 billion. We have had important roles in all of the US, and many foreign, airline bankruptcies and restructurings and work closely with lawyers in our restructuring group on these matters. Our team also has significant experience with railroad rolling stock, locomotives, ships, containers and fleets of land-based vehicles, as well as other capital assets financed with similar techniques, such as floating drilling rigs, satellites, telecommunications and manufacturing equipment. In recent years we have successfully negotiated and documented Ex-Im Bank-supported financings for equipment valued at more than \$4 billion. We have also dealt with other export credit agencies and government-supported programs, such as Japan Eximbank, ECGD, COFACE and HERMES, as well as transactions involving the latest financing structures including those involving JOLCOs and AFIC support.

Pillsbury's Asset Finance team includes attorneys in our New York, London, Hong Kong, Tokyo, Los Angeles, San Francisco and Washington D.C. offices who are supported by leading practitioners in related fields such as taxation, aviation regulatory, restructuring, capital markets, mergers and acquisitions, international trade and licensing, corporate aviation, insurance, accident investigations and litigation. Our team has extensive experience with cross-border financings of transportation assets located and operated throughout the world and often handles large scale transactions involving multiple jurisdictions. Our offices and network of local law firms stand ready to assist our clients any place, any time. This broad-based, integrated approach allows us to offer a full range of legal services to all industry participants.

Our Asset Finance attorneys are well-known in the industry for their contributions to the state of the art, whether it is completing novel transactions, publishing articles on new financing techniques, sitting on standard-setting committees or speaking at some of the many conferences, seminars, workshops and other events organized for the asset finance community. These contributions are consistently recognized by industry observers, including the prestigious Chambers, which has named us one of the leading aviation finance firms in the world. We have also recently received awards and accolades for our legal work from *Jane's Transport Finance*, *AirFinance Journal*, *Global Trade Review* and *Trade Finance*.



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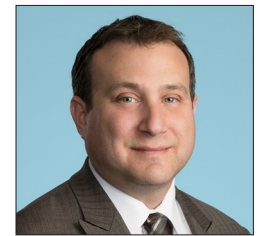
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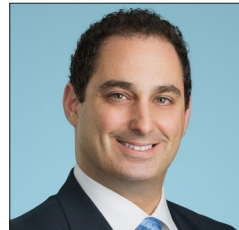
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# Methodology and Interpretation of Results

Creating an index of this sort poses two big challenges. Firstly, in order to allow quantitative-based scoring, the jurisdictional questionnaire must be crafted in a way that allows the questions to be efficiently and comfortably answered by local counsel in a closed-ended fashion without qualification; that is, by selecting an answer from a pre-defined set of responses (such as “Yes” or “No”). Secondly, having boxed-in those answers so as to allow for scoring, careful consideration needs then to be given to how the jurisdiction may be scored in a meaningful and useful manner. The first of these challenges has been accomplished by the creation of what we have called the “**30-Minute (Check-Box) Jurisdictional Questionnaire**”. The second of these challenges has been accomplished by generating a simple but effective weighted scoring mechanism. *You should read this section to understand better what the results contained in the one-page summaries mean, and how to interpret them.*

The Pillsbury World Aircraft Repossession Index measures the legal environment for aircraft repossessions in each country or jurisdiction using seven factors (**repossession, insolvency, deregistration, export, judgments and arbitral awards, preferential liens and political stability**). Each factor is assigned a weighting in accordance with its relative importance, with each factor’s score and its weighting being used to calculate the overall score for the country or jurisdiction. Each factor’s score is determined according to several sub-factors comprising either: (a) the questions asked in the jurisdictional questionnaire, or (b) certain other information about the jurisdiction collected from external sources. A summary of each of the seven factors and their component sub-factors is presented in the Table on the next page and described in detail in the commentary below.

**Overall Score and Recoverability Category.** The overall score for each jurisdiction is expressed near the top of the page of each one-page summary. A score of 0% represents the poorest possible score and the lowest rating in terms of asset recoverability. In contrast, a score of 100% represents the best possible score and the highest rating in terms of asset recoverability. Additionally, each jurisdiction has been assigned a broader asset recoverability rating or category as follows: those jurisdictions whose overall score was 75% or higher have been assigned a “**LOWER RISK**” asset recoverability rating; those jurisdictions whose overall score was 50% or higher, but less than 75%, have been assigned a “**MODERATE**” asset recoverability rating; and finally those jurisdictions whose overall score was less than 50% have been assigned a “**HIGHER RISK**” asset recoverability rating.

**World Map.** On page 21 we have summarized the overall scores and asset recoverability ratings of each jurisdiction in the form of a world map. The green, yellow and red colorings represent jurisdictions whose asset recoverability ratings are “**LOWER**”, “**MODERATE**” and “**HIGHER**” respectively, with the finer gradient of the color indicating whether the jurisdiction sits at the top, middle or bottom of the range for that category of risk.

**30-Minute (Check-Box) Jurisdictional Questionnaire.** For each country or jurisdiction covered in this index, a reputable local counsel completed a 30-Minute (Check-Box) Jurisdictional Questionnaire. A copy of the pro-forma jurisdictional questionnaire is provided in the Appendix on page 222. The completed questionnaires provided the majority of the information used to score the jurisdictions. However, the Political Stability factor was determined using information collected from other third-party sources.

**Aircraft Registration.** In the 30-Minute (Check-Box) Jurisdictional Questionnaire, we asked local counsel to answer questions relating to the registration of the aircraft on the country’s aircraft register. While this information is not scored (as it is the characteristics of deregistration of the aircraft, not registration, that is most relevant), it serves two purposes which we hope will be of use to readers.

Firstly, it is informative in respect of whose name the aircraft may be registered in that jurisdiction and whether the interests of the owner and mortgagee may also be noted, either on the aircraft register, the certificate of registration or on some other public register. It is also informative in respect of the existence of any delegation arrangements with other countries, such as 83bis delegation agreements pursuant

**Table: Summary of Factors and Sub-Factors**

WEIGHTING	FACTORS	SUB-FACTORS
22.5%	<b>Repossession</b>	(1) Self-help remedies; (2) Requirement for a deposit, bond or other security in judicial proceedings; (3) Repossession taxes and fees; (4) Speed of repossession; (5) Legal cost of repossession; (6) ASU Cape Town Discount or Qualifying OECD Status.
12.5%	<b>Insolvency</b>	(1) Sophistication of insolvency laws; (2) Insolvency moratorium; (3) Overreaching of the lessee’s insolvency estate.
10.0%	<b>Deregistration</b>	(1) Third party deregistration rights; (2) Historical precedent of refusing to deregister; (3) Convenience of deregistration.
10.0%	<b>Export</b>	(1) Third party export rights; (2) Export licenses and permits; (3) Export fees and taxes.
7.5%	<b>Judgments and Arbitral Awards</b>	(1) Enforceability of judgments; (2) Enforceability of arbitral awards.
7.5%	<b>Preferential Liens</b>	(1) Onerous and unusual preferential liens: non-possessory liens; (2) Onerous and unusual preferential liens: fleet-wide liens; (3) Onerous and unusual preferential liens: liens in favor of a lessee or debtor; (4) Government requisition and confiscation.
30.0%	<b>Political Stability</b>	(1) OECD States; (2) Sovereign credit rating; (3) World Justice Project – Rule of Law Index 2017-2018; (4) Heritage Foundation – 2018 Index of Economic Freedom; (5) World Economic Forum – Global Competitiveness Report 2017-2018.

to Article 83bis of the Chicago Convention,<sup>1</sup> such that an aircraft operating and habitually based in that country may be registered in another country.

Secondly, because delegation arrangements allow operating lessors and financiers to mitigate against the adverse effects of the local aircraft registration (and deregistration) rules by allowing an aircraft to be registered in another country, this has allowed us to blend the deregistration score of such other country with the scores of each of the remaining factors for the country in which the aircraft is habitually based. This blended score thus more accurately reflects the total aircraft repossession risk, and is presented in the one-page summary.

**Repossession by Owner-Lessor or by Mortgagee?**

We have designed the questions in the 30-Minute (Check-Box) Jurisdictional Questionnaire in a manner that contemplates both repossession of an aircraft from a defaulting lessee under an aircraft lease, as well as repossession by a “mortgagee” from a defaulting owner-debtor. The phrase “mortgagee” when used in this publication and in the jurisdictional questionnaire means a person who has a first priority security interest in the aircraft, and includes a person in the equivalent position to a mortgagee under applicable local law, such as a “pledgee”, or a “chargee” holding an “international interest” in the airframe and aircraft engines

<sup>1</sup> The Convention on International Civil Aviation, signed at Chicago, on 7 December 1944.

pursuant to the Cape Town Convention.<sup>2</sup>

**Factor 1: Repossession (weighting: 22.5%).** This factor evaluates the owner-lessor or mortgagee’s theoretical ability to repossess the aircraft in a cost effective and timely manner. This factor comprises the following sub-factors:

*Self-help remedies.* Credit was given if the local jurisdiction allows the owner-lessor or mortgagee to exercise so-called self-help remedies. “Self-help” means that the laws of the local jurisdiction permit an owner-lessor or mortgagee, as applicable, to repossess the aircraft from an uncooperative lessee (or debtor) without the need to obtain a court order, provided that it does so peaceably, without using force or the threat of force.

*Requirement for a deposit, bond or other security in judicial proceedings.* Credit was given if the courts of the jurisdiction do not typically require the owner-lessor or mortgagee, as a condition to obtaining a judicial order for repossession of the aircraft, to deposit a bond or other guarantee with the court.

*Repossession taxes and fees.* Credit was given if there are no significant fees or taxes payable in order for the owner-lessor or mortgagee to obtain a judicial order for repossession

<sup>2</sup> The Convention on International Interests in Mobile Equipment together with Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, each signed at Cape Town, South Africa, on 16 November 2001.



of the aircraft. An example of such a tax might include a stamp tax payable as a condition to admitting documents in evidence for the purposes of repossession proceedings (where self-help remedies are not available). We left it to local counsel to determine, using their professional judgement, whether they thought any such fees were significant; however, we indicated that “significant” fees or taxes would include any fees or taxes assessed on a percentage basis against the value of the aircraft or the sum secured by a mortgage, etc., but might exclude nominal fees or nominal taxes amounting to less than US\$1,000 or its equivalent in the local currency of the jurisdiction.

*Speed of repossession.* We asked local counsel to estimate, on the balance of probabilities, how quickly a court order may be obtained for repossession of an aircraft, following commencement of judicial proceedings, given a choice of four bands: (a) less than or equal to 60 days; (b) more than 60 days but less than or equal to 180 days; (c) more than 180 days but less than or equal to one year; or (d) more than one year. Greater credit was given to the faster bands. In estimating the speed with which such order could be obtained, we asked local counsel to ignore any self-help remedies that may be available as an alternative means of repossession. We also asked local counsel to assume that:

1. the mortgagee or the owner-lessor is ultimately successful;
2. the proceedings are contested by the lessee (or an insolvency practitioner or bankruptcy trustee on its behalf), but are otherwise not contested by any competing creditor;
3. where judicial proceedings are instigated by the mortgagee, it has the cooperation of the owner-lessor;
4. there is already either an English or New York judgment or an arbitration award ordering repossession (and that local counsel should select the answer that represents the quickest of either litigating afresh on the merits or enforcing such judgment or award);
5. the lessee is insolvent at the time the proceedings are instituted; and
6. the proceedings may either be for a preliminary (i.e. interim) or a final order, whichever can be obtained the quickest in the local jurisdiction.

*Legal cost of repossession.* We also asked local counsel to estimate, on the balance of probabilities, the legal costs of obtaining a court order for repossession of an aircraft, following commencement of judicial proceedings, given a choice of four bands: (a) less than or equal to US\$50,000; (b) more than US\$50,000 but less than or equal to US\$250,000; (c) more than US\$250,000 but less than or equal to

US\$1,000,000; or (d) more than US\$1,000,000. Greater credit was given to the less costly bands. We asked local counsel to make an equivalent set of assumptions as they made when answering the speed of repossession question. In addition, we also indicated to local counsel that their estimate should be inclusive of all court and lawyer fees incurred by the owner-lessor or mortgagee, but should disregard any amounts that represent any potential recovery of those costs.

*ASU Cape Town Discount or Qualifying OECD Status.* Bonus credit was given if either or both of the following apply: (1) as of August 30, 2018, the country qualifies for the OECD’s Aircraft Sector Understanding Cape Town Discount ([www.oecd.org/tad/xcred/ctc.htm](http://www.oecd.org/tad/xcred/ctc.htm)); and/or (2) as of June 25, 2018 the country is an OECD “high-income” or “zero-rated” country ([www.oecd.org/tad/xcred/cre-crc-current-english.pdf](http://www.oecd.org/tad/xcred/cre-crc-current-english.pdf)), with an investment grade sovereign credit rating, according to Standard & Poor’s (or where a Standard & Poor’s rating is not available, according to Moody’s, if available).

**Factor 2: Insolvency (weighting: 12.5%).** This factor evaluates the friendliness of the jurisdiction’s insolvency laws from a creditor’s perspective. This factor comprises the following sub-factors:

*Sophistication of insolvency laws.* Credit was given where local counsel was of the opinion that the jurisdiction’s insolvency laws were moderately or well developed. We asked local counsel to restrict their analysis to insolvency law as it relates to the rights of a mortgagee (as a creditor) and an owner-lessor (as a creditor/owner) and to take into account both the frequency, volume and history of case law and any applicable legal commentary on the subject, as well as the sophistication of the applicable statutes.

*Insolvency moratorium.* We asked local counsel to indicate, under the mandatorily applicable laws of the local jurisdiction, the period during which a moratorium may be imposed in the event of a lessee (or debtor) insolvency / bankruptcy which adversely affects the rights of the owner-lessor (or mortgagee) to repossess an aircraft on termination of the leasing of the aircraft or enforcement of the mortgage. A choice of four bands was given: (a) less than or equal to 60 days; (b) more than 60 days but less than or equal to 180 days; (c) more than 180 days but less than or equal to one year; or (d) more than one year or variable. We asked local counsel to assume that the lessee (or debtor) entity is subject to the mandatorily applicable insolvency / bankruptcy laws of the local jurisdiction. In circumstances where, under the law of the local jurisdiction, more than one answer is applicable because the moratorium period may vary depending on other factors (e.g. whether or not the Cape Town Convention applies or some other criteria are met), local counsel was

asked to select the most favorable (i.e. the shortest) such time period, and to indicate that the answer applied only to limited circumstances. Greater credit was given for a shorter moratorium period, and additional credit was given where a shorter moratorium period applied in all circumstances, rather than only in limited circumstances.

*Overreaching of the lessee’s insolvency estate.* Credit was given where the mandatorily applicable insolvency laws of the local jurisdiction did not deem the aircraft to be the lessee’s property and part of its bankruptcy or insolvency estate (notwithstanding the owner-lessor’s status as legal owner), in circumstances where the lessee is put into administration, liquidation or similar bankruptcy or insolvency process. In answering this question, we asked local counsel to assume that the lessee entity is subject to the mandatorily applicable insolvency / bankruptcy laws of the local jurisdiction, and that the lease is a true operating lease (and not a finance or capital lease).

**Factor 3: Deregistration (weighting: 10%).** This factor evaluates the ease with which an owner-lessor or a mortgagee may deregister an aircraft registered on the country’s aircraft register. This factor comprises the following sub-factors:

*Third party deregistration rights.* Credit was given if the laws of the local jurisdiction and/or the local practice of the aircraft register or aviation authority will honor a unilateral request by the owner-lessor or mortgagee to deregister the aircraft from the aircraft register, without the cooperation of the lessee. Such a request could be honored either: (a) pursuant to the exercise of a deregistration power of attorney or an “irrevocable deregistration and export authorization” (“IDERA”) pursuant to the Cape Town Convention granted in favor of the owner-lessor or mortgagee (as applicable); or (b) pursuant to such person’s status as an owner-lessor or mortgagee of the aircraft, even without any such power or IDERA. In answering these questions, we also asked local counsel to assume that:

1. the owner-lessor or mortgagee has repossessed the aircraft, or is seeking simultaneous repossession of the aircraft;
2. the leasing has terminated or that the mortgage has become enforceable, as applicable;
3. where any such deregistration request is made by an owner-lessor, it is with the consent of the mortgagee (if any); and
4. “cooperation of the lessee” includes a requirement that the original of the certificate of registration be surrendered.

*Historical precedent of refusing to deregister.* In the event that

laws of the local jurisdiction and/or the local practice of the aircraft register or aviation authority entitle an owner-lessor or mortgagee to deregister an aircraft, credit was deducted if local counsel was aware of any instances where the aircraft register or aviation authority had refused to honor a request by the owner-lessor and/or the mortgagee (as applicable) to deregister the aircraft, despite being otherwise entitled to do so. “Despite being otherwise entitled to do so” means that the owner-lessor or mortgagee, in submitting the deregistration request, has complied with the local law and the paperwork required for deregistration is otherwise in order.

*Convenience of deregistration.* Credit was given if, with respect to deregistration of an aircraft, the aircraft register or aviation authority does not require the application forms necessary for registration, any necessary consents, authorizations or supporting documents to be notarized and/or authenticated before it will accept and process the deregistration of an aircraft. “Authenticated” includes any requirement that a document be apostilled, consularized, legalized or translated.

**Factor 4: Export (weighting: 10%).** This factor evaluates the ease with which an owner-lessor or a mortgagee may export an aircraft habitually based in the country. This factor comprises the following sub-factors:

*Third party export rights.* Credit was given if the laws of the local jurisdiction allow an owner-lessor (with the consent of the mortgagee, if any) or a mortgagee to unilaterally export the aircraft from the country without the cooperation of the lessee (and the owner-lessor, in the case of the mortgagee). We asked local counsel to assume that:

1. the owner-lessor or mortgagee has repossessed and deregistered the aircraft, or is seeking simultaneous repossession and deregistration of the aircraft;
2. the leasing has terminated or the mortgage has become enforceable, as applicable;
3. the owner-lessor or mortgagee has an export power of attorney granted in its favor; and
4. the lessee or owner-debtor is insolvent and uncooperative at the time the owner-lessor or mortgagee is seeking to export the aircraft from the country.

*Export licenses and permits.* Credit was given if an owner-lessor or mortgagee may export the aircraft from the country without requiring an export license or permit. We asked local counsel to disregard any restrictions relating to the export of goods to countries subject to sanctions or with respect to classified or military equipment installed on the aircraft.

*Export taxes and fees.* Credit was given if there are no

significant fees or taxes payable in order for the owner-lessor or mortgagee to export the aircraft from the country. We left it to local counsel to determine, using their professional judgement, whether they thought any such fees were significant; however, we indicated that “significant” fees or taxes would include any fees or taxes assessed on a percentage basis against the value of the aircraft or the sum secured by a mortgage, etc., but might exclude nominal fees or nominal taxes amounting to less than US\$1,000 or its equivalent in the local currency of the jurisdiction.

**Factor 5: Judgments and Arbitral Awards (weighting: 7.5%).** This factor evaluates the ease with which an owner-lessor or a mortgagee may enforce a judgment or arbitral award in the jurisdiction without having to re-litigate the case on its merits. This factor comprises the following sub-factors:

*Enforceability of judgments.* Credit was given if the courts of the jurisdiction will recognize and enforce either: (a) a judgment rendered by a New York state or US federal court sitting in New York; or (b) a judgment rendered by an English court, without the case being re-examined on its merits. “Enforcement” means the enforcement of money awards only (and not injunctive or any other type of non-monetary relief). We also indicated to local counsel that “without the case being re-examined on its merits” meant that enforcement would only be subject to the satisfaction of one or more of the following threshold conditions (and would not be subject to any other additional conditions):

1. the court rendering the judgment must have had jurisdiction over the defendant and has obtained such jurisdiction in a way that is compatible with the laws of the local jurisdiction;
2. the judgment of the rendering court must have been final and conclusive and not subject to appeal;
3. the judgment must have been given on the merits of the case (and, for example, must not have been obtained by way of “judgment in default”);
4. the judgment must not have been obtained by fraud;
5. the judgment must not be incompatible with the public policy of the local jurisdiction;
6. the judgment must not contradict another judgment rendered by a court in the local jurisdiction; and/or
7. in the case of a judgment rendered by an English court, if the country is a sister EU member state, any of the conditions or exceptions permitted by the “recast” Brussels Regulation (Council Regulation (EU) 1215/2012).

Additionally, we made clear that a requirement for reciprocity of recognition/enforcement by a New York or

English court (as applicable) is NOT a permitted threshold condition, unless it can be said with reasonable certainty that on a general basis (rather than on a case by case basis) such reciprocity requirement will be satisfied with respect to any such New York or English court judgment (because, for example, a reciprocal enforcement treaty exists).

*Enforceability of arbitral awards.* Credit was given if the country has adopted the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) and the courts of the local jurisdiction recognize and enforce a decision of an arbitrator. We asked local counsel to assume that a court in the local jurisdiction would be entitled to refuse enforcement of the arbitral award based on one of the exceptions and carve-outs enumerated in the New York Convention.

**Factor 6: Preferential Liens (weighting: 7.5%).** This factor evaluates the status of any onerous or unusual non-consensual preferential liens and requisition risks which could be imposed by the laws of the local jurisdiction and which may adversely affect an owner-lessor’s or mortgagee’s rights to the aircraft. “Preferential lien” means a lien that would take priority over the owner/lessor’s ownership and/or a mortgagee’s secured creditor rights in the aircraft, and “non-consensual” means that it arises by operation of law and not by agreement between a person with rights in the aircraft and the lien-holder. This factor comprises the following sub-factors:

*Onerous and unusual preferential liens—non-possessory liens.* Credit was given if the laws of the local jurisdiction do not provide for any non-consensual preferential non-possessory liens over aircraft that could arise in favor of a repairer / mechanic or a landlord / hangar-keeper.

*Onerous and unusual preferential liens—fleet-wide liens.* Credit was given if the laws of the local jurisdiction do not provide for any “fleet-wide” non-consensual preferential liens or equivalent rights or rights of detention over aircraft that could arise in favor of third parties not requiring any form of registration. A “fleet-wide” lien means a lien that has arisen as a result of unpaid amounts attributable to a particular aircraft in an operator’s fleet, but has attached or is capable of attaching to any other aircraft in that operator’s fleet (i.e. any other aircraft operated by that operator), regardless of the fact that the owners of such aircraft may be different.

*Onerous and unusual preferential liens—liens in favor of a lessee or debtor.* Credit was given if the laws of the local jurisdiction do not provide for any non-consensual preferential liens or equivalent rights or rights of detention over aircraft that could arise in favor of a lessee or debtor (i.e. not a third party) not requiring any form of registration. An example



of such lien might include a non-consensual preferential lien over the aircraft arising by operation of law in favor of a lessee in circumstances where the lessee has a valid counterclaim against the owner-lessor.

*Government requisition and confiscation.* Credit was given if the laws of the local jurisdiction do not allow the government to requisition or confiscate an aircraft without needing to pay the owner reasonable compensation. We asked local counsel to disregard government requisition or confiscation of the aircraft in circumstances where there has been a violation of any drug-trafficking laws or other criminal offenses.

**Factor 7: Political Stability (weighting: 30%).** This factor evaluates, predominantly, the adherence by the jurisdiction to the rule of law, by reference to a number of rule of law indices and other approximate measures, and should be helpful in determining the ease with which the theoretical legal rights available to an owner-lessor or mortgagee may be enforced in practice. This factor comprises the following sub-factors:

*OECD status.* Credit was given if the country is an OECD “high-income” or “zero-rated” country according to the OECD’s “country risk” classification system (see further, [www.oecd.org/tad/xcred/cre-crc-current-english.pdf](http://www.oecd.org/tad/xcred/cre-crc-current-english.pdf)).

*Sovereign credit rating.* Credit was given to countries with an investment grade sovereign credit rating, according to Standard & Poor’s (or where a Standard & Poor’s rating is not available, according to Moody’s, if available).

*World Justice Project – Rule of Law Index (2017-2018).* Greater credit was given to countries with higher scores on the following measures: “Absence of Corruption”, “Open Government”, “Regulatory Enforcement” and “Civil Justice” (see further, [worldjusticeproject.org/our-work/wjp-rule-law-index](http://worldjusticeproject.org/our-work/wjp-rule-law-index)).

*Heritage Foundation – 2018 Index of Economic Freedom.* Greater credit was given to countries with higher scores on the following measures: “Property rights” and “Government Integrity” (see further, [www.heritage.org/index/](http://www.heritage.org/index/)).

*World Economic Forum – Global Competitiveness Report 2017-2018.* Greater credit was given to countries with higher scores on the following measures: “Property rights”, “Irregular payments and bribes”, “Judicial independence”, “Favoritism in decisions of government officials”, “Efficiency of legal framework in settling disputes”, “Efficiency of legal framework in challenging regulations” and “Transparency of government policymaking” (see further, [reports.weforum.org/global-competitiveness-index-2017-2018/](http://reports.weforum.org/global-competitiveness-index-2017-2018/)).

In the event that there is no data on the country in either one or two of the rule of law indices, each such index is ignored for scoring purposes without any negative effect on that country’s aggregate score for this factor. In the rare event that there is no data on the country in all three of the indices, then the Political Stability factor is ignored in its entirety and a note is made on the one-page summary for that country (and in the Summary of Scores table beginning on page 18) indicating that no such data is available.

# Summary of Scores

Summarized in the table below are the overall scores for each jurisdiction analyzed in this publication, together with a breakdown of the scores for each factor. The table has been sorted in descending order of overall score, with the highest scoring country at the top and the lowest scoring country at the bottom.

	Weighting: (22.5%)	(12.5%)	(10.0%)	(10%)	(7.5%)	(7.5%)	(30.0%)	
Country	Repo.	Insolvency	Dereg.	Export	Judg. / Arb.	Pref. Liens	Pol. Stab.	TOTAL
Aruba	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	No Data	100.0%
Curacao	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	No Data	100.0%
San Marino	100.0%	90.0%	100.0%	100.0%	100.0%	100.0%	No Data	98.2%
New Zealand	100.0%	90.0%	100.0%	100.0%	100.0%	100.0%	94.4%	97.1%
Australia	100.0%	90.0%	100.0%	100.0%	100.0%	75.0%	99.2%	96.6%
United States	96.4%	90.0%	100.0%	100.0%	100.0%	100.0%	94.4%	96.3%
Netherlands	82.1%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	96.0%
Canada	96.4%	90.0%	100.0%	100.0%	100.0%	75.0%	99.2%	95.8%
Denmark	92.9%	90.0%	80.0%	100.0%	100.0%	75.0%	99.2%	93.0%
Bermuda	95.0%	60.0%	100.0%	100.0%	100.0%	100.0%	No Data	91.3%
Singapore	92.9%	90.0%	100.0%	25.0%	100.0%	100.0%	100.0%	89.6%
Iceland	85.7%	90.0%	100.0%	100.0%	100.0%	75.0%	85.7%	89.4%
United Kingdom	89.3%	60.0%	100.0%	100.0%	100.0%	75.0%	94.4%	89.0%
Cayman Islands	95.0%	90.0%	80.0%	100.0%	100.0%	50.0%	No Data	88.4%
Ireland	96.4%	80.0%	100.0%	100.0%	100.0%	50.0%	84.7%	88.4%
British Virgin Islands	100.0%	60.0%	60.0%	100.0%	100.0%	100.0%	No Data	87.1%
Germany	71.4%	100.0%	60.0%	75.0%	100.0%	100.0%	100.0%	87.1%
Guernsey	64.3%	90.0%	80.0%	100.0%	100.0%	50.0%	No Data	86.8%
Finland	78.6%	90.0%	60.0%	75.0%	100.0%	100.0%	94.4%	85.8%
Jersey	95.0%	60.0%	80.0%	100.0%	100.0%	75.0%	No Data	85.7%
Spain	89.3%	70.0%	80.0%	100.0%	100.0%	100.0%	79.0%	85.5%
Israel	85.7%	100.0%	80.0%	75.0%	100.0%	75.0%	83.7%	85.5%
Austria	71.4%	80.0%	100.0%	50.0%	100.0%	100.0%	92.9%	83.9%
Malta	96.4%	100.0%	80.0%	75.0%	100.0%	75.0%	68.9%	83.5%
Switzerland	71.4%	80.0%	60.0%	75.0%	100.0%	75.0%	100.0%	82.7%
Portugal	82.1%	90.0%	80.0%	75.0%	100.0%	75.0%	73.4%	80.4%
Norway	85.7%	80.0%	40.0%	75.0%	100.0%	25.0%	100.0%	80.2%
France	85.7%	60.0%	20.0%	75.0%	100.0%	100.0%	93.7%	79.4%
Sweden	75.0%	70.0%	20.0%	75.0%	100.0%	75.0%	100.0%	78.3%
Hong Kong	64.3%	60.0%	100.0%	100.0%	100.0%	50.0%	83.3%	78.2%
Czech Republic	82.1%	90.0%	40.0%	75.0%	100.0%	50.0%	82.1%	77.1%
Belgium	82.1%	70.0%	20.0%	50.0%	100.0%	50.0%	93.7%	73.6%

## SUMMARY OF SCORES

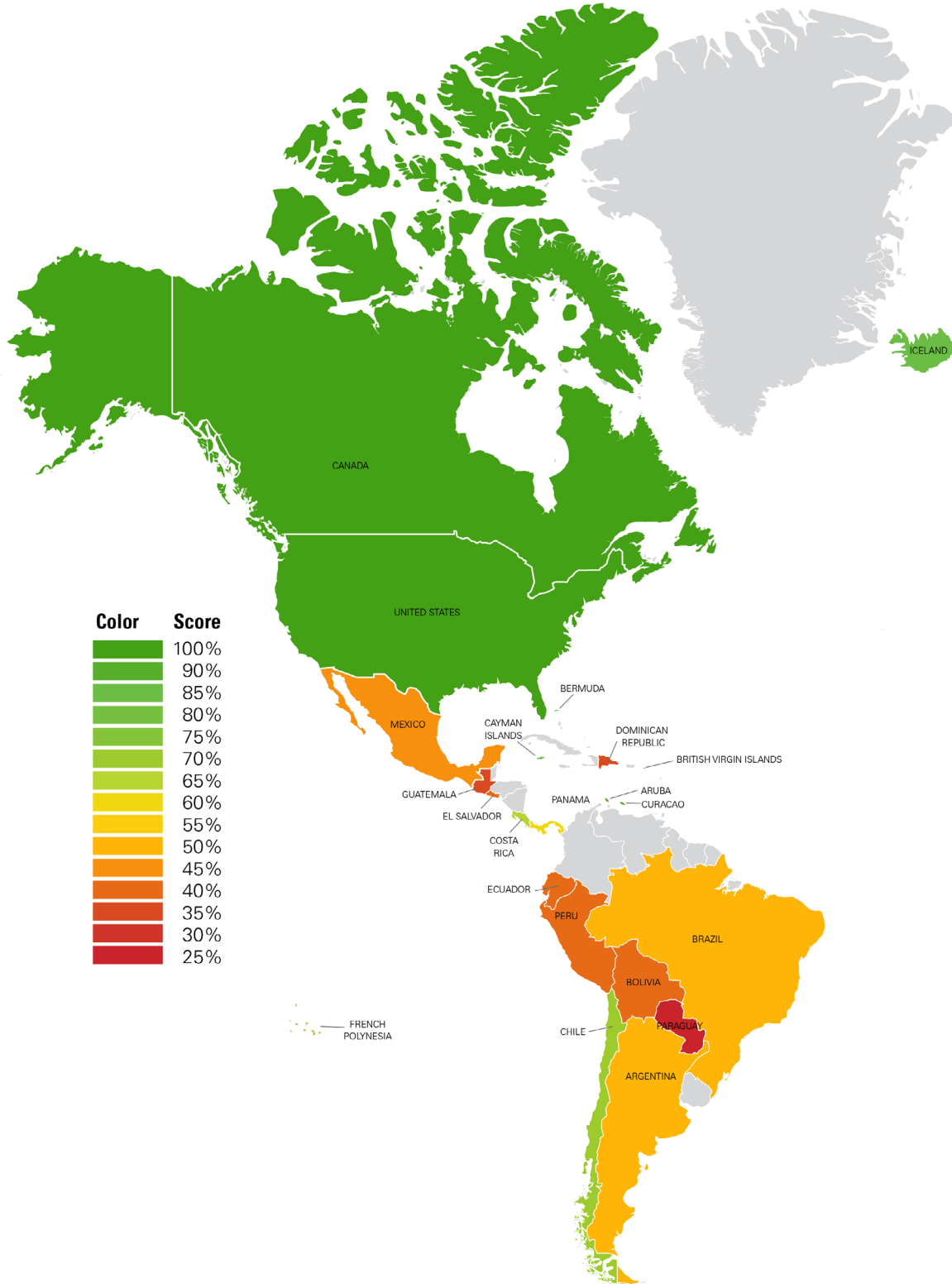
Weighting:	(22.5%)	(12.5%)	(10.0%)	(10%)	(7.5%)	(7.5%)	(30.0%)	
Country	Repo.	Insolvency	Dereg.	Export	Judg. / Arb.	Pref. Liens	Pol. Stab.	TOTAL
Chile	64.3%	100.0%	40.0%	50.0%	100.0%	50.0%	86.5%	73.2%
Estonia	67.9%	60.0%	60.0%	0.0%	100.0%	100.0%	93.7%	71.9%
French Polynesia	80.0%	60.0%	20.0%	75.0%	100.0%	100.0%	No Data	71.4%
New Caledonia	80.0%	60.0%	20.0%	75.0%	100.0%	100.0%	No Data	71.4%
Lithuania	75.0%	60.0%	0.0%	100.0%	100.0%	75.0%	73.0%	69.4%
Italy	75.0%	90.0%	0.0%	100.0%	100.0%	75.0%	58.7%	68.9%
Japan	42.9%	60.0%	20.0%	75.0%	100.0%	100.0%	88.9%	68.3%
Korea (Republic of)	57.1%	60.0%	0.0%	75.0%	100.0%	100.0%	80.6%	67.0%
Kenya	67.9%	90.0%	100.0%	100.0%	100.0%	75.0%	22.8%	66.5%
Slovenia	67.9%	60.0%	0.0%	75.0%	100.0%	75.0%	74.4%	65.7%
Costa Rica	57.1%	60.0%	80.0%	50.0%	100.0%	100.0%	57.1%	65.5%
Poland	50.0%	60.0%	40.0%	75.0%	100.0%	100.0%	67.1%	65.4%
Slovakia	82.1%	100.0%	0.0%	75.0%	100.0%	50.0%	52.0%	65.3%
Taiwan (Republic of China)	42.9%	80.0%	0.0%	100.0%	66.7%	100.0%	75.5%	64.8%
Greece	42.9%	80.0%	80.0%	100.0%	100.0%	75.0%	45.4%	64.4%
Indonesia	85.7%	90.0%	100.0%	75.0%	33.3%	25.0%	39.9%	64.4%
South Africa	50.0%	100.0%	80.0%	25.0%	100.0%	100.0%	48.4%	63.8%
Hungary	75.0%	70.0%	40.0%	100.0%	100.0%	50.0%	41.7%	63.4%
Mauritius	46.4%	60.0%	100.0%	50.0%	100.0%	75.0%	57.7%	63.4%
Panama	57.1%	90.0%	80.0%	100.0%	33.3%	100.0%	37.3%	63.3%
China	57.1%	90.0%	100.0%	75.0%	33.3%	50.0%	48.4%	62.4%
Nigeria	75.0%	90.0%	100.0%	75.0%	100.0%	50.0%	14.9%	61.3%
Pakistan	67.9%	60.0%	100.0%	100.0%	100.0%	100.0%	11.7%	61.3%
Rwanda	67.9%	60.0%	20.0%	50.0%	100.0%	75.0%	57.1%	60.0%
United Arab Emirates	21.4%	60.0%	80.0%	50.0%	100.0%	50.0%	77.8%	59.9%
Tajikistan	75.0%	70.0%	80.0%	50.0%	100.0%	50.0%	30.1%	58.9%
Malaysia	64.3%	20.0%	40.0%	100.0%	100.0%	0.0%	65.3%	58.0%
Croatia	42.9%	80.0%	40.0%	75.0%	100.0%	75.0%	39.7%	56.2%
Macau	32.1%	80.0%	40.0%	75.0%	100.0%	100.0%	40.0%	55.7%
Latvia	75.0%	20.0%	0.0%	50.0%	100.0%	75.0%	59.7%	55.4%
Jordan	50.0%	50.0%	80.0%	50.0%	33.3%	75.0%	53.2%	54.6%
Argentina	39.3%	90.0%	80.0%	50.0%	100.0%	75.0%	27.2%	54.4%
Brazil	46.4%	100.0%	80.0%	25.0%	100.0%	50.0%	31.5%	54.2%
Oman	57.1%	20.0%	80.0%	75.0%	33.3%	75.0%	48.0%	53.4%
Nepal	75.0%	30.0%	40.0%	25.0%	33.3%	100.0%	No Data	53.0%
Cote D'ivoire	46.4%	80.0%	100.0%	75.0%	100.0%	50.0%	12.5%	52.9%
Morocco	53.6%	60.0%	40.0%	50.0%	100.0%	50.0%	42.9%	52.7%
Mozambique	46.4%	90.0%	80.0%	75.0%	100.0%	75.0%	7.1%	52.5%
Philippines	32.1%	60.0%	80.0%	75.0%	100.0%	75.0%	29.8%	52.3%

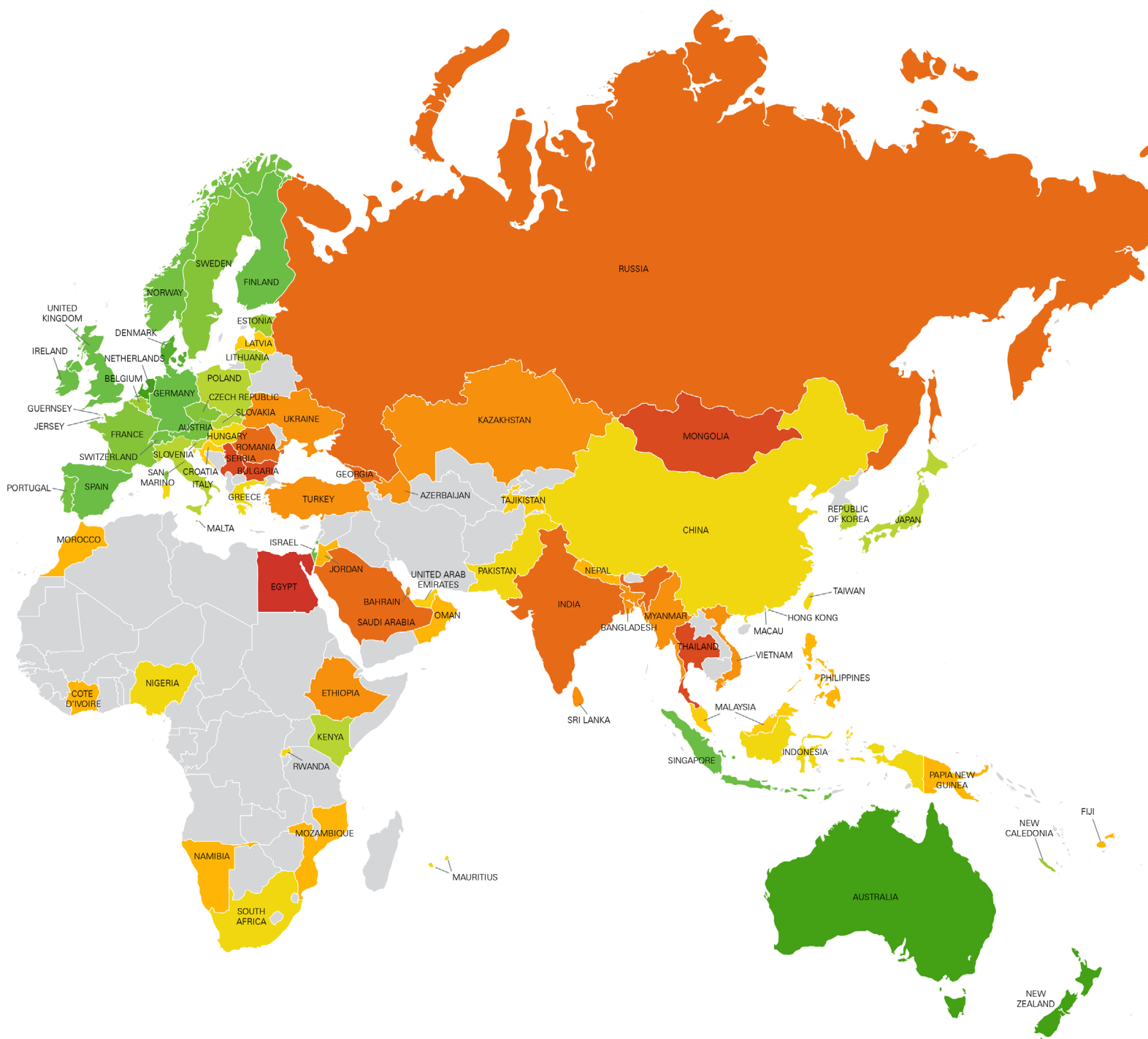
## SUMMARY OF SCORES

Weighting:	(22.5%)	(12.5%)	(10.0%)	(10%)	(7.5%)	(7.5%)	(30.0%)	
Country	Repo.	Insolvency	Dereg.	Export	Judg. / Arb.	Pref. Liens	Pol. Stab.	TOTAL
Namibia	46.4%	90.0%	0.0%	75.0%	66.7%	75.0%	38.8%	51.5%
Fiji	78.6%	50.0%	0.0%	100.0%	100.0%	50.0%	20.0%	51.2%
Papua New Guinea	57.1%	90.0%	100.0%	75.0%	66.7%	50.0%	0.0%	50.4%
Bangladesh	57.1%	20.0%	80.0%	75.0%	100.0%	100.0%	9.9%	48.8%
Mexico	50.0%	90.0%	0.0%	25.0%	100.0%	100.0%	29.4%	48.8%
Turkey	53.6%	60.0%	40.0%	75.0%	33.3%	75.0%	31.3%	48.6%
Bahrain	42.9%	80.0%	20.0%	25.0%	33.3%	75.0%	53.6%	48.3%
Ethiopia	64.3%	50.0%	60.0%	100.0%	0.0%	75.0%	15.7%	47.0%
Azerbaijan	60.7%	20.0%	0.0%	100.0%	100.0%	25.0%	38.3%	47.0%
Vietnam	57.1%	50.0%	80.0%	50.0%	33.3%	75.0%	20.2%	46.3%
Myanmar	40.0%	0.0%	100.0%	50.0%	33.3%	75.0%	No Data	45.9%
Kazakhstan	42.9%	50.0%	80.0%	50.0%	33.3%	25.0%	42.1%	45.9%
Sri Lanka	57.1%	40.0%	80.0%	25.0%	100.0%	50.0%	19.4%	45.4%
Ukraine	71.4%	50.0%	40.0%	25.0%	100.0%	50.0%	16.5%	45.0%
Romania	39.3%	60.0%	0.0%	25.0%	100.0%	50.0%	48.4%	44.6%
Georgia	39.3%	60.0%	0.0%	25.0%	33.3%	75.0%	54.6%	43.3%
Bolivia	57.1%	60.0%	80.0%	75.0%	33.3%	50.0%	3.6%	43.2%
India	21.4%	40.0%	0.0%	75.0%	100.0%	50.0%	48.6%	43.2%
Peru	35.7%	60.0%	20.0%	25.0%	100.0%	75.0%	30.8%	42.4%
Saudi Arabia	50.0%	20.0%	0.0%	25.0%	33.3%	75.0%	56.1%	41.2%
Russia	21.4%	100.0%	20.0%	25.0%	33.3%	100.0%	30.2%	40.9%
El Salvador	50.0%	20.0%	40.0%	75.0%	100.0%	50.0%	14.3%	40.8%
Ecuador	50.0%	30.0%	60.0%	25.0%	100.0%	100.0%	7.9%	40.9%
Bulgaria	7.1%	20.0%	20.0%	75.0%	100.0%	75.0%	38.5%	38.3%
Mongolia	46.4%	20.0%	20.0%	50.0%	33.3%	100%	26.2%	37.8%
Guatemala	35.7%	50.0%	0.0%	75.0%	100.0%	50.0%	15.3%	37.6%
Dominican Republic	21.4%	20.0%	40.0%	75.0%	100.0%	50.0%	21.6%	36.6%
Thailand	35.7%	60.0%	20.0%	25.0%	33.3%	75.0%	27.4%	36.4%
Serbia	25.0%	20.0%	80.0%	75.0%	33.3%	75.0%	14.7%	36.2%
Egypt	21.4%	20.0%	80.0%	75.0%	33.3%	50.0%	14.9%	33.5%
Paraguay	14.3%	60.0%	0.0%	50.0%	33.3%	25.0%	6.1%	21.9%

# World Map

This world map summarizes the overall scores and asset recoverability ratings for each jurisdiction. The green, yellow and red colorings represent jurisdictions whose asset recoverability ratings are "LOWER RISK," "MODERATE," or "HIGHER RISK" respectively with the finer gradient of the color indicating whether the jurisdiction sits in the top, middle or bottom range of that category.





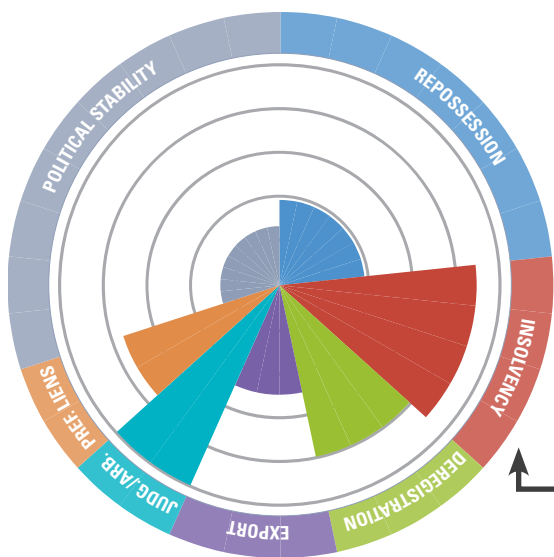
COMPLETED BY:

**Argüelles & Asociados**

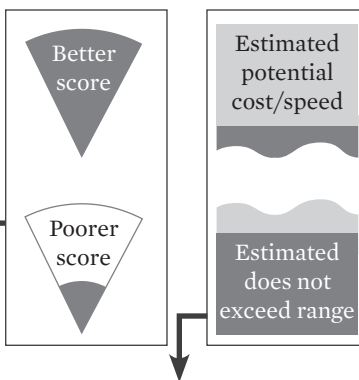
**ARGÜELLES & ASOCIADOS**  
ABOGADOS

CONTACT: AMILCAR EMILIO ARGÜELLES, Partner, [earguelles@arguelaw.com](mailto:earguelles@arguelaw.com)

JORGE ALBERTO PEZZUTI, Partner, [jpezzuti@arguelaw.com](mailto:jpezzuti@arguelaw.com)



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Overall Score

Category

**54%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	39%
12.5%	Insolvency	90%
10.0%	Deregistration	80%
10.0%	Export	50%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	75%
30.0%	Political Stability	27%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A**

Mortgagee: **YES**

Alternative Country of Registration #1:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**[repointindex@pillsburylaw.com](mailto:repointindex@pillsburylaw.com)**



(\*) Local counsel has provided additional notes for this country.

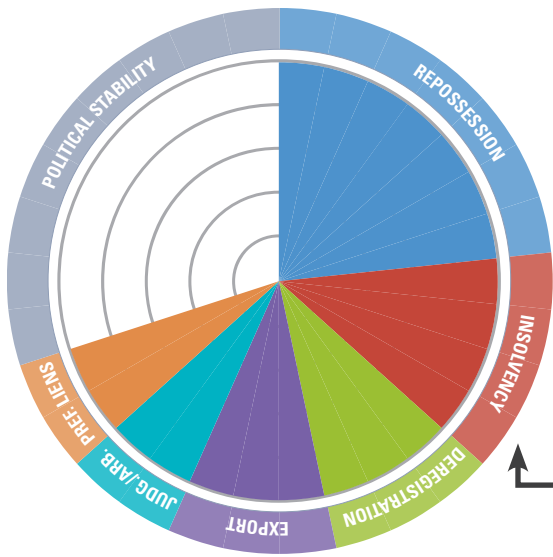
COMPLETED BY:

**Gomez & Coffie**

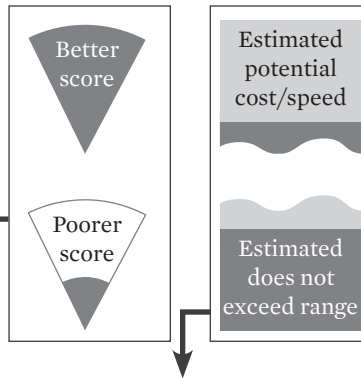


CONTACT: LINCOLN D. GOMEZ, Managing Partner, lincoln@gobiklaw.com

BRYAN COFFIE, Partner, bryan@gobiklaw.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



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Overall Score (**)	Category	
<b>100%</b>	<b>LOWER</b>	
Weighting	Score:	
22.5%	Repossession	100%
12.5%	Insolvency	100%
10.0%	Deregistration	100%
10.0%	Export	100%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	No data

**Time & Cost Indicators**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/a	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/a	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

# Australia (\*)

(\*) Local counsel has provided additional notes for this country.

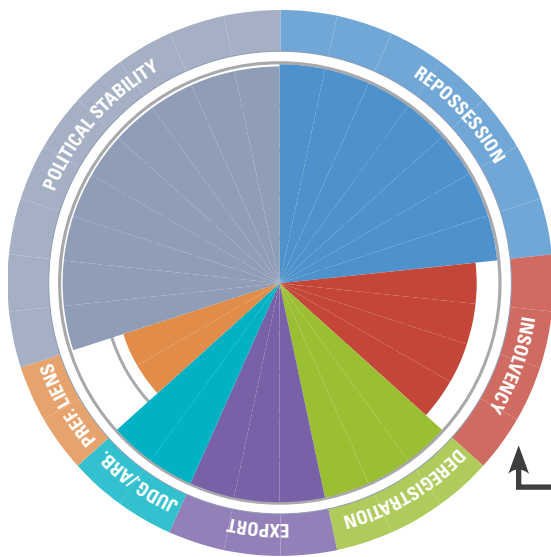
COMPLETED BY:

**King & Wood Malleons**

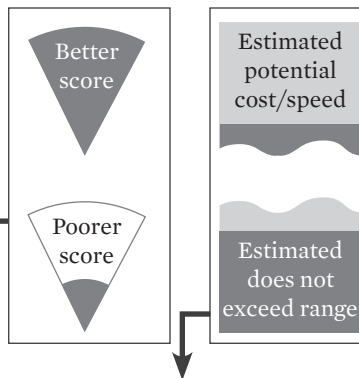
**KING & WOOD  
MALLEONS**  
金杜律师事务所

CONTACT: JOHN CANNING, Partner, john.canning@au.kwm.com

TEJASWI NIMMAGADDA, Counsel,  
tejaswi.nimmagadda@hk.kwm.com



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Overall Score

Category

**97%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>100%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>99%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>New Zealand</b>	<b>97%</b>	<b>LOWER</b>
Operator (if not also the owner): <b>NO</b>	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	<b>United States</b>	<b>97%</b>	<b>LOWER</b>
Owner: <b>N/A</b> Mortgagee: <b>NO</b>			

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

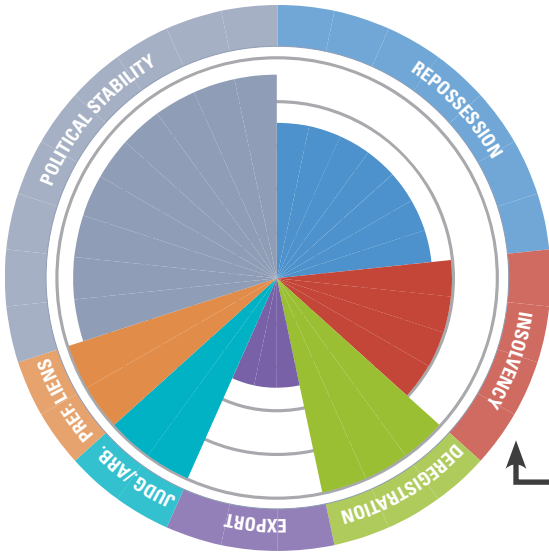
COMPLETED BY:

**Binder Grösswang  
Rechtsanwälte GmbH**

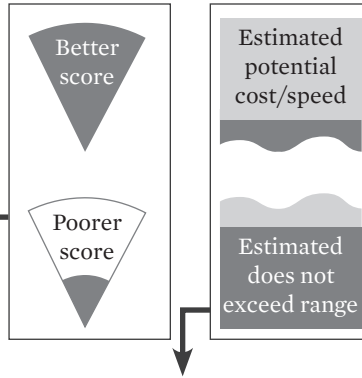
**BINDER GRÖSSWANG**

CONTACT: EMANUEL WELTEN, Partner, welten@bindergroesswang.at

ROBERT WIPPEL, Attorney, wipfel@bindergroesswang.at



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Overall Score	Category
<b>84%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>71%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>50%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>93%</b>

**Time & Cost Indicators**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country: **YES**
- Cape Town Contracting State: **NO**
- Eligible for ASU Cape Town Discount: **NO**
- Self-help (Lessor-owners): **YES**
- Self-help (Mortgagees): **YES**
- Moderately or well-developed insolvency laws: **YES**
- Absence of significant taxes or similar fees payable on export: **YES**
- Absence of fleetwide liens: **YES**
- Local court will enforce, without reexamination of case on merits...*
- a New York court judgment: **NO**
- an English court judgment: **YES**
- an arbitral award: **YES**

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>NO</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>NO</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

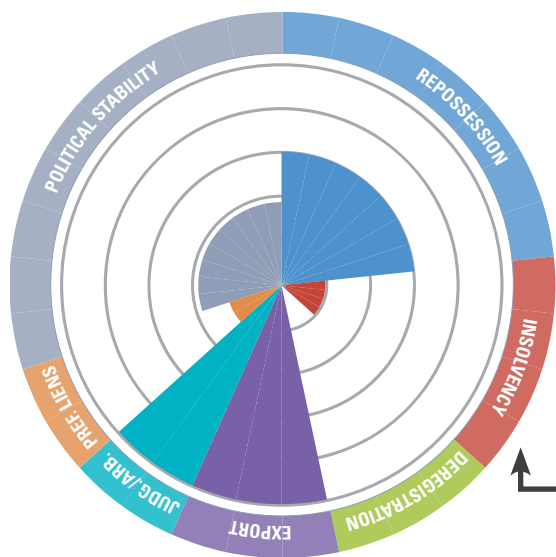
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**BM Morrison Partners LLC**

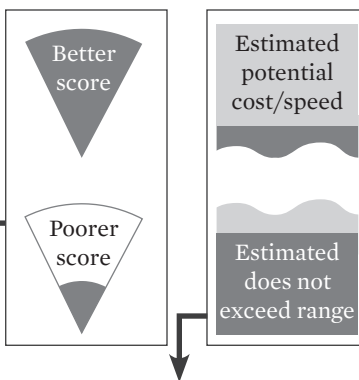


CONTACT: DELARA ISRAFILOVA, Partner, disrafilova@bmlawaz.com

LEYLA SAFAROVA, Associate, lsafarova@bmlawaz.com



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Overall Score

Category

**47%**

**HIGHER**

Weighting	Score:
22.5%	Repossession <b>61%</b>
12.5%	Insolvency <b>20%</b>
10.0%	Deregistration <b>0%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>25%</b>
30.0%	Political Stability <b>38%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

**Bermuda**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**61%**

Blended Score:

**N/A**

Blended Category:

**MOD.**

Blended Category:

**N/A**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

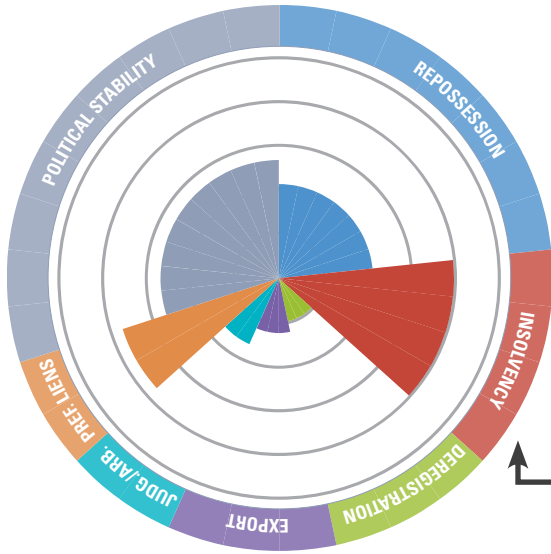
COMPLETED BY:

**Al Salam Advocates**

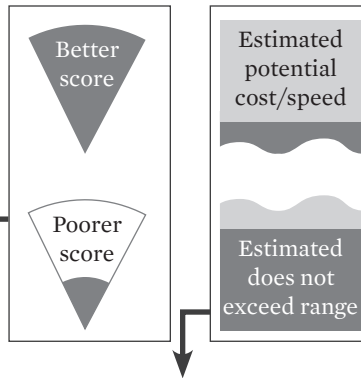


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Overall Score

Category

**48%**

**HIGHER**

Weighting	Score:
22.5%	Repossession <b>43%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>20%</b>
10.0%	Export <b>25%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>54%</b>

## Time & Cost Indicators

Indicator	Value	Unit	Unit
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	180 days	180 days	180 days
Insolvency Moratorium Period (time)	1 year	1 year/variable	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

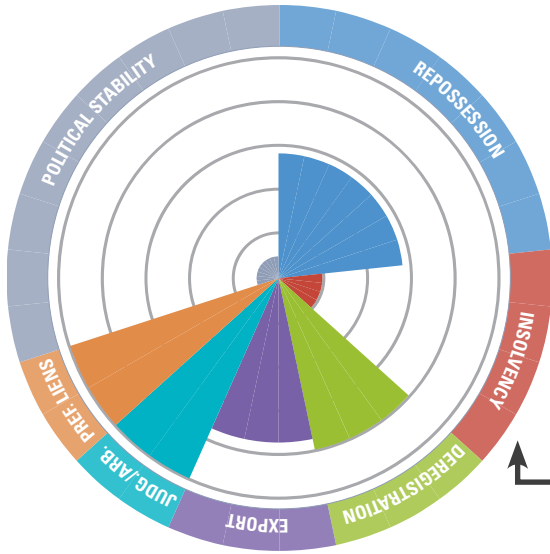
COMPLETED BY:

**Hossain & Khan Associates**

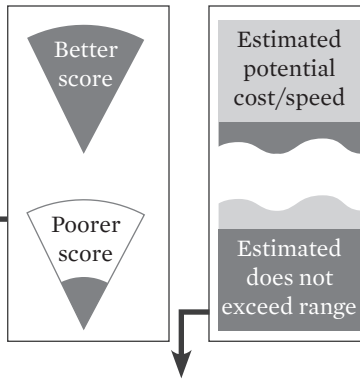


CONTACT: MOHAMMED MUDDASIR HOSSAIN, Partner,  
muddasir.hossain@hnklaw.org

SAIMUM ISLAM, Senior Associate, saimum.islam@hnklaw.org



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Overall Score

Category

**49%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 57%
12.5%	Insolvency 20%
10.0%	Deregistration 80%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 100%
30.0%	Political Stability 10%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES**

Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repindex@pillsburylaw.com**



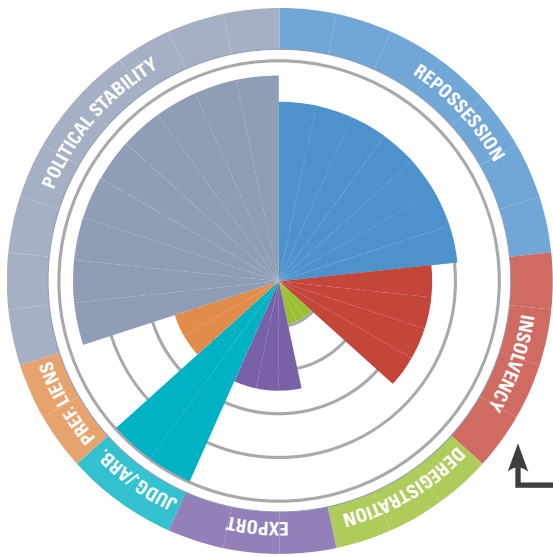
(\*) Local counsel has provided additional notes for this country.

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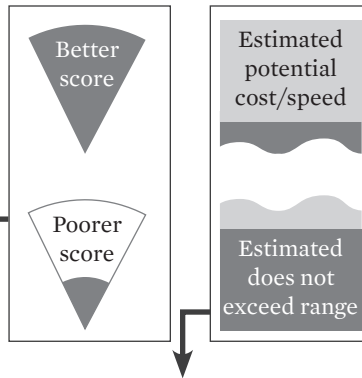
**LVP Law**



CONTACT: MIA WOUTERS, Prof / Of Counsel, mia.wouters@lvplaw.be



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Overall Score

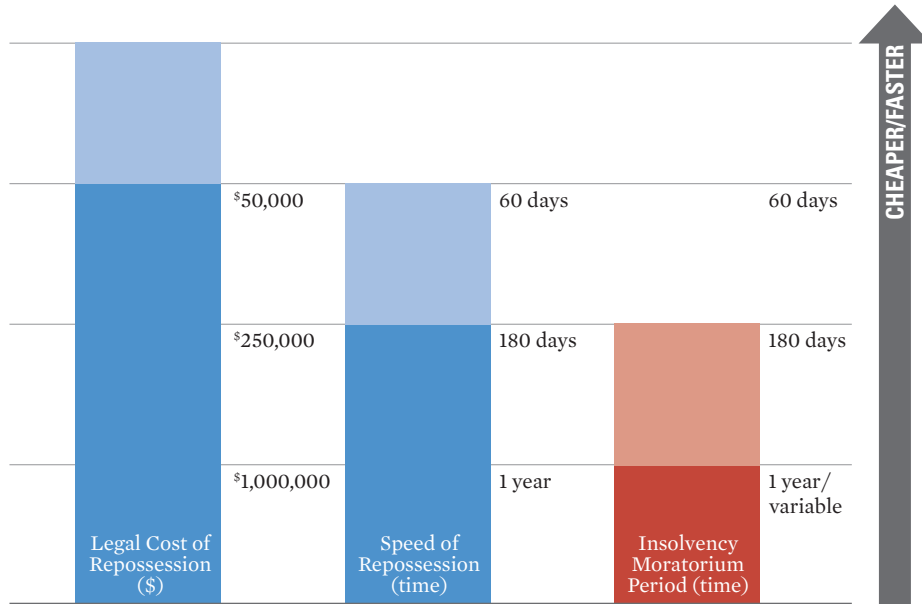
Category

**74%**

**MODERATE**

Weighting	Score:
22.5%	82%
12.5%	70%
10.0%	20%
10.0%	50%
7.5%	100%
7.5%	50%
30.0%	94%

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>NO</b>	<b>Malta</b>	<b>80%</b>	<b>LOWER</b>
Operator (if not also the owner): <b>YES</b>	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Owner: <b>NO</b> Mortgagee: <b>NO</b>			

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoindex@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

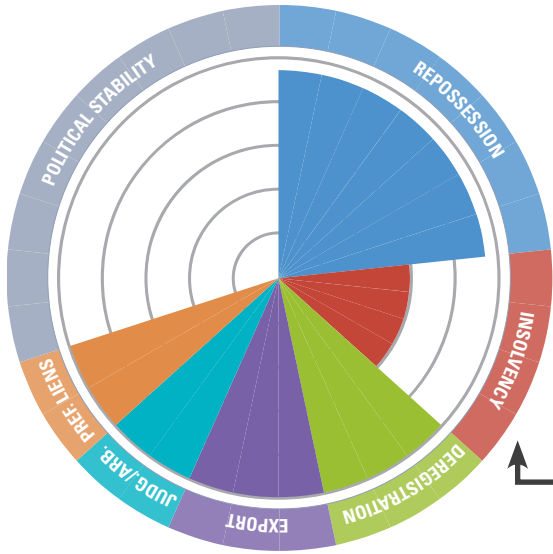
COMPLETED BY:

**Conyers Dill & Pearman Limited**

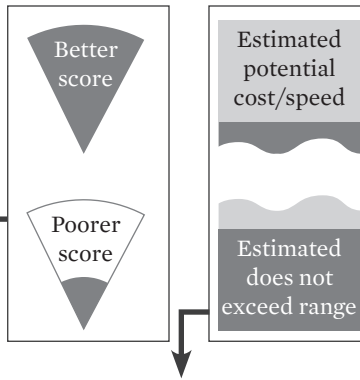


CONTACT: JULIE MCLEAN, Director/ Head of Aviation Finance,  
julie.mclean@conyersdill.com

JASON PINEY, Director, jason.piney@conyersdill.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



Overall Score (\*\*)

**91%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>95%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>No data</b>

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## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

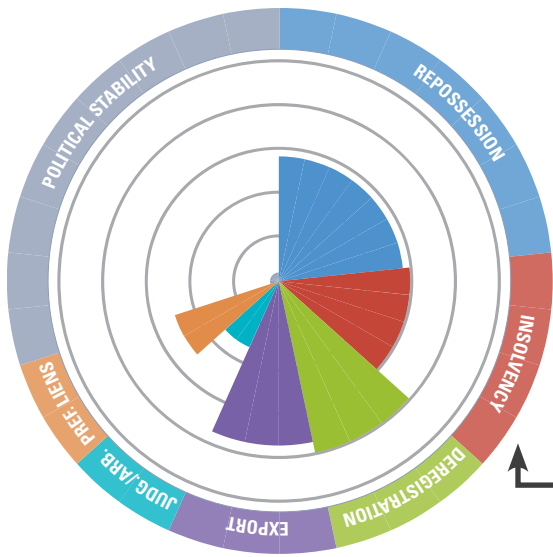
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

COMPLETED BY:

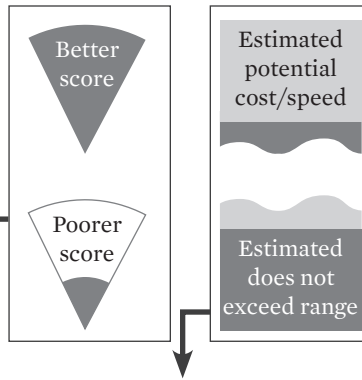
**C.R. & F. Rojas Abogados S.R.L.**



CONTACT: MARIA DEL CARMEN BALLIVIÁN, Partner,  
mariac@rojas-lawfirm.com



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score	Category
<b>43%</b>	<b>HIGHER</b>
Weighting	Score:
22.5%	Repossession <b>57%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>4%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

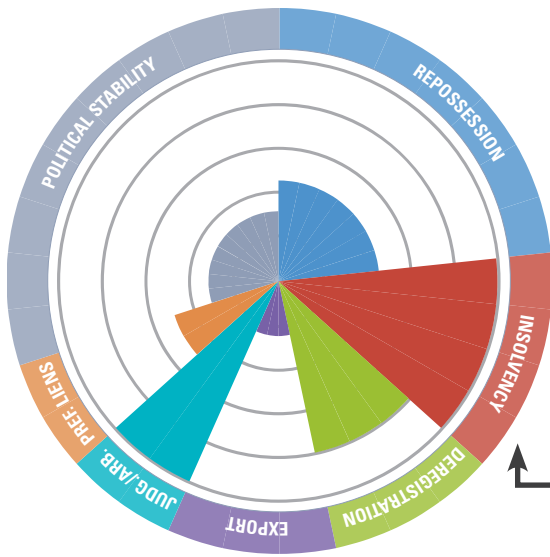
(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

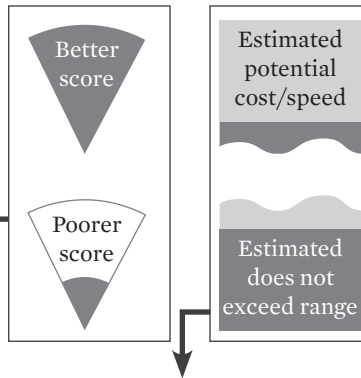
**Cascione, Pulino, Boulos  
& Santos Advogados**

**CASCIONE**  
ADVOGADOS

CONTACT: JOÃO PAULO SERVERA, Partner, jpservera@cascione.com.br



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Overall Score

Category

**54%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>46%</b>
12.5%	Insolvency <b>100%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>25%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>32%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

# Of Swords and Shields: The Role and Limits of Courts in the Enforcement of the Cape Town Convention's Substantive Repossession Remedies\*

by Mark N. Lessard, Paul P. Jebely, Jeffrey Wool\*\*

*The Cape Town Convention and its Aircraft Protocol (the 'CTC') create a system whereby courts having jurisdiction over the territory where an object is located can be used as a 'sword' to obtain speedy repossession of mobile assets, but cannot be used as a 'shield' to delay or frustrate such repossession activity, especially on the basis of national law principles that are inconsistent with the CTC. Improper shielding actions can arise in particular from (1) a failure by courts to enforce the Convention's substantive remedies (including the issuance of blocking or injunctive orders contrary to the Convention) or (2) the improper application of the Convention's jurisdictional rules. This is not to say that the CTC overrides all national laws (although it does override national law on matters within its scope), or that the CTC does not contain any debtor protections (which it does; see, for example, the obligation to exercise remedies in a commercially reasonable manner as will be discussed below). Nor does this mean that a creditor should always win in any repossession case brought under the CTC. Instead, we are deploying this formulation to emphasize that the CTC creates a state responsibility (applicable through the relevant state's judiciary) to adjudicate matters consistent with CTC jurisdictional rules and to provide creditors with the substantive remedies and protections intended by the treaty text, state declarations and party agreements.*

## Introduction

The Cape Town Convention on International Interests in Mobile Equipment (the 'Convention') and its related Aircraft Protocol (the 'Aircraft Protocol') signed on 16 November 2001 (together, the 'CTC')<sup>1</sup> form an international treaty designed to promote the cross-border financing of aircraft. The CTC mitigates jurisdictional risk around the ability to immobilize, recover and redeploy aircraft speedily in a default situation, including on insolvency, with a framework that centers on the 'international interest'. Following contractual default, the CTC offers creditors<sup>2</sup> holding an international interest two key substantive repossession remedies: non-judicial

remedies (also known as 'self-help')<sup>3</sup> and advance judicial relief pending final determination.<sup>4</sup> These rights and remedies are *sui generis* in that they arise from the CTC and are ontologically independent of national law.

Implementation of the CTC at the executive and legislative levels has been relatively successful to date,<sup>5</sup> and we are entering a period of judicial implementation of the treaty's substantive remedies, which are now being tested in national courts. This is because the CTC system, like other private commercial law treaties, does not contain an independent dispute resolution mechanism.<sup>6</sup> Instead, creditors must rely on national courts for the practical realization of the CTC benefits. This can lead to an inconsistent application of the CTC's principles in different jurisdictions.

Because the treaty is not an all-encompassing commercial code, the relationship between its international substantive

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\*\* Mr. Lessard and Mr. Jebely are Executive Editors of the World Aircraft Repossession Index. Their biographies can be found on Page 7. Their collaborator Mr. Wool is secretary general of the Aviation Working Group, professor of global business law, University of Washington, and an associate faculty member, University of Oxford. He is also the executive director of the Cape Town Convention Academic Project, the general editor of the Cape Town Convention Journal, and the chair of the Advisory Board to the International Registry (Aircraft Protocol).

1 Convention on International Interests in Mobile Equipment and Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, each adopted in Cape Town, 16 November 2001.

2 For purposes of this article, 'creditor' refers to a chargee, conditional seller or lessor as the context requires.

3 These may be remedies of a chargee under Article 8(1)(a) or of a lessor or conditional seller under Article 10(a).

4 Article 13(1)(a)-(c) and Aircraft Protocol, Article X.

5 Since 2006, 84 countries and the European Union have signed the treaty and 73 countries and the European Union have ratified the treaty. The number of registered international interests has been increasing steadily every year, with over 30,000 international interests (including prospective international interests) registered annually since 2013. Because of the declaration system, not all ratifications are equal. The OECD keeps a list of countries that have made the qualifying declarations, and have implemented the CTC, thus entitling them to a discount on export credit financing.

6 Needless to say the establishment of an international commercial court would have gone far beyond the original intent of the treaty and have been highly impractical in every sense.

law provisions and otherwise applicable national law remains critical.<sup>7</sup> Where a matter is not expressly addressed by the CTC, the treaty itself resorts to gap-filling through ‘general principles,’ both explicit and implicit—on which the CTC is based—before turning to domestic law.<sup>8</sup> The CTC also contains jurisdictional rules, which are intended to override the private international law principles that a court seized of a matter normally would apply to determine which national courts have jurisdiction to hear CTC cases and enforce the substantive rights created by the CTC. CTC gap-filling and jurisdictional rules are essential to the core purpose of the treaty: to allow for speedy and predictable repossession of mobile assets following default.

Early cases have shown that some courts are either not sufficiently aware of the CTC and its applicability (sometimes from omissions in the pleadings submitted) or otherwise suffer from institutional bias in favor of pre-CTC national law. These instances are, in the best case, inconsistent with the core notion that the CTC takes precedence over national law<sup>9</sup> and often place contracting states in violation of international law.<sup>10</sup> In order to help elucidate and avoid the pitfalls of misapplication, this article examines ways in which courts may erroneously thwart CTC remedies by reference to national conflicts rules or national substantive law. In

7 See Karl F Kreuzer, ‘Jurisdiction and Choice of Law Under the Cape Town Convention and the Protocols Thereto’ (2013) 2(1) CTCJ 149 on complementarity of CTC system with certain national substantive and procedural rules. However, this is always subject to the absence of conflict with the terms of the CTC.

8 See Article 5 of the Convention, which mandates reference to the general principles on which the CTC is based, in order to promote uniformity and predictability in the application of the CTC, as well as its international character; Roy Goode, *Official Commentary on the Convention on International Interests in Mobile Equipment and Protocol thereto on Matters Specific to Aircraft Equipment* (3rd edn, UNIDROIT 2013) (the ‘Official Commentary’); Jeffrey Wool and Andrej Jonovic, ‘The Relationship Between Transnational Commercial Law Treaties and National Law – A Framework as Applied to the Cape Town Convention’ (2013) 2(1) CTCJ 65, 74-75 (articulating general principles).

9 See Wool and Jonovic (n 8) 70-80 on penumbra theory; Brian F. Havel and John Q. Mulligan, ‘The Cape Town Convention and The Risk of Renationalization: A Comment in Reply to Jeffrey Wool and Andrej Jonovic’ (2014) 3(1) CTCJ 81. Havel and Mulligan describe ‘renationalization’ as the process by which domestic institutions – including judges, administrative agencies, and regulatory bodies – erode the uniformity of transnational commercial treaties by reverting to local law when interpreting and enforcing such treaties. According to the authors, the CTC presents a particular risk of renationalization because it touches on areas of law that are typically the subject of elaborate and well-established domestic legal and regulatory regimes (eg registration, insolvency). Moreover, it does not provide for a dedicated international tribunal with authority to adjudicate disputes, but rather leaves interpretation and enforcement to local institutions that might be unfamiliar with the tenets of the CTC.

10 See Havel (n 9) on risk of renationalization, referencing Joost Pauwelyn and Manfred Elsig, ‘The Politics of Treaty Interpretation: Variations and Explanations Across International Tribunals’ in J Dunoff and M Pollack (eds) *International Law and International Relations: Taking Stock* (CUP 2013) 447 on the default reliance of some treaties on national judicial systems or regulatory agencies. The issue of general non-compliance with treaty terms and the consequences under public international law are beyond the scope of this article.

defining the proper role and limits of courts by reference to specific examples, we hope to contribute to better and more uniform enforcement of CTC rights. Nevertheless, much work remains in promoting uniform CTC analysis and creating precedent.

While this article focuses on CTC repossession rights, the principles herein apply more generally to court proceedings involving other substantive CTC rights, including those relating to deregistration, export or sale of aircraft equipment.

### Thesis and Outline

This paper seeks to explore the proper role and limits of courts in the context of the CTC’s substantive repossession remedies. We will argue that the CTC, where supported by contracting state declarations and party intent in their contractual agreements, creates a system whereby courts having jurisdiction over the territory in which an object is located can be used as a ‘sword’ to obtain speedy possession of that object, but cannot be used as a ‘shield’ to delay that repossession activity.

While courts will be more likely to err in their application of the CTC if it has not been properly implemented under national law, the proper legislative and regulatory implementation of the CTC is beyond the scope of this paper. We instead focus on the actions that a court can take (or refuse to take) that would improperly shield a debtor from otherwise enforceable CTC remedies, effectively putting a country in violation of its international legal obligations. Such shielding actions typically arise from either (1) a failure by courts to enforce the CTC’s substantive remedies (including the issuance of blocking or injunctive orders contrary to the CTC) or (2) the improper application of the CTC’s jurisdictional rules. Examples of a failure to enforce treaty remedies might include: ignoring express treaty remedies that require time-bound and/or non-discretionary court action, or adding restrictions to these based on national law; construing the substantive elements of the treaty in an unintended narrow manner; or turning to local substantive or procedural provisions in a manner that undermines the intent of the CTC. Examples of improper application of jurisdictional rules might include: claiming jurisdiction over a dispute contrary to treaty provisions or refusing to accept jurisdiction on the basis of national conflict-of-laws rules contrary to treaty provisions.

We will first describe our proposed sword/shield theory followed by an overview of the CTC’s judicial and non-judicial repossession remedies. Next, we will examine the key jurisdictional CTC provisions applicable to these remedies, focusing on the manner in which these are intended to override certain aspects of national law and analyzing a recent case that we believe to be inconsistent with the CTC. We will then explore the role and limits of courts in the



context of substantive enforcement, emphasizing the main areas in which a court having jurisdiction over the territory in which an object is located may improperly seek to shield a debtor from the exercise of CTC repossession remedies. Our discussion will elucidate various instances of implicit and explicit non-compliance with a particular focus on the inherent limits placed by the CTC on the granting of preliminary injunctions barring CTC remedies on the basis of local law principles that are otherwise inconsistent with the CTC.

Finally, we will use a multi-jurisdictional case study to illustrate the dynamics and tensions in the enforcement of the CTC repossession remedies, including the proper use of courts as a ‘sword’ and the potential misuse of courts as a ‘shield’. This will involve a Mexican airline operating a Mexican registered aircraft under a New York law-governed finance lease where the lessor is a Delaware special purpose trust that, as borrower, has granted a New York law mortgage to a commercial lender.

### Of Swords and Shields

The English case of *Combe v Combe*<sup>11</sup> stands, *inter alia*, for the proposition that promissory estoppel is ‘to be used as a shield and not as a sword’. In that case, Lord Denning explained that the doctrine of promissory estoppel ‘does not create new causes of action ... It only prevents a party from insisting upon his strict legal rights, when it would be unjust to allow him to enforce them, having regard to the dealings which have taken place between the parties.’<sup>12</sup> The idea is that detrimental reliance, as applied in the specific context of promissory estoppel, cannot be expanded so far as to create a contractual cause of action in the absence of consideration, which itself is an essential part of any contractual cause of action.

The authors would propose their own sword/shield theory in the context of the CTC’s repossession remedies: that the CTC system allows courts having jurisdiction over the territory where an object is located to be used as a sword to obtain speedy repossession of that object, but not as a shield to block such repossession action, especially on the basis of national law principles that are inconsistent with the CTC. This is not to say that the CTC overrides all national laws (although it does override national law on matters within its scope), or that the CTC does not contain any debtor protections (which it does; see, for example, the obligation to exercise remedies in a commercially reasonable manner as will be discussed below). Nor does this mean that a creditor should always win in any repossession case brought under the CTC. Instead, we are deploying this formulation to emphasize that the CTC creates a state responsibility (applicable through the relevant state’s judiciary) to adjudicate matters consistent

with CTC jurisdictional rules and to provide creditors with the substantive remedies and protections intended by the treaty text, state declarations and party agreements.

The CTC is a sword in that it is designed for the very purpose of allowing the speedy and predictable recovery of expensive mobile assets in default situations. When we say that courts cannot be used as a shield in CTC repossession actions, we mean that the CTC does not permit domestic courts to block or enjoin applicable CTC remedies in reliance upon otherwise inconsistent local principles.

### Overview of Repossession Remedies

The substantive repossession remedies contained in Article 8 and Article 10 of the Convention are an important, if not ground-breaking, construct in transnational private law. They hinge upon the international interest and allow for the exercise of repossession remedies either without the leave of courts (within the bounds of commercial reasonableness) or with the sanction of courts (where the claimant has adduced evidence of a default by the debtor), notwithstanding any local law to the contrary.

### Article 8 and Article 10: Non-Judicial Repossession Remedies

Article 8 of the Convention allows a chargee, in the event of default, to take possession or control of an object, sell or grant a lease of it and collect or receive any income arising from the management or use of that object. Article 10 allows a conditional seller or lessor, in the event of default, to terminate a lease or conditional sale agreement and take possession or control of any object to which the agreement relates (it also allows the conditional seller or lessor to apply for a court order authorizing or directing either of these acts). Article 11 specifies the meaning of default, allowing the debtor and creditor to define the events that constitute a default or otherwise give rise to CTC remedies, failing which, definition of a ‘default’ is taken to mean any failure on the part of the debtor which substantially deprives the creditor of what it is entitled to expect under the agreement. In addition, in the case of Article 8, any non-judicial remedies must specifically be agreed to in writing by the debtor in the relevant security instrument.<sup>13</sup>

Given the sensitivity of ‘self-help’ remedies in many jurisdictions, these remedies are only applicable without leave of the court where non-judicial remedies are specifically declared by the relevant contracting state pursuant to Article 54(2). This is the only state declaration under the CTC system that is mandatory, meaning that there is no default ‘opt-in’ or

<sup>11</sup> [1951] 2 KB 215 (KB).  
<sup>12</sup> *ibid.*

<sup>13</sup> In the case of a lease, consistent with principles of international commercial finance, the CTC does not require that the agreement specifically allow the owner to repossess after default an object which does not belong to the debtor, though in practice such right will always be contained in any well-drafted lease.



'opt-out' application for a failure to declare. A contracting state's instrument of ratification will not be accepted by UNIDROIT unless it has declared whether or not remedies under the CTC require leave of the court. Accordingly, a declaration that remedies do not require leave of the court is an affirmative state action that (in addition to constituting a binding legal rule) serves as *ipso facto* evidence that, in the context of the CTC, non-judicial remedies reflect the law and policy of the contracting state making such declaration.<sup>14</sup> The availability of non-judicial remedies does not however preclude a creditor from applying to a court for permission to exercise these repossession remedies.<sup>15</sup>

### **Article 13: Judicial Repossession Remedies**

Recognizing that non-judicial remedies may not be compatible with some judicial systems, the framers of the CTC included a special judicial remedy allowing for 'speedy' relief by a creditor following an event of default. Article 13 of the Convention allows a creditor to request speedy return of collateral from a court pending final determination of any dispute when, for example, a debtor is disputing the creditor's right to exercise a repossession remedy under the CTC, or the creditor cannot gain access to its collateral. The contemplated judicial relief takes the form of an order for the preservation of an object and its value, the possession, control or custody of the object and/or its immobilization.

As with non-judicial remedies, the CTC expressly allows a contracting state date-of-ratification optionality with respect to the application of Article 13 remedies. In this case, a contracting state may at that time opt-out of this provision (and the related jurisdictional provision in Article 43, discussed in more detail below) in whole or in part.<sup>16</sup> In addition, Article 13 conditions such remedies upon the debtor having agreed to the availability of this relief. While the CTC does not elaborate on the meaning of 'speedy', Article X of the Aircraft Protocol requires that contracting states specify in their declarations the number of working days from filing of the petition that will constitute speedy relief (which has typically been between 3 and 10 calendar days).

14 The CTC declaration system allows contracting states to opt in and out of certain Articles of the CTC and the Aircraft Protocol, thus providing them with the opportunity to adopt the CTC and the Aircraft Protocol in a manner that suits their policy preferences and needs. The declaration system is designed to allow states to determine mandatory law or public policy, in the context of the CTC, on non-judicial remedies, rights of detention and similar matters. The international law-based requirement is that courts will act in a manner which carries out, and is consistent with, the declarations made by their governments (or where not made, the CTC itself).

15 See Article 8(2) and Article 10(b) of the Convention.

16 Article 55 of the Convention; although of vital importance to the realization of the CTC's benefits, it is acknowledged that a contracting state has the right to opt-out of the provision in whole or in part where inconsistent with some issue of national or public policy. Where there is no opt-out, one must conclude that the article is consistent with public policy of the contracting state.

### **Role and Limits of Courts: Giving Precedence to the Provisions and Principles of the CTC Over Conflicting National Rules**

The proper role and limits of courts are determined first by the intended scope and application of the CTC and its relationship with national law.<sup>17</sup> Where appropriately seized of a matter, courts in contracting states have a responsibility to enforce CTC remedies in a manner consistent with the CTC and international law. But courts are not always equipped to interpret and apply *sui generis* international legal norms, especially when based on principles that differ from the domestic law typically applied by these courts. This makes it difficult for less experienced courts to fulfill their principal role in a repossession scenario – giving effect to CTC provisions and principles as a matter of priority over national laws.

That the CTC framework exists independently of, and takes precedence over, domestic law is fundamental to the practical realization of the benefits of the CTC.<sup>18</sup> The principle of autonomous interpretation enshrined in the CTC requires a court to interpret the CTC by reference to its terms and principles instead of by reference to analogous principles of domestic law.<sup>19</sup> Article 5(1) of the Convention provides:

In the interpretation of this Convention, regard is to be had to its purposes as set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.

The 'general principles' described in the Preamble of the Convention and reinforced in Article 5(1) are the primary source for gap-filling.<sup>20</sup> These include the principles of prompt enforcement, uniformity and predictability, as well as party autonomy, which have been articulated by Wool and Jonovic as follows:<sup>21</sup>

(I) There should be a strong presumption of the enforceability of contract provisions even when the CTC is silent on a topic (the 'party autonomy principle');<sup>22</sup>

17 While Article 5 of the Convention does contain some general conflict of laws rules (see Article 5(3) in particular, which defaults to the law of the state whose law otherwise applies under private international law where matters are not settled by the express terms of the CTC or the principles on which it is based), this article deals with the application of substantive treaty law by domestic courts. Accordingly, we will not address choice of law generally in this article.

18 This assumes the CTC has been properly implemented under national law. Legislative implementation of the CTC and related constitutional law issues are beyond the scope of this article.

19 See Goode (n 8) para 2.18: 'This is clear from Article 5(1) and (2) and reflects the general rule of interpretation laid down in Article 31(1) of the 1969 Vienna Convention on the Law of Treaties.'

20 Goode (n 8) para 4.63.

21 See Wool and Jonovic (n 8) 74-75.

22 Goode (n 8) para 2.9(9).

(II) Terms should be implied, when needed, that enhance transactional predictability and reflect international best practices in asset-based financing and leasing (the ‘asset-based financing and leasing principle’);

(III) Terms should be implied from the treaty and international legal sources, as opposed to national law, when needed to preserve the intent, internal logic and uniformity of *sui generis* concepts and their legal implications (the ‘*sui generis* concept principle’);<sup>23</sup> and not settled by the express terms of the CTC or the principles on which it is based, this article deals with the application of substantive treaty law by domestic courts. Accordingly, we will not address choice of law generally in this article.

(IV) overnments (including courts) may not impose conditions on basic CTC rights and remedies, or take action that would adversely affect or render them ineffective, including in cases where the CTC is silent on a particular matter (the ‘no adverse effect principle’).

It is only where the foregoing does not yield a legal principle allowing a case to be decided that resort may be had to the applicable substantive national law.<sup>24</sup>

Without a doubt, the CTC extends into many important areas of commercial and secured transactions law that have previously been examined and adjudicated by courts in accordance with domestic principles. This creates a risk of conflict that courts may be inclined to resolve through a domestic legal lens.<sup>25</sup> But such inclination may not be followed, where treaty compliance is sought. There are many more and less explicit ways for a court to either exceed its limits or otherwise fail to fulfill its role in adjudicating CTC remedies. In the most obvious instance, a court may simply disregard express treaty remedies, which generally require time-bound and non-discretionary action, or it may seek to impose restrictions to the exercise of these remedies based on national laws that otherwise conflict with the express terms of the CTC. While resort may be had to national legal sources where the CTC does not otherwise provide an answer, the result cannot be inconsistent with the express terms and principles of the CTC. For example, a court may not construe the substantive elements of the treaty so narrowly as to denude a party from any remedy for the enforcement of the rights created under the CTC.<sup>26</sup> Similarly, a court may not turn to local substantive or procedural provisions in a manner that undermines the intent of the CTC.

23 As discussed above, the CTC’s repossession remedies constitute *sui generis* relief.

24 Article 5(2) of the Convention.

25 Havel (n 9) 83, 85.

26 See Goode (n 8) para 2.20.

### **Role and Limits of Courts: Jurisdiction in the Enforcement of the CTC’s Substantive Repossession Remedies**

Predictability is crucial in the area of secured transactions and leasing. A financier who extends secured credit needs to ensure that its security will be recognized in the state of the main location of the debtor and in other states where its security may have to be enforced.

Traditionally, courts seized of a matter apply their own conflict of laws rules to determine the jurisdiction whose substantive law will apply to a particular legal issue. Each state has its own conflict of laws rules, which may differ from one state to another, many of which provide that the substantive law applicable to a security interest in any kind of asset will be the law where the asset is situated. With mobile assets such as aircraft, this would require a creditor to obtain a valid and perfected security interest in all states where the asset may land.

The Geneva Convention on the International Recognition of Rights in Aircraft (1948) (the ‘Geneva Convention’) was an attempt to harmonize conflict rules on property interests in or leases of aircraft. It provides that the applicable substantive law is the law of the state of nationality of the aircraft. The Geneva Convention is however outdated in many respects, including in the manner it addresses leases and extra-judicial enforcement. More importantly, the Geneva Convention is based on a conflict rule approach, referring most issues to the law of the nationality of the aircraft. This approach is insufficient to achieve the desired uniformity and predictability as outcomes could be different depending on the national regime designated by the conflict rule. By creating an overriding international substantive legal regime, the CTC ‘intends to elude as far as possible the need to have recourse to conflict of laws provisions’.<sup>27</sup>

Similarly, with respect to choice of forum, the *lex fori* of each state provides for different criteria with respect to access to their courts or the recognition of a choice of forum clause in a contract. To reinforce the predictability of the CTC system, the CTC contains two uniform rules mandating jurisdiction for the adjudication of claims brought under the CTC, including claims related to the CTC’s substantive repossession remedies. The first is prorogated jurisdiction under Article 42, governing all possible claims or actions that are covered by the CTC (‘CTC Claims’). This enables the parties to determine, on an exclusive or non-exclusive basis, which court is best suited to settle their disputes. The second is the jurisdiction under Article 43 to hear petitions for speedy relief pending final determination under Article 13. Courts of contracting states have a responsibility to cede or assume jurisdiction where required under Article 43 of

27 Kreuzer (n 7) 149.

the Convention, notwithstanding anything to the contrary under their own national choice of forum rules.

### **Article 42 Jurisdiction: Giving Effect to the Principle of Party Autonomy**

Article 42 is a general jurisdictional rule allowing the parties to an agreement creating an international interest to choose specific courts to adjudicate CTC Claims.

It expressly overrides domestic conflict of laws rules with respect to CTC Claims insofar as contracting states are involved,<sup>28</sup> so long as the choice of forum is concluded in writing or otherwise in accordance with the formal requirements of the law of the chosen forum.<sup>29</sup> Importantly, the relevant forum need not have a connection to the parties or otherwise satisfy any formal requirements of private international law. While the requirements as to formal validity of a forum selection are governed by the law of the forum chosen by the parties, the material validity of the forum selection is governed by the applicable substantive law:<sup>30</sup>

The determination of the forum by the parties has to be seen in connection with the general reference in Article 5(2) and (3) to the rules of private international law of the forum State for the designation of the applicable substantive law. Thus, by choosing the (exclusively) competent courts of a State Party the parties determine, at the moment of the conclusion of a transaction, the applicable conflict rules and in that way indirectly or, by virtue of a choice of law agreement, even directly the governing substantive law.<sup>31</sup>

The selected jurisdiction is assumed to be exclusive unless it is stated by the parties to be non-exclusive. An exclusive choice of court agreement under the CTC precludes a court in a different contracting state from claiming jurisdiction (exclusive or otherwise) in a claim or action under the CTC.<sup>32</sup> However, it does not necessarily guarantee that the forum chosen under Article 42 will hear all cases involving CTC Claims, as the application of substantive or procedural conflict rules of that forum (such as the *forum non conveniens* rule) could result in a finding there is some other available

28 See Kreuzer (n 7) 152. However, 'prorogation agreements selecting the courts of a State which is not a party to the CTC regime does not bind the courts of [contracting states]. Whether and to what extent such a choice of jurisdiction clause is valid has to be determined by the *lex fori*'.

29 Article 42(2) of the Convention. This was inserted in order to ensure conformity with Article 23 of the European Community Council Regulation No. 44/2001 of 22 December 2000 on jurisdiction and the enforcement of judgments in civil and commercial matters which replaces the 1968 Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters and binds all Member States of the European Union.

30 Goode (n 8) para 4.287.

31 Kreuzer (n 7) 151.

32 See Goode (n 8) para 4.285.

forum which has jurisdiction and is the appropriate forum for trial of the action.<sup>33</sup> Where the Article 42 agreement is non-exclusive, the debtor may be in a position to commence an action in its home or other territory unless the non-exclusivity runs in favor of the creditor only. If, and only if, action is taken by a debtor in a non-contracting state in a manner that is not precluded under an Article 42 agreement, the CTC would not apply.<sup>34</sup>

If Article 42 jurisdiction is limited to CTC Claims, such jurisdiction could conceivably be challenged by alleging that a claim is outside the scope of the CTC, or alternatively in an injunction or similar proceeding advanced by a debtor, by failing to inform the court seized of a matter that the CTC applies or even exists. Claims and counter-claims by the debtor that are not within the scope of the CTC include claims for civil liability (including lender liability), and criminal matters. CTC Claims or actions within the scope of the CTC must however, and clearly do, include the claims and actions that are the subject of this article, namely those related to the exercise by a creditor of the CTC's substantive repossession remedies. Article 42 must therefore determine the forum for any attempt by a debtor to block an Article 8 or Article 10 extra-judicial repossession, to the exclusion of any other forum (including the home forum of the debtor).

### **Article 43 Jurisdiction: Giving Effect to the Principle of Predictability and Universal Protection of Security in Mobile Equipment**

Article 43 grants concurrent jurisdiction to courts of the state where an object is situated in connection with an exercise of Article 13 repossession remedies.<sup>35</sup> Such jurisdiction extends to orders for *in rem* relief, such as the preservation of an object and its value, the possession, control or custody of the object and its immobilization.<sup>36</sup> Under the express language of the CTC,<sup>37</sup> Article 43 jurisdiction is mandatory

33 The CTC does not exclude this principle of private international law.

34 When it comes to advance relief under Article 13, Article 43 of the Convention confers mandatory concurrent jurisdiction on the courts of the contracting state on the territory of which the object or debtor is situated, which raises the question of whether non-exclusive clauses remain desirable for creditor parties. One-way non-exclusivity in forum selection in favor of the creditor (but mandating an exclusive jurisdiction (within a contracting state) for proceedings initiated by the debtor) may be a preferable route and would be enforceable under Article 42. See *Aersale 25362 Aviation Ltd v Med-View Airline plc* (Com Ct, 15 September 2017) (enforcing non-exclusive New York forum selection clause that granted creditor the right to initiate proceedings in jurisdiction of its choosing, and rejecting debtor's application to stay claim based on *forum non conveniens* argument).

35 Under Article XXI of the Aircraft Protocol, a court of a contracting state also has jurisdiction under Article 43 where it is the state of registry for a helicopter or airframe pertaining to an aircraft.

36 Article 13(1)(a)-(c) of the Convention.

37 Article 43(1) states: 'The courts of a Contracting State chosen by the parties and the courts of the Contracting State on the territory of which the object is situated have jurisdiction to grant relief under Article 13(1)(a), (b), (c) and Article 13(4) in respect of that object' (emphasis added). Article 13(1)(a), (b), and (c) encompass the CTC's *sui generis*



and overrides the *lex fori*. The mandatory nature of this jurisdiction is inherent to the very exercise of Article 13 repossession rights, which cannot be exercised if the court having jurisdiction over the territory where the object is located refuses to accept jurisdiction.<sup>38</sup> This is the case notwithstanding any contrary national conflicts rules that may allow the court to refuse jurisdiction in the instance where another jurisdiction has a closer connection to the dispute. However, Article 43 only applies if the contracting state has made the relevant declaration under Article 55 (noting that a contracting state may not apply Articles 13 or 43 in whole or in part).<sup>39</sup>

***Article 43 jurisdiction is not exclusive in relation to CTC Claims and is in fact concurrent with any other applicable jurisdiction, including Article 42 jurisdiction as chosen by the parties***

Concurrent jurisdiction means that the choice as to whether an Article 13 claim should be filed in the contractual forum to which the parties agreed or in the forum where the object is located is entirely at the option of the creditor.<sup>40</sup> The jurisdiction of courts in the state where the object is located cannot be excluded by agreement of the parties under Article 42 or displaced by national conflicts rules. That a court is seized does not prevent application by that court of its regular rules and procedures; however, such rules (including conflicts rules) may not be applied if inconsistent with CTC, which, as noted, affirmatively provides without qualification in Article 43 that such courts ‘have’ jurisdiction to hear Article 13 claims. This is because the specific intent and effect of the CTC is to remove cases of urgency from the regime of private international law that governs enforcement of judgments.

The CTC does not give any court general jurisdiction to enjoin repossession remedies on the basis of local law principles or allow a debtor to initiate preemptive injunctive action to block an Article 13 petition prior to any action by a creditor. For one, under the terms of the Convention, any such preemptive action is not ‘a claim for relief under Article 13’ as required for the application of jurisdiction under Article 43. Any such claim by the debtor must therefore be brought in the forum specified by the parties in their agreement under Article 42 (unless the election is

non-exclusive in favor of the debtor). More crucially, even if the parties had expressly selected the jurisdiction where the object is situated as prorogation jurisdiction under Article 42, any effort to block Article 13 remedies on the basis of local law would be inconsistent with each of the general principles elevated above national law by Article 5 of the Convention. For example, enjoining Article 13 remedies is inconsistent with the party autonomy principle, since Article 13 remedies only apply where agreed by the parties in the relevant agreement. It is also inconsistent with the asset-based financing and leasing principle, since predictable application of rules and speedy access to collateral following default are essential to the proper functioning of cross-border finance, as well as the *sui generis* concept principle, since Article 13 remedies are a creature of the CTC and not of national advance relief law. Finally, the no adverse effect principle would preclude a court from importing national concepts surrounding injunctive relief to block Article 13 remedies, since this amounts to imposing additional conditions on the exercise of otherwise available CTC remedies.

***First Nation Airways Case***

In *First Nation Airways (SS) Limited*,<sup>41</sup> the courts of Nigeria claimed jurisdiction over a repossession action covered by the CTC in a manner that was inconsistent with the principles of Article 42, notwithstanding that the parties had designated the courts of England as their exclusive forum to hear CTC claims. Having taken jurisdiction, the court then proceeded to enjoin the exercise of applicable CTC repossession remedies based on domestic legal principles.

The lessee airline had entered into leases for three aircraft with an international lessor. Following payment defaults under the leases, the lessor sought to take possession of the aircraft (located in Nigeria) in accordance with Article 8(1)(a) of the Convention without recourse to the court, on the basis that Nigeria, in acceding to the CTC, had made a declaration under Article 54 pursuant to which the remedies provided by Article 8 can be exercised without leave of the court. Just when the lessor was about to commence proceedings before the High Court of London in accordance with the forum selection clause of the leases, the lessee petitioned the Federal High Court of Lagos to prevent the lessor from pursuing its action in England. The Nigerian court claimed full jurisdiction over the matter.

In its motion to dismiss, the lessor referred the court to Article VIII of the Aircraft Protocol, which provides that the parties’ choice of law to govern their contractual rights and obligations must be respected in all Contracting States which have made a declaration to that effect under Article

repossession remedies.

<sup>38</sup> Unlike the *in rem* repossession remedies of Article 13(1)(a)-(c), relief under Article 13(d) is viewed as operating in personam, and therefore the debtor must be situated in the territory of the forum state where enforcement is sought (as opposed to where the object is located). See Goode (n 8) para 4.287.

<sup>39</sup> Article X of the Aircraft Protocol extends Article 13 remedies to sale; it also substantially modifies Article 13, for example, by preventing the imposition by a court of a bond requirement if the parties have excluded application of Article 13(2) in their contract.

<sup>40</sup> Goode (n 8) para 4.294.

<sup>41</sup> *First Nation Airways (SS) Limited v Castle 2003-1A LLC & others* [2016] FHC/L/CS/1343 1.

XXX(1), as Nigeria did. The lessor's argument to oust the Nigerian court rested on this provision as well as Article 42. The lessee, on the other hand, argued the Nigerian court must have the power to rule over the matter as a result of a series of connections between the transaction and the local forum, namely the location of the aircraft, the airline, the witnesses and the lawyers in the case. The airline claimed that the forum selection clause of the lease agreement should be considered null and void to the extent that such clause sought to oust the local jurisdiction of Nigerian courts and conflicted with Nigerian domestic mandatory law.

In considering the matter, the court acknowledged that 'recognition must be given to the principles of international law' and to 'the concept of autonomy of the parties to international commercial contracts' to select a forum of their choice, as provided under Article 42. However, the court questioned 'whether domestic rules and laws shall be subservient to international rules and principle' and went on to conclude:

where a domestic forum is asked to stay proceedings because parties in their contract chose a foreign court and a foreign law to apply, it should be very clearly understood by our courts that the power to stay proceedings is not mandatory. Rather it is discretionary power which in the ordinary way, and in the absence of strong reasons to the contrary will be exercised both judicially and judiciously bearing in mind each party's right to justice.<sup>42</sup>

Having considered the arguments raised by the lessee to support its requests, the Court found that the Nigerian restrictions on foreign exchange (which prevent the lessee from paying for its representation before the English courts) constituted 'strong cause' for the court to take jurisdiction over the matter and reject the lessor's motion to dismiss. The court also ruled that its decision to adjudicate the matter pre-empted the jurisdiction of the English court.

These judicial actions were inconsistent with the jurisdictional rules and intent of the CTC, which overrides pre-CTC law (including national conflicts rules). The Court did not enforce the choice of forum set by the parties in the leases despite recognizing that the CTC and Aircraft Protocol were effective and enforceable in Nigeria. This ruling is particularly troubling since in the present case, the Court could have decided that Article 42 did not apply because the United Kingdom had not acceded to the CTC at the time the courts of England were designated as the exclusive forum for CTC claims.<sup>43</sup> Instead, the court peremptorily applied

<sup>42</sup> *ibid.*

<sup>43</sup> As discussed above, only the courts of Contracting States may be designated pursuant to Article 42 of the Convention.

national doctrines (such as the 'strong cause' exemption) notwithstanding that the parties' exclusive choice of forum was deemed to have been validly made. No matter how critical the connections to Nigeria are to determining jurisdiction under Nigerian conflicts rules, these are not relevant under a CTC analysis. As stated by Professor Goode, 'where exclusive, [Article 42] precludes courts of other Contracting States from accepting or asserting jurisdiction' over a case.<sup>44</sup>

### **Role and Limits of Courts: Enforcement of the CTC's Substantive Repossession Remedies**

We will now turn to the process and dynamics surrounding the substantive exercise of repossession remedies, focusing on the key ways that the CTC provisions, principles and framework might be contorted to use courts in the jurisdiction where the object is located as a shield against an otherwise legitimate exercise of CTC remedies.

#### ***Improperly Shielding the Exercise of the CTC's Non-Judicial Repossession Remedies***

The Convention contains two key provisions that can impact the exercise of Article 8 and Article 10 repossession remedies: the general requirement in Article 14 that remedies be exercised in accordance with the procedures prescribed by the law of the place where the remedy is to be exercised; and the principle in Article 8 (as supplemented by the Aircraft Protocol with respect to aircraft objects) that remedies must be exercised in a 'commercially reasonable' manner. If it is the role of courts to ensure that CTC principles are faithfully applied, under which circumstances then, if any, can a court exercising jurisdiction over the territory where the object is located legitimately block or enjoin the exercise of CTC non-judicial repossession remedies?

Article 14 of the Convention provides that, subject to Article 54(2), substantive repossession remedies will be exercised in accordance with the procedural laws of the *lex loci* (ie the law of the jurisdiction where the remedy is exercised). This will often be the law of the jurisdiction of a debtor, which may create some institutional bias. However, Article 14 cannot be relied upon by courts to impose any requirement for a court order (even a derivative requirement) where a contracting state has declared that remedies are available without leave of the court under Article 54(2). Other procedural laws that conflict with the existence and availability of non-judicial remedies are also problematic. For example, the imposition of undue administrative delays for access to airport facilities, ferry flight permits or air traffic control permissions would all render the effectiveness of declared remedies moot. The intention of the CTC is that the foregoing be effected on a swift basis.

<sup>44</sup> Goode (n 8) para 4.285.

Implementation issues may arise where a system that did not previously allow non-judicial remedies makes an affirmative Article 54(2) declaration. A recent article<sup>45</sup> published in this Journal examined these issues in detail in the case of Québec, which made a deliberate attempt in its legislative implementation to bring the applicable commercial and procedural law into line with CTC principles.<sup>46</sup> The article concludes that even in the absence of any specific enabling changes to the rules of civil procedure or any jurisprudence from domestic sources:

the Lessor and the Bailiff must be able to take reasonable measures to physically repossess the aircraft in the face of airline opposition. Such reasonable measures would need to be exercised in good faith with prudence and diligence; the Lessor and the Bailiff are not entitled to apply force to an individual. The key conclusion, however, is that the lack of existing procedural rules cannot be used to deprive a creditor of the remedy specifically given to it by the Governments of Canada and Québec to exercise non-judicial remedies.<sup>47</sup>

Accordingly, even if the contracting state at issue has an entire body of jurisprudence stating that non-judicial remedies were against pre-CTC public policy in such a state (which was changed by the permitting declaration), a court could not grant an injunction to a defaulting debtor prohibiting non-judicial repossession on that basis where the contracting state has made an affirmative Article 54(2) declaration, since Article 5 does not allow resort to local principles where a matter is expressly addressed in the CTC. In other words, mere repossession of the asset cannot be deemed to create irreparable harm or prejudice where the availability of this remedy has been declared by a contracting state and agreed to in writing by the debtor.

Accepting that the CTC allows for extra-judicial remedies does not permit a creditor to breach the peace or otherwise engage in abusive behavior. This is because Article 8(3) requires that a secured party exercise remedies in a ‘commercially reasonable’ manner.<sup>48</sup> Specified remedies under the

relevant agreement, including notice periods, are deemed to be commercially reasonable except where such provision is ‘manifestly unreasonable’. This wording ‘embodies a strong presumption in favour of the reasonableness of a contractual provision as to the mode of exercise of a remedy and is designed to encourage reliance on contract wording, particularly where the wording is customary in international aircraft financing and leasing contracts.’<sup>49</sup> Article 8(3) is mandatory and cannot be derogated from by agreement of the parties.<sup>50</sup>

Since the term ‘commercially reasonable’ is not expressly defined under the CTC, courts must first look to general principles, as discussed above, when applying the concept. These principles include party autonomy, which is expressly embodied in the presumption as to the reasonableness of agreed remedies, but, critically, also the ‘international character’ of the CTC and the ‘need to promote uniformity and predictability in its application’ as expressly stated in Article 5(1). Accordingly, in determining what is ‘commercially reasonable’, a court should always look at established commercial and international practices, along with industry standards and customary practices within the cross-border equipment financing and leasing industry, prior to resorting to domestic law. Established commercial practice in the international aircraft financing space hinges upon the rapid repossession and redeployment of assets following an event of default.<sup>51</sup> A full comparative legal analysis as to what constitutes commercial reasonableness in international commerce is beyond the scope of this article, but in matters relating to the exercise of repossession remedies, the essence is that creditors should avoid violence or breach of the peace and use reasonable efforts to preserve the value of the recovered property and to mitigate the creditor’s losses resulting from the default. These principles are emphasized in various international law texts, sources and guidelines,<sup>52</sup> including the UNCITRAL Legislative Guide on Secured Transactions.

References to commercial reasonableness in international legal instruments have largely been inspired by Article 9 of the United States Uniform Commercial Code, which has, since its enactment in the 1960s, influenced many different national and international personal property security regimes in need of a ‘device to control, on an ex-post basis, the creditor’s behavior’.<sup>53</sup>

45 Donald Gray, Jason MacIntyre and Jeffrey Wool, ‘The Interaction Between Cape Town Convention Repossession Remedies and Local Procedural Law: A Civil Law Case Study’ (2015) 4(1) CTCJ 17.

46 The Québec CTC Regulation specifically provides that ‘any remedy available to the creditor under any provision of the CTC which is not there expressed to require application to the court may be exercised without leave of the court’.

47 Gray, MacIntyre and Wool (n 45) 37.

48 Under the CTC itself, the ‘commercially reasonable’ requirement only applies to Article 8 remedies. Article IX(3) of the Aircraft Protocol, however, extends this limitation to all remedies for aircraft objects, including those available under Article 10. It is important to note that Article 8(3) is focused on the commercial reasonableness of CTC repossession remedies (ie dispossession) and not on the commercial reasonableness of sales of collateral in the exercise of remedies (ie foreclosure).

49 Goode (n 8) para 5.51.

50 Article IV(3) of the Aircraft Protocol.

51 Gray, MacIntyre and Wool (n 45).

52 See Anna Veneziano, ‘The Role of Party Autonomy in the Enforcement of Secured Creditor’s Rights: International Developments’ (2015) 4 Penn St J L & Int’l Aff 333.

53 Laura M. Franciosi, ‘Commercial Reasonableness in Financial Collateral Contracts: A Comparative Overview’ [2012] 17(3) Uniform Law Journal <<https://doi.org/10.1093/ulr/17.3.483>> accessed 5 January 2018. Examples include, among others, the personal property security



The ‘ex-post’ nature of this device is critical to the framework of the CTC. This is because the CTC allows debtors to pursue claims for lender liability separate and apart from the repossession action of the creditor. The exercise of these rights is typically subject to contractual jurisdiction as agreed by the parties, rather than the jurisdiction where the object happens to be located, and the creditor liability claims themselves are not secured by the relevant object. In fact, the CTC itself does not even purport to govern these claims, something which is reinforced in the Aircraft Protocol which expressly provides that ‘[n]othing in the Convention or [this] Protocol affects the liability of [a] creditor for any breach of the agreement under the applicable law in so far as that agreement relates to an aircraft object’.<sup>54</sup> Therefore, the CTC does not permit a court to block an impending non-judicial repossession pending a determination by the court as to whether or not the action is commercially reasonable. To impose any ex ante judicial standard of review as to the commercial reasonableness of a proposed extra-judicial action would undermine the very essence of the CTC’s non-judicial repossession remedies. This would be inconsistent with the general principles that take precedence over applicable law, in particular the *sui generis* concept principle and the no adverse effect principle.

Other matters outside the scope of the CTC include criminal law, regulatory public law and torts/civil liability, all of which are similarly independent from the right of the creditor to obtain possession of an object and are not secured by the object. The existence of these types of claim or counter-claim cannot be used in the courts to block non-judicial remedies where the requirements of the CTC have otherwise been met.

### ***Improperly Shielding the Exercise of the CTC’s Judicial Repossession Remedies***

Where a contracting state has declared that CTC remedies may only be exercised with leave of the court, or in certain instances where the exercise of non-judicial remedies is not possible without breaching the peace given the facts on the ground (eg security in place at large international airports), gaining access to the relevant object may require a prejudgment order from a court having jurisdiction over the territory where the object is located. To standardize the approach courts take in these cases, the CTC contains a specific judicial procedure in Article 13 designed to ensure that speedy relief is available with very limited opportunity for ex ante judicial control. Article 13 is a substantive CTC remedy intended to provide a rapid, cost-effective process that is separate from any interim or other remedies available

acts of various countries, the United Nations Convention on Contracts for the International Sale of Goods, and the United Nations Convention on the Assignment of Receivables in International Trade.

54 See Wool and Jonovic (n 8) 77.

under domestic law. Its essence is that courts are required to provide the creditor who adduces evidence of default with speedy relief pending final determination of its claim. In the context of repossession remedies, the contemplated judicial relief takes the form of an order for the preservation of an object and its value, the possession, control or custody of the object and/or its immobilization. It only applies where it has not been excluded by a contracting state declaration under Article 55 and where agreed to by a debtor in the relevant agreement.

There has been some limited debate in the international legal community over the nature of the ‘relief pending final determination’ in the Convention text. In the inaugural issue of this Journal, Gilles Cuniberti suggested that Article 13 could be seen as a hybrid between interim relief and a final remedy,<sup>55</sup> a theory that could lead courts and debtors to leverage local pre-CTC interim relief procedures in and around injunctions and standards of proof by, for example, reference to Article 14 and the gap-filling rules of Article 5. The result would be an inconsistent application of Article 13 remedies and, in the worst case, the potential dismantling of this CTC remedy in contravention of general principles which require that remedies be interpreted in a manner that renders them effective. This would have been accentuated by the wide berth given to many judges in weighing issues of fairness or equity in determining access to interim remedies under national systems. Since the Cuniberti paper<sup>56</sup> was published, the international legal community and courts generally have become more comfortable with the overriding *sui generis* nature of Article 13 remedies.<sup>57</sup> Indeed, notwithstanding the views expressed by Cuniberti, the specificity of the Convention text, as back-stopped by the application of its general principles, requires that Article 13 be interpreted and applied on its own terms, autonomously from any existing or analogous domestic law concepts.<sup>58</sup>

Notably, the CTC does not provide courts with any discretion to refuse an Article 13 order or to suspend the effectiveness of an order for a period to allow the default to be cured. The only factual predicate is that the creditor ‘adduce’ evidence of a default in the forum where the Article 13 petition is filed. The Oxford Dictionary defines the verb as to ‘cite in evidence’, as in to provide reasons as opposed to proving the

55 Gilles Cuniberti, ‘Advance Relief Under the Cape Town Convention’ (2012) 1(1) CTCJ 79.

56 *ibid.*

57 Anna Veneziano, ‘Advance Relief Under the Cape Town Convention and its Aircraft Protocol: A Comment on Gilles Cuniberti’s Interpretative Proposal’ (2013) 2(1) CTCJ 185, 186.

58 See Goode (n 8) para 2.98 (‘While Article 13(4) refers to “interim relief” this description was intentionally avoided in the heading to Article 13 and in Article 13(1) so as to make it clear that the relief is a CTC relief and should not be characterised by reference to concepts of municipal procedural law.’); Goode (n 8) para 4.109; Veneziano (n 57).

incontrovertible existence of a default. Accordingly, there is no resort to local procedural standards of proof; the creditor merely needs to provide prima facie evidence that the default exists, which can, for example, be in the form of an affidavit of non-payment.

That Article 13 relief is granted ‘pending’ final determination of the creditor’s claim simply means that the proceedings for recovery of the object are ancillary to, or undertaken in parallel with foreign, the main proceedings, which may be commenced either by the creditor or the debtor, presumably in the forum identified in the relevant agreement and having jurisdiction under Article 42. Article 13 does not require that a hearing take place, or that any pending claims be finally determined. In addition, nothing in Article 13 specifically militates for the preservation of the status quo as between the parties. This is because protection of the debtor is intended primarily to be provided by way of compensation following final judgment (which in certain circumstances may be secured by a bond as discussed below).

This makes sense given that Article 13(2) allows courts to impose terms to protect the debtor or other interested persons in the event that the creditor fails to perform its obligations under the CTC or otherwise fails to establish its claim on final determination. This protection can take various forms, including an undertaking to pay damages to the debtor or other interested party, or the provision of a bond or demand guarantee covering potential liability for breach of a CTC obligation (including the obligation to act in a commercially reasonable manner).<sup>59</sup> For aircraft objects, following the ‘ex post’ theory of commercial reasonableness noted above, this requirement can be waived in writing by the parties under Article X(5) of the Aircraft Protocol. The courts may also require notice to interested parties under Article 13(3). Under Article 13(4), the creditor remains entitled to other forms of relief, including interim relief, under local law (such as interim payment orders).

Once an Article 13 action is commenced, only the terms of the CTC apply. Article 13(2) therefore must be interpreted on the basis of the Convention text and the above-described gap-filling provisions before resorting to local principles. Article 13(2), if not excluded (see above), gives a court fairly wide discretion with respect to protective measures against a breach by a creditor of its CTC obligations. Some of these measures, including the requirement to post a bond or demand guarantee covering potential creditor liability for a breach of the CTC, can be waived by the debtor in writing

under the Aircraft Protocol.<sup>60</sup> Such judicial discretion, however, is limited to two specific circumstances: protection against a creditor’s breach of its obligations under the CTC; and failure of the creditor to adduce evidence of its claim, as where the court concludes that the debtor was not in fact in default. The court has no general power to deny an Article 13 petition or to enjoin any repossession pending a trial on the merits, both of which situations would be inconsistent with the text and principles of the CTC.<sup>61</sup> Similarly, the statement in Article 13(4) that ‘[n]othing in [Article 13] ... limits the availability of forms of interim relief other than those set out in paragraph 1’ is not a signal that a debtor may counter an Article 13 petition with a request for injunctive relief under national legal principles. Article 13(4) is entirely related to the ‘relief’ available to a creditor and not the defenses available to a debtor. This is a very concrete example of why the CTC empowers courts to be used as a sword and not as a shield.

### **Role and Limits of Courts: A Case Study**

This article concludes with a case study intended to illustrate many of the principles that we have reviewed. It involves a fictitious Mexican airline operating a Mexican-registered aircraft under a New York law-governed finance lease, where the lessor is a Delaware special purpose trust that has granted a New York law mortgage to a commercial lender. We will examine a hypothetical non-judicial repossession scenario while the aircraft is located in Miami, Florida and an Article 13 petition for repossession and control of the aircraft while it is located in Mexico. The below scenario is entirely hypothetical and posited for illustrative purposes only. The authors do not purport to take a definitive position as to how a court would rule in such case, only as to how a court should rule in light of CTC principles.

### **Factual Background**

A Delaware owner-trustee (the ‘Lessor’) leased a Boeing 757 (the ‘Aircraft’) to an airline (the ‘Lessee’), incorporated and located in Mexico for purposes of the CTC. The Aircraft was leased pursuant to a finance lease (the ‘Lease’) that was executed in January 2008 (the ‘Lease’), after the Convention entered into force in Mexico on November 11, 2007. A New York law mortgage (the ‘Mortgage’) was granted by the Lessor in favor of a security trustee for the benefit of a commercial bank (the ‘Security Trustee’). The Mortgage was the first registration made on the International Registry, followed by the Lease. Both the Lease and the Mortgage were translated into Spanish and registered with the Mexican civil aviation authority.

<sup>60</sup> Article X of the Aircraft Protocol extends Article 13 remedies to sale; it also substantially modifies Article 13 by, for example, preventing a court from imposing a bond requirement if the parties’ contract excludes application of Article 13(2).

<sup>61</sup> Goode (n 8) para 4.109.

<sup>59</sup> Goode (n 8) para 4.111.

The parties agreed in the Lease and the Mortgage that these documents would be governed by New York law and submitted to the exclusive jurisdiction of the courts of the State of New York. The Lease was assigned to the Security Trustee and was, by its terms, subject and subordinate to the Mortgage, meaning that in the event of a loan default the Security Trustee was contractually permitted to terminate and avoid the Lease. The parties further agreed that each of the events of default specified in the Lease, including a payment default by the Lessee, were capable of giving rise to the remedies set forth in the CTC and that any default under the Lease would also constitute an event of default under the Mortgage. Remedies under both the Lease and the Mortgage were deemed to be exercised in a ‘commercially reasonable manner’ if carried out in a manner consistent with the New York Uniform Commercial Code (‘NY UCC’). The Lease and the Mortgage also provided that upon a continuing event of default by the Lessee or Lessor, as applicable, the Security Trustee would have the right to terminate the Lease and enter upon the premises where the Aircraft or any part thereof was located and take immediate possession of and remove the same to the fullest extent permitted by applicable law.

#### ***Default and Attempted Self-Help***

Upon the occurrence and continuation of multiple events of default by Lessee, including failure to pay basic rent for several months and failure to maintain the insurances required under the Lease, the Lessor first served a notice of default on the Lessee, and then on May 2, 2017, a notice of termination of the Lease. Notwithstanding the notices, the Lessee continued to operate the Aircraft. On June 5, 2017, after becoming aware that the Aircraft was stored outdoors at Miami International Airport for some routine checks, the Lessor decided to initiate the procedure to repossess the Aircraft by exercising self-help remedies under the CTC.

The Declarations lodged by the United States of America under the Convention at the time of the deposit of its instrument of ratification provide that pursuant to Article 54 of the Convention, ‘all remedies available to the creditor under the Convention or Protocol which are not expressed under the relevant provision thereof to require application to the court may be exercised, in accordance with United States law, without leave of the court.’ New York Courts treat a finance lease as a security agreement for purposes of the CTC and, therefore, in proceedings involving the law of New York, a finance lease falls under the scope of Article 8 of the CTC (as opposed to Article 10). Article 8(3) of the Convention (and Article IX(3) of the Aircraft Protocol) requires that a secured party exercise remedies in a ‘commercially reasonable’ manner. Specified remedies under the relevant agreement, including notice periods, are deemed to be commercially reasonable except where such provision is ‘manifestly

unreasonable’. In this case, the agreement provides that remedies exercised in accordance with the standards of the NY UCC will be deemed commercially reasonable.

A repossession agent was hired who, with the aid of a ground handler, sought to access the Aircraft, attach a notice of repossession from the Lessor to the first front door of the Aircraft, get the aircraft certificates and logbooks stored in the cabin and move the Aircraft to one of the handler’s hangars. The Aircraft, however, was stored in a hangar belonging to a third party.

When the repossession agent arrived at the site, security guards were patrolling the hangar. Unfortunately, the repossession could not occur without breaching the peace.

#### ***Lessee Claim for Injunctive Relief; Resort by Security Trustee to Article 13 Remedies***

With self-help unavailable, the Security Trustee and the Lessor (acting at the direction of the Security Trustee as part of its exercise of remedies under the NY UCC as assignee of the lease and beneficial interest in the lessor) filed a claim in the Supreme Court of the State of New York for breach of contract demanding return of the aircraft. Before the process had been served on the Lessee, the Aircraft was flown away to Cancun. Self-help remedies are not available in Mexico and in acceding to the CTC, Mexico declared that all remedies available to a creditor under the CTC which are not expressed under the relevant provision thereof to require application to the court (including the remedies provided by Article 8 of the Convention) shall not be exercised without leave of the court.

The Lessee then initiated proceedings before the Mexican Federal Court in Cancun seeking pre-emptively to enjoin the Security Trustee or Lessor from exercising remedies on the grounds that the non-consensual repossession of a commercial airliner that is in service is by definition commercially unreasonable, since it would result in passenger disruptions that were not in the public interest. A few days later, the Security Trustee and Lessor filed a counter-claim in the Mexican Federal Court requesting to take possession of the Aircraft pending final determination of the New York case under Article 13(1)(b) of the Convention.

As a legal basis for the counter-claim, the Security Trustee and Lessor sought to establish (1) the applicability of the CTC with connecting factors, (2) the location of the Aircraft in Cancun, (3) the commencement of a case on the merits in New York courts and (4) the wording in the loan and lease documentation where the parties specifically agreed that CTC remedies (including Article 13 remedies) applied following a default. The Security Trustee and Lessor submitted invoices and bank records as evidence of the

existence of a payment default. In objecting to the motion for an injunction, the Security Trustee and Lessor argued that (1) Mexican courts did not have jurisdiction to grant preliminary relief in respect of a matter governed by the CTC, including the creditors' right to possession of the Aircraft, since the Lessee agreed to submit to New York courts under Article 42; (2) that the Security Trustee and Lessor's Article 13 claim for speedy relief needed to be evaluated strictly on the basis of the CTC and not on the basis of Mexican legal principles; (3) that any claim that the Security Trustee or Lessor did not act in a commercially reasonable manner had to be assessed separate and apart from the right of the creditor parties to obtain possession under Article 13; and (4) finally, that in any event passenger disruptions were not a sufficient basis under the CTC to preclude Article 13 remedies or for a finding that their actions were not commercially reasonable.

The Lessee in turn asked the court to dismiss the Article 13 counter-claim asserting, *inter alia*, that the Lessor and the Security Trustee failed to provide evidence of default, that the parties' choice of law in the Lease and in the Mortgage was invalid under Mexican law, and that the order requested by the Lessor and the Security Trustee, if granted, would violate Mexican law which had to be considered supreme.

#### ***Findings of Mexican Court***

In first instance, the Fifth District Judge of the State of Quintana Roo dismissed Lessee's request for a preliminary injunction on the basis that the Security Trustee and Lessor were seeking judicial relief under Article 13 and therefore there was no danger that the Lessee's rights would be impaired since it would continue to have possession of the Aircraft during pendency of the Article 13 hearing. In doing so, the Mexican court accepted jurisdiction to hear the motion for preliminary injunction, though the basis for that might be argued.

On the matter of the Article 13 counter-claim, the court correctly evaluated the claim on the basis of CTC principles, without resort to the rules on interim attachment orders contained in the Commercial Code ('Codigo de Comercio'). The court agreed to grant the requested relief subject to requiring a surety to be put in guarantee by the claimants for \$250,000 USD pursuant to Article 1182 of the Commercial Code to secure the remaining obligations of the creditor parties to act in a commercially reasonable manner. The court refused to rule as to whether any actions or proposed actions of the creditor parties were commercially reasonable or not, indicating that such an analysis was beyond the scope of the Article 13 procedure and should be assessed as part of the New York proceedings. While the relief granted was generally consistent with Article 13 of the Convention and allowed the creditor parties to recover physical possession of

the Aircraft within a few days of filing their claim, the basis for this protective measure should have been Article 13(2) of the Convention as opposed to Mexican law.

#### **Conclusion**

The CTC, where supported by contracting state declarations and party intent in their contractual agreements, creates a system whereby courts having jurisdiction over the territory in which an object is located can be used as a 'sword' to obtain speedy possession of that object, but cannot be used as a 'shield' to delay that repossession activity. Improper shielding actions typically arise from either (1) a failure by courts to enforce the Convention's substantive remedies (including the issuance of blocking or injunctive orders contrary to the Convention) or (2) the improper application of the Convention's jurisdictional rules. The principle of autonomous interpretation enshrined in the Convention requires a court to interpret the Convention by reference to its terms and principles instead of by reference to analogous principles of domestic law. The Convention does not give any court general jurisdiction to enjoin repossession remedies on the basis of local law principles or allow a debtor to initiate preemptive injunctive action to block an Article 13 petition prior to any action by a creditor. ■

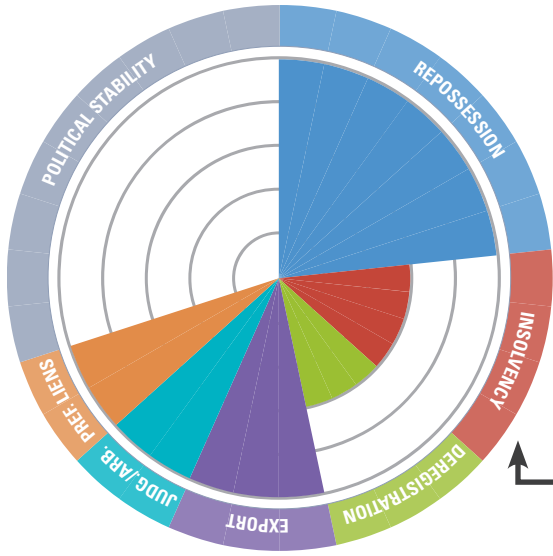


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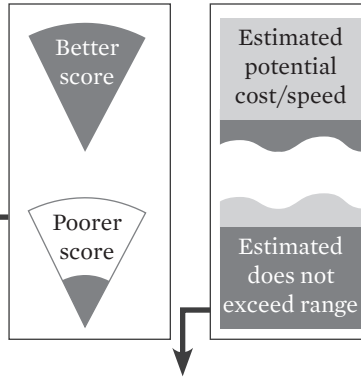
**Conyers Dill & Pearman**



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**(\*\*) Overall Score disregards Political Stability (insufficient data)**



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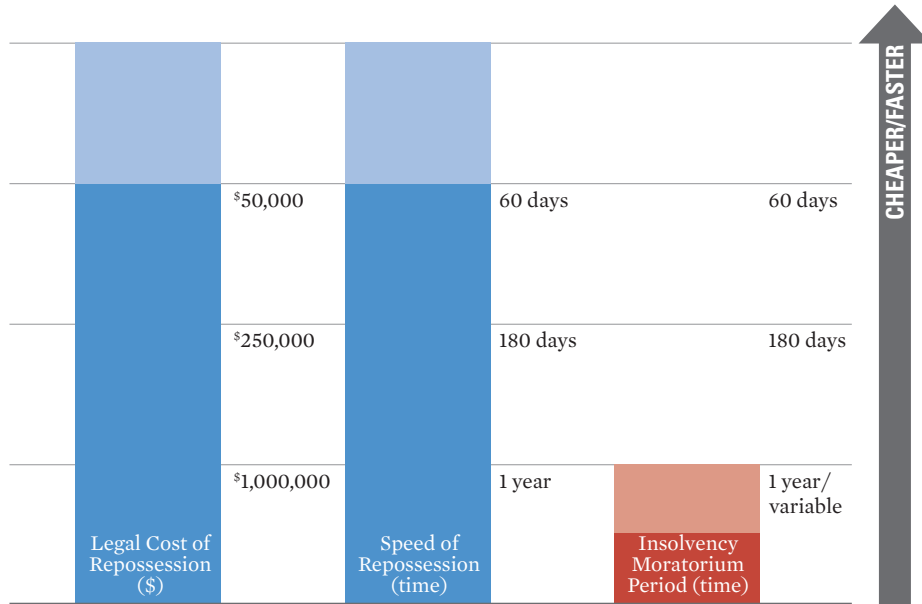
Overall Score <sup>(\*\*)</sup> Category

**87%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>100%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>60%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>No data</b>

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>NO</b>	N/A	N/A	N/A

## More Results

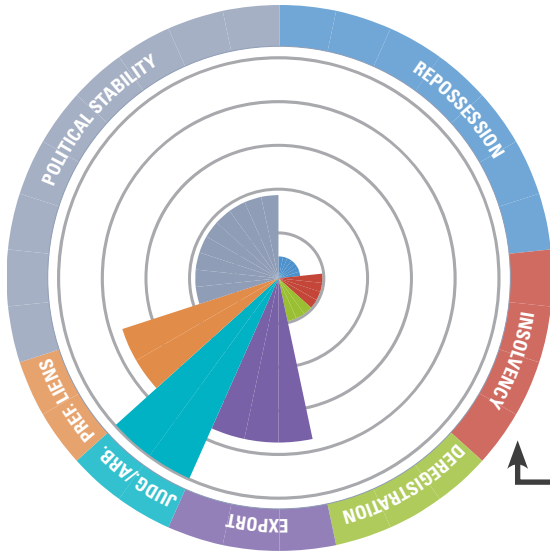
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**[repointex@pillsburylaw.com](mailto:repointex@pillsburylaw.com)**

(\*) Local counsel has provided additional notes for this country.

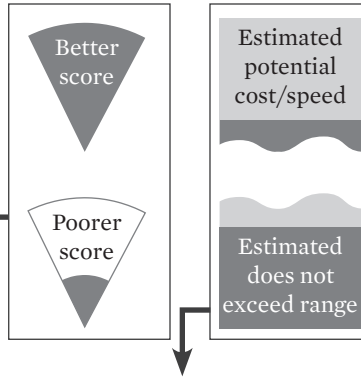
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Overall Score      Category

**38%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 7%
12.5%	Insolvency 20%
10.0%	Deregistration 20%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 75%
30.0%	Political Stability 38%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

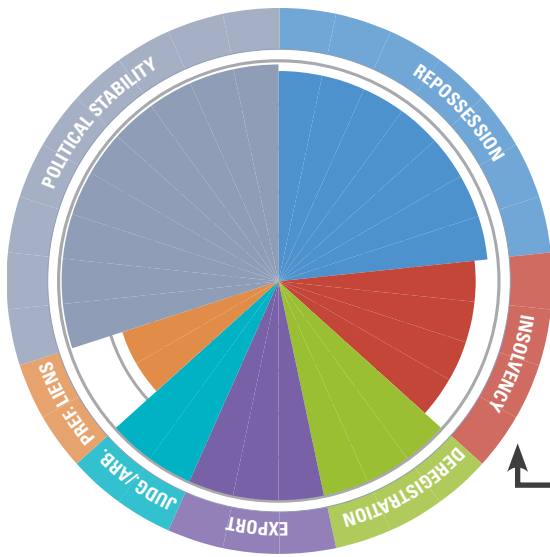
COMPLETED BY:

**Blake, Cassels & Graydon LLP**

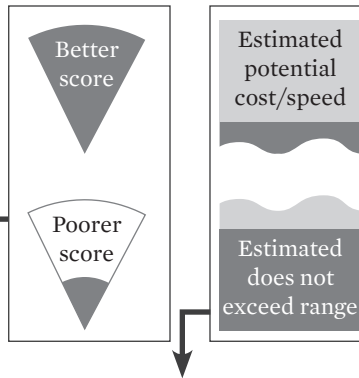


**CONTACT:** DONALD G. GRAY, Partner / Head of Aircraft Finance,  
donald.gray@blakes.com

JASON MACINTYRE, Partner / Aviation and Aerospace Group,  
jason.macintyre@blakes.com



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Overall Score

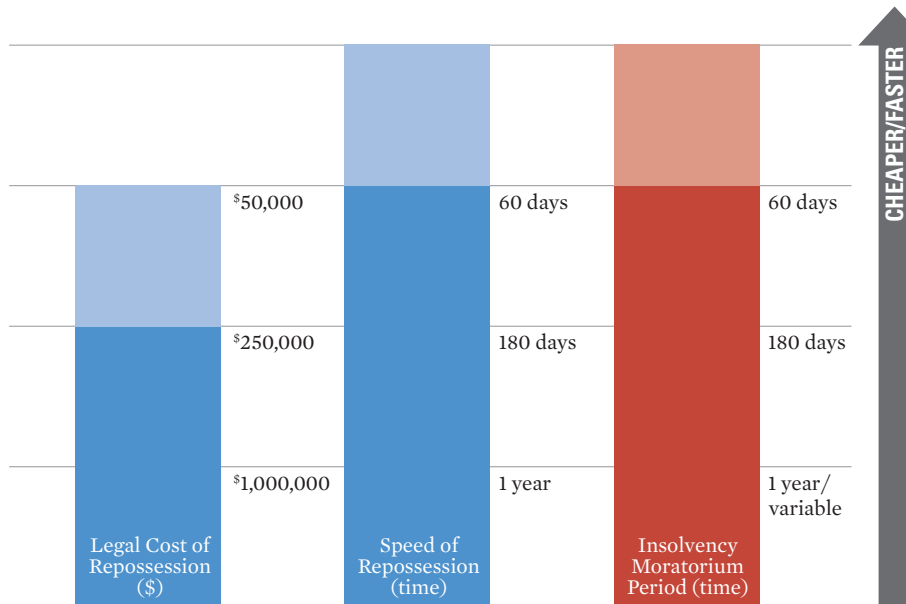
Category

**96%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>96%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>99%</b>

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **NO**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **NO** Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

# Cayman Islands (\*)

Jurisdiction(s): Cayman Islands

Up to Date: April 2018

(\*) Local counsel has provided additional notes for this country.

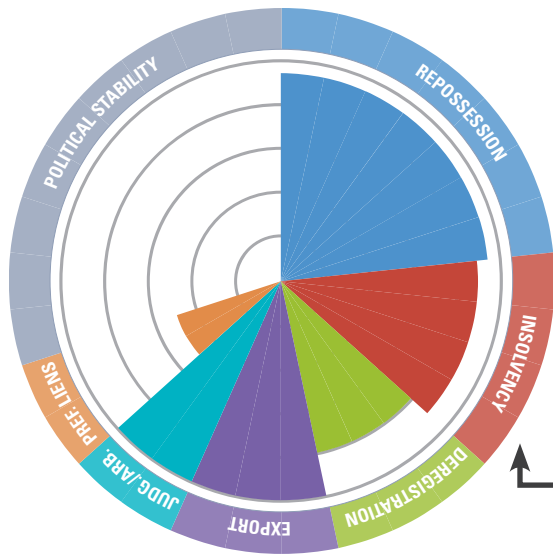
COMPLETED BY:

**Walkers, Cayman Islands office**

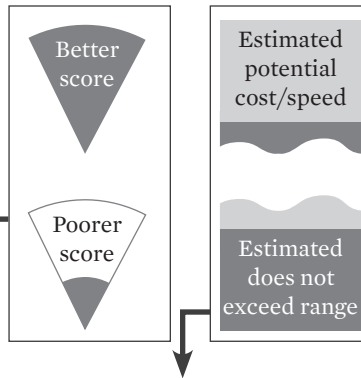


CONTACT: JAMES BURCH, Partner, James.Burch@walkersglobal.com

PAUL OSBORNE, Senior Counsel, paul.osborne@walkersglobal.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



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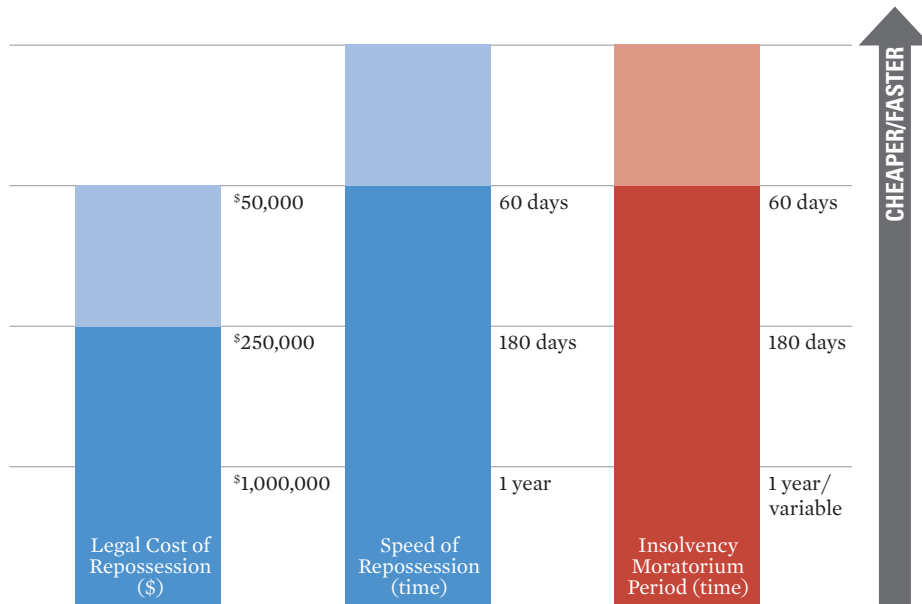
Overall Score (\*\*) Category

**88%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>95%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>No data</b>

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

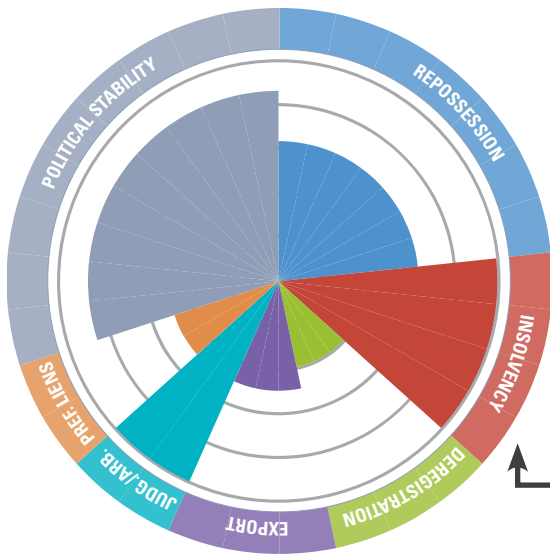
COMPLETED BY:

**Claro y Cía**

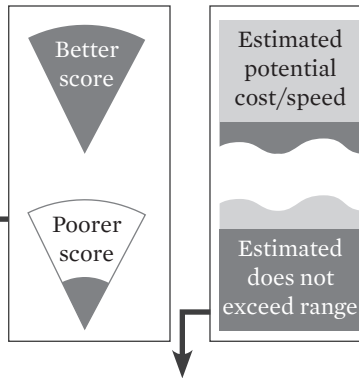
**CLARO & CIA.** 1880

CONTACT: JUAN LEÚN, Partner, jleon@claro.cl

HERNÁN FELIPE VALDÉS, Partner, hfvaldes@claro.cl



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Overall Score

Category

**73%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>64%</b>
12.5%	Insolvency <b>100%</b>
10.0%	Deregistration <b>40%</b>
10.0%	Export <b>50%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>87%</b>

## Time & Cost Indicators

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES**

Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

# China (\*)

Jurisdiction(s): People's Republic of China

Up to Date: March 2018

(\*) Local counsel has provided additional notes for this country.

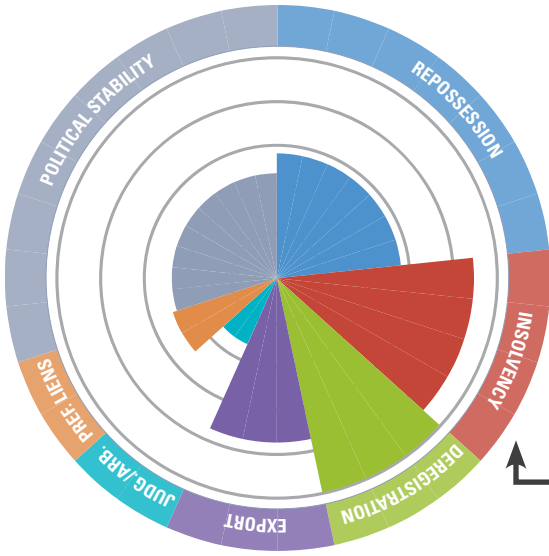
COMPLETED BY:

**King & Wood Mallesons**

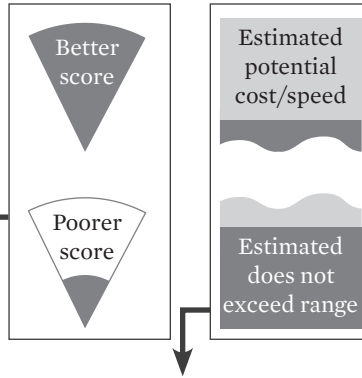
**KING & WOOD  
MALLESONS**  
金杜律师事务所

CONTACT: MA FENG, Partner, mafeng@cn.kwm.com

WANG NING, Partner, wangning@cn.kwm.com



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Overall Score	Category
<b>62%</b>	<b>MODERATE</b>
Weighting	Score:
22.5%	Repossession <b>57%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>48%</b>

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

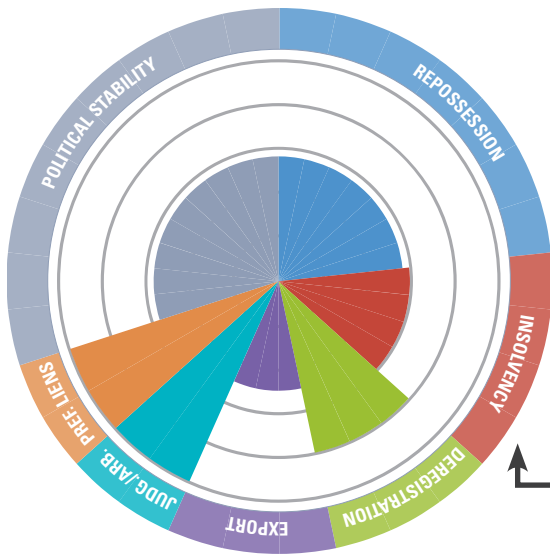
COMPLETED BY:

**Aguilar Castillo Love**

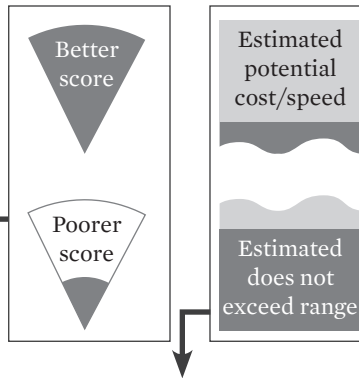
AGUILAR CASTILLO LOVE

CONTACT: MARCO SOLANO, Partner, msg@aguilarcastillolove.com

JOHN AGUILAR JR., Partner, jaq@aguilarcastillolove.com



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Overall Score

Category

**66%**

**MODERATE**

Weighting	Score:
22.5%	Repossession 57%
12.5%	Insolvency 60%
10.0%	Deregistration 80%
10.0%	Export 50%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 100%
30.0%	Political Stability 57%

## Time & Cost Indicators

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<input type="checkbox"/> NO
Cape Town Contracting State:	<input checked="" type="checkbox"/> YES <sup>§</sup>
Eligible for ASU Cape Town Discount:	<input type="checkbox"/> NO
Self-help (Lessor-owners):	<input type="checkbox"/> NO
Self-help (Mortgagees):	<input checked="" type="checkbox"/> YES
Moderately or well-developed insolvency laws:	<input checked="" type="checkbox"/> YES
Absence of significant taxes or similar fees payable on export:	<input checked="" type="checkbox"/> YES
Absence of fleetwide liens:	<input checked="" type="checkbox"/> YES
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<input checked="" type="checkbox"/> YES
an English court judgment:	<input checked="" type="checkbox"/> YES
an arbitral award:	<input checked="" type="checkbox"/> YES

<sup>§</sup>With effect from December 2018.

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <input checked="" type="checkbox"/> YES	N/A	N/A	N/A
Operator (if not also the owner): <input type="checkbox"/> NO	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	N/A	N/A	N/A
Owner: <input type="checkbox"/> N/A Mortgagee: <input checked="" type="checkbox"/> YES			

## More Results

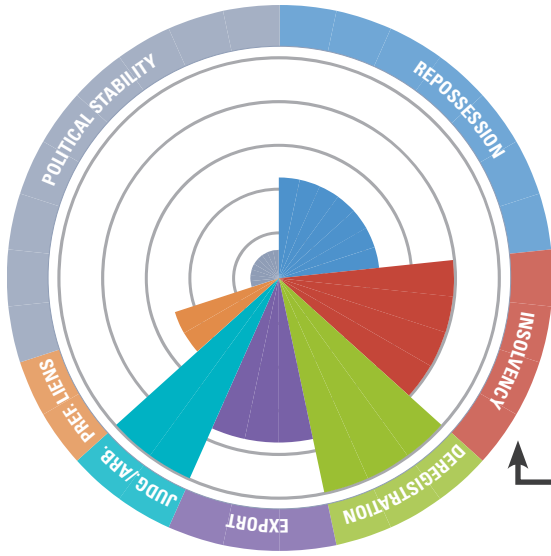
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

COMPLETED BY:

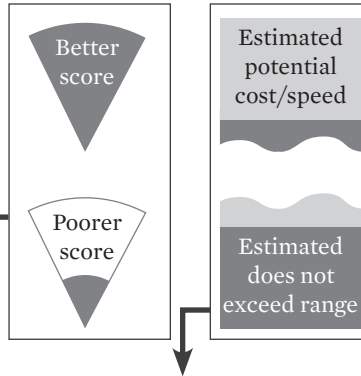
**AnyRay and Partners**



**CONTACT:** IKA RAYMOND ANY-GBAYERE, Partner,  
any.raymond@anyraypartners.com  
MARIE-CLAUDE KOFFI, Associate,  
marie-claude.koffi@anyraypartners.com



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Overall Score

Category

**53%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>46%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>13%</b>

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointex@pillsburylaw.com**



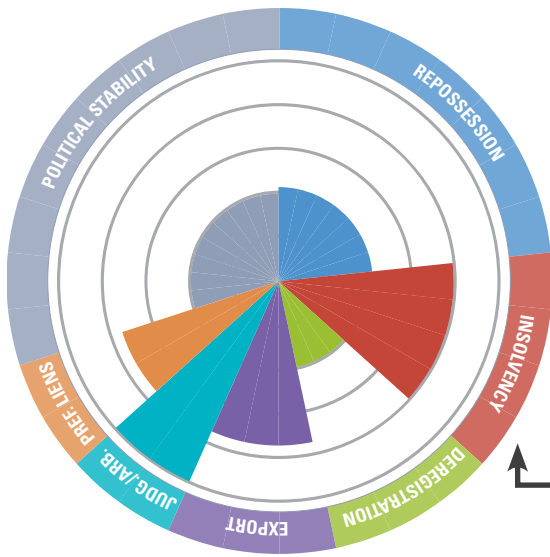
(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

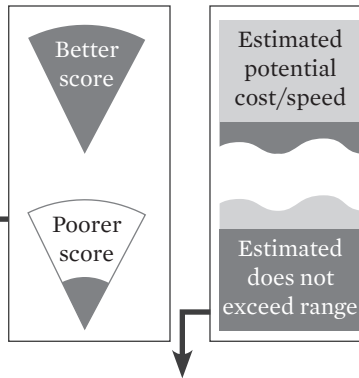
**Kovačević Prpić Simeunović  
Law Firm LLC**

**kps** | ODVJETNIČKO DRUŠTVO / LAW FIRM  
KOVAČEVIĆ PRPIĆ SIMEUNOVIĆ

CONTACT: DANIJELA SIMEUNOVIĆ, Partner, danijela.simeunovic@kps-law.com



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Overall Score

Category

**56%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>43%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>40%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>40%</b>

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

	Cost	Speed	Insolvency
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

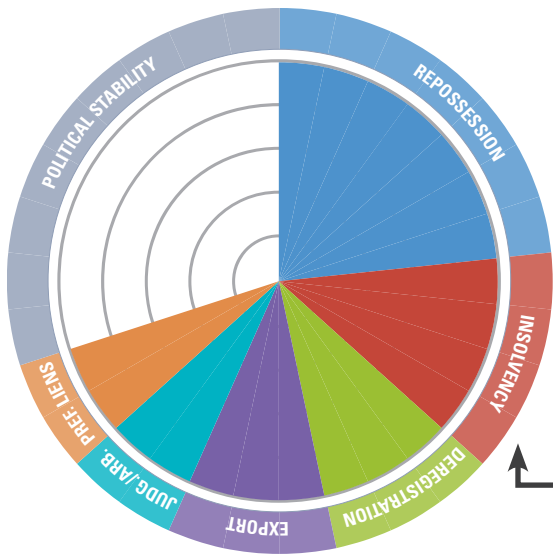
COMPLETED BY:

**Gomez & Coffie**

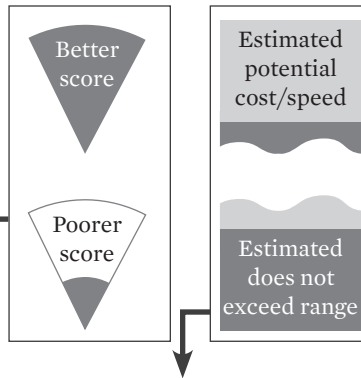


CONTACT: LINCOLN D. GOMEZ, Managing Partner, lincoln@gobiklaw.com

BRYAN COFFIE, Partner, bryan@gobiklaw.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



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Overall Score (**)	Category
<b>100%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>100%</b>
12.5%	Insolvency <b>100%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>No data</b>

**Time & Cost Indicators**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts†**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

†Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/a	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/a	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

# Catch Me If You Can: Prelude to an Aircraft Repo

By Paul P. Jebely

March 15, 2017

## Introduction

Aviation leasing is a study in the notion that where there is reward, there is risk (which is to say that, sometimes, return on capital becomes more about return of capital). Yet, in an environment where there appears in certain circles to be a barely finite amount of investor confidence (especially among newer investors, and especially in the Far East), it seems that some market participants may occasionally lose sight of the fact that aviation is a risky enterprise. Good lease deals can go bad, and bad lease deals—if, for whatever unfortunate reason, they were done in the first instance—can get far worse.

The worst case scenario of having to “get the plane back” from an uncooperative airline requires adequate consideration, before it is time to get the plane back. Repossession risk in any given lease deal should be a known-known rather than a known-unknown. That said, the actual act of getting the plane back—what is generally considered legal “repossession”—is often the anticlimax that follows the physical detention of the aircraft. It is beyond simple semantics, and not widely appreciated outside of a relatively small circle of in-house and external counsel. Little guidance exists on the very critical step of actually getting the plane, before getting the plane back, by those who have “been there and done that” many times, and look forward to doing it many times again. In that light, the following are some insights that could otherwise only be gained after a great deal of experience actually repossessing aircraft on behalf of lessors (and lenders) worldwide. The following is not exhaustive (and has not been exhausting to write), and is intended for mature audiences.

## Prelude to a Prelude to a Repo

There are, of course, many intervening steps between an initial default and a termination of a lease. While not the focus here, experience shows that there are always early warning signs that an airline is in trouble that are overlooked in hindsight. Among these are delayed payments and/or requests to reschedule payments, covenant breaches and/or requests for waiver, failure to undertake required maintenance, failure to maintain insurances, market “chatter,” adverse press articles, fall in share price (if publicly traded), restatement of accounts, failure to provide accounts, new limitations on operating licenses, and so on. In military parlance, it is important for a lessor to stay frosty.

When financial distress does become evident, it is best to start by evaluating the need or possibility of a restructuring or workout, while also beginning to formulate the repossession strategy—or, the proverbial nuclear option: the insolvency strategy. Restructures and workouts are preferred, if the life of the deal is to continue, since they are discreet (reducing risks from other creditors and loss of passenger business), maintain income from aircraft, avoid the need for distressed sale of the aircraft and usually do not involve third party interlopers like pensions regulators, suppliers, unions, et cetera.

It is important to assemble a team consisting of commercial, legal and technical players to analyze the situation at the outset when trouble first arises. If there is a willingness to consider engaging in a restructure or workout such that the life of the deal continues, key considerations are (i) the lessor’s relationship with and total exposure to the airline and (ii) the airline’s prospects for recovery (which should include an objective competitive analysis of its routes, operating costs, equipment, management strength, franchise value, and market/industry position).

At this juncture, a good question to ask is: do we even want the aircraft back? “Get the plane back” is a practically innate reaction, and this question is therefore often-overlooked. This is especially true with older generation aircraft where the cost of repossession negates the benefits in favor of a restructure/workout—or, if the life of the deal is to end early, debt recovery by means other than aircraft repossession. The aircraft value, condition, carrying costs and remarketability are the key considerations in this respect at each stage.

## The Best Repossession Is No Repossession

Aircraft repossession is, at best, an unpleasant and disruptive affair. If the life of the deal is to come to an end, then a “friendly return” of the aircraft, ideally in expected return condition, should always be the next option that the parties work toward as part of what amounts to mitigation and a negotiated settlement of the lessor’s losses. Often, however, it is necessary for a lessor to employ the Rooseveltian edict of “speak softly and carry a big stick”—which embodies the principles of coercive diplomacy—to promote friendliness in this context. Use the “carrot and the stick” approach by offering a combination of enticement and threat of harm to

try and induce the desired “friendly return” behavior. This idiom (a reference to a cart driver dangling a carrot in front of a mule while holding a stick behind the mule) is used in diplomacy to describe the realist concept of “hard power.” It is worth highlighting that it is both carrot and stick (and not carrot or stick) that are to be used. The threat of disruptive, costly (and public) court action itself is likely the most common stick that can be used (and the avoidance thereof can be considered a carrot). In this light, keep in mind that discretion is to be earned by a defaulting party, not assumed.

### “Worst Case Scenario” Strategy

As soon as it becomes evident that a friendly return is unlikely to be achieved, lessors need to be as strong and aggressive as possible going forward. Once the final decision to repossess has been taken, the time for further indulgences has passed. Map out a final repossession strategy rooted in a clear understanding of commercially rational and legally sound objectives. Do not take or make it personal. The decision to repossess an aircraft and how to do so should be a rational decision, whereby passion and chance are subordinate to commercial and legal reason. Apply the principle of “real options analysis,” and avoid what is known as “negative target fixation.” Successful aircraft repossession requires intelligent strategy and decisive leadership, foremost by lead (internal or external) counsel. Aircraft repossession is a legal task necessitated by commercial failure. It could be argued that the technical aspects are of near-tantamount importance, but this point will be not argued here. In any case, be aware that aircraft repossession can be an all-consuming affair for those involved in the day-to-day handling of the legal, technical and commercial issues that will arise. The decision maker(s) with responsibility for the repossession must be empowered to make quick decisions.

If all else fails—and assuming that the lessor (or lender) actually wants the aircraft back then, by all means, repossess, but focus first on securing physical possession of the aircraft somewhere “nice”—which, as discussed further below, is not just a reference to the jurisdiction’s weather.

### Fresh Eyes

It is useful at the outset of an aircraft repossession to (re-)analyze the underlying deal documents with fresh eyes (i.e.: with external counsel) and ask the basic questions such as to (i) ascertain what (if any) debt recovery alternatives to repossession may still be available, (ii) confirm when repossession can take place, and (iii) perform a “sanity check” to ensure that there are no relevant defects in the original deal documents that could frustrate the repossession.

### Local Lawyers

Select the right local counsel because having an adept and experienced local counsel is critical to the success of your repossession efforts. That noted, do not expect any counsel to work miracles. Request an early honest assessment and encourage frankness, because it is critical that expectations be managed and realistic objectives and timelines be formulated.

Do not select counsel based solely on their skills as an apparent fortune-teller, and bear in mind that “tell us what we want hear” is not a productive instruction to local counsel. The most important considerations in appointing the right local counsel are (i) the firm’s and lead lawyer’s experience in the substantive and procedural law relevant to aircraft repossession, (ii) domestic aviation industry experience/familiarity, and (iii) their fees. The order of importance is as presented.

### Lien In

Be aware that there are likely to be other creditors, including super-priority creditors that may be able to assert statutory or possessory liens and/or exercise detention rights over the aircraft. These creditors can present very significant and firm hurdles to effective repossession. Most often, it is best that these creditors, including the airport authority, are paid (rather than fought in the local court) in order to facilitate the repossession, de-registration and re-positioning of the aircraft. In this sense, it is a good idea to hope for the best, but expect the worst. This is especially true when it comes to issues with aviation and airport authorities (which can be a repossessing lessor’s best friend or worst enemy in this context, but seldom in between).

### Location, Location, Location

To state the obvious: aircraft are designed to cross borders, and almost all (jet) engines are designed to be swapped. In that light, it is critical to determine a friendly venue or venues for repossession, which may not be the state of aircraft registration. Flight schedule visibility is necessary to ascertain when the subject aircraft (and/or engines) may be located in a jurisdiction that is amenable to taking interim subject matter jurisdiction and granting injunctive relief in favor of the repossessing party.

One tried and tested method of persuading courts in common law jurisdictions, for example, is to claim that the tort of conversion is being perpetrated in the jurisdiction in question by virtue of the fact that the aircraft and/or engines are located in such jurisdiction in the possession of the airline despite the fact that the airline’s bailment of the aircraft and engines was terminated following an event of default.

While on the topic of location, the location and status of the aircraft records are of almost tantamount importance. From a logistical perspective, it is critical to have flight schedule visibility and awareness of records location so that arrangements (such as facility and ramp access, and access for contract flight crew) can be made wherever required in advance, including ensuring that ground handling, insurance and storage arrangements are in place.

### **Ground and Pound**

The ultimate key to any successful aircraft repossession is usually, first and foremost, physical control of the aircraft in a creditor-friendly jurisdiction. Self-help may not always be available—and even where it is technically available pursuant to local law, it may not be desirable—and so repossession via court action, or multiple court actions in different jurisdictions, may be required. Typically this takes the form of applications for interim injunctive relief. In most cases, the repossession—or, rather, detention—of an aircraft will not immediately secure full possession such that, for example, the lessor can deregister and fly the aircraft away at its will. Regardless, it is almost always in the lessor's best interest to gain physical (although limited) control of the aircraft without delay. Simple physical control can often be acquired more quickly and therefore less expensively through self-help, freezing/mareva, replevin writ (or other injunctive order) than full possession. A replevin writ enables an interim injunction that orders the airline to return the aircraft to the possession and control of the lessor, pending final judgment or settlement, whereas a freezing order (formerly called a mareva injunction) is an interim injunction that restrains an airline from dealing with the aircraft in order to preserve the aircraft until a final judgment can be enforced.

The lessor will often gain significant leverage in negotiation after securing the detention of the aircraft, even though it has not yet secured actual repossession. Typically at this stage, a defaulting and formerly unfriendly airline becomes highly incentivized to engage in damage control since its strategy to stall the process while continuing to operate the aircraft will have failed. Most often, physical control in this manner yields “friendly return” behavior after the fact, and signals the conclusion of the aircraft repossession—though ongoing debt recovery may continue. ■



(\*) Local counsel has provided additional notes for this country.

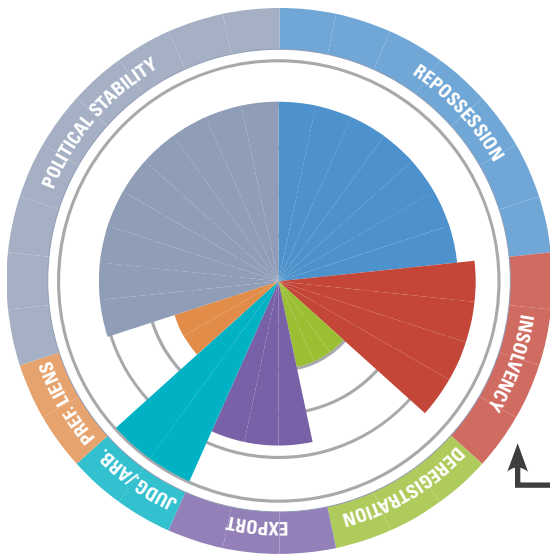
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**Kocián Šolc Balaščík,  
Advokátní Kancelář, s.r.o.**

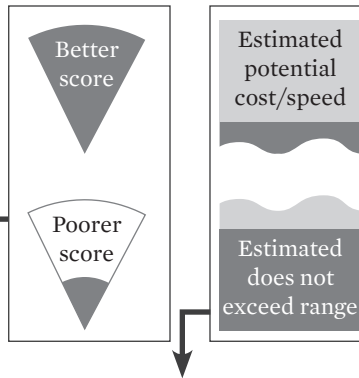


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PETR KOBLOVSKÝ, Lawyer, pkoblovsky@ksb.cz



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Overall Score

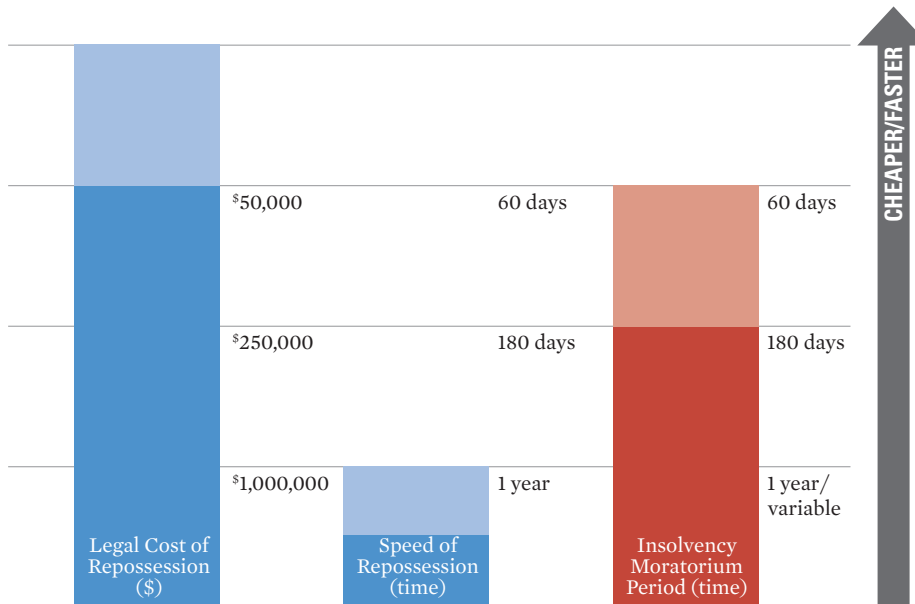
**77%**

Category

**LOWER**

Weighting		Score:
22.5%	Repossession	82%
12.5%	Insolvency	90%
10.0%	Deregistration	40%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	50%
30.0%	Political Stability	82%

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES** Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

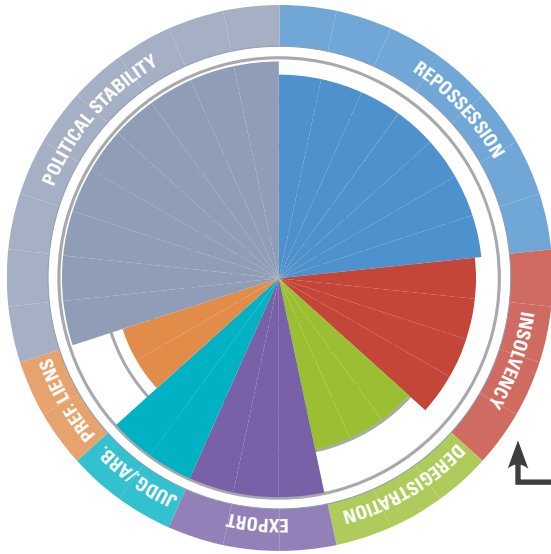
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**Gorrissen Federspiel**

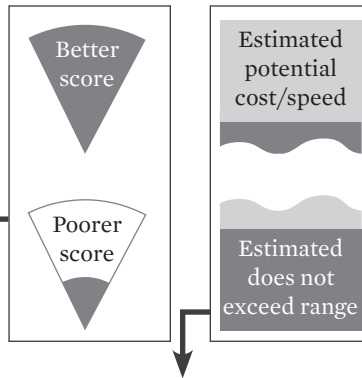


CONTACT: MORTEN HANS JAKOBSEN, Partner, mj@gorrissenfederspiel.com

KATRINE STELLINI, Assistant Attorney, kst@gorrissenfederspiel.com



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Overall Score	Category
<b>93%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>93%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>99%</b>

**Time & Cost Indicators**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

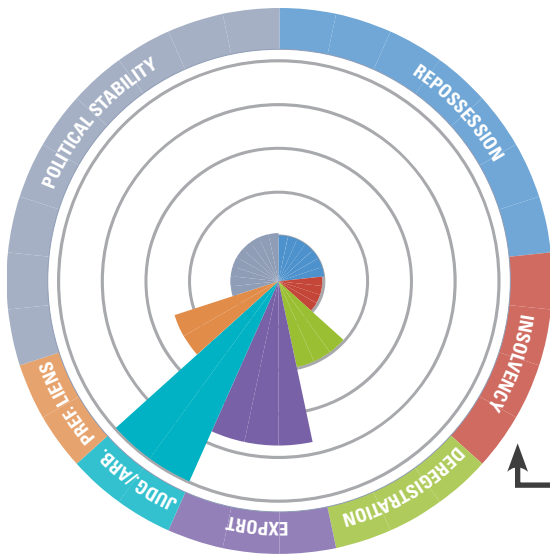
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**Raful Sicard & Polanco**

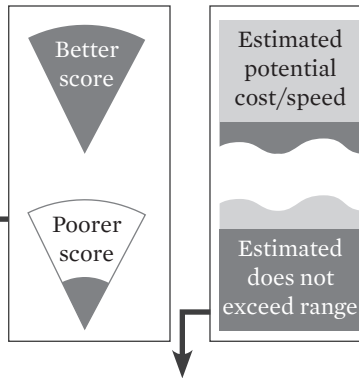


CONTACT: MARÍA ESTHER FERNÁNDEZ A. DE POU, Partner,  
mefernandez@legalrsp.com

MARÍA FERNANDA POU FERNÁNDEZ, Associate Lawyer,  
mf.pou@legalrsp.com



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Overall Score

Category

**37%**

**HIGHER**

Weighting	Score:
22.5%	21%
12.5%	20%
10.0%	40%
10.0%	75%
7.5%	100%
7.5%	50%
30.0%	22%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>

Local court will enforce, without reexamination of case on merits...

a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES**

Mortgagee: **YES**

Alternative Country of Registration #1:

**United States**

Alternative Country of Registration #2:

N/A

Blended Score:

**43%**

Blended Score:

N/A

Blended Category:

**HIGHER**

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

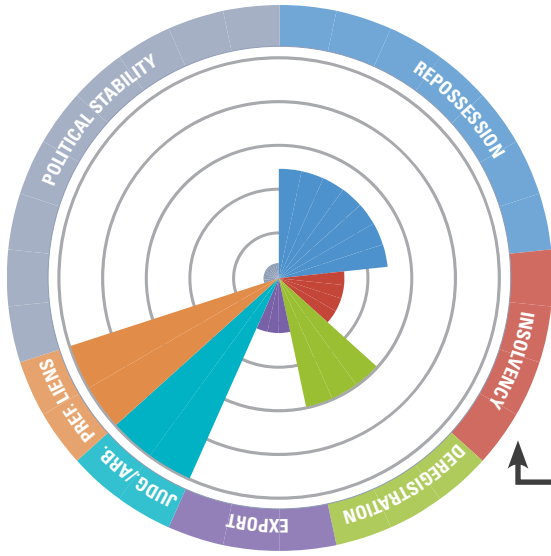
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**CorralRosales**

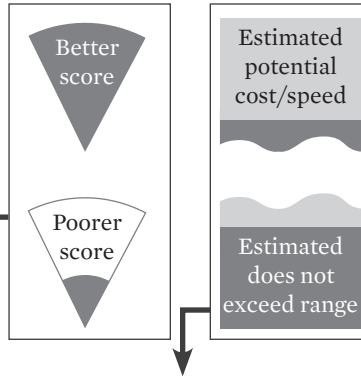
**CORRAL ROSALES**

CONTACT: XAVIER ROSALES, Partner, xrosales@corralrosales.com

VERONICA OLIVO, Associate, volivo@corralrosales.com



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Overall Score

Category

**41%**

**HIGHER**

Weighting

Score:

22.5%	Repossession	50%
12.5%	Insolvency	30%
10.0%	Deregistration	60%
10.0%	Export	25%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	8%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days	
\$250,000	180 days	180 days	
\$1,000,000	1 year	1 year/variable	

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

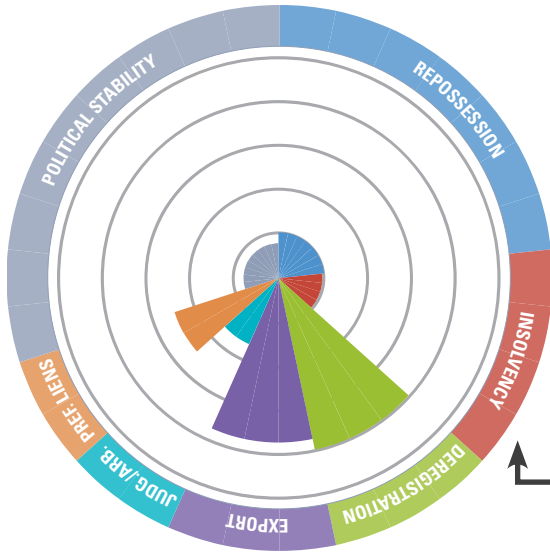
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**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

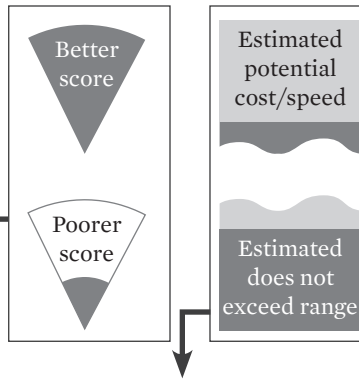
COMPLETED BY:  
**Rizkana & Partners**  
- Attorneys at Law



CONTACT: SHERIF EL HOSSSENY, Partner, sherif.elhosseny@rizkanapartners.com  
HAZIM RIZKANA, Managing Partner, hazim.rizkana@rizkanapartners.com



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Overall Score

Category

**34%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 21%
12.5%	Insolvency 20%
10.0%	Deregistration 80%
10.0%	Export 75%
7.5%	Judgments/Arb. 33%
7.5%	Preferential Liens 50%
30.0%	Political Stability 15%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

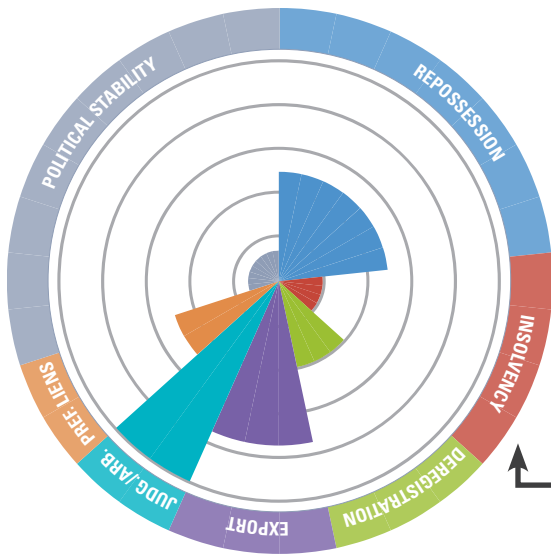
COMPLETED BY:

**Arias & Muñoz**

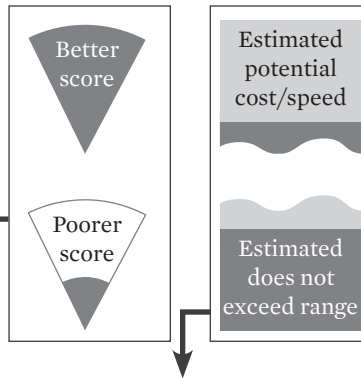
**Arias**

CONTACT: ANA MERCEDES LÚPEZ, Partner, AnaMercedes.Lopez@ariaslaw.com

CAROLINA LAZO, Associate, Carolina.Lazo@ariaslaw.com



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Overall Score

Category

**41%**

**HIGHER**

Weighting

Score:

22.5%	Repossession	50%
12.5%	Insolvency	20%
10.0%	Deregistration	40%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	50%
30.0%	Political Stability	14%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

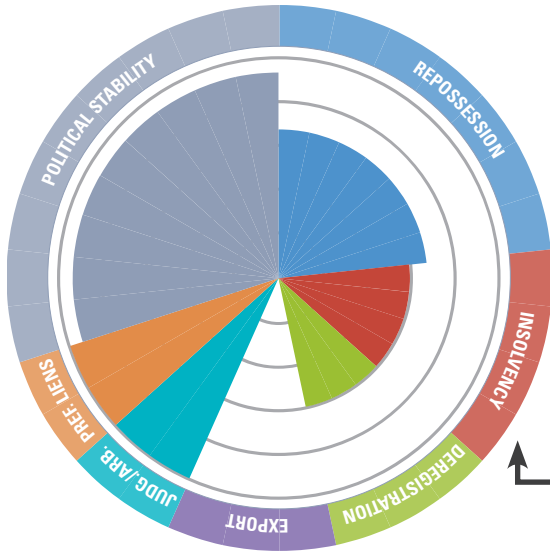
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

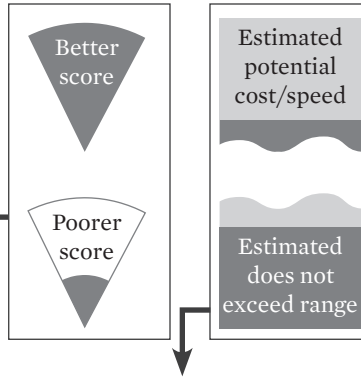
COMPLETED BY:  
**Ellex Raidla**



CONTACT: TOOMAS VAHER, Partner, toomas.vaher@ellex.ee  
ARNE OTS, Partner, arne.ots@ellex.ee



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score      Category

**72%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>68%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>60%</b>
10.0%	Export <b>0%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>94%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

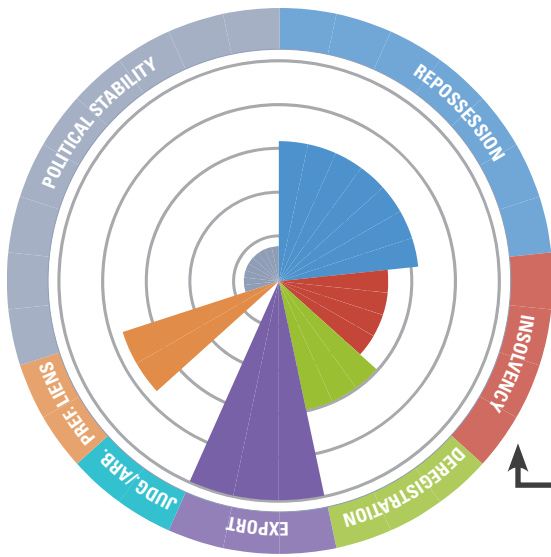
(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

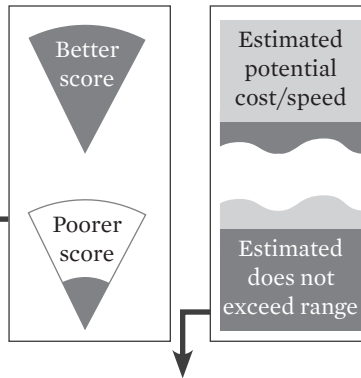
**Eidom H. Gebreyohannes - EDG Law**



CONTACT: EIDOM H. GEBREYOHANNES, Counsellor & Attorney-at-Law,  
eidom@edglaw-et.com



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score

Category

**47%**

**HIGHER**

Weighting	Score:
22.5%	Repossession <b>64%</b>
12.5%	Insolvency <b>50%</b>
10.0%	Deregistration <b>60%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>0%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>16%</b>

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>NO</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

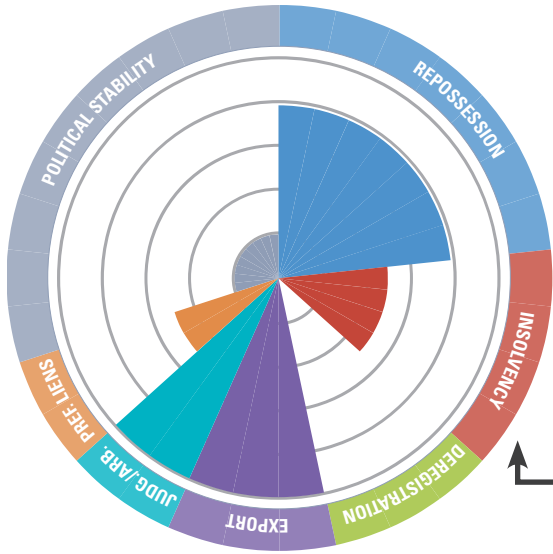
COMPLETED BY:

**Munro Leys**

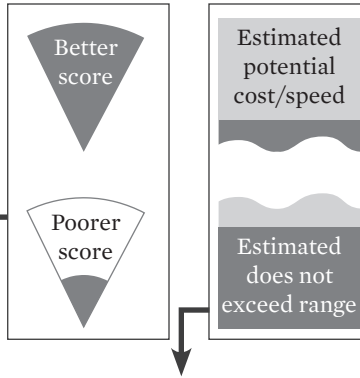
**MUNRO LEYS**

CONTACT: RICHARD NAIDU, Partner, richard.naidu@munroleyslaw.com.fj

EMILY KING, Associate, emily.king@munroleyslaw.com.fj



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score

Category

**51%**

**MODERATE**

Weighting	Score:
22.5%	79%
12.5%	50%
10.0%	0%
10.0%	100%
7.5%	100%
7.5%	50%
30.0%	20%

**Time & Cost Indicators**

N.B. Low political stability may affect reliability of these values

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>NO</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

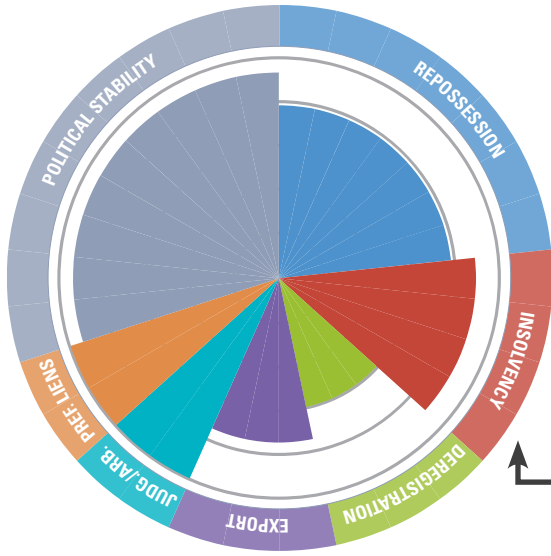
COMPLETED BY:

**Borenium Attorneys Ltd**

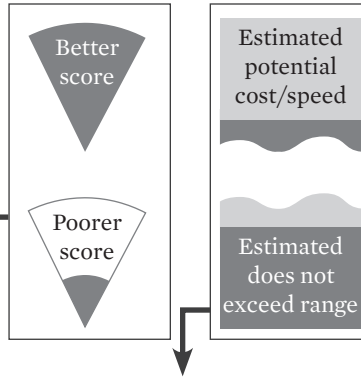
**BORENIUS**

CONTACT: ULLA VON WEISSENBERG, Partner, ulla.weissenberg@borenium.com

ROBERT PELDÁN, Counsel, robert.peldan@borenium.com



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Overall Score

Category

**86%**

**LOWER**

Weighting		Score:
22.5%	Repossession	79%
12.5%	Insolvency	90%
10.0%	Deregistration	60%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	94%

## Time & Cost Indicators

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**



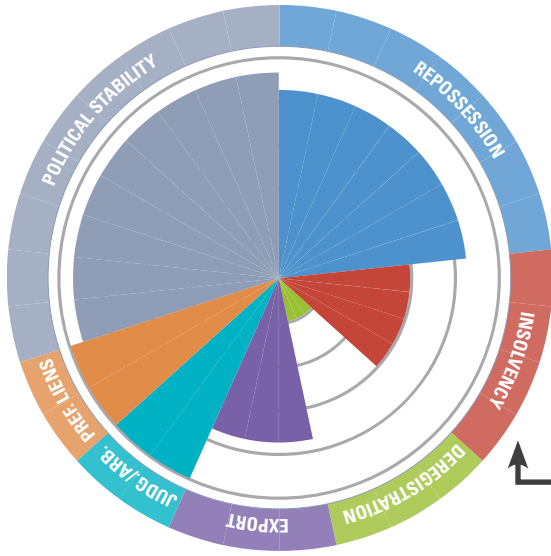
(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

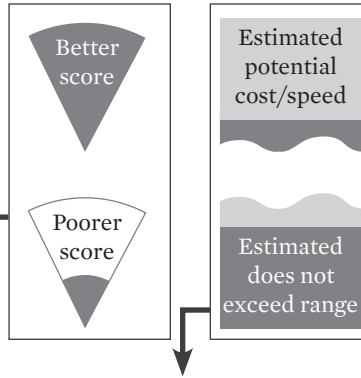
**Hénaff D'Estrées**

**HÉNAFF D'ESTRÉES**  
ATTORNEY AT LAW - PARIS & NEW YORK BARS

CONTACT: YVES HÉNAFF D'ESTRÉES, Avocat / Attorney-at-law,  
yhenaff@lexfrance.com



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score **79%** Category **LOWER**

Weighting		Score:
22.5%	Repossession	86%
12.5%	Insolvency	60%
10.0%	Deregistration	20%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	94%

**Time & Cost Indicators**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

CHEAPER/FASTER

**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country: **YES**
- Cape Town Contracting State: **NO**
- Eligible for ASU Cape Town Discount: **NO**
- Self-help (Lessor-owners): **NO**
- Self-help (Mortgagees): **NO**
- Moderately or well-developed insolvency laws: **YES**
- Absence of significant taxes or similar fees payable on export: **YES**
- Absence of fleetwide liens: **YES**
- Local court will enforce, without reexamination of case on merits...: **YES**
- a New York court judgment: **YES**
- an English court judgment: **YES**
- an arbitral award: **YES**

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointex@pillsburylaw.com**

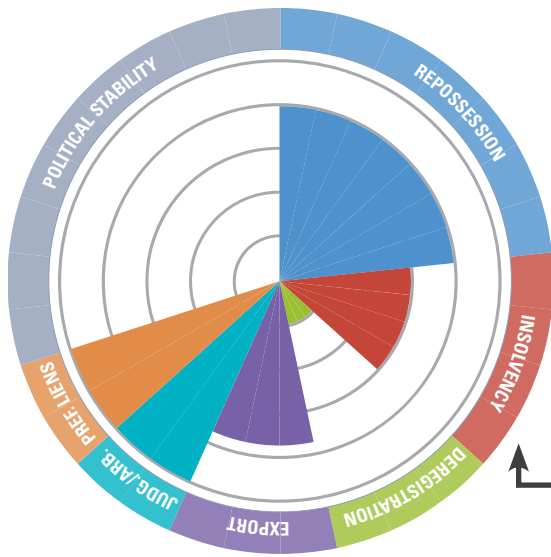
(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

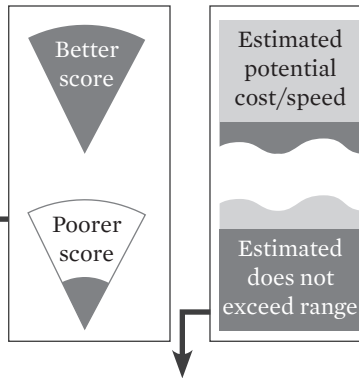
**Hénaff D'Estrées**

**HÉNAFF D'ESTRÉES**  
ATTORNEY AT LAW - PARIS & NEW YORK BARS

CONTACT: YVES HÉNAFF D'ESTRÉES, Avocat / Attorney-at-law,  
yhenaff@lexfrance.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



Before using the information on this page, please read the GENERAL DISCLAIMER.

Overall Score<sup>(\*\*)</sup> Category

**71%**

**MODERATE**

Weighting	Score:
22.5%	Repossession 80%
12.5%	Insolvency 60%
10.0%	Deregistration 20%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 100%
30.0%	Political Stability No data

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

# Arbitration of Aviation Disputes in China

By Peter McCullough

September 27, 2018

## Aviation Soars in the People's Republic of China

The growth of the aviation sector in the People's Republic of China has not gone unnoticed. The facts speak for themselves.

In 2017 alone, 549 million Chinese passengers travelled by air. This was a year-on-year increase of 7.1%. Similarly, over 7.1 million tons of air cargo were carried. The major OEMs predict that over the next 20 years Chinese airlines will spend in excess of 5 trillion US Dollars on aircraft purchases. It is also predicted that over the same period Chinese airlines will need an extra 5,000 pilots per year – many of whom may be recruited from overseas.

A new mega-airport is under construction to the south of Beijing. Once completed, it will have taken 5 years to build and will boast 8 runways, 268 aircraft parking bays and an amazing 700,000 square meter terminal complex. The airport is designed to handle an initial 120 million passengers a year, but we understand that this impressive capacity may be increased to over 200 million passengers a year, with future expansion plans under consideration.

From Pillsbury's Hong Kong office, we have witnessed this impressive growth first hand and recognize that there will be many industry participants seeking advice on doing business, and inevitably handling disputes, in this region.

## Litigating Aviation Disputes in the PRC

Historically in the People's Republic of China, aviation disputes have been heard in local courts, known as Intermediate People's Courts. If an underlying contract stipulates non-PRC law as the governing law, critical and often determinative issues will come into play. First, an Intermediate People's Court is likely to disregard the parties' choice of foreign law if the transaction is not "foreign related." Second, even if it the transaction is deemed "foreign related," the choice of non-PRC law may not be accepted by the court if it determines that to do so would be against "public interests" (which is broadly defined). Third, mandatory provisions of PRC law cannot be waived by contract and will be imposed in any event.

Attempting to resolve a dispute in the PRC courts, as with litigation conducted in most other jurisdictions, may be time consuming and costly. As one might expect, there are procedural rules that must be adhered to. Both parties must be represented by local PRC counsel. If the dispute is of a technical nature, then PRC expert witnesses may also be required to testify. There may also be many volumes of documents and evidence that must be translated into Mandarin Chinese so the presiding judge can read the materials and make a well informed judgment. Given the specialized and technical nature of most aviation disputes, the learning curve is likely to be steep and the opportunity to have an aviation-related dispute heard by a presiding judge with experience in aviation matters may be severely limited.

Furthermore, litigation conducted in the People's Republic of China is quite different from the Western equivalent. In PRC proceedings the presiding judge serves an inquisitorial role, cross-examination and disclosure are limited or nonexistent, and experts are more likely to be appointed by the court rather than the parties. In our experience, these differences often lead non-PRC parties to favor dispute resolution venues other than the PRC courts.

## Alternative Dispute Resolution Takes Flight

Two of the traditional benefits of arbitration in the aviation context are that the process is flexible and that it caters well to an industry that operates on an international basis. Litigation is a confrontational process, fought in the public and risks damaging long-standing commercial relationships. This is of particular concern within the close-knit aviation industry.

Although any dispute will involve confrontational elements, parties resorting to arbitration typically benefit from the private and confidential nature of this dispute resolution process. As a result, the very existence of a dispute and the outcome of the arbitration can often be kept out of public view. In addition, arbitration is typically perceived as a neutral forum, as it provides an opportunity for the parties to agree in advance on certain parameters of the arbitral proceedings and to select arbitrators with experience in aviation matters. As a result, parties may have a better chance of receiving a fair hearing and prompt resolution of their dispute.

Arbitration is not only for private commercial parties. It has also been utilized to seek resolution of traffic rights disputes between nation states—a recent example being a referral to the ICAO of the ban on all Qatari-registered aircraft from using the airports and airspace of the UAE, Egypt and Bahrain.

### The SHIACA

As the aviation market has expanded in the People's Republic of China, the number of aviation-related disputes has also increased. A result of this increase is the need for a forum to resolve these disputes locally in a way which is fair, efficient and cost-effective for all concerned.

On 28th August 2014, the Shanghai International Aviation Court of Arbitration (SHIACA) was established as a result of cooperation among the China Air Transport Association, the International Air Transport Association and the Shanghai International Arbitration Centre. The SHIACA is the world's first arbitration center dedicated to handling aviation disputes. Its aim is to become the premier forum for resolving aviation-related disputes, with a bespoke set of industry-focused procedures which are unique to this institution.

The SHIACA has been structured as a blend of PRC and international arbitration rules to assist with the recognition and enforcement of its awards. The SHIACA is aimed at PRC parties and Western parties alike.

The SHIACA is fittingly located next to Hongqiao International Airport in Shanghai, and provides all the facilities and meeting rooms that parties would come to expect for an arbitration that may last for several days, or even several weeks. There is a roster of 'panel' arbitrators comprising local and international aviation and legal experts. The SHIACA promotes itself as offering expertise in aircraft manufacturing disputes, aircraft transactional disputes, airport ground services and aviation fuel supply disputes, among other areas.

Historically, one of the challenges of resolving disputes involving parties located in the People's Republic of China was that arbitral awards obtained as a result of non-PRC court or ad hoc tribunal proceedings were not enforceable. This position remains unchanged. The PRC courts continue to recognize only institutional arbitral awards as far as enforcement is concerned. Conducting arbitration proceedings pursuant to the International Chamber of Commerce (ICC) or Hong Kong International Arbitration Centre (HKIAC) rules, or now SHIACA rules, is critical to parties' ability to resolve commercial disputes involving contractual counterparties based in the People's Republic of China.

### Practice Points

- When drafting an aviation contract involving PRC parties, bear in mind the various forums for dispute resolution—litigation is no longer the only option. The SHIACA, ICC, HKIAC or other institutional arbitral institutions can be designated by agreement as the parties' dispute resolution forum.
- An arbitration clause should never be an afterthought in an aviation contract, and parties should negotiate these provisions with the idea that a serious dispute could occur.
- As the SHIACA grows in popularity, it is likely to become a go-to venue of choice, boasting increasing numbers of local arbitrators who will have a good understanding of the technical issues that lie at the core of aviation disputes.
- Arbitration is a flexible process—use this to your advantage when trying to solve the dispute.
- Use of the SHIACA may help to reduce your client's legal costs, beyond the savings otherwise achievable via arbitration. Arbitration in the PRC is typically less expensive than arbitration conducted in other institutional arbitral institutions.
- In the SHIACA, as with most arbitral institutions, you can select your arbitrators and set some of the terms of the arbitral proceedings. These options are not available in the PRC courts. Selecting an arbitrator with experience in the aviation industry will facilitate the efficient resolution of any aviation-related dispute.

(\*) Local counsel has provided additional notes for this country.

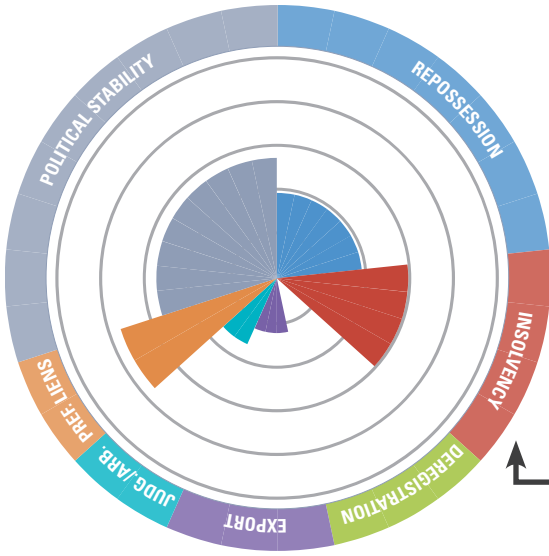
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**BGI Legal**

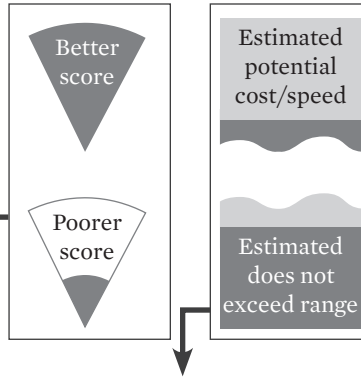


CONTACT: EKATERINA ALEKSIDZE, Counsel, eka.aleksidze@bgi.ge

TAMAR MORCHILADZE, Associate, tamar.morchiladze@bgi.ge



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Overall Score

Category

**43%**

**HIGHER**

Weighting	Score:
22.5%	39%
12.5%	60%
10.0%	0%
10.0%	25%
7.5%	33%
7.5%	75%
30.0%	55%

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**



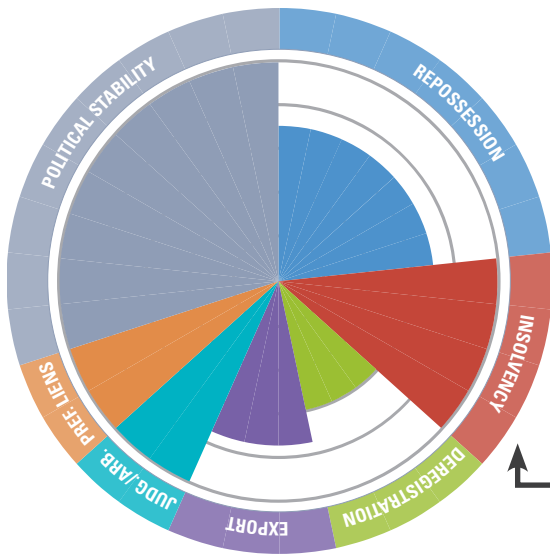
(\*) Local counsel has provided additional notes for this country.

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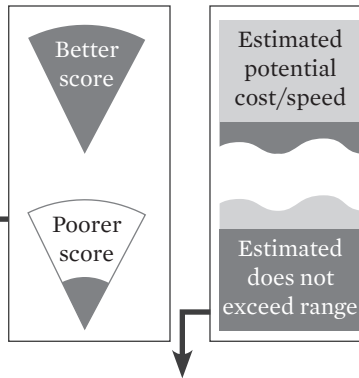
**Ehlers, Ehlers & Partner**

**EHLERS, EHLERS & PARTNER**  
RECHTSANWALTSGESELLSCHAFT MBH

CONTACT: P. NIKOLAI EHLERS, Partner, n.ehlers@eep-law.de



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Overall Score

Category

**87%**

**LOWER**

Weighting	Score:
22.5%	Repossession 71%
12.5%	Insolvency 100%
10.0%	Deregistration 60%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 100%
30.0%	Political Stability 100%

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

## More Results

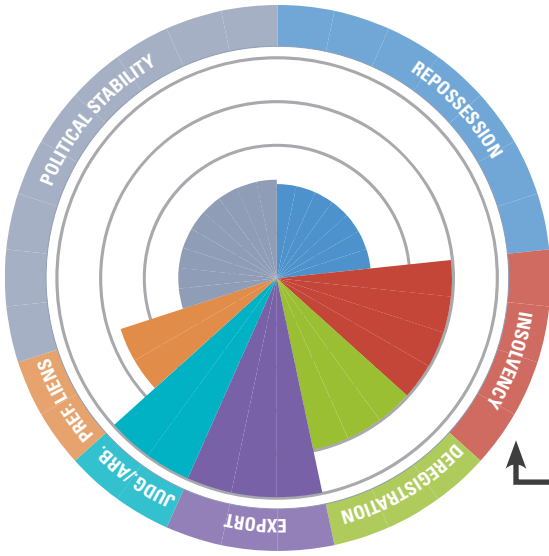
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

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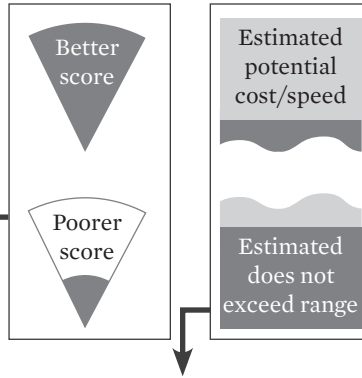
**Bahas, Grammatidis & Partners**



CONTACT: BETTY SMYRNIU, Senior Associate, b.smyrniou@bahagram.com



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Overall Score	Category
<b>64%</b>	<b>MODERATE</b>

Weighting	Score:
22.5%	Repossession <b>43%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>45%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
Low	\$50,000	60 days	60 days
Medium	\$250,000	180 days	180 days
High	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>NO</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoindex@pillsburylaw.com**

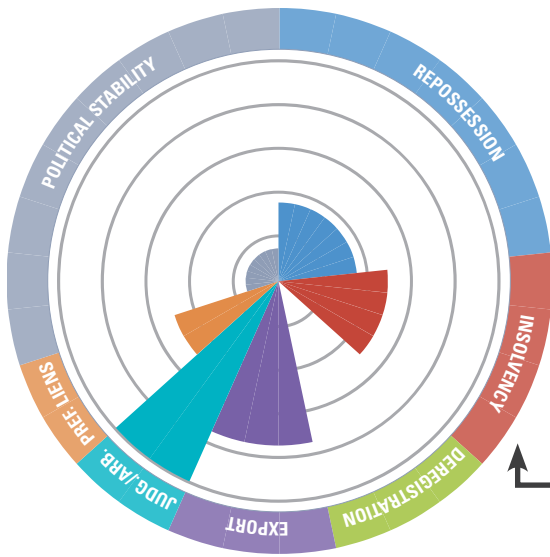
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**Aguilar Castillo Love-Guatemala**

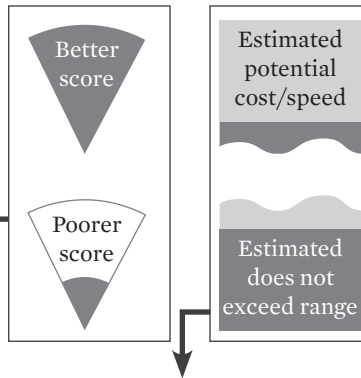
AGUILAR CASTILLO LOVE

CONTACT: JUAN CARLOS CASTILLO, Partner, [jcc@aguilarcastillolove.com](mailto:jcc@aguilarcastillolove.com)

NATALIA CALLEJAS AQUINO, Associate, [nca@aguilarcastillolove.com](mailto:nca@aguilarcastillolove.com)



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Overall Score

Category

**38%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 36%
12.5%	Insolvency 50%
10.0%	Deregistration 0%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 50%
30.0%	Political Stability 15%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Indicator	Value	Unit	Comparison
Legal Cost of Repossession (\$)	\$50,000	60 days	CHEAPER/FASTER
Speed of Repossession (time)	60 days	60 days	
Insolvency Moratorium Period (time)	180 days	180 days	
Legal Cost of Repossession (\$)	\$1,000,000	1 year	
Speed of Repossession (time)	1 year	1 year/variable	

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES**

Mortgagee: **YES**

Alternative Country of Registration #1:

**United States**

Blended Score:

**48%**

Blended Category:

**HIGHER**

Alternative Country of Registration #2:

**Mexico**

Blended Score:

**38%**

Blended Category:

**HIGHER**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
[repointindex@pillsburylaw.com](mailto:repointindex@pillsburylaw.com)

(\*) Local counsel has provided additional notes for this country.

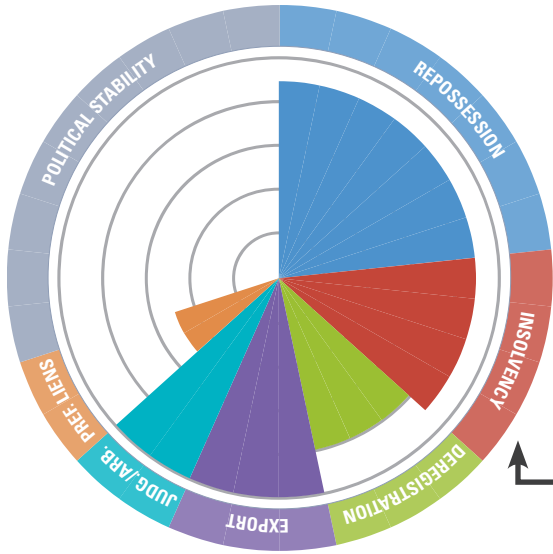
COMPLETED BY:

**Mourant Ozannes**

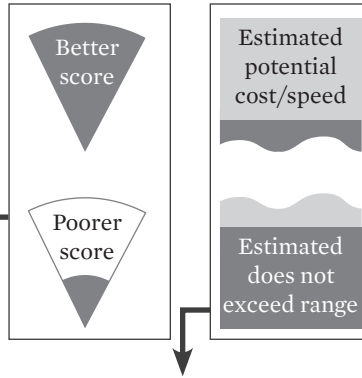
**MOURANT OZANNES**

CONTACT: JOHN ROCHESTER, Partner, John.Rochester@mourantozannes.com

ALANA GILLIES, Senior Associate, Alana.Gillies@mourantozannes.com



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Overall Score	Category
<b>87%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>90%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>No Data</b>

**Time & Cost Indicators**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoindex@pillsburylaw.com**

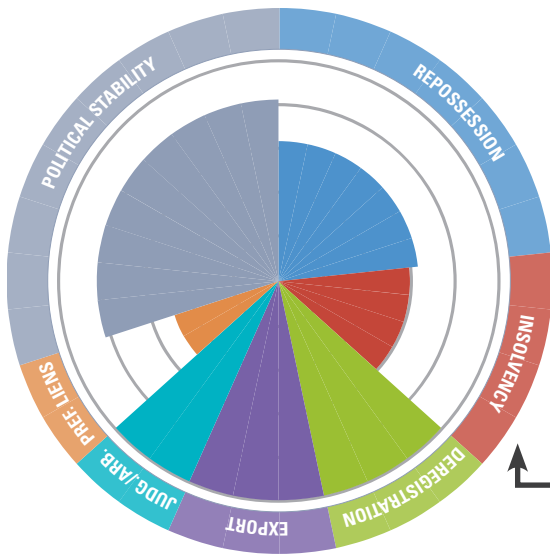
(\*) Local counsel has provided additional notes for this country.

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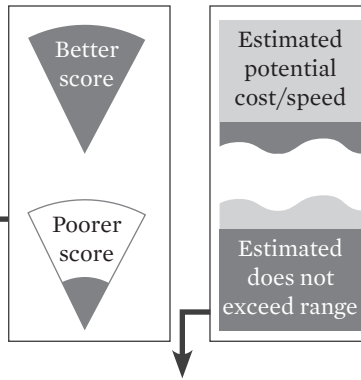
**Pillsbury Winthrop Shaw  
Pittman (HK) LLP**



CONTACT: PAUL P. JEBELY, Managing Partner, paul.jebely@pillsburylaw.com



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Overall Score

**78%**

Category

**LOWER**

Weighting	Score:
22.5%	Repossession <b>64%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>83%</b>

## Time & Cost Indicators

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

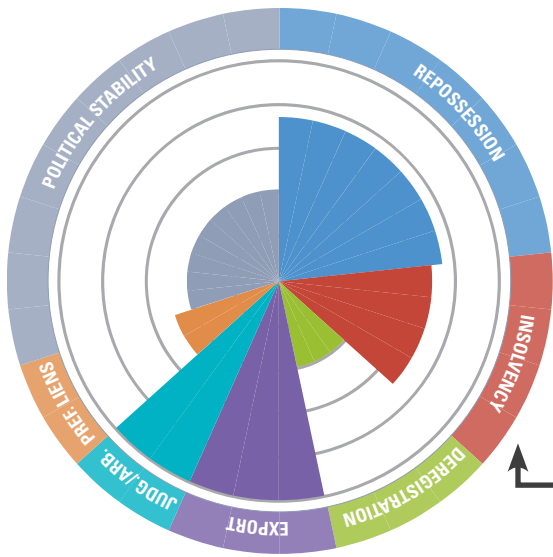


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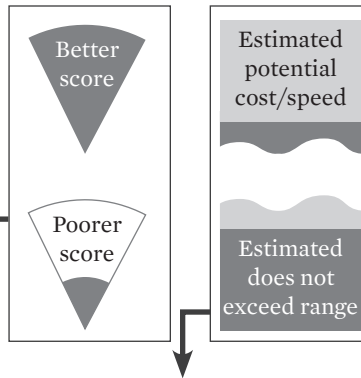
**Lakatos, Köves and Partners**



CONTACT: SZABOLCS MESTYÁN, Partner, szabolcs.mestyan@lakatoskoves.hu



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Overall Score

Category

**63%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	75%
12.5%	Insolvency	70%
10.0%	Deregistration	40%
10.0%	Export	100%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	50%
30.0%	Political Stability	42%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:		Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator):	<b>NO</b>	<b>Poland</b>	<b>63%</b>	<b>MOD.</b>
Operator (if not also the owner):	<b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:		Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner:	<b>YES</b>	<b>Austria</b>	<b>69%</b>	<b>MOD.</b>
Mortgagee:	<b>YES</b>			

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

# Supreme Court Unanimously Clarifies Avoidance Action Exposure

*Merit Management increases avoidance action exposure for all recipients of transfers of debtor assets in connection with securities transactions and provides increased leverage to unsecured creditors.*

By Leo T. Crowley, Cecily A. Dumas, David S. Forsh  
March 1, 2018

## Introduction

Section 546(e) of the Bankruptcy Code provides a safe harbor for certain securities transactions from the broad preference and fraudulent transfer avoidance powers available to debtors or trustees under the Bankruptcy Code. However, the scope of the section 546(e) safe harbor has remained uncertain despite considerable litigation. On February 27, 2018, in *Merit Management Group, LP v. FTI Consulting, Inc.*, No. 16-784, 2018 WL 1054879, 583 US, the Supreme Court unanimously resolved a significant circuit split by affirming the Seventh Circuit's holding in *FTI Consulting, Inc. v. Merit Management Group, LP*, 830 F.3d 690 (7th Cir. 2016), that section 546(e) does not provide a safe harbor from avoidance under sections 544, 545, 547 or 548 for a transaction merely by being effectuated through a financial intermediary as a conduit. This decision is significant because the existence of colorable avoidance claims is frequently a key factor in restructuring negotiations and value allocation among creditors. By limiting the scope of the section 546(e) safe harbor, the *Merit Management* decision increases potential avoidance action exposure for recipients of transfers from the debtor and thereby provides unsecured creditors with additional leverage.

## Background

The Bankruptcy Code provides broad powers to the bankruptcy estate to avoid and recover prepetition transfers of the debtor's property that are preferential or are actually or constructively fraudulent.

However, section 546(e) provides that the bankruptcy estate may not employ these broad powers to avoid any "settlement payment" or a transfer "in connection with a securities contract" if such payment or transfer is "made by or to (or for the benefit of) a commodity broker, forward contract

merchant, stockbroker, financial institution, financial participant, or securities clearing agency" unless such payment or transfer is actually fraudulent under section 548(a)(1)(A). These categories of protected counterparties are terms that are defined in section 101, and the terms "settlement payment" and "securities contract" are defined in section 741 (in particular, any contract for the purchase or sale of a security is within the definition of a "securities contract").

Avoidance actions sometimes are the only source of recovery for unsecured creditors and therefore are a consideration in allocating value among competing creditor classes. Because many settlement payments or payments in connection with a securities contract are effected through an intermediary that is a protected entity under section 546(e), the applicability of this safe harbor is a significant issue in many restructuring contexts. In particular, courts had reached different conclusions on whether a transfer is protected merely by being routed through an entity that is protected under section 546(e) but serves only as an intermediary or conduit for that transfer. The Second, Third, Sixth, Eighth and Tenth Circuits had held that such transfers are protected by the safe harbor, while the Seventh and Eleventh Circuits had held to the contrary.

Some decisions have expanded the effect of section 546(e) even further by relying on its broad language and purpose to preempt other claims that are not explicitly encompassed by the statutory text. While courts have reached varying conclusions on the scope of section 546(e) and on whether its language or key terms are ambiguous, it is broadly acknowledged that this safe harbor, which was first enacted in 1982 in response to a decision exposing a clearing association to potential avoidance liability and subsequently amended in 1984, 2005 and 2006 to encompass additional categories

of entities and transactions, was intended by Congress to minimize systemic disruption to commodities and securities markets in the event of a major bankruptcy of a participant in those markets.

### Discussion

The Merit Management decision resulted from an appeal from the Seventh Circuit's decision in August 2016 holding that the section 546(e) safe harbor does not protect transfers merely by being effectuated through a financial intermediary. The underlying facts were that Valley View Downs, a racetrack owner, had acquired all shares of a competitor, Bedford Downs, in exchange for \$55 million. Valley View Downs arranged to borrow the funds needed for the acquisition, and the funds were wired from Credit Suisse to Citizens Bank, as escrow agent for the Bedford Downs shareholders. Valley View Downs filed for bankruptcy shortly afterwards. Subsequently, FTI Consulting, as trustee of a litigation trust with the Valley View Downs estate claims, commenced an action against Merit Management Group ("Merit"), a 30 percent shareholder in Bedford Downs, seeking to avoid and recover the \$16.5 mm consideration paid to Merit as a constructively fraudulent transfer. It was undisputed that the transfer at issue was either a "settlement payment" or a payment made "in connection with a securities contract," that neither Valley View Downs nor Merit was a financial institution or other protected entity under section 546(e), and that the transfers had passed through Credit Suisse and Citizens Bank, each of which was a financial institution protected under section 546(e). On appeal after the district court had entered judgment on the pleadings in favor of Merit, the Seventh Circuit disagreed with the majority view and joined the Eleventh Circuit in holding that a transfer of funds is not "made by or to (or for the benefit of)" a financial institution for purposes of section 546(e) merely because the funds pass through a financial institution acting as a conduit.

In a 9-0 decision, the Supreme Court affirmed the Seventh Circuit's judgment and held that the relevant transfer for determining the applicability of the section 546(e) safe harbor is the transfer to be avoided by the bankruptcy trustee, rather than any "component parts" of that transfer. The Supreme Court did not find section 546(e) to be ambiguous and reached its decision based on "the language of §546(e), the specific context in which that language is used, and the broader statutory structure" of the avoidance powers and safe harbor. Notably, the Supreme Court pointed out in a footnote that a financial institution is defined to include, among other things, ". . . when any such Federal reserve bank, receiver, liquidating agent, conservator or [commercial or savings bank, industrial savings bank, savings and loan association, trust company, or federally-insured credit

union] is acting as agent or custodian for a customer . . . such customer," but that neither party contended that Merit was a "financial institution" under such definition. The Supreme Court rejected Merit's policy-based argument for broad applicability of section 546(e), that the safe harbor was intended to encompass all transactions made through a protected entity in order to promote finality in the securities markets, as being inconsistent with the statutory text.

### Implications

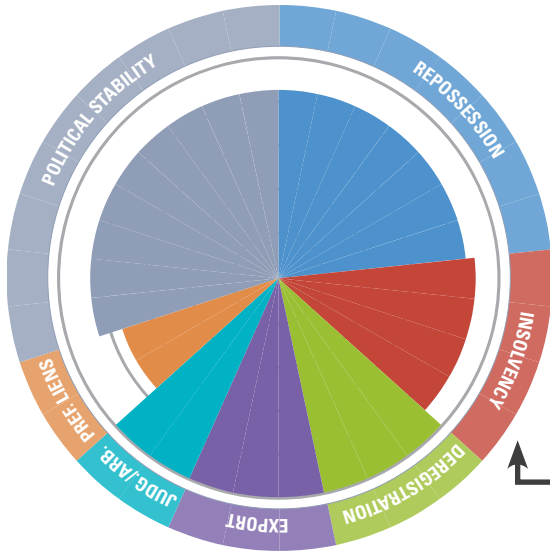
Merit Management eliminates a significant limitation on potential avoidance action exposure. However, many potential defendants—and some of the deepest pockets—may fall within one of the categories of protected entities under section 546(e), namely, commodity brokers, forward contract merchants, stockbrokers, financial institutions, financial participants, or securities clearing agencies. In particular, some potential defendants may qualify as financial participants, which may be satisfied by, among other things, having gross mark-to-market positions of at least \$100 million in securities contracts with the debtor or other non-affiliated entities at any time in the 15 months prior to the petition date. All market participants should review their qualifications (or those of their investment vehicles) for such protected status, and should consider the "customer as financial institution" argument explicitly not addressed by the Supreme Court. The exposure is likely greatest for smaller investment vehicles or stockholders receiving distributions or being bought out in a leveraged buyout scenario. This risk may prompt such investors to trade out of positions shortly before a transaction that may expose the holder to avoidance action risk even if such trade is effectuated at some discount to the consideration being offered for such transaction. Overall, the decision is likely to lead to additional litigation as these issues are developed and may provide additional opportunities in the distressed space. ■

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**LOGOS Legal Services**

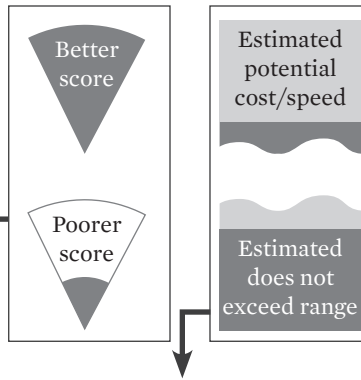
**LOGOS**  
REYKJAVÍK • LONDON

CONTACT: ERLENDUR GÍSLASON, Partner, erlendur@logos.is

HELGA MELKORKA ÓTTARSDÓTTIR, Managing Partner,  
helga@logos.is



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Overall Score

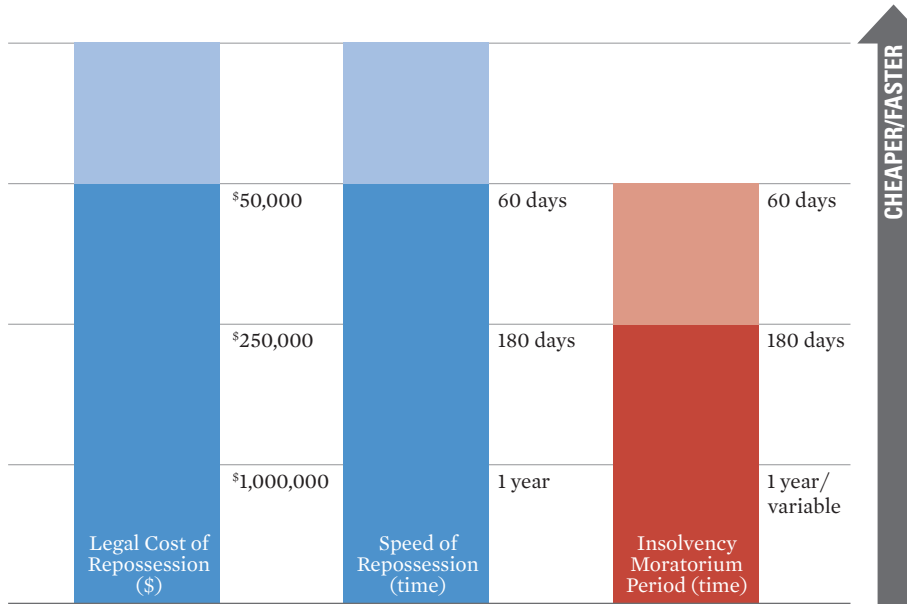
Category

**89%**

**LOWER**

Weighting		Score:
22.5%	Repossession	86%
12.5%	Insolvency	90%
10.0%	Deregistration	100%
10.0%	Export	100%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	75%
30.0%	Political Stability	86%

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator):	<b>YES</b>
Operator (if not also the owner):	<b>NO</b>

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner:	<b>N/A</b>	Mortgagee:	<b>YES</b>
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Alternative Country of Registration #1:

**Ireland**

Blended Score:

**89%**

Blended Category:

**LOWER**

Alternative Country of Registration #2:

**Bermuda**

Blended Score:

**89%**

Blended Category:

**LOWER**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

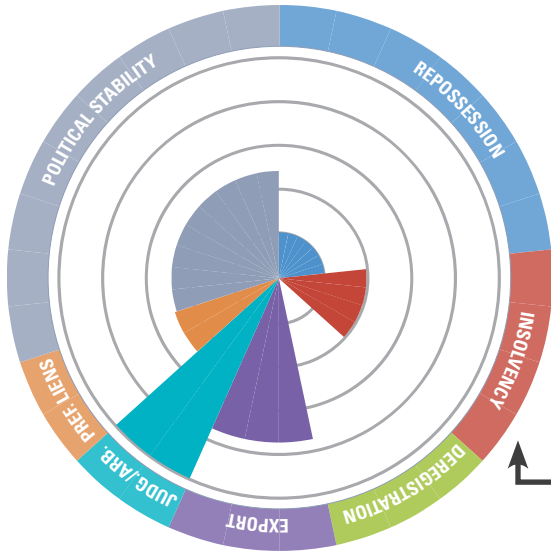
(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

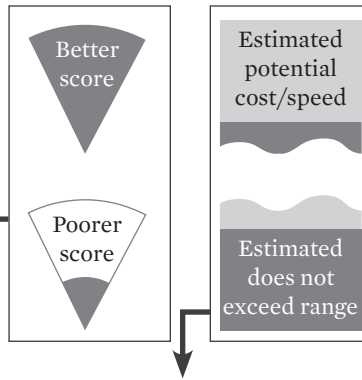
**AZB & Partners**



CONTACT: ASHWIN RAMANATHAN, Partner,  
ashwin.ramanathan@azbpartners.com



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Overall Score	Category
<b>43%</b>	<b>HIGHER</b>
Weighting	Score:
22.5%	Repossession <b>21%</b>
12.5%	Insolvency <b>40%</b>
10.0%	Deregistration <b>0%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>49%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

	Cost	Speed	Insolvency
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

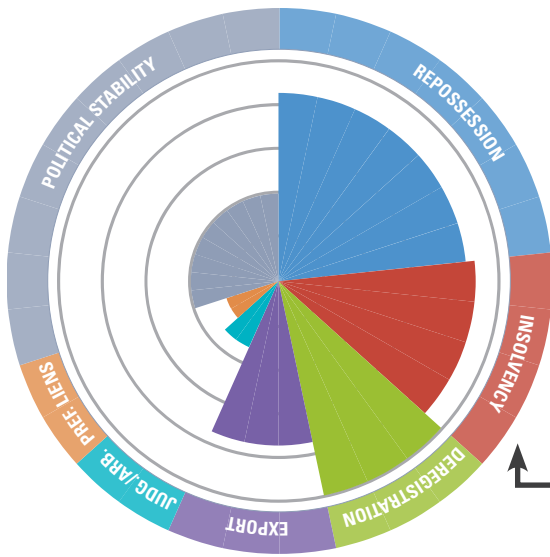
COMPLETED BY:

**Roosdiono & Partners**  
(a member of ZICO law)

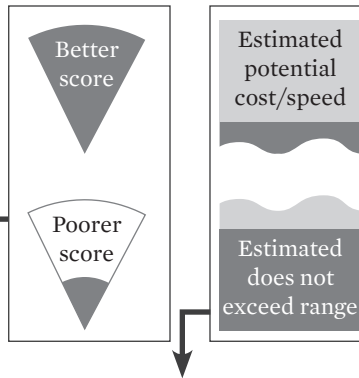
**Roosdiono & partners**  
a member of **ZICO** law

CONTACT: AFRIYAN RACHMAD, Partner, afriyan.rachmad@zicolaw.com

LOUISE PATRICIA ESMERALDA, Senior Associate,  
louise.patricia@zicolaw.com



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score

Category

**64%**

**MODERATE**

Weighting	Score:
22.5%	86%
12.5%	90%
10.0%	100%
10.0%	75%
7.5%	33%
7.5%	25%
30.0%	40%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **NO**

Alternative Country of Registration #1:

**N/A**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

Blended Category:

**N/A**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

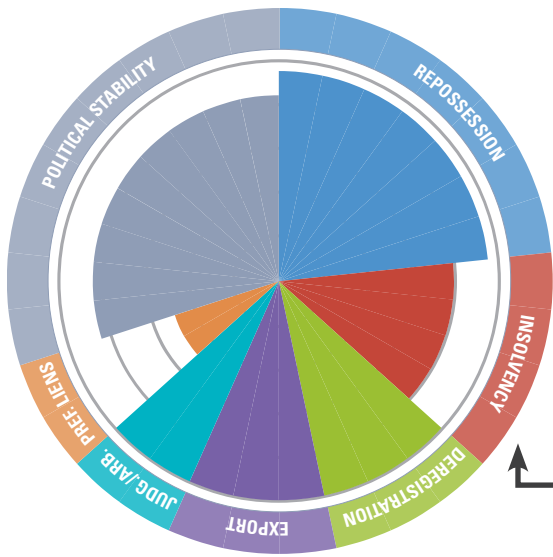
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**Walkers**

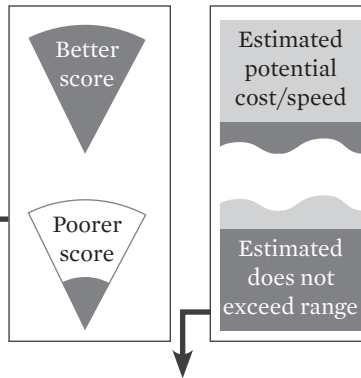


CONTACT: KEN RUSH, Partner, ken.rush@walkersglobal.com

KILLIAN MCSHARRY, Senior Associate,  
killian.mcsharry@walkersglobal.com



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Overall Score

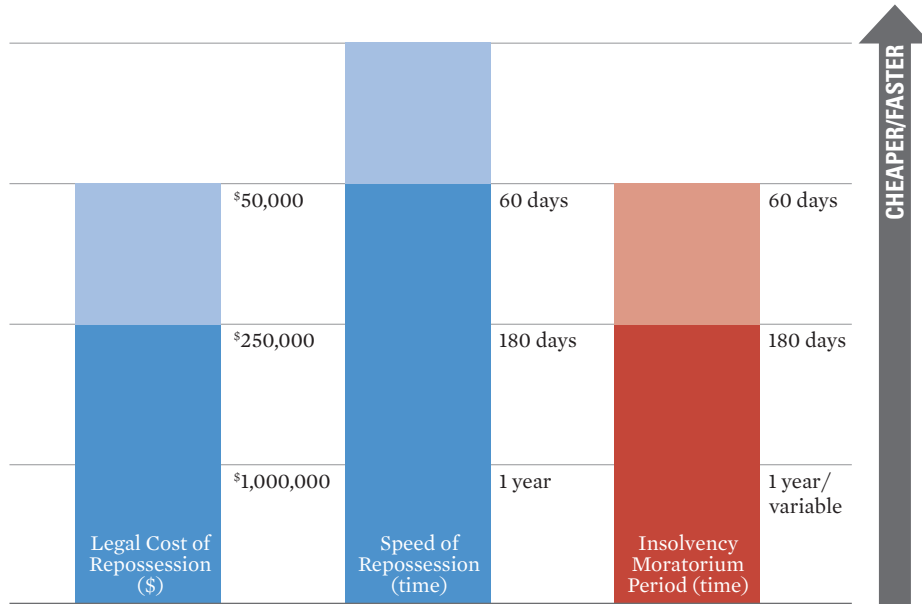
Category

**88%**

**LOWER**

Weighting		Score:
22.5%	Repossession	96%
12.5%	Insolvency	80%
10.0%	Deregistration	100%
10.0%	Export	100%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	50%
30.0%	Political Stability	85%

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>NO</b>	N/A	N/A	N/A

## More Results

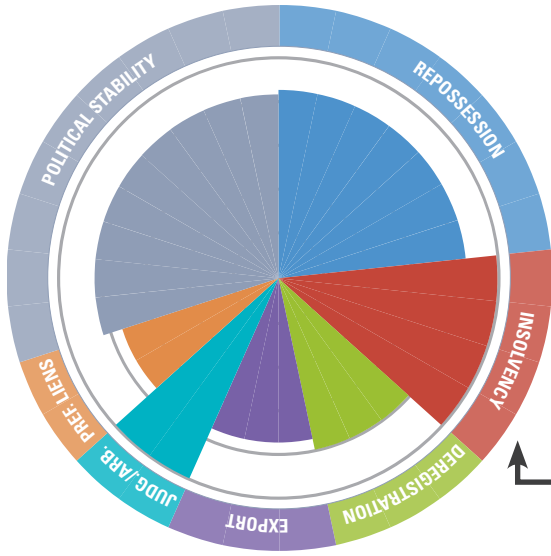
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

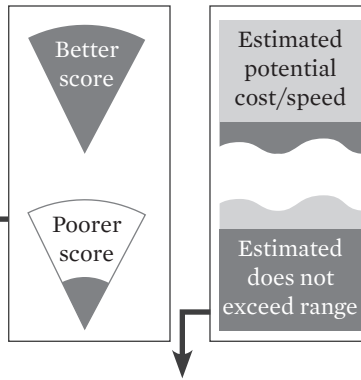
COMPLETED BY:  
**S. Friedman & Co.**

**SF** & Co. ש. פרידמן ושות' | עורכי דין  
S. Friedman & Co. | Advocates

CONTACT: SARIT MOLCHO, Senior Partner, saritm@friedman.co.il



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Overall Score

Category

**86%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>86%</b>
12.5%	Insolvency <b>100%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>84%</b>

**Time & Cost Indicators**

Indicator	Value	Unit	Comparison
Legal Cost of Repossession (\$)	\$50,000	60 days	CHEAPER/FASTER
	\$250,000	180 days	
	\$1,000,000	1 year	
Speed of Repossession (time)	60 days	60 days	CHEAPER/FASTER
	180 days	180 days	
	1 year	1 year/variable	
Insolvency Moratorium Period (time)			

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

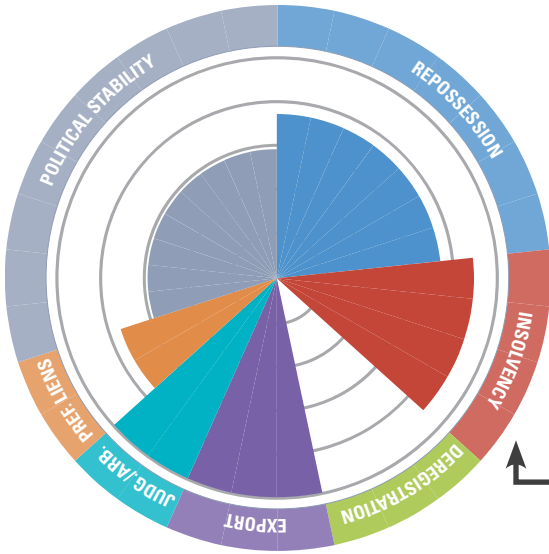
COMPLETED BY:

**Studio Pierallini**

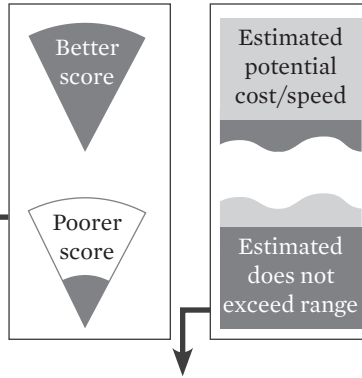


CONTACT: LAURA PIERALLINI, Name Partner, l.pierallini@pierallini.it

GIANLUIGI ASCENZI, Senior Associate, g.ascenzi@pierallini.it



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Overall Score

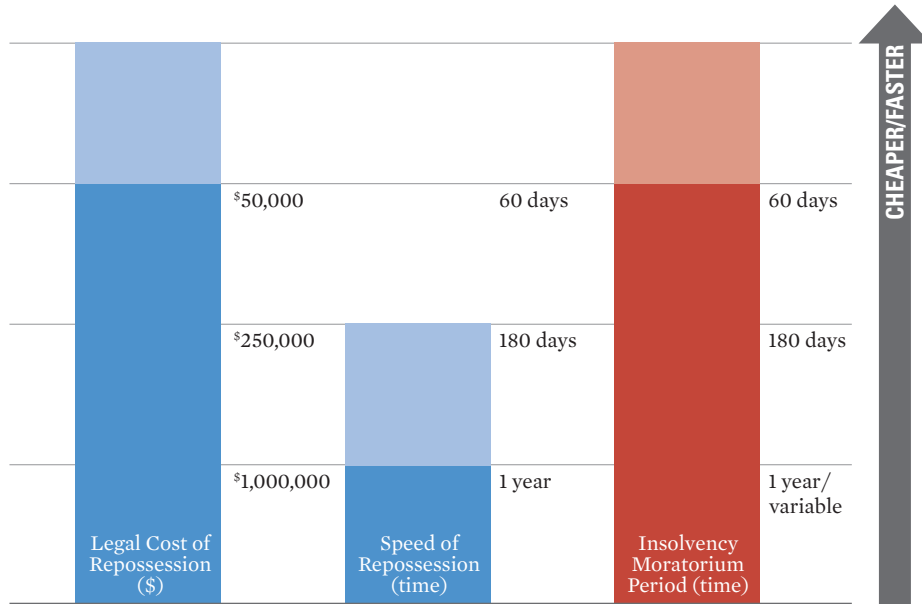
Category

**69%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	75%
12.5%	Insolvency	90%
10.0%	Deregistration	0%
10.0%	Export	100%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	75%
30.0%	Political Stability	59%

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>Ireland</b>	<b>79%</b>	<b>LOWER</b>
Operator (if not also the owner): <b>YES</b>	Alternative Country of Registration #2:		
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Owner: <b>YES</b> Mortgagee: <b>YES</b>			

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

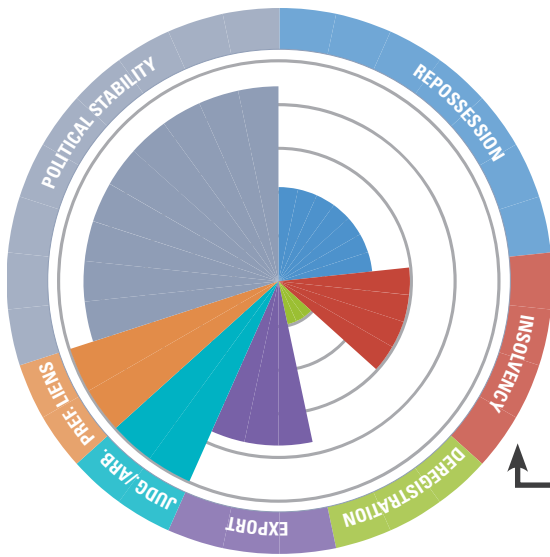
COMPLETED BY:

**Pillsbury Winthrop Shaw Pittman  
Foreign Law Enterprise**

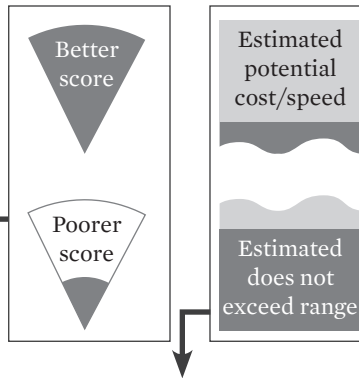


CONTACT: OLIVIA MATSUSHITA, Partner, olivia.matsushita@pillsburylaw.com

MASAO KASATSUGU, Bengoshi, masao.kasatsugu@pillsburylaw.com



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Overall Score

Category

**68%**

**MODERATE**

Weighting	Score:
22.5%	Repossession 43%
12.5%	Insolvency 60%
10.0%	Deregistration 20%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 100%
30.0%	Political Stability 89%

## Time & Cost Indicators

	\$50,000	60 days	60 days	↑ CHEAPER/FASTER
	\$250,000	180 days	180 days	
Legal Cost of Repossession (\$)	\$1,000,000	Speed of Repossession (time)	1 year	
			Insolvency Moratorium Period (time)	1 year/variable

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

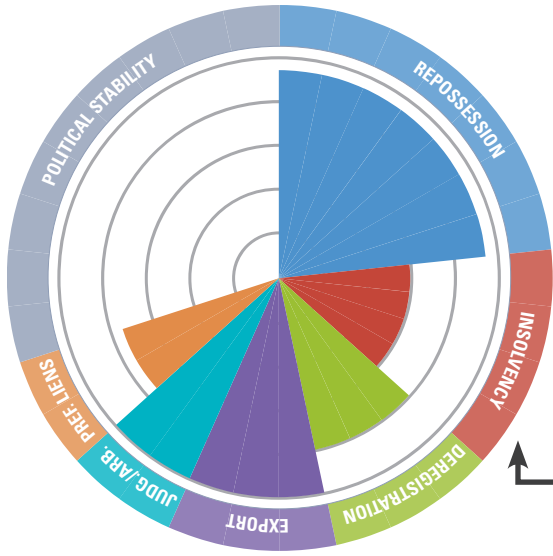
COMPLETED BY:

**Mourant Ozannes**

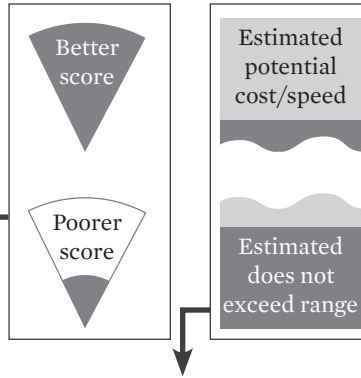
**MOURANT OZANNES**

CONTACT: JAMES HILL, Partner, James.hill@mourantozannes.com

ALASTAIR SYVRET, Partner, Alastair.syvret@mourantozannes.com

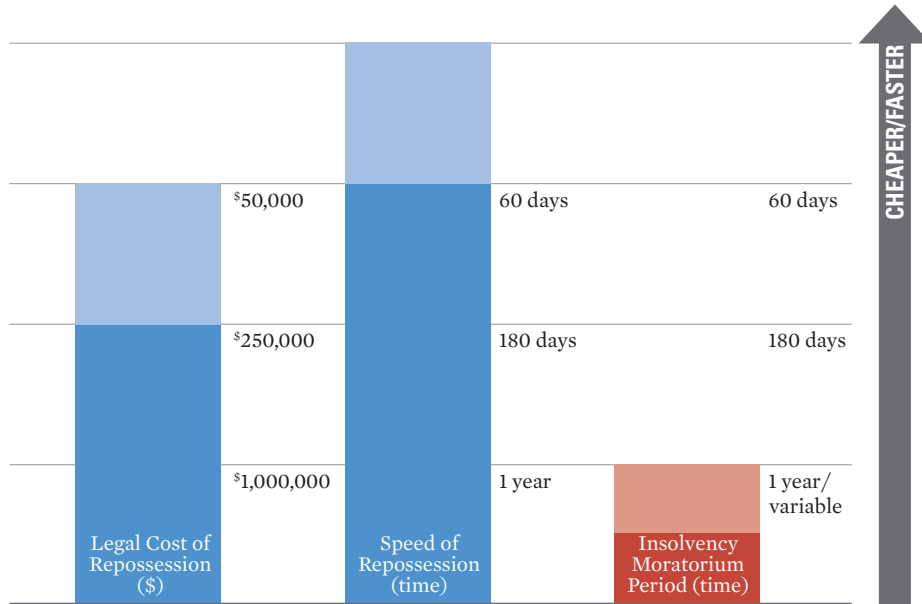


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Overall Score	Category
<b>86%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>95%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>No Data</b>

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

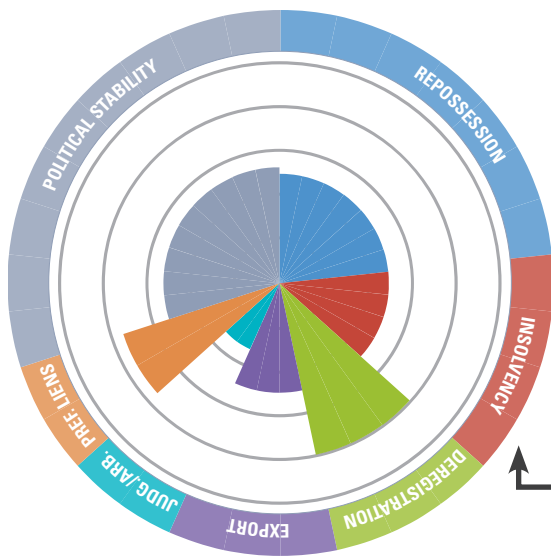
COMPLETED BY:

**Ali Sharif Zu'bi Advocates & Legal Consultants**

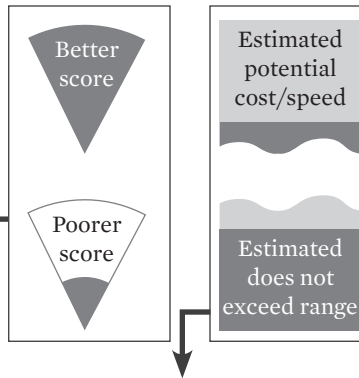


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FARAH ALREFAI, Associate Trainee, farah.alrefai@zubilaw.com



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Overall Score

Category

**55%**

**MODERATE**

Weighting	Score:
22.5%	Repossession 50%
12.5%	Insolvency 50%
10.0%	Deregistration 80%
10.0%	Export 50%
7.5%	Judgments/Arb. 33%
7.5%	Preferential Liens 75%
30.0%	Political Stability 53%

**Time & Cost Indicators**

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country:  NO
  - Cape Town Contracting State:  YES
  - Eligible for ASU Cape Town Discount:  YES
  - Self-help (Lessor-owners):  YES
  - Self-help (Mortgagees):  YES
  - Moderately or well-developed insolvency laws:  NO
  - Absence of significant taxes or similar fees payable on export:  NO
  - Absence of fleetwide liens:  YES
- Local court will enforce, without reexamination of case on merits...*
- a New York court judgment:  NO
  - an English court judgment:  NO
  - an arbitral award:  YES

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <input checked="" type="checkbox"/> YES	N/A	N/A	N/A
Operator (if not also the owner): <input type="checkbox"/> NO	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	N/A	N/A	N/A
Owner: <input type="checkbox"/> N/A Mortgagee: <input checked="" type="checkbox"/> YES			

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

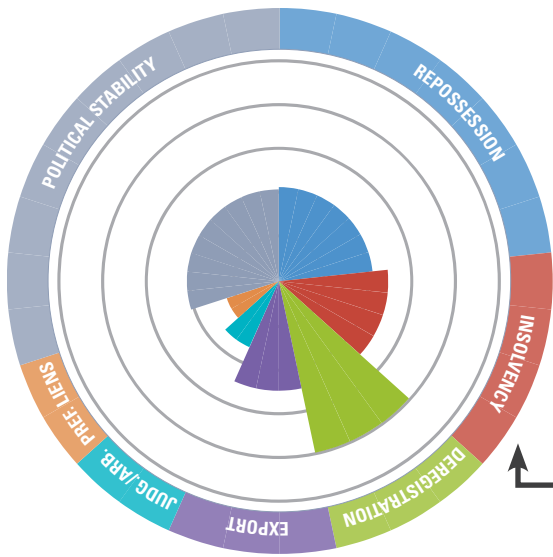
COMPLETED BY:

**Kinstellar LLP**

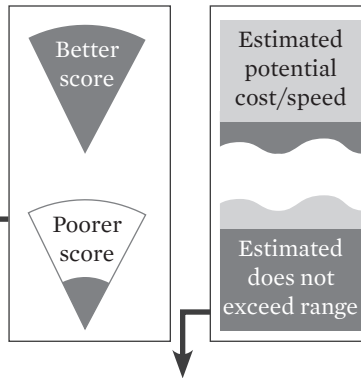
**KINSTELLAR**

CONTACT: JOEL BENJAMIN, Partner, joel.benjamin@kinstellar.com

KUANYSH KANLYBAYEV, Managing Associate,  
kuanysh.kanlybayev@kinstellar.com



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Overall Score

Category

**46%**

**HIGHER**

Weighting		Score:
22.5%	Repossession	43%
12.5%	Insolvency	50%
10.0%	Deregistration	80%
10.0%	Export	50%
7.5%	Judgments/Arb.	33%
7.5%	Preferential Liens	25%
30.0%	Political Stability	42%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>Aruba</b>	<b>48%</b>	<b>HIGHER</b>
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

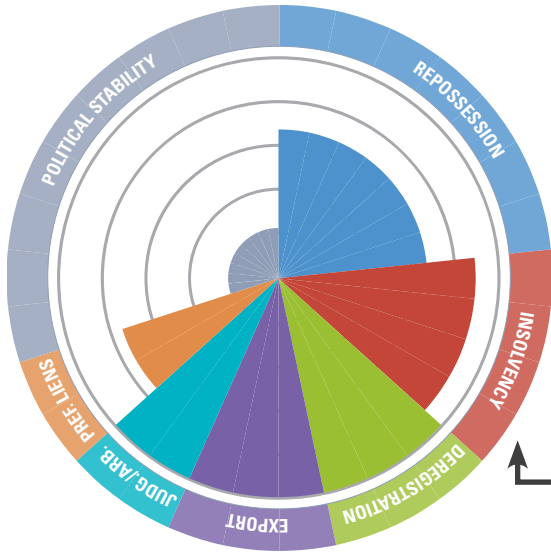
COMPLETED BY:

**MMAN Advocates**

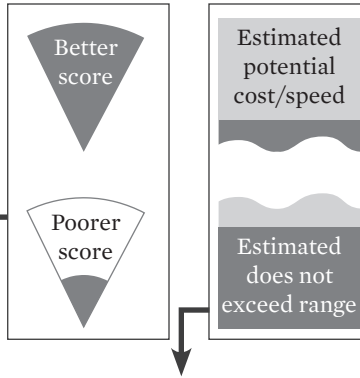


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CHRISTOPHER KIRAGU, Senior Associate, ckiragu@mman.co.ke



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Overall Score

Category

**66%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>68%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>23%</b>

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

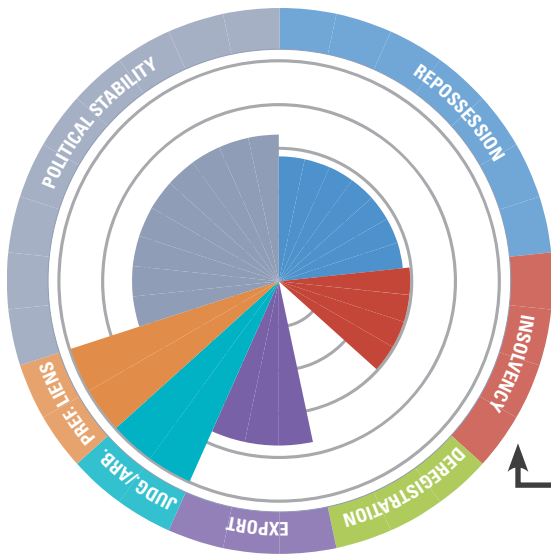
COMPLETED BY:

**Kim & Chang**

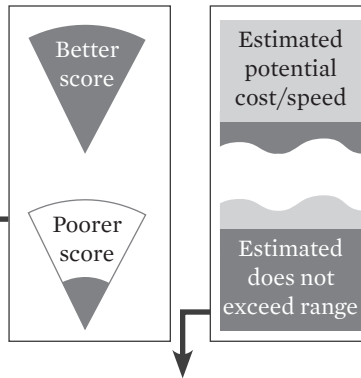
**KIM & CHANG**

CONTACT: ROBERT L. GILBERT, Partner, [rlgilbert@kimchang.com](mailto:rlgilbert@kimchang.com)

YOUNG MIN KIM, Partner, [ykim1@kimchang.com](mailto:ykim1@kimchang.com)



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Overall Score	Category
<b>65%</b>	<b>MODERATE</b>

Weighting		Score:
22.5%	Repossession	57%
12.5%	Insolvency	60%
10.0%	Deregistration	0%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	67%

**Time & Cost Indicators**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
Low	\$50,000	60 days	60 days
Medium	\$250,000	180 days	180 days
High	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>NO</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**[repindex@pillsburylaw.com](mailto:repindex@pillsburylaw.com)**



# US Court Favors Aircraft Financier in Non-Citizen Trust Case

*District court case shines a light on the extent and limits of a lender's duties in both structuring loan transactions and exercising remedies.*

By Melissa B. Jones-Prus

February 1, 2018

On January 25, 2018, the United States District Court for the Northern District of Indiana, South Bend Division, awarded a \$2.3 million summary judgment to aircraft financier 1st Source

Bank for loan defaults by borrower Wells Fargo Bank Northwest, National Association, solely in its capacity as owner trustee, and the borrower's personal guarantor, Joaquim Salles Leite Neto. See *1st Source Bank v. Neto*, No. 3:15-CV-261-JD, 2018 WL 571941, at \*1 (N.D. Ind. Jan. 25, 2018).

The case shines a light on the extent and limits of a lender's duties in both structuring loan transactions and exercising remedies. In this case, a Brazilian citizen used an owner trust to obtain a US aircraft registration and avoid payment of Brazilian taxes. The aircraft was later confiscated by the Brazilian government, and the lender, unable to foreclose on its collateral, sued the debtors and the insurers. The lender, while ultimately successful, had to defend arguments that it (1) negligently misrepresented that the ownership structure complied with Brazilian laws, (2) failed to mitigate its damages and (3) impaired the collateral.

## **Aircraft Seized by Brazilian Authorities for Tax Evasion**

In 2009, Neto, a Brazilian citizen, hired Wells Fargo to act as owner trustee of an aircraft trust. A company affiliated with Neto, Quest Trading LLC, was the beneficial owner of the aircraft under the trust agreement. Neto created the trust in order to purchase a Dassault Falcon 2000 business jet and register it with the US Federal Aviation Administration. The aircraft was based in and flown predominantly within Brazil for Neto's personal use. In January 2011, Neto caused Wells Fargo to borrow \$6 million from 1st Source Bank and pledged the aircraft to the lender as collateral. Neto also issued a personal guarantee of the loan obligations to the lender.

In June 2012, the Brazilian authorities confiscated the plane, alleging that the US registration and trust ownership of the aircraft had been improperly used to avoid the payment of Brazilian import tax. In September 2014, the borrower ceased making payments on the loan to 1st Source Bank. 1st Source Bank then accelerated the loan. When the loan was not repaid, the lender filed a suit against the borrower and the guarantor, and also brought a claim against the aircraft's insurer for losses arising from government confiscation. The lender recovered over \$3 million from the insurer, and sought summary judgment against the borrower and the guarantor for the remaining unpaid debt balance.

## **Lender Not Liable for Seizure**

The borrower and Neto counterclaimed against 1st Source Bank for negligent misrepresentation, asserting that the lender had advised them that Brazilian laws permitted their contemplated use of the aircraft with a US registration and trust ownership structure. To support this argument, Neto pointed to language in the term sheet stating that the lender believed the terms of the financing to fall within applicable US and Brazilian laws, and that the borrower would be responsible for all taxes and duties associated with operating the aircraft. He also argued that he had relied on the fact that 1st Source Bank issued the loan to imply that the structure and contemplated use of the aircraft was permitted under Brazilian laws. The court rejected the counterclaim, noting that Neto had established the trust structure prior to seeking the loan and that the term sheet language could not be construed as advice on the legality of the aircraft's registration or ownership structure. The court also noted that there was no evidence that the lender was aware that the aircraft would not be used for business purposes—the basis for its seizure in Brazil.

### **Lender Not Obligated to Further Pursue Brazilian Government and Insurer**

Finally, the borrower and Neto raised two defenses to 1st Source Bank's claim—impairment of collateral and failure to mitigate damages—both of which were rejected by the court.

The defendants argued that the lender should have done more to secure the release of the plane by the Brazilian government, and that their failure to do so had impaired the collateral. The court rejected the defense, noting that Neto, and not 1st Source Bank, was responsible for the aircraft's seizure, and that 1st Source Bank had done all that it could to obtain its release. These efforts included warning Neto that Brazilian-operated aircraft registered in the US were being confiscated by the Brazilian authorities as soon as it learned of this development—a warning that Neto did not heed. Once the plane was seized, the lender also successfully prevented the Brazilian authorities from selling the aircraft by notifying them of its security interest. The court observed that the defendants did not suggest any other actions that 1st Source Bank could have taken, particularly given that the Brazilian government had refused to release the aircraft for anything less than its full market value plus the import tax payable.

The borrower and Neto also claimed that 1st Source Bank failed to mitigate its damages by settling the insurance claim for less than 100 percent of the outstanding loan balance. The court rejected this argument on the basis that the duty to minimize losses does not give rise to a duty to collect the loss from anyone in particular. The court further noted that 1st Source Bank was not contractually bound to seek payment from the insurer before calling on the guarantee.

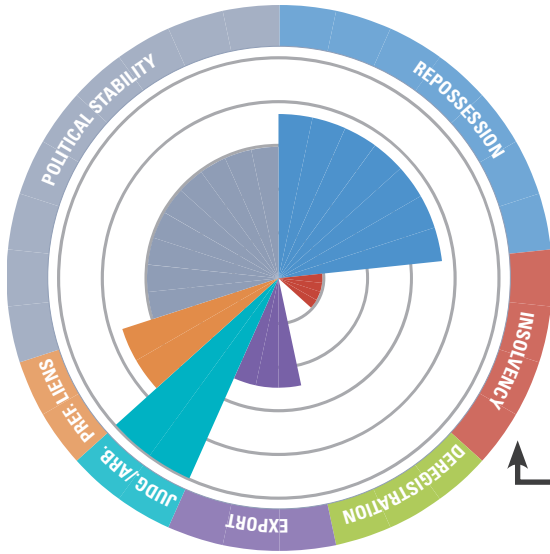
### **Conclusion**

This case serves as a useful reminder that borrowers should take care and responsibility in structuring the tax and cross-border aspects of their aircraft ownership arrangements. It also illustrates how the law will protect lenders who take commercially reasonable measures to enforce their security and mitigate their damages. ■

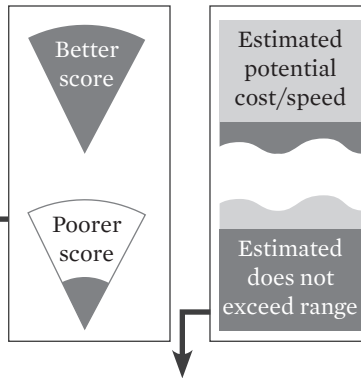
COMPLETED BY:  
**Ellex Klavins**



CONTACT: VALTERS DIURE, Senior Associate, valters.diure@ellex.lv  
EGONS PIKELIS, Partner, egons.pikelis@ellex.lv



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Overall Score

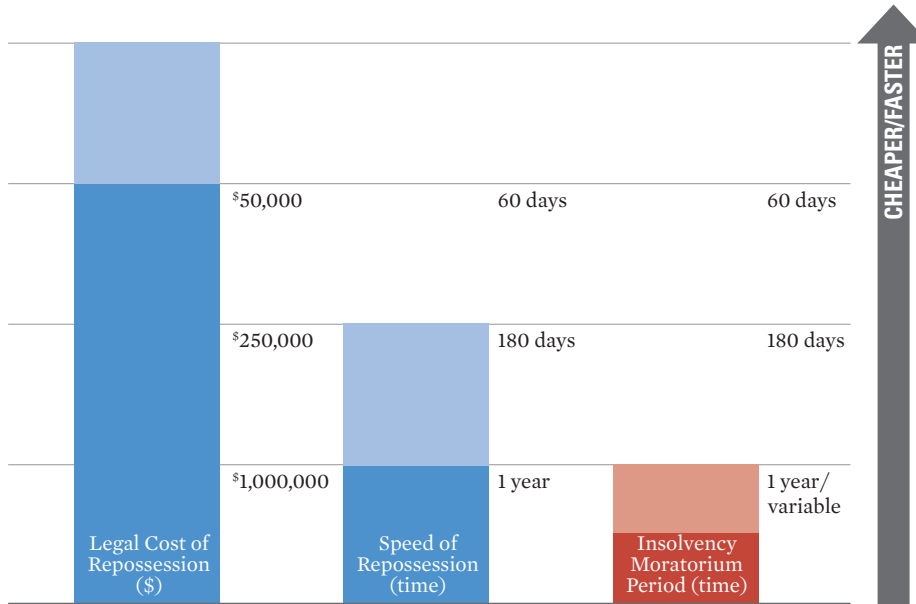
Category

**55%**

**MODERATE**

Weighting	Score:
22.5%  Repossession	75%
12.5%  Insolvency	20%
10.0%  Deregistration	0%
10.0%  Export	50%
7.5%  Judgments/Arb.	100%
7.5%  Preferential Liens	75%
30.0%  Political Stability	60%

**Time & Cost Indicators**



CHEAPER/FASTER

**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country:  YES
- Cape Town Contracting State:  YES
- Eligible for ASU Cape Town Discount:  NO
- Self-help (Lessor-owners):  YES
- Self-help (Mortgagees):  YES
- Moderately or well-developed insolvency laws:  NO
- Absence of significant taxes or similar fees payable on export:  YES
- Absence of fleetwide liens:  YES
- Local court will enforce, without reexamination of case on merits...
  - a New York court judgment:  YES
  - an English court judgment:  YES
  - an arbitral award:  YES

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <input checked="" type="checkbox"/> YES	N/A	N/A	N/A
Operator (if not also the owner): <input checked="" type="checkbox"/> YES			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <input checked="" type="checkbox"/> YES Mortgagee: <input checked="" type="checkbox"/> YES	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

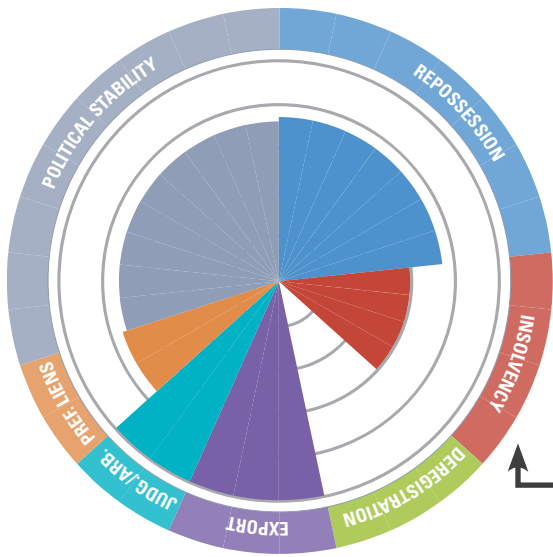
COMPLETED BY:

**Ellex Valiūnas ir partneriai**

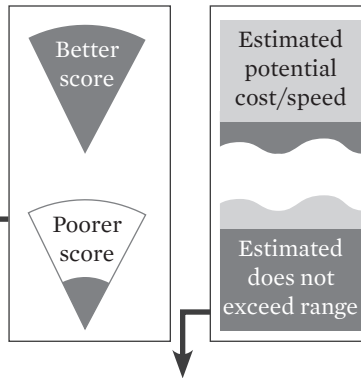


CONTACT: GEDIMINAS REČIŪNAS, Partner, gediminas.reciunas@ellex.lt

ENRIKA TAMAŠAUSKAITE, Associate, enrika.tamasauskaite@ellex.lt



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Overall Score

Category

**69%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	75%
12.5%	Insolvency	60%
10.0%	Deregistration	0%
10.0%	Export	100%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	75%
30.0%	Political Stability	73%

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

CHEAPER/FASTER ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

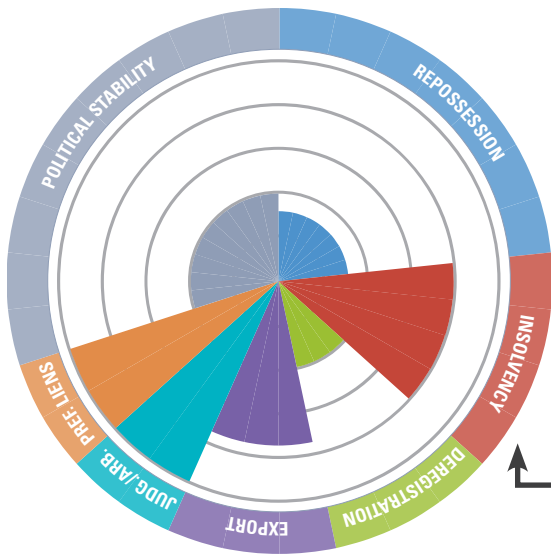
COMPLETED BY:

**Manuela António -  
Lawyers and Notaries**

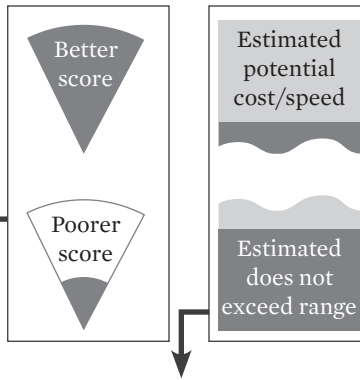


CONTACT: HUGO MAIA BANDEIRA, Associate, hbandeira@mantonio.net

DANIEL DA SILVA E MELO, Associate, dmelo@mantonio.net



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Overall Score

Category

**56%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	32%
12.5%	Insolvency	80%
10.0%	Deregistration	40%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	40%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES**

Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



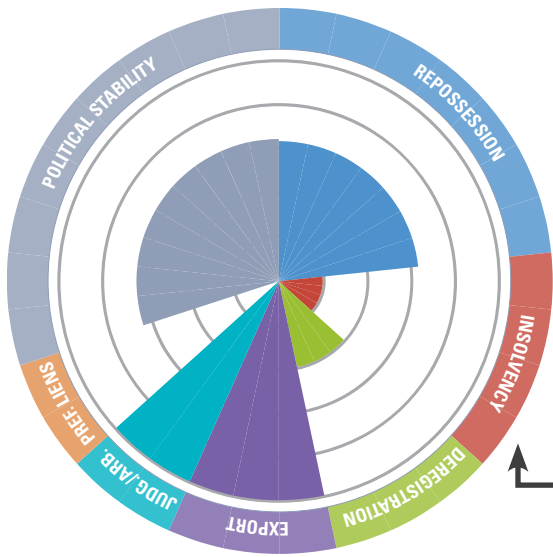
COMPLETED BY:

**Raja, Darryl & Loh**

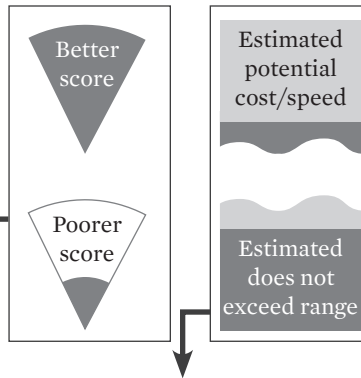


CONTACT: CHONG KOK SENG, Partner, kokseng@rdl.com.my

CHEW PHYE KEAT, Partner, chewphykeat@rdl.com.my



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Overall Score

Category

**58%**

**MODERATE**

Weighting	Score:
22.5%	64%
12.5%	20%
10.0%	40%
10.0%	100%
7.5%	100%
7.5%	0%
30.0%	65%

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

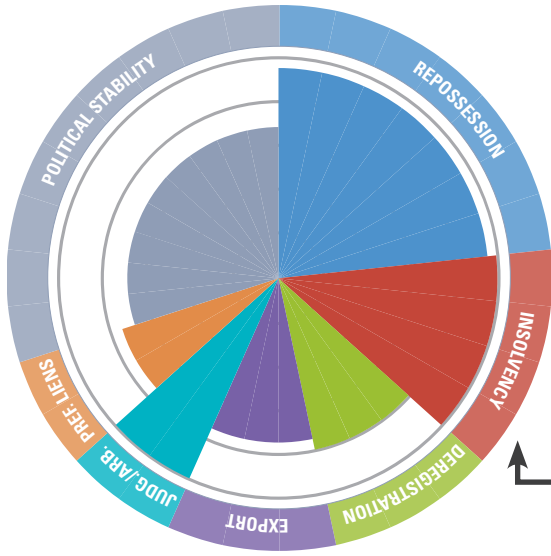
COMPLETED BY:

**Fenech & Fenech Advocates**

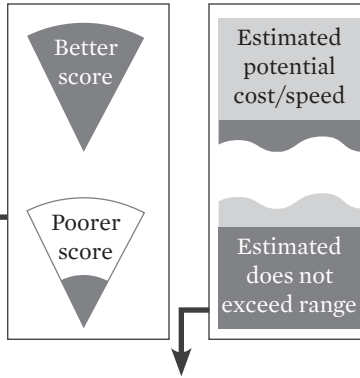


CONTACT: NICOLAI VELLA FALZON, Partner, nicolai.vellafalzon@fenlex.com

JOE GHIO, Partner, joseph.ghio@fenlex.com



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Overall Score

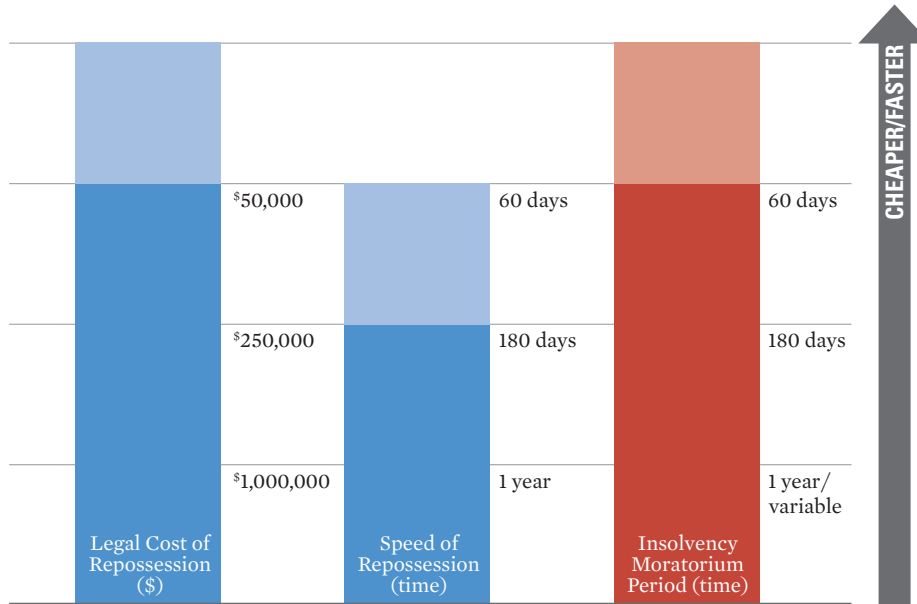
Category

**83%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>96%</b>
12.5%	Insolvency <b>100%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>69%</b>

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country:  YES
- Cape Town Contracting State:  YES
- Eligible for ASU Cape Town Discount:  YES
- Self-help (Lessor-owners):  YES
- Self-help (Mortgagees):  YES
- Moderately or well-developed insolvency laws:  YES
- Absence of significant taxes or similar fees payable on export:  YES
- Absence of fleetwide liens:  YES
- Local court will enforce, without reexamination of case on merits...
  - a New York court judgment:  YES
  - an English court judgment:  YES
  - an arbitral award:  YES

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <input checked="" type="checkbox"/> NO	N/A	N/A	N/A
Operator (if not also the owner): <input checked="" type="checkbox"/> YES			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <input checked="" type="checkbox"/> YES Mortgagee: <input checked="" type="checkbox"/> YES	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

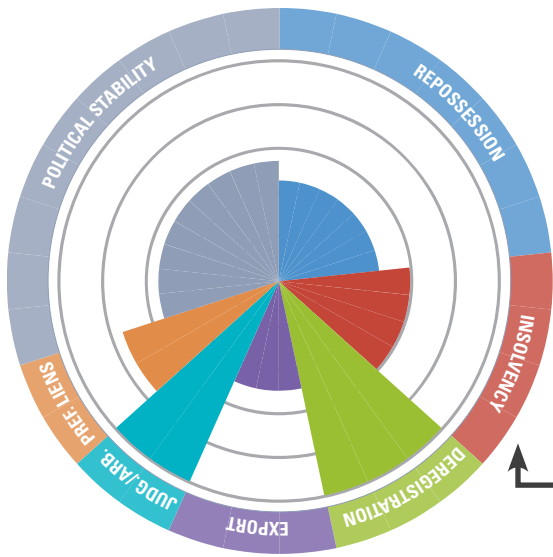
COMPLETED BY:

**Venture Law Ltd**

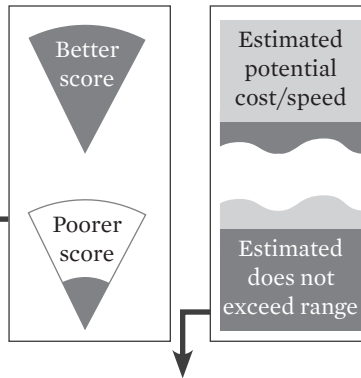


CONTACT: ASHVAN B LUCKRAZ, Partner, ashvan.luckraz@venturelawltd.com

SAMEER K TEGALLY, Partner, sameer.tegally@venturelawltd.com



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Overall Score

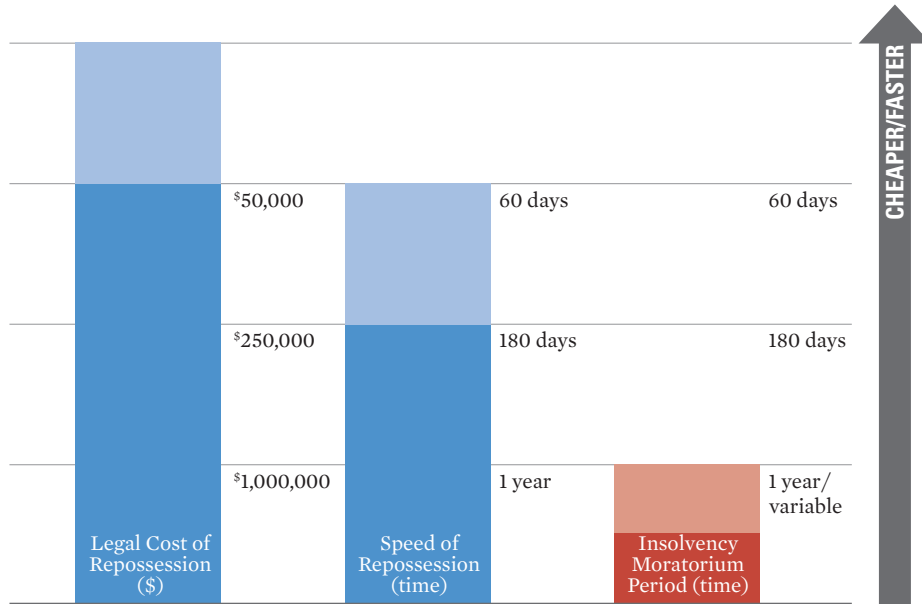
Category

**63%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	46%
12.5%	Insolvency	60%
10.0%	Deregistration	100%
10.0%	Export	50%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	75%
30.0%	Political Stability	58%

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

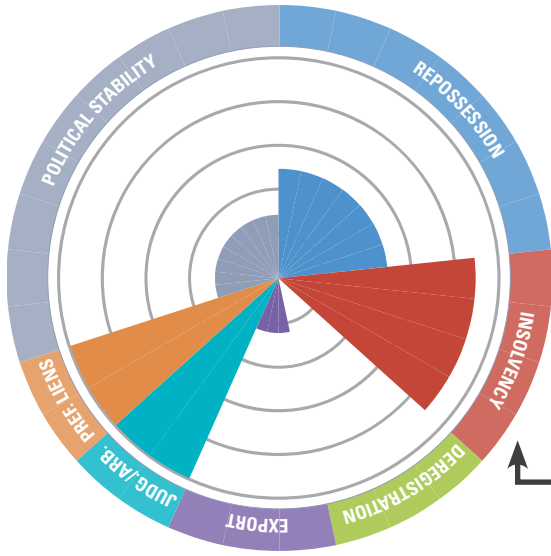
COMPLETED BY:

**Abogados Sierra**

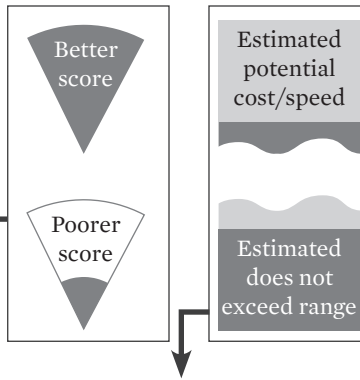


CONTACT: CARLOS SIERRA, Managing Partner, csieraa@asyv.com

VIRIDIANA BARQUIN, Partner, vbarquin@asyv.com



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Overall Score

**49%**

Category

**HIGHER**

Weighting	Score:
22.5%	Repossession <b>50%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>0%</b>
10.0%	Export <b>25%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>29%</b>

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

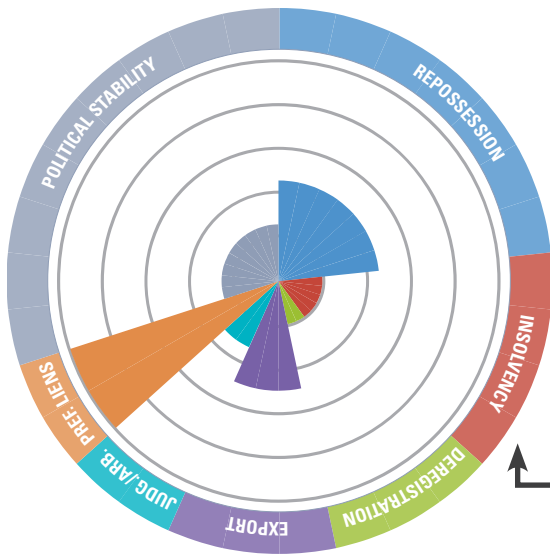
COMPLETED BY:

**Anderson and Anderson LLP**

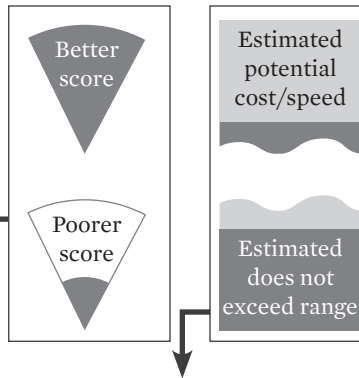


CONTACT: OTGONTUA DAVAAYAM, Attorney, anderson.mongolia@anallp.com

DAVID C. BUXBAUM, Managing Partner,  
anderson.mongolia@anallp.com



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Overall Score

Category

**38%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 46%
12.5%	Insolvency 20%
10.0%	Deregistration 20%
10.0%	Export 50%
7.5%	Judgments/Arb. 33%
7.5%	Preferential Liens 100%
30.0%	Political Stability 26%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES**

Mortgagee: **NO**

Alternative Country of Registration #1:

**Ireland**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**46**

Blended Score:

**N/A**

Blended Category:

**HIGHER**

Blended Category:

**N/A**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



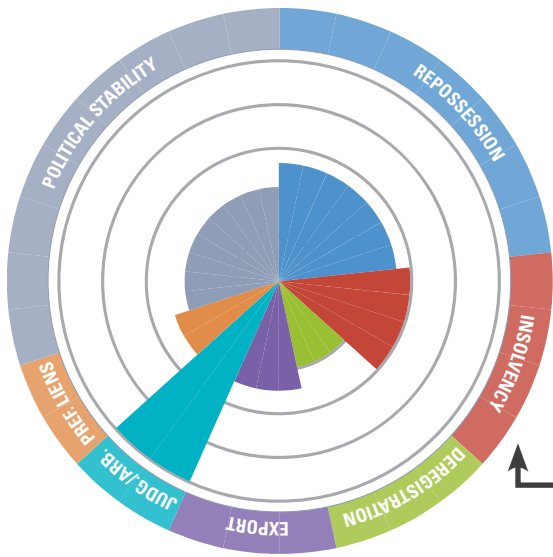
COMPLETED BY:

Hajji & Associés

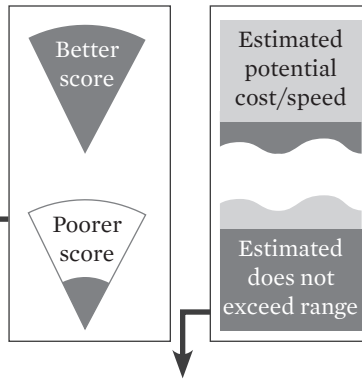
HAJJI & ASSOCIÉS

CONTACT: AMIN HAJJI, Partner/ Attorney at law, a.hajji@ahlo.ma

NIHMA EL GACHBOUR, Lawyer, n.elgachbour@ahlo.ma



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Overall Score	Category
<b>53%</b>	<b>MODERATE</b>
Weighting	Score:
22.5%	Repossession <b>54%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>40%</b>
10.0%	Export <b>50%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>43%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

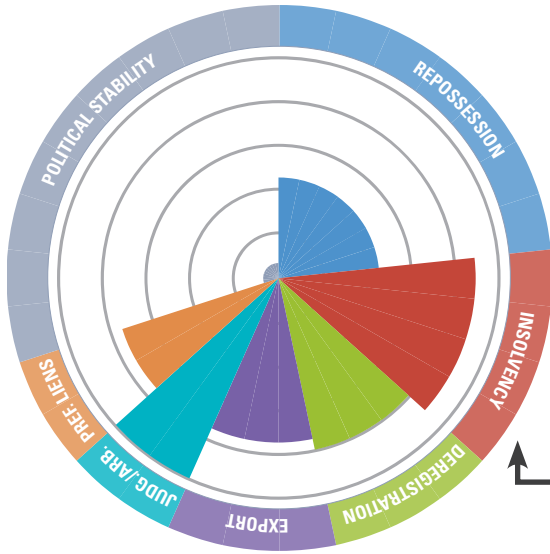
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

COMPLETED BY:

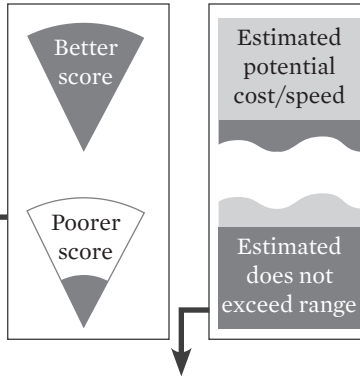
**CSBA**



CONTACT: MAFALDA RODRIGUES FONSECA, Partner, csba@csba-advogados.pt  
ISABEL MARINHO, Partner, csba@csba-advogados.pt



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score

Category

**52%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>46%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>7%</b>

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

## More Results

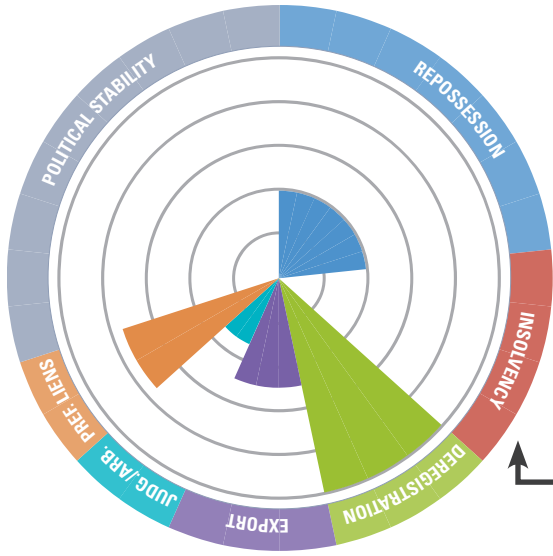
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

COMPLETED BY:

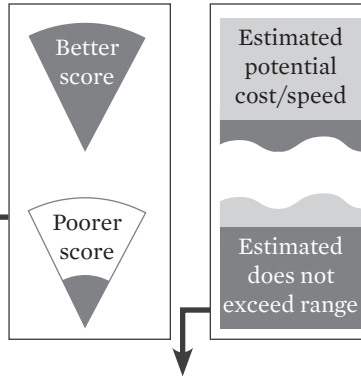
**DFDL Myanmar Limited**



CONTACT: JAMES FINCH, Partner,  
james.finch@dfd.com, james.finch1023@yahoo.com  
THIDA AYE, Partner, thida.aye@dfd.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



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Overall Score <sup>(\*\*)</sup> Category

**46%**

**HIGHER**

Weighting	Score:
22.5%	Repossession <b>40%</b>
12.5%	Insolvency <b>0%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>50%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>No Data</b>

**Time & Cost Indicators**

Indicator	Value	Value	Value
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>NO</b>	N/A	N/A	N/A

**More Results**

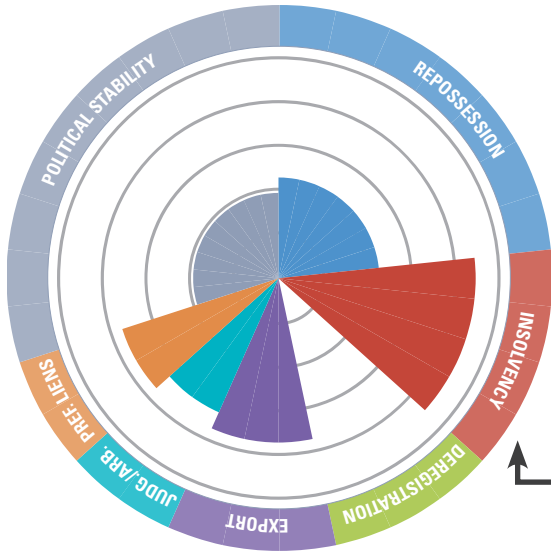
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

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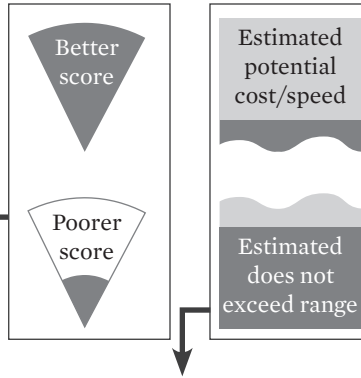
**ENSAfrica|Namibia (incorporated as Lorentz Angula Inc.)**



CONTACT: WOLF WOHLERS, Director, wwohlers@ensafrika.com



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score

Category

**51%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>46%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>0%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>67%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>39%</b>

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Indicator	Value	Time	Time
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

**↑ CHEAPER/FASTER**

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<input type="checkbox"/> NO
Cape Town Contracting State:	<input checked="" type="checkbox"/> YES <sup>§</sup>
Eligible for ASU Cape Town Discount:	<input type="checkbox"/> NO
Self-help (Lessor-owners):	<input type="checkbox"/> NO
Self-help (Mortgagees):	<input type="checkbox"/> NO
Moderately or well-developed insolvency laws:	<input checked="" type="checkbox"/> YES
Absence of significant taxes or similar fees payable on export:	<input checked="" type="checkbox"/> YES
Absence of fleetwide liens:	<input checked="" type="checkbox"/> YES
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<input checked="" type="checkbox"/> YES
an English court judgment:	<input checked="" type="checkbox"/> YES
an arbitral award:	<input type="checkbox"/> NO

<sup>§</sup>With effect from November 2018.

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <input type="checkbox"/> NO	N/A	N/A	N/A
Operator (if not also the owner): <input checked="" type="checkbox"/> YES			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <input type="checkbox"/> NO Mortgagee: <input type="checkbox"/> NO	N/A	N/A	N/A

## More Results

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**repointindex@pillsburylaw.com**

# Winter Survival Guide

By Eugene Yeung  
November 5, 2018

*Rising interest rates, shrinking yields, increasing volatility in financial markets, heightened trade wars and regulatory changes pose new challenges in relation to financing and refinancing transactions. Market players have found scarcity in capital heightened and risk frequently repriced which makes it increasingly challenging to close asset finance transactions. Along with the ten-year anniversary of the 2008 global financial crisis, we thought it was about time to remind our clients and friends of the necessity of being well prepared for an unexpected downturn. This winter survival guide is designed to explore a few common issues that may be relevant to restructuring asset based loans and aircraft leases in challenging markets.*

## **PART I: Navigating an Asset Finance Restructure**

What does it take to restructure a finance document? The most common mechanisms used to effect modification of financing agreements are:

### ***Consents and waivers***

Consents and waivers are most commonly used to deal with a past or present non-material breach or a course of action that would otherwise be prohibited under a set of finance documents. For example, a consent and waiver could be utilized to address a failure to deliver financial statements on time or document the consents necessary for internal restructuring purposes.

### ***Amendment and Restatement Agreements***

An amendment agreement could be used to effect permanent changes to a finance agreement, such as adding or altering the debt service coverage ratio, debt to tangible net worth ratio or minimum working capital/tangible net worth requirement. In this case, the loan documentation would comprise both the original agreement and the amendment agreement.

### ***The amendment and restatement of the original financing or security instrument itself***

In the alternative, where the proposed modifications are extensive, the original finance agreement itself could be amended and restated in full, thereby replacing the original agreement in its entirety.

### **Three items to watch out for in any form of modification**

**Implied Waivers:** It is always prudent to review the complete set of financing documents with a fresh pair of eyes.

**Breakage Costs:** Don't forget to ensure these costs are fully considered (including any associated derivative hedge positions).

**Monitoring Capabilities:** Take care to ensure these are feasible, in particular if the proposed modification imposes covenants that require proactive monitoring, such as financial covenants.

### **Before putting pen to paper...**

#### ***Is lender consent required?***

In most cases, consent is required from the affected lenders and the finance documents will specify the requisite level, which may be majority consent (simple or supermajority) or unanimous consent. The question of whether a particular loan facility is affected by an action or event, is determined by reference to the specific facts of the matter and the terms of the documentation. If class voting is required, it will likely be cost effective to engage the class members early with a view to arriving at a consensus prior to implementing restructuring. In most cases, engaging the right professionals to assist in this process is critical to facilitating a successful outcome. In certain jurisdictions, the borrower is permitted to offer incentives to lenders to consent to amendments.

#### ***How burdensome are closing logistics?***

Cost is often an issue in restructuring and refinancing transactions. We are often asked whether the customary closing documentation, such as legal opinions (covering various jurisdictions), board resolutions, solvency certificates, good standing certificates and secretary's certificates are required. Undoubtedly, there is room to limit the number of conditions precedent to closing, but this approach does not come without risk. That said, at a bare minimum, we would expect the finance parties to receive (i) confirmation from each obligor, in the form of a director's certificate, that there are no other defaults or event of default continuing, (ii) confirmation of the amount of outstanding indebtedness and (iii) certified copies of corporate authorizations and evidence that such corporate authorizations have been executed appropriately. The corporate resolutions prepared in the



original financing transaction may extend to authorizing such obligors to enter into subsequent amendments. However, if there is doubt as to an obligor's authorization to enter into restructuring agreements, new corporate authorizations should be provided.

### ***Are my guarantees still enforceable?***

For further information on the topic of preserving guarantees, please see Practice Tip “*How Not to Lose a Guarantee*” on page 135. This practice tip highlights the importance of checking the terms of each guarantee to ensure any changes to the guaranteed agreements will not affect the enforceability of that guarantee. In most cases, obtaining a simple written reaffirmation or acknowledgement from a guarantor provides the necessary legal support to give the relevant finance parties sufficient comfort to proceed with restructuring.

### ***Will any provisions in the finance documents be invalidated in the borrower's insolvency?***

This is often assumed otherwise in commoditized or market standard documentation. Two common problematic issues are (i) claw back clauses and (ii) *ipso facto* clauses. Claw back clauses are “avoidance” actions taken by an insolvency officeholder that seek to set aside or unwind certain transactions in the event of an insolvency, such as those transactions where unfair or undue preference was given, or an asset was sold at a below market price. *Ipso facto* clauses are those which try to alter the relationship between contractual parties in the event of an insolvency. These clauses are often prohibited by bankruptcy law. These provisions may make an enforcement action problematic once a borrower faces distress.

## **PART 2: Exploring an Aircraft Lease Restructure**

This part focuses on key issues arising in the negotiation or restructuring of aircraft operating leases in challenging economic environments. While many aircraft lessors tend to follow their “house standard” leases to maintain contractual consistency within their fleet, there are inevitably departures from any standard form due to the requirements of various lessees. Furthermore, operational and legal risk differ from jurisdiction to jurisdiction and should be carefully managed to limit exposure to economic downturns.

### ***Revisiting key economic terms***

Certain economic terms should be revisited, such as length of lease and payment terms. Common payment terms in operating leases include requirements for security deposits, rent, maintenance reserves and for lessees to pay other costs such as hangar rentals, customs, taxes and aviation authority fees. Lessors should be aware of the implications on the choice of terminology, such as “security deposit” versus “commitment fee” or “maintenance reserves” versus “supplement rent” which may have different treatment in

the case of bankruptcy of the lessee. In practical terms, lessors should monitor lessee compliance closely and take effective action if any payment arrears or irregularities are identified. It is also worth noting that contractual provisions that are deemed to impose a “penalty” for late payments or other failure to perform may not be enforceable in certain jurisdictions. As a matter of English law, in order to avoid “penalty” clauses, a provision will need to provide for a “genuine pre-estimate of loss” rather than a proportionate increase in lease payments. In the event that the lessee is subject to insolvency proceedings, operating leases are usually regarded as executory contracts and the continuation of these agreements may be subject to specific rules governing the management of the lessee estate while subject to bankruptcy proceedings. For example, a “security deposit” may be deemed by a bankruptcy court to be funds belonging to the debtor's estate, while a “commitment fee” may not. In addition, lessors may be stayed for a limited time from exercising remedies against a lessee, such as repossessing an aircraft on lease, under bankruptcy laws.

### ***Understanding redelivery conditions***

It is important to ensure that provisions relating to the required redelivery or return condition are clear and unambiguous so that both parties are clear as to what the lease requires. In many cases, early engagement between the lessor and lessee will enable the return process to be properly managed and will allow sufficient time for the parties to resolve issues before a dispute arises.

### ***Maintenance reserves***

Maintenance reserves are designed to ensure that sufficient funds are available to pay for the cost of major scheduled aircraft maintenance, typically relating to the airframe, engines, landing gear, APU and certain life-limited parts. Payment terms are often determined as a result of the creditworthiness of the lessee. In the context of making maintenance payments to lessees from the “maintenance reserves”, lessors should consider (i) any amounts paid to a lessee in advance of maintenance work being complete and the extent to which they may be at risk and (ii) the likelihood of any liens being imposed by a maintenance performer in respect of payments owed by a lessee that are not related to the lessor's aircraft. As a practical matter, lessors should consider having a back-up maintenance facility available if a defaulting lessee appears unable to return an aircraft in the lease-required condition, in order to facilitate a swift transition of the aircraft to the next lessee under contract.

### ***Defaults, event of defaults and termination events***

There is often confusion over the subtle but necessary difference between “default” and “event of default” as the former will trigger the lessor's right to exercise remedies only if any grace period provided has expired or a determination

or notice by the lessor has been provided. Generally speaking, “defaults” are attributable to actions within a lessee’s control. Leases may also contain cross-default provisions that give the lessor the right to exercise remedies as a result of a default by the lessee under another contract entered into by the lessee. One final point on the exercise of remedies is that lessors may have a duty to mitigate their damages under the law.

#### ***Keeping the finance parties informed***

It is likely that finance parties’ consent will be required in connection with a lease restructuring. As a result, it is a good idea to engage any relevant finance parties early, to help avoid unexpected financier requirements that could result in closing delays.

#### ***Operational and tax indemnities***

Operating leases generally provide that the lessee indemnifies the lessor for operational risks and tax risks. Treating such critical provisions as “boilerplate” or overlooking them in a restructuring scenario would be a grave mistake. Indemnity provisions need to be carefully reviewed to ensure that the indemnitees obtain the full benefit of these important contractual provisions.

### **PART 3: Tightening the Security Package**

As a risk management measure, it is often advisable to consider whether the finance parties’ rights are in any way impaired (or otherwise vulnerable) in the loan documentation and security package. The starting point is to review the loan agreement, the aircraft mortgage and the ancillary security documents. It is important to note that the security package will vary depending on the nature of the transaction, but usually we expect an aircraft mortgage (or assignment), security over maintenance reserves, a charge over shares in the borrower, assignments of airframe and engine warranties and assignments of insurances in favour of the finance parties. There are a few key areas that finance parties should carefully consider to help avoid a deficient security package.

#### ***Description of aircraft***

If the description of an aircraft is overlooked at the time of granting security, it may become an issue when enforcing the finance parties’ rights. It is important to ensure security documentation fully and accurately describes the aircraft, with accurate references to the airframe, engines, manuals and technical records. A review of the mortgage/security assignment should be performed in order to ensure that the security granted is enforceable so the finance parties will have the right to, inter alia, repossess and sell the aircraft (i) on default; or (ii) following an acceleration of the loan. In some jurisdictions, it is worth noting that a local law mortgage is not permitted to be taken over an aircraft and alternative forms of security will need to be considered and their effectiveness assessed.

#### ***Security over maintenance reserves***

This is usually stated to be supplemental or additional rent, which is the sole property of the lessor (with the intent to cover certain heavy maintenance events). If (contrary to the intent of the parties) the supplemental or additional rent is held as “maintenance reserves,” it is advisable that a first priority charge is granted over it. That said, this may be seen by a court as defensive and effectively as an admission that the sums involved are indeed reserves and the property of the lessee.

#### ***PDP financing***

In the case of pre-delivery payment financing, the security package includes an assignment of the aircraft purchase agreement (and often the engine general terms agreement, if any). These security assignments will come into play in the event of a transfer, or a default or insolvency of the purchaser. It is important to consider the cross-border impact of these arrangements and the jurisdiction of incorporation of the purchaser, including any adverse results that may arise in the event of a purchaser insolvency.

#### ***Legal opinions***

It is advisable to obtain certain legal opinions when primary security documents are entered into. We would expect such legal opinions to cover (i) the obligor’s (including the borrower, guarantor and any third party security providers) jurisdiction, (ii) the jurisdiction of the registration of the aircraft and (iii) the jurisdiction where the aircraft was located at the effective time of the creation of the security interest. It is important to bear in mind that each legal opinion is only valid on the date on which it is signed and should reflect the position of the law as of such date.

#### ***Perfection/registration***

The failure to perfect a charge may render a charge void as against a liquidator or creditor of the company (in the case of English law). Accordingly, it is important to ensure there are no issues with perfection or registration of the security package. For example, if the lease provides that a security deposit or maintenance reserves are held as assets of the lessee and charged in favour of the lessor, then in the lessee’s bankruptcy these amounts would likely be treated as part of the lessee’s estate. As a result, the disposition of these assets would depend on whether the security in favour of the lessor was properly granted, perfected and/or registered. More specifically, the lessor will have to show that the charge was properly perfected in order to recover these amounts. A registration on the International Registry of Mobile Assets (where applicable) is also recommended to be made in order to ensure protection for secured parties.

**PART 4: Enforcement Considerations**

Terminating an operating lease for breach is one way that the contractual relationship between the lessor and lessee may conclude. If a creditor decides to repossesses an aircraft to seek satisfaction of its debt, then the first step is to consider the implications of enforcement (such as the impact on the business relationship with the debtor), the cost of the repossession, and the amount the creditor is likely to recover from selling or otherwise disposing of the aircraft. The following are some practical issues to consider.

***Notice of default***

The specific form, timing, addresses and methods provided for in the finance documents should be adhered to. It is also advisable to specify the relevant events of default and note the finance parties' intention to enforce its security (i.e. on the basis of the aircraft mortgage, security assignment or lease agreement).

***Is a court order required?***

In certain jurisdictions, creditors may exercise default remedies under the Cape Town Convention, such as (i) taking possession or control of the aircraft in order to resell or lease the aircraft or (ii) procuring the de-registration, export and removal of the aircraft from the territory in which it is located, without a court order. In other jurisdictions, aircraft repossession cannot proceed without a court order. A finance party may seek a court order when their repossession action involves an uncooperative debtor, a questionable basis upon which to exercise remedies, defects in finance documents or where an expedient sale is required.

***Insurance coverage***

In addition to arranging for aircraft maintenance following repossession, finance parties and lessors should ensure that appropriate insurance coverage is in place in order to allow for possession and transportation of a repossessed aircraft.

***Competing interests***

A security review may uncover potential liens that could impact the ability to repossess an aircraft, such as Eurocontrol liens, tax liens or other regulatory charges. If engines owned by a third party are installed on an aircraft to be repossessed, recognition of rights agreements and other contractual arrangements will need to be reviewed to determine what actions can be taken without violating other parties' property rights.

***Distribution of proceeds***

While it may seem intuitive that any surplus proceeds from a sale go directly to the borrower, this is often not the case. Depending on the facts, proceeds of a sale may already be pledged as collateral for one or more other debts, so finance parties should consider any benefit they are entitled to under these circumstances. If required, an aircraft foreclosure sale should be coordinated with the borrower. In addition, in some jurisdictions there is a duty to mitigate losses. In any event, foreclosure sales should always be handled with care and on the basis of competent legal advice. ■

(\*) Local counsel has provided additional notes for this country.

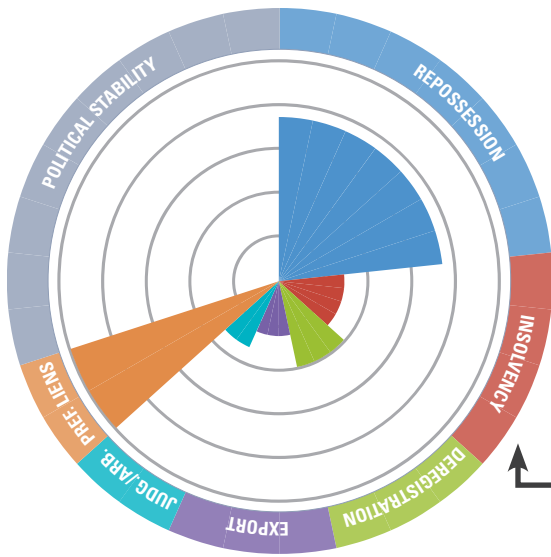
COMPLETED BY:

**Pradhan, Ghimire & Associates**

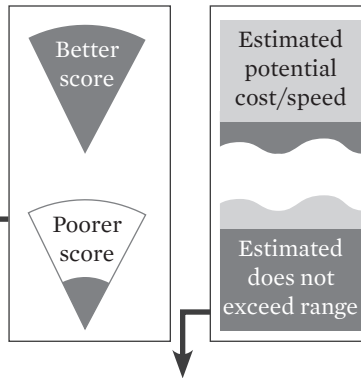
**PRADHAN, GHIMIRE & ASSOCIATES**  
ATTORNEYS AT LAW

CONTACT: DEVENDRA PRADHAN, Managing Partner,  
dpradhan@pradhanlaw.com

SHIRSHAK GHIMIRE, Senior Associate, sghimire@pradhanlaw.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



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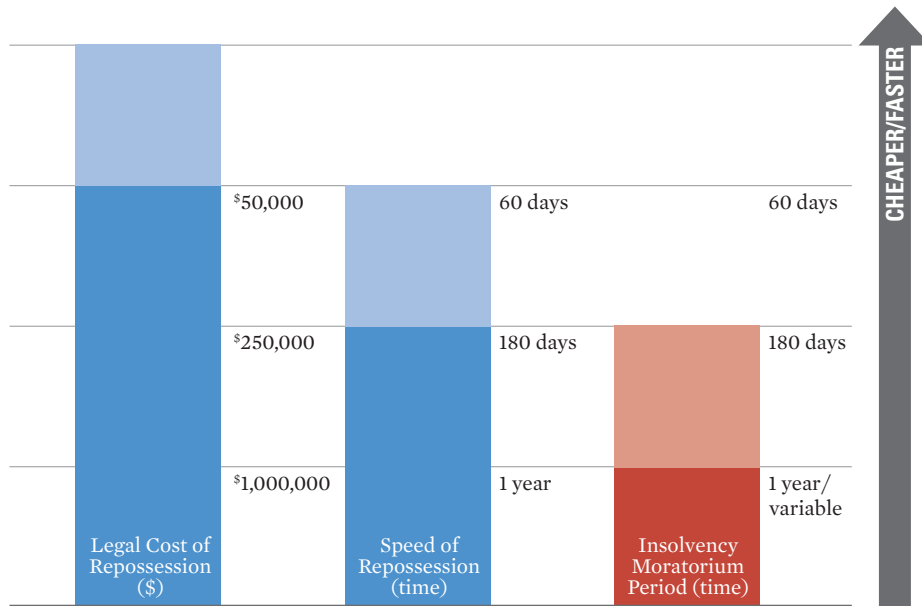
Overall Score <sup>(\*\*)</sup> Category

**53%**

**MODERATE**

Weighting	Score:
22.5%	75%
12.5%	30%
10.0%	40%
10.0%	25%
7.5%	33%
7.5%	100%
30.0%	No Data

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

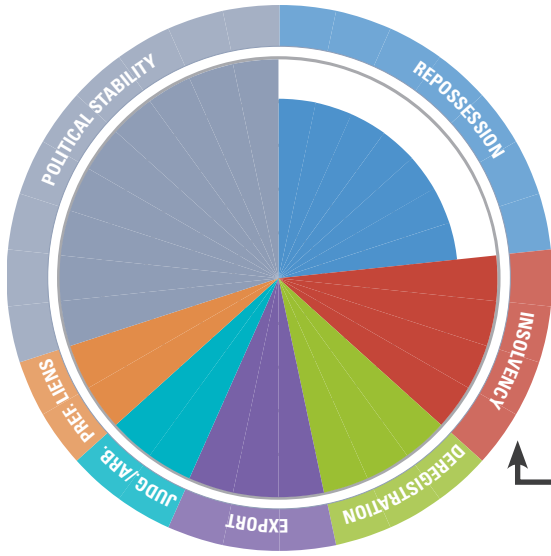
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**NautaDutilh N.V.**

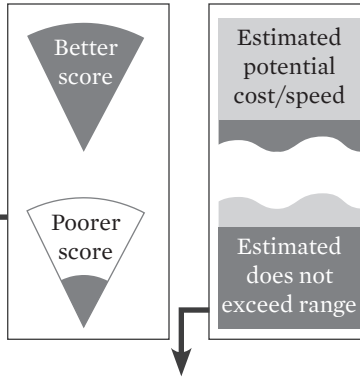


CONTACT: KEES KOETSIER, Partner, kees.koetsier@nautadutilh.com

ESTHER VOCHTELOO, Senior Associate,  
esther.vochteloo@nautadutilh.com



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Overall Score

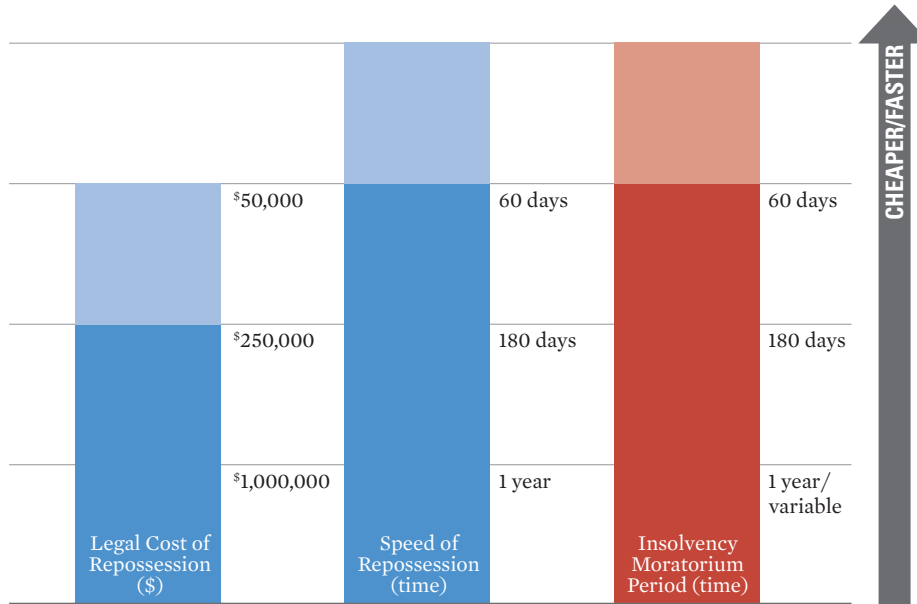
Category

**96%**

**LOWER**

Weighting	Score:
22.5%	82%
12.5%	100%
10.0%	100%
10.0%	100%
7.5%	100%
7.5%	100%
30.0%	100%

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **NO**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES** Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



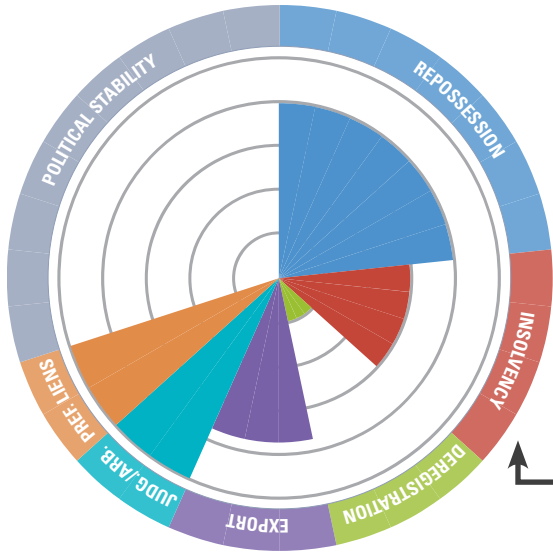
(\*) Local counsel has provided additional notes for this country.

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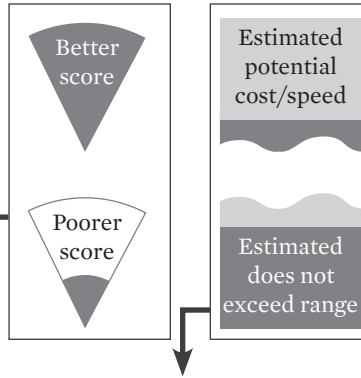
**Hénaff D'Estrées**

**HÉNAFF D'ESTRÉES**  
ATTORNEY AT LAW - PARIS & NEW YORK BARS

CONTACT: YVES HÉNAFF D'ESTRÉES, Avocat / Attorney-at-law,  
yhenaff@lexfrance.com



(\*\*) Overall Score disregards Political Stability (insufficient data)



Before using the information on this page, please read the GENERAL DISCLAIMER.

Overall Score <sup>(\*\*)</sup> Category

**71%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	80%
12.5%	Insolvency	60%
10.0%	Deregistration	20%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	No Data

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
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an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

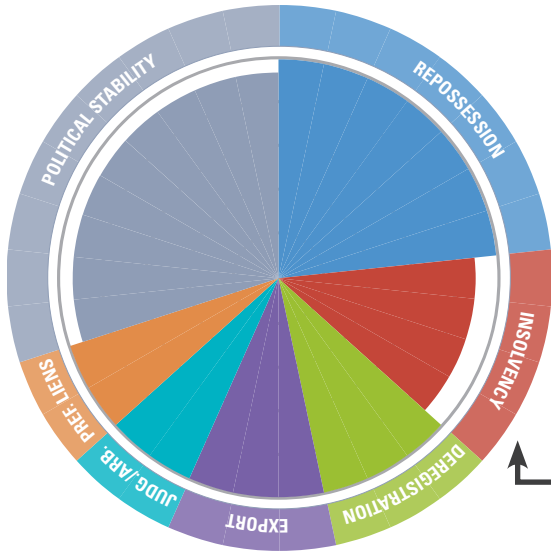
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**repindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

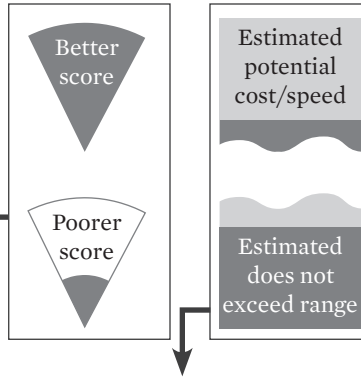
COMPLETED BY:  
**Buddle Findlay**



CONTACT: FRANK PORTER, Partner, frank.porter@buddlefindlay.com  
RISHALAT KHAN, Senior Associate, rishalat.khan@buddlefindlay.com



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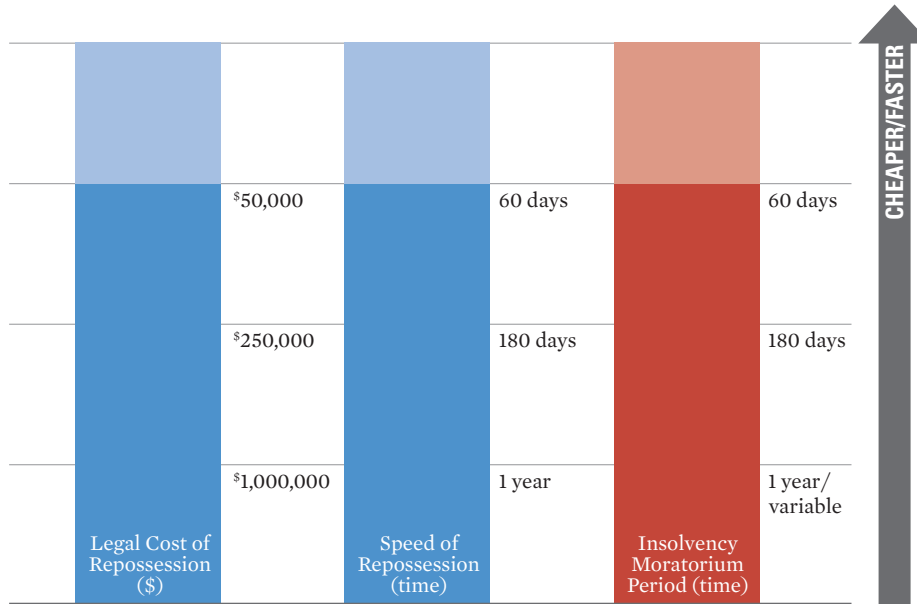


Overall Score      Category

**97%**      **LOWER**

Weighting	Score:
22.5%	Repossession <b>100%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>94%</b>

## Time & Cost Indicators



## Key Facts<sup>†</sup>

- OECD high-income/zero-rated country: **YES**
- Cape Town Contracting State: **YES**
- Eligible for ASU Cape Town Discount: **YES**
- Self-help (Lessor-owners): **YES**
- Self-help (Mortgagees): **YES**
- Moderately or well-developed insolvency laws: **YES**
- Absence of significant taxes or similar fees payable on export: **YES**
- Absence of fleetwide liens: **YES**
- Local court will enforce, without reexamination of case on merits...*
- a New York court judgment: **YES**
- an English court judgment: **YES**
- an arbitral award: **YES**

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

- Owner (if not also the operator): **NO**
- Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

- Owner: **NO**
- Mortgagee: **NO**

Alternative Country of Registration #1:

**Australia**

Blended Score:

**97%**

Blended Category:

**LOWER**

Alternative Country of Registration #2:

**United States**

Blended Score:

**97%**

Blended Category:

**LOWER**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

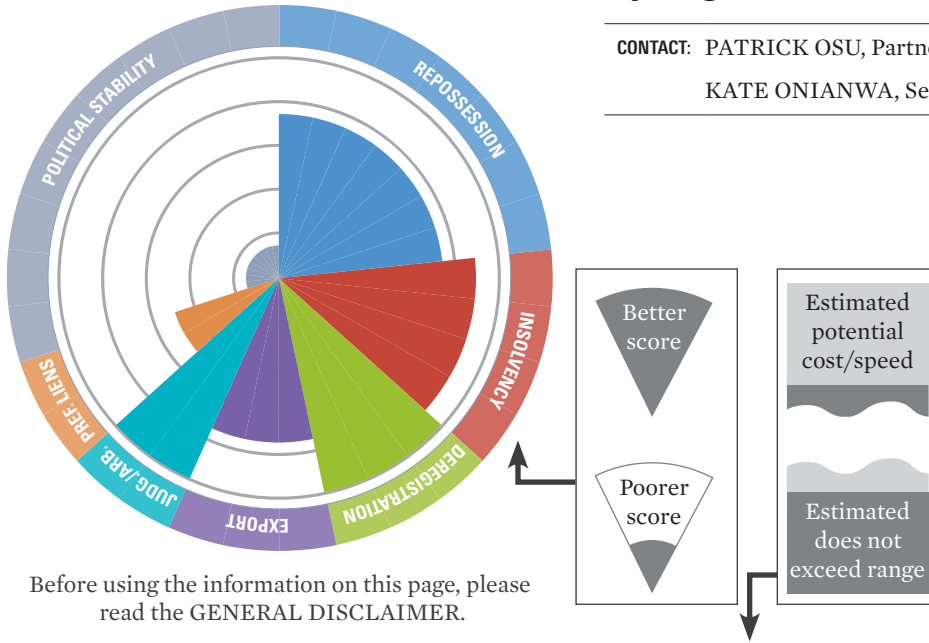
COMPLETED BY:

**Ajumogobia & Okeke**

AJUMOGOBI & OKEKE

CONTACT: PATRICK OSU, Partner, [posu@ajumogobiaokeke.com](mailto:posu@ajumogobiaokeke.com)

KATE ONIANWA, Senior Associate, [konianwa@ajumogobiaokeke.com](mailto:konianwa@ajumogobiaokeke.com)



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Overall Score	Category
<b>61%</b>	<b>MODERATE</b>
Weighting	Score:
22.5%	Repossession <b>75%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>15%</b>

### Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Indicator	Value	Time	Direction
Legal Cost of Repossession (\$)	\$50,000	60 days	↑ CHEAPER/FASTER
	\$250,000	180 days	
	\$1,000,000	1 year	
Speed of Repossession (time)			
Insolvency Moratorium Period (time)		60 days	
		180 days	
		1 year / variable	

### Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

### Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

### More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:

**[repoindex@pillsburylaw.com](mailto:repoindex@pillsburylaw.com)**

(\*) Local counsel has provided additional notes for this country.

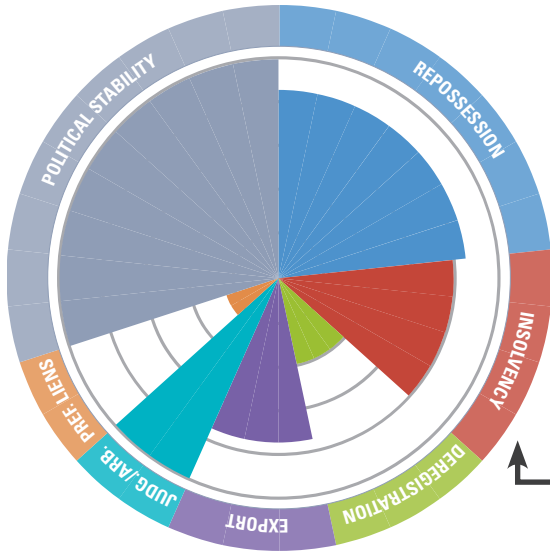
COMPLETED BY:

**Arntzen de Besche Advokatfirma AS**

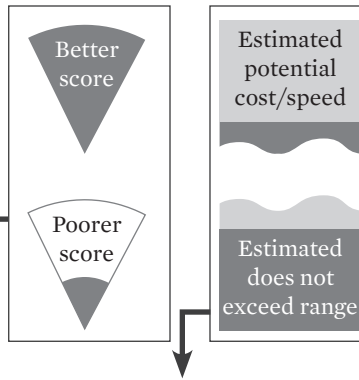


CONTACT: PAUL SVEINSSON, Partner, paul.sveinsson@adeb.no

ATLE STENSRUD, Senior Associate, atle.stensrud@adeb.no



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Overall Score

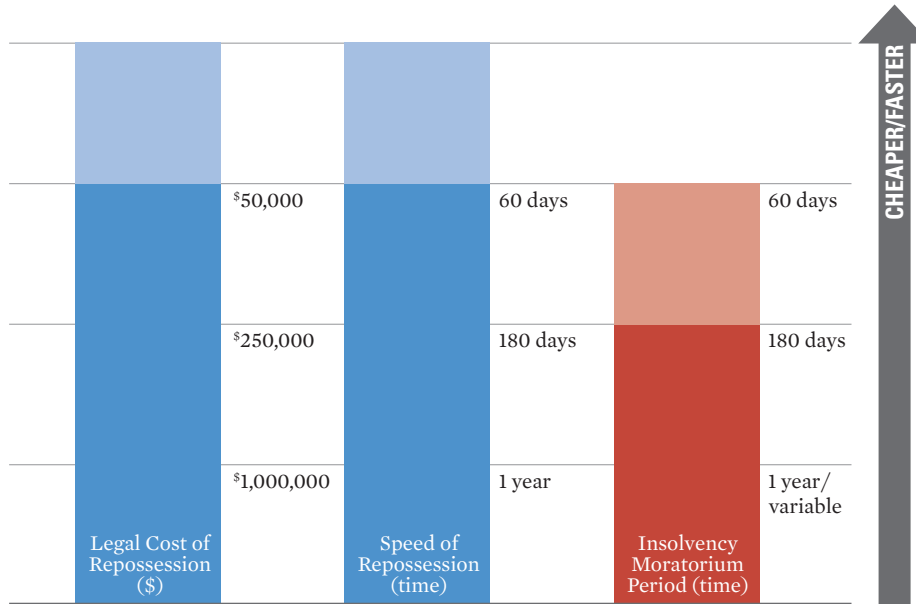
Category

**80%**

**LOWER**

Weighting	Score:
22.5%	Repossession <b>86%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>40%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>25%</b>
30.0%	Political Stability <b>100%</b>

## Time & Cost Indicators



## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

**Ireland**

Blended Score:

**86%**

Blended Category:

**LOWER**

Alternative Country of Registration #2:

**Denmark**

Blended Score:

**84%**

Blended Category:

**LOWER**

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country: **YES**

Cape Town Contracting State: **YES**

Eligible for ASU Cape Town Discount: **YES**

Self-help (Lessor-owners): **NO**

Self-help (Mortgagees): **NO**

Moderately or well-developed insolvency laws: **YES**

Absence of significant taxes or similar fees payable on export: **YES**

Absence of fleetwide liens: **NO**

Local court will enforce, without reexamination of case on merits...

a New York court judgment: **YES**

an English court judgment: **YES**

an arbitral award: **YES**

<sup>†</sup>Additional information regarding third party data is available on page 221.

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:

repointindex@pillsburylaw.com

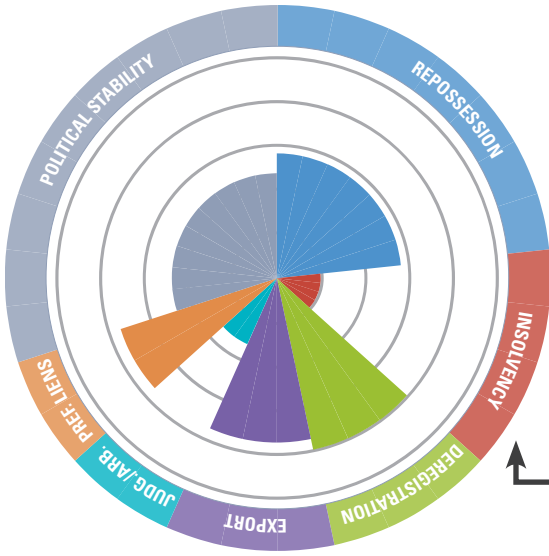
COMPLETED BY:

**Trowers & Hamlins LLP**

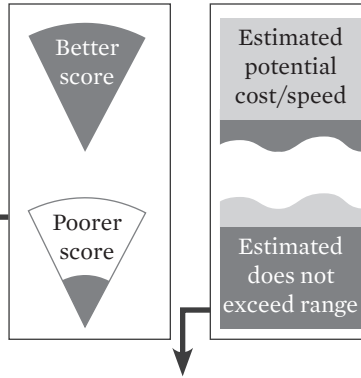


CONTACT: ROGER CLARKE, Partner, rclarke@trowers.com

SIMON VALNER, Solicitor, svalner@trowers.com



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Overall Score	Category
<b>53%</b>	<b>MODERATE</b>
Weighting	Score:
22.5%	Repossession <b>57%</b>
12.5%	Insolvency <b>20%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>48%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>NO</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

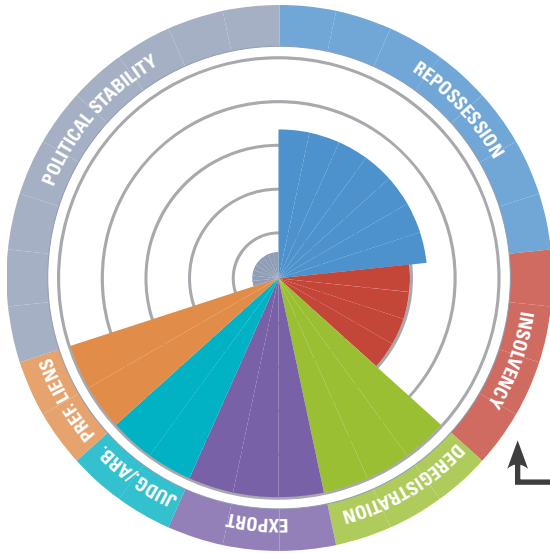
**Kabraji & Talibuddin**

**Kabraji & Talibuddin**  
Advocates and  
Legal Counsellors

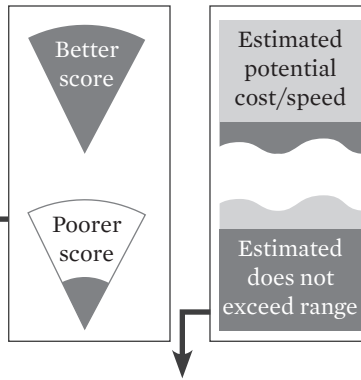
406-407, 4th Floor, The Plaza at De Tollyer  
Block 9, Clifton, Karachi-75600, Pakistan  
Tel: +9221-3583877 & 944-1904  
Fax: +9221-3583879  
Email: kandra@kandtlaw.com  
Website: www.kandtlaw.com

CONTACT: KAIRAS N. KABRAJI, Senior Partner, kairas.kabraji@kandtlaw.com

SYED ALI BIN MAAZ, Partner, ali.maaz@kandtlaw.com



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Overall Score

Category

**61%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>68%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>12%</b>

**Time & Cost Indicators**

N.B. Low political stability may affect reliability of these values

Indicator	Value	Unit	Direction
Legal Cost of Repossession (\$)	\$50,000	60 days	↑ CHEAPER/FASTER
Speed of Repossession (time)	60 days	60 days	
Insolvency Moratorium Period (time)	\$250,000	180 days	
	180 days	180 days	
	\$1,000,000	1 year	
		1 year/variable	

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

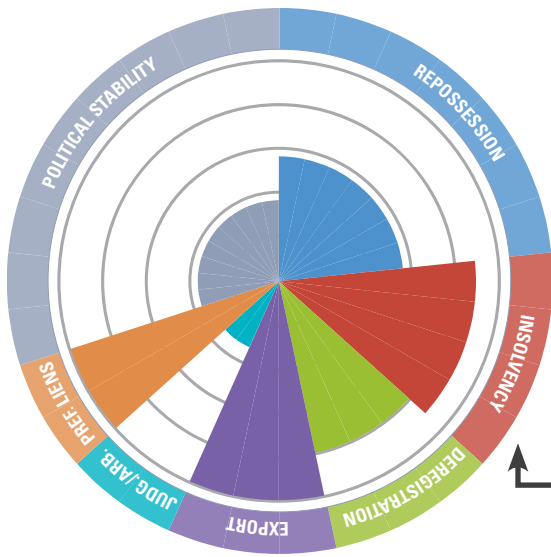
**Patton, Moreno & Asvat**



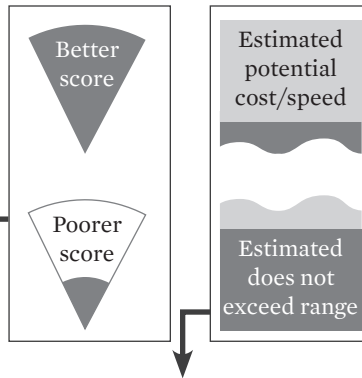
PATTON, MORENO & ASVAT  
INTERNATIONAL LAWYERS

CONTACT: NADYA PRICE, Partner, nprice@pmlawyers.com

FELIPE ESCALONA, Senior Associate, fescalona@pmlawyers.com



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Overall Score	Category
<b>63%</b>	<b>MODERATE</b>
Weighting	Score:
22.5%	Repossession <b>57%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>37%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>United States</b>	<b>64%</b>	<b>MOD.</b>
Operator (if not also the owner): <b>NO</b>	Alternative Country of Registration #2:	<b>NO DATA</b>	<b>NO DATA</b>
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	<b>Colombia</b>		
Owner: <b>N/A</b> Mortgagee: <b>YES</b>			

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

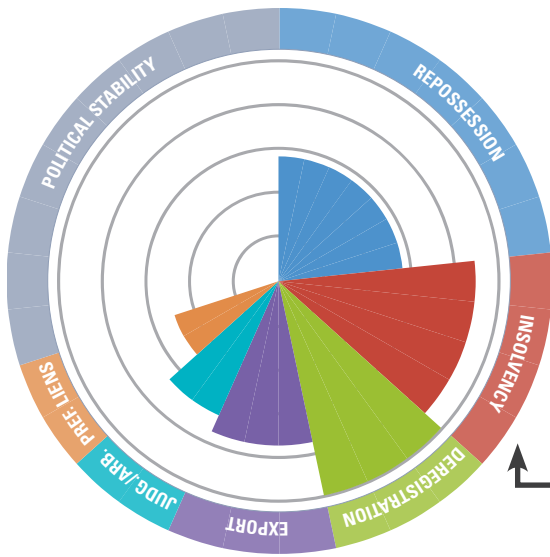
COMPLETED BY:

**Ashurst, Port Moresby**

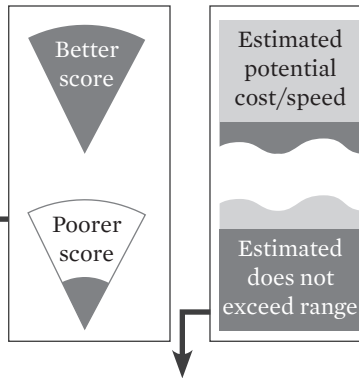


CONTACT: RICHARD FLYNN, Partner, Richard.Flynn@ashurst.com

TIM GLENN, Partner, Tim.Glenn@ashurst.com



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Overall Score

Category

**50%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	57%
12.5%	Insolvency	90%
10.0%	Deregistration	100%
10.0%	Export	75%
7.5%	Judgments/Arb.	67%
7.5%	Preferential Liens	50%
30.0%	Political Stability	0%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Indicator	Value	Speed of Repossession (time)	Insolvency Moratorium Period (time)
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>NO</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **NO**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES** Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

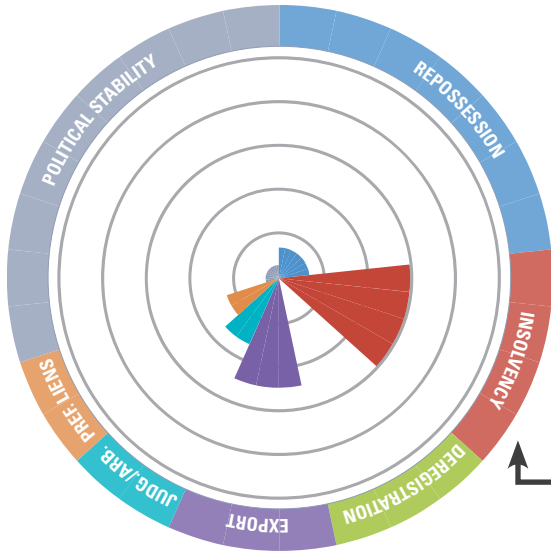
COMPLETED BY:

**Fiorio, Cardozo & Alvarado**

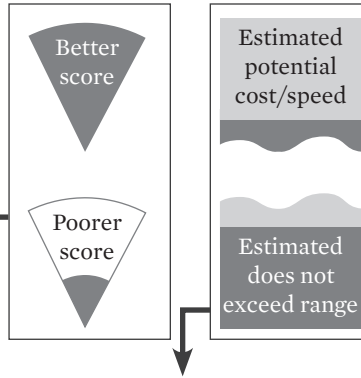
Fiorio  
Cardozo  
& Alvarado  
LAW FIRM

CONTACT: BETHARRAM ARDISSONE, Partner, bardissone@fca.com.py

GUSTAVO ARBO AMIGO, Senior Associate, gustavo.arbo@fca.com.py



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Overall Score

Category

**22%**

**HIGHER**

Weighting		Score:
22.5%	Repossession	14%
12.5%	Insolvency	60%
10.0%	Deregistration	0%
10.0%	Export	50%
7.5%	Judgments/Arb.	33%
7.5%	Preferential Liens	25%
30.0%	Political Stability	6%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>Brazil</b>	<b>30%</b>	<b>HIGHER</b>
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointex@pillsburylaw.com**

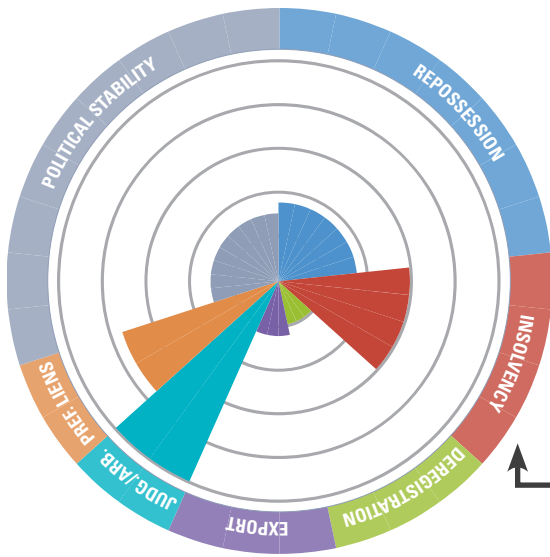
COMPLETED BY:

**Rodrigo, Elias & Medrano, Abogados**

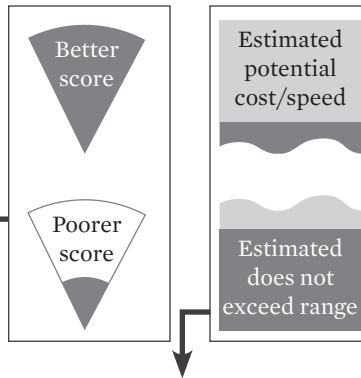
**RODRIGO, ELIAS & MEDRANO**  
ABOGADOS

CONTACT: JORGE VELARDE, Partner, [jvelarde@estudiorodrigo.com](mailto:jvelarde@estudiorodrigo.com)

FERNANDO HURTADO DE MENDOZA, Associate,  
[fhdemendoza@estudiorodrigo.com](mailto:fhdemendoza@estudiorodrigo.com)



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Overall Score

Category

**42%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 36%
12.5%	Insolvency 60%
10.0%	Deregistration 20%
10.0%	Export 25%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 75%
30.0%	Political Stability 31%

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:

Owner (if not also the operator):	<b>YES</b>
Operator (if not also the owner):	<b>NO</b>

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner:	<b>N/A</b>	Mortgagee:	<b>YES</b>
--------	------------	------------	------------

Alternative Country of Registration #1:

**United States**

Blended Score: **49%** Blended Category: **HIGHER**

Alternative Country of Registration #2:

**Chile**

Blended Score: **43%** Blended Category: **HIGHER**

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
[repointindex@pillsburylaw.com](mailto:repointindex@pillsburylaw.com)



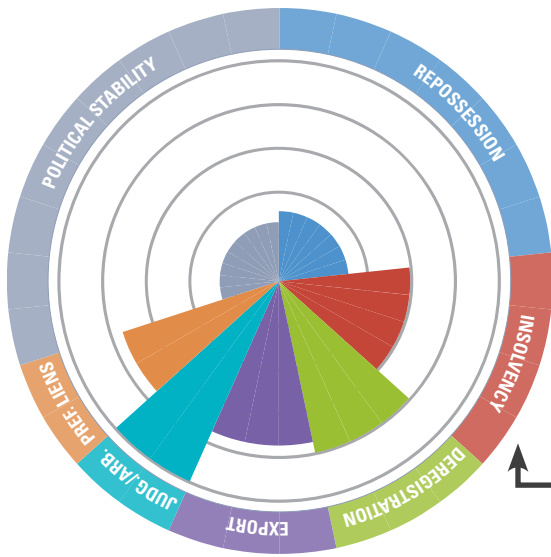
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**Agcaoili & Associates**

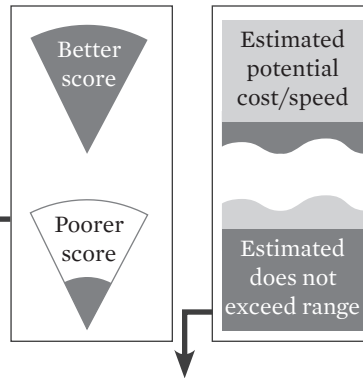
**AGCAOILI  
&  
ASSOCIATES**

CONTACT: JOSE LUIS V. AGCAOILI, Managing Partner, [jlvagcaoili@avaslaw.com](mailto:jlvagcaoili@avaslaw.com)

THOMAS J.T.F. DE CASTRO, Senior Associate,  
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Overall Score

Category

**52%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	32%
12.5%	Insolvency	60%
10.0%	Deregistration	80%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	75%
30.0%	Political Stability	30%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days	
\$250,000	180 days	180 days	
\$1,000,000	1 year	1 year/variable	

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
[repoindex@pillsburylaw.com](mailto:repoindex@pillsburylaw.com)

(\*) Local counsel has provided additional notes for this country.

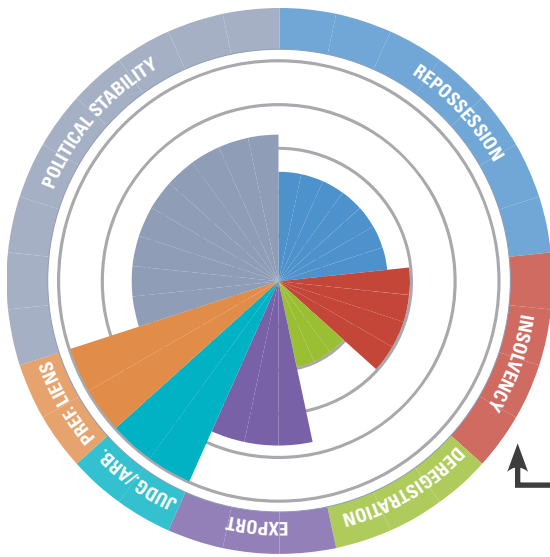
COMPLETED BY:

**SSW Pragmatic Solutions**

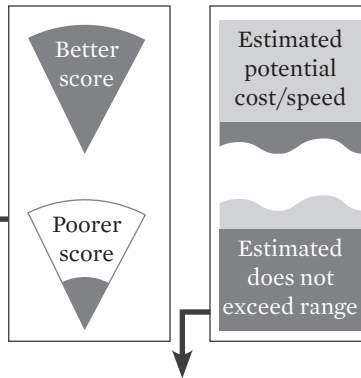


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piotr.spaczynski@ssw.solutions

FILIP BALCERZAK, Senior Associate, filip.balcerzak@ssw.solutions



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Overall Score

Category

**65%**

**MODERATE**

Weighting	Score:
22.5%	Repossession 50%
12.5%	Insolvency 60%
10.0%	Deregistration 40%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 100%
30.0%	Political Stability 67%

**Time & Cost Indicators**

	Cost	Speed	Insolvency
Legal Cost of Repossession (\$)	\$50,000	60 days	60 days
Speed of Repossession (time)	\$250,000	180 days	180 days
Insolvency Moratorium Period (time)	\$1,000,000	1 year	1 year/variable

CHEAPER/FASTER

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

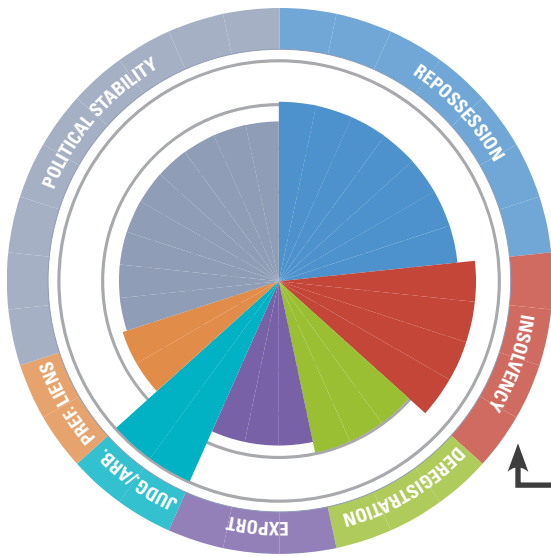
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**CSBA**

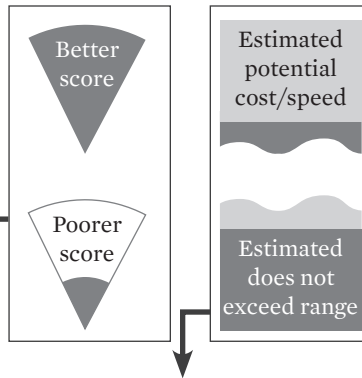


CONTACT: MAFALDA RODRIGUES FONSECA, Partner, csba@csba-advogados.pt

ISABEL MARINHO, Partner, csba@csba-advogados.pt



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Overall Score	Category
<b>80%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>82%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>73%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	n/a	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	n/a	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
[repindex@pillsburylaw.com](mailto:repindex@pillsburylaw.com)

# Gibraltar's Financial Services Regulator Adopts First-Ever Purpose-Built Blockchain Regulations

*Firms in Gibraltar which use distributed ledger technology to store or transmit value belonging to others must now be appropriately licensed.*

By Tim Wright, Samuel J. Pearse  
February 6, 2018

Gibraltar has become the first jurisdiction worldwide to offer a fully regulated framework for firms working with distributed ledger technology (DLT)—also known as blockchain. The new regulatory framework means that FinTech and other firms in Gibraltar which want to use DLT for transmitting payments, recording transactions and similar use cases will now need to be licensed by the GFSC in much the same way that banks are authorised.

*“We are really excited to finally welcome applications from DLT Providers. The team expect to be very busy in the coming months, and are looking forward to working on some interesting and innovative ideas with applicants. Working closely and collaboratively with the financial services industry and the Government of Gibraltar has resulted in the GFSC becoming the first regulator to introduce a DLT Regulatory Framework—it is a very encouraging time and we are also looking forward to the challenge!”*

—Nicky Gomez, Head of Risk and Innovation, GFSC

## Regulatory Framework

Rather than adopting hard and fast rules which can quickly become outdated and unfit for purpose, the GFSC felt that a flexible and adaptive approach was called for in order to regulate DLT Providers whose businesses are based on rapidly evolving technology. Accordingly, the DLT Regulatory Framework is an outcomes-focused, principles-based regulatory framework based around nine regulatory principles.

According to these principles, a DLT Provider must:

- Conduct its business with honesty and integrity.
- Pay due regard to the interests and needs of its customers and communicate with them in a way which is fair, clear and not misleading.

- Maintain adequate financial and non-financial resources.
- Manage and control its business effectively, and conduct its business with due skill, care and diligence; including having proper regard to risks to its business and customers.
- Implement effective arrangements for the protection of client assets and money when it is responsible for them.
- Have effective corporate governance arrangements.
- Ensure that all systems and security access protocols are maintained to appropriate high standards.
- Implement systems to prevent, detect and disclose financial crime risks such as money laundering and terrorist financing.
- Have adequate business continuity, disaster recovery and crisis management plans in place, as well as contingency plans for the orderly and solvent wind down of its business.

The GFSC's guidance notes on these principles, together with further information about the regulatory framework, are available on its website.

## Authorisation Process

GFSC will apply a risk-based approach to all aspects of the authorisation process, which it says will be streamlined, consistent, fair and efficient. Applicants can expect the assessment process to take three months but are advised to engage early with the Risk and Innovation team at the GFSC prior to making an application and to seek appropriate advice. Applicants should then make an application for an initial assessment, before proceeding (if given the green light) to the full application process.

The full application process requires applicants to submit a complete application and to make a presentation which

addresses any specific requirements of the GFSC based on the nature and complexity of the proposed business and which were identified at the initial assessment stage, as well as:

- the background of the key individuals involved in the business;
- the business plan, including corporate structure, products and services, target market and strategy;
- the firm's financial projections; and
- evidence of how the firm will meet the nine regulatory principles.

Once a licence has been granted, GFSC will make an onsite visit that will give the firm the opportunity to present evidence to the GFSC that the processes and controls implemented and communicated during the presentation are effective and work in practice.

### **Transitional Arrangements**

Any firm wanting to carry out DLT activities from 1 January 2018 must apply to the GFSC for authorisation and will not be allowed to carry out the activities until a licence to operate as a DLT Provider is granted. Firms already carrying out DLT activities in or from within Gibraltar should make use of transitional arrangements which require them to submit a complete application to the GFSC by the 31 March 2018. Whilst their application is under consideration, they will be allowed to continue to operate pending a decision. Firms which fail to use the transitional arrangements will have to cease carrying out DLT activities on 31 March.

### **Final Remarks**

The GFSC is well known for facilitating innovation whilst maintaining a strong regulatory presence. Gibraltar is already popular with insurance and gaming businesses and now hopes to attract FinTech firms to a growing and well-supported DLT and crypto ecosystem in the British Overseas Territory as it prepares for Brexit.

The GFSC has also announced plans to expand the framework to cover initial coin offerings (ICOs) on a DLT shortly. The EU-regulated Gibraltar Stock Exchange has announced that it will launch the Gibraltar Blockchain Exchange to provide a cryptocurrency exchange which abides by the governance standards of a regulated exchange. This is a notable development and is another component in the drive by the GFSC to be forward thinking. Whilst, for the time-being, the UK's FCA has decided not to issue specific regulations on the basis that the current regime is sufficient at present, other countries including Malta and Estonia are set to follow Gibraltar and adopt their own DLT regulatory frameworks in early 2018. ■



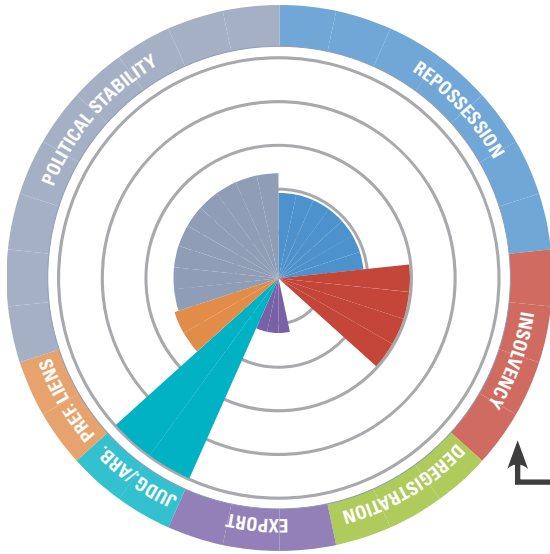
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**Tuca Zbarcea & Asociatii**

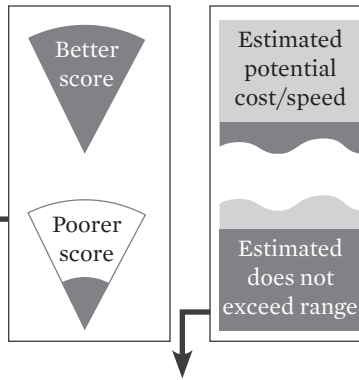
**TUCA ZBARCEA  
ASOCIATII**

CONTACT: CĂTĂLIN BĂICULESCU, Partner, catalin.baiculescu@tuca.ro

ROXANA PANĂ, Senior Associate, roxana.pana@tuca.ro



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Overall Score

Category

**45%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 39%
12.5%	Insolvency 60%
10.0%	Deregistration 0%
10.0%	Export 25%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 50%
30.0%	Political Stability 48%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **YES**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **YES**

Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:

repointindex@pillsburylaw.com

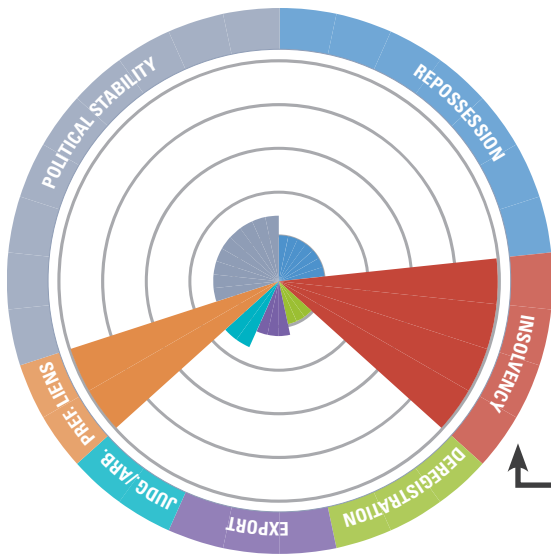
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**Rodin Vadiyan Shurygin LLC**

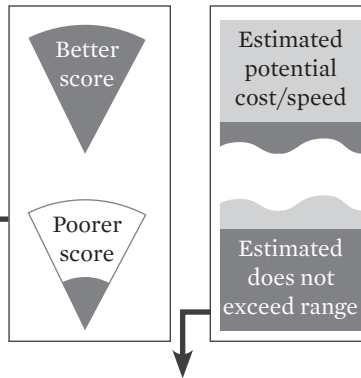


CONTACT: ALEXANDER SHURYGIN, Partner, a.shurygin@rvs-law.com

ALEXANDER RODIN, Managing Partner, a.rodin@rvs-law.com



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Overall Score

Category

**41%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 21%
12.5%	Insolvency 100%
10.0%	Deregistration 20%
10.0%	Export 25%
7.5%	Judgments/Arb. 33%
7.5%	Preferential Liens 100%
30.0%	Political Stability 30%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Indicator	Value	Time	Direction
Legal Cost of Repossession (\$)	\$50,000	60 days	↑ CHEAPER/FASTER
Speed of Repossession (time)	180 days	180 days	
Insolvency Moratorium Period (time)	1 year	1 year/variable	

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>Bermuda</b>	<b>49%</b>	<b>HIGHER</b>
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	<b>Ireland</b>	<b>49%</b>	<b>HIGHER</b>

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

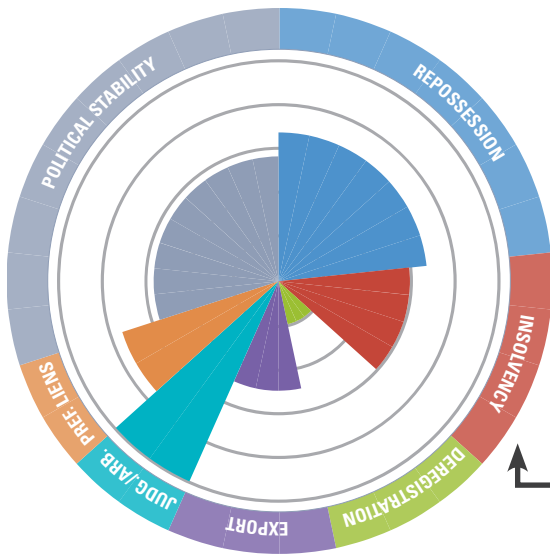
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**ENSAfrica Rwanda**

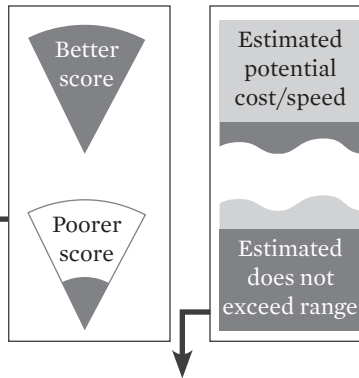


**CONTACT:** DÉsirÉ KAMANZI, Head of ENSAfrica Rwanda,  
dkamanzi@ensafrika.com

EUSTACHE NGOGA, Senior Associate, engoga@ensafrika.com



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Overall Score

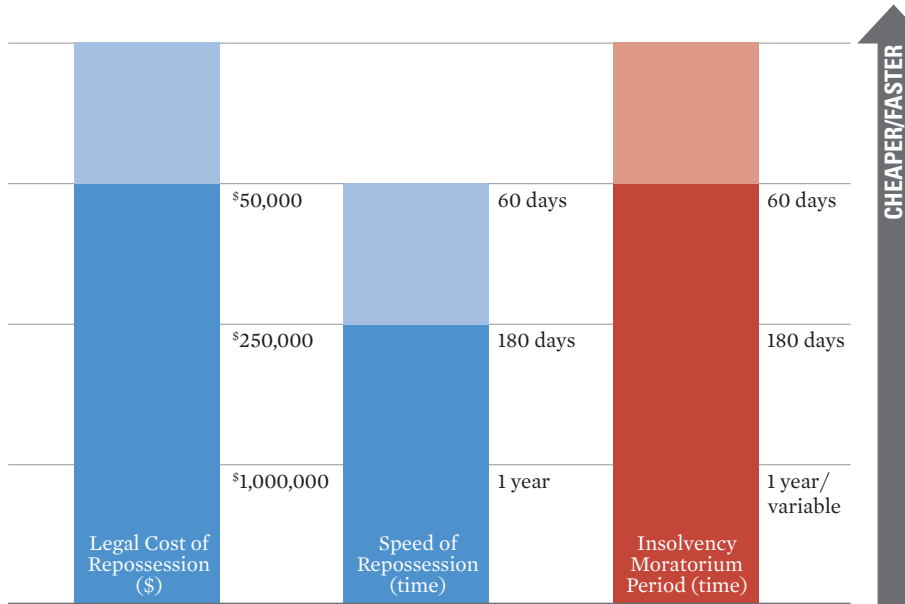
Category

**60%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>68%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>20%</b>
10.0%	Export <b>50%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>57%</b>

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

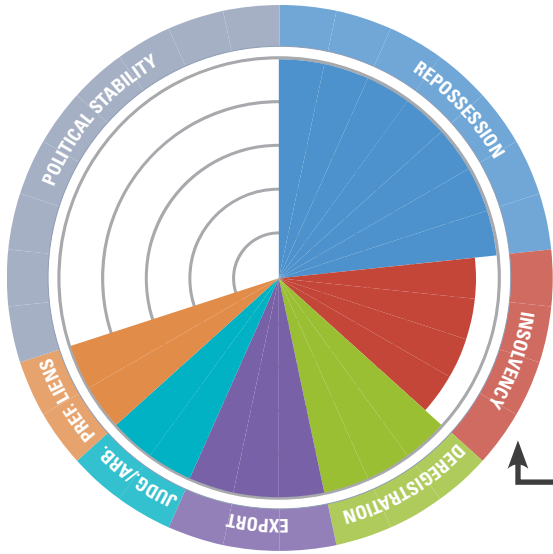
COMPLETED BY:

**Studio Legale Beccari Podeschi**

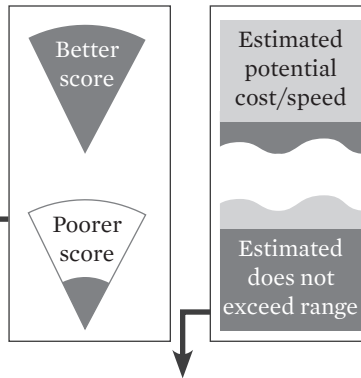
**BECCARI PODESCHI**  
STUDIO LEGALE NOTARILE

CONTACT: DENNIS BECCARI, Partner, dennis@studiolegale.sm

FRANCESCA PODESCHI, Associate, francesca@studiolegale.sm



(\*\*) Overall Score disregards Political Stability (insufficient data)

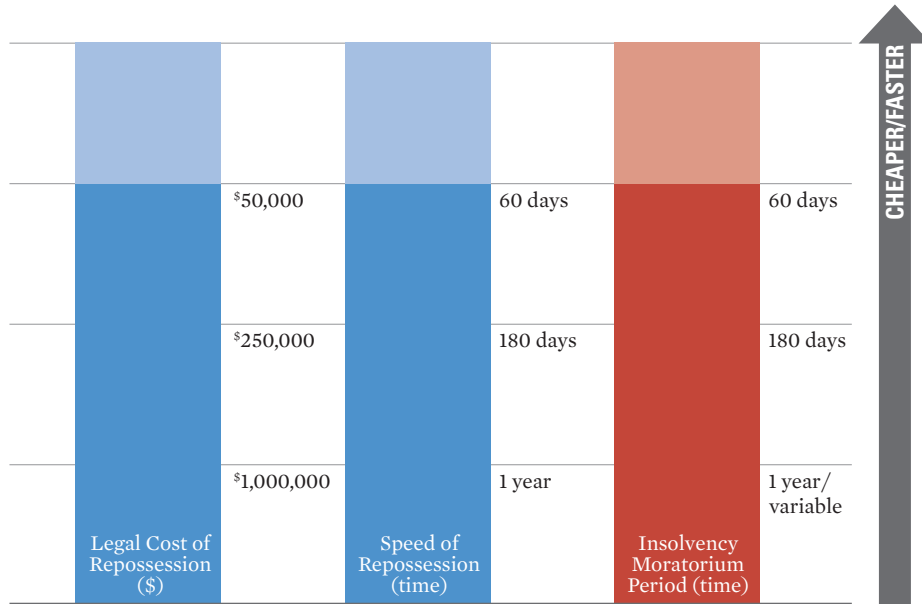


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Overall Score <sup>(\*\*)</sup> **98%** Category **LOWER**

Weighting		Score:
22.5%	Repossession	100%
12.5%	Insolvency	90%
10.0%	Deregistration	100%
10.0%	Export	100%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	100%
30.0%	Political Stability	No Data

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country: **NO**
- Cape Town Contracting State: **YES**
- Eligible for ASU Cape Town Discount: **NO**
- Self-help (Lessor-owners): **YES**
- Self-help (Mortgagees): **YES**
- Moderately or well-developed insolvency laws: **YES**
- Absence of significant taxes or similar fees payable on export: **YES**
- Absence of fleetwide liens: **YES**
- Local court will enforce, without reexamination of case on merits... **YES**
- a New York court judgment: **YES**
- an English court judgment: **YES**
- an arbitral award: **YES**

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	<b>Saudi Arabia</b>	<b>84%</b>	<b>LOWER</b>
Operator (if not also the owner): <b>NO</b>	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	<b>Lebanon</b>	<b>NO DATA</b>	<b>NO DATA</b>
Owner: <b>N/A</b> Mortgagee: <b>YES</b>			

**More Results**

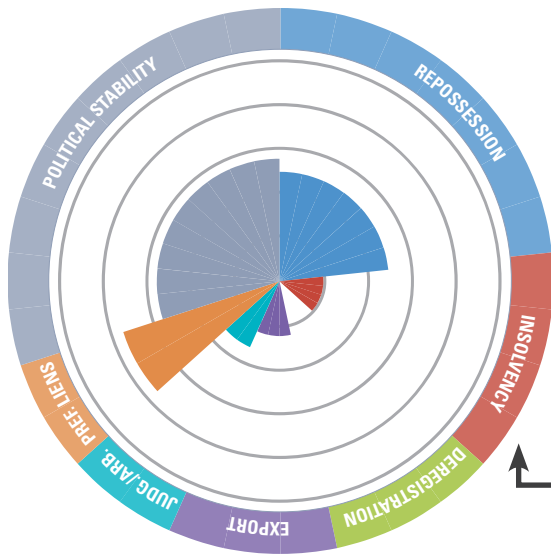
For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

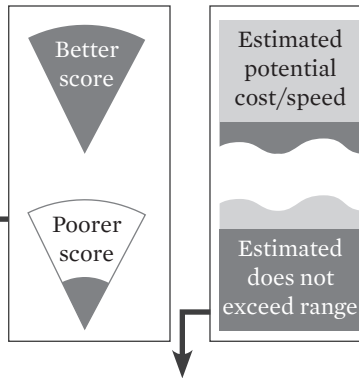
COMPLETED BY:  
**Al Tamimi & Co.**

التميمي و شركاه  
**AL TAMIMI & CO.**

CONTACT: PEDRO RIBEIRO E CASTRO, Senior Associate, p.castro@tamimi.com  
SAEED ALQAHTANI, Associate, s.alqahtani@tamimi.com



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Overall Score      Category

**41%**

**HIGHER**

Weighting	Score:
22.5%	Repossession <b>50%</b>
12.5%	Insolvency <b>20%</b>
10.0%	Deregistration <b>0%</b>
10.0%	Export <b>25%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>56%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>NO</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



# How Not to Lose a Guarantee

By Eugene Yeung  
April 5, 2018

## Key takeaways:

- Lenders should not assume a market standard guarantee (e.g. an LMA guarantee) will not be discharged when the guaranteed finance documents are amended or restated
- Guarantors should contemporaneously acknowledge and consent to the variation agreement/deed
- If in doubt, consider adding a new guarantee clause or a fresh standalone guarantee

## Amendments and the Purview Doctrine

Amendments to finance documents in syndicated lending are common, and parties may overlook whether or not an existing third-party guarantee will survive such amendments. The “purview doctrine,”<sup>1</sup> provides that if the amended terms in a guaranteed agreement are fundamentally different from the terms in the original guaranteed agreement, the amended terms may be regarded as outside the “purview” of the original guarantee. If this occurs, a creditor will need to enter into a separate agreement with the guarantor for the guarantee of these additional contractual terms. In most cases, a properly drafted guarantee permits variations to the underlying obligations without the surety being discharged.

In the English case of *Triodos v Dobbs*<sup>2</sup>, the guarantor successfully argued that, despite having a broad “anti-discharge” provision in the original finance documents whereby the parties had agreed that the guarantee would not be affected by any variation of the primary obligations, the court found the nature of the principal contract to be “so fundamental that they could not properly be described as a variation at all” and hence “fell outside the general purview of the original guarantee.”

While contracting parties often take comfort that the market standard LMA guarantee is sufficient to ensure that the included guarantee will continue to be effective despite variation to the terms of the original finance documents, it is best practice to consider asking the guarantor to contemporaneously consent to any such amendment and confirm that its guarantee will extend to the amended obligations. The effect of a written confirmation can be regarded as a cost-effective alternative to re-taking security in the sense

that: (i) it shows the surety’s consent, (ii) it operates as a representation establishing an estoppel concerning the scope of the guarantee and (iii) it operates as a contractual estoppel if the variation is supported by consideration or executed as a deed. The caveat is that under English law such written confirmation may be construed as a “transaction” and may be vulnerable to an avoidance action pursuant to the Insolvency Act 1986.

## The alternatives

In some cases, it may not be practical for creditors to obtain a surety’s consent to every amendment or variation to the guaranteed agreement(s). Another option is to have the original finance documents include some form of indemnity combined with a guarantee, such that the indemnity will continue to be unaffected by the changes to the original finance document. It is not uncommon for such an indemnity against non-payment or non-performance to be subject to a cap.

## Other practicalities

In cases where an LMA form of guarantee is not used, or is substantively amended, the “anti-discharge” language should be clear and specific, such that there is no ambiguity that the guarantor has waived any defense that it should be discharged from its obligations in the event of a variation to the guaranteed obligations. Another alternative to consider is a free-standing all money guarantee from the surety that covers not only present but future liabilities, as a surety may be liable for substantially increased obligations under this type of arrangement despite not explicitly having consented to them.<sup>3</sup> ■

<sup>3</sup> *National Merchant Buying Society v Andrew Bellamy & Stephen Mallett* [2013] EWCA Civ 452

<sup>1</sup> As set out in the case of *Holme v Brunskill* (1878) 3 QBD 495

<sup>2</sup> [2005] EWCA Civ 630

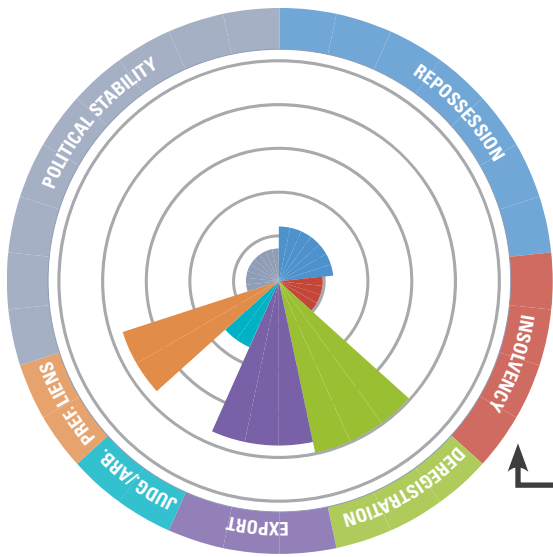
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**Bojović Drašković  
Popović & Partners**

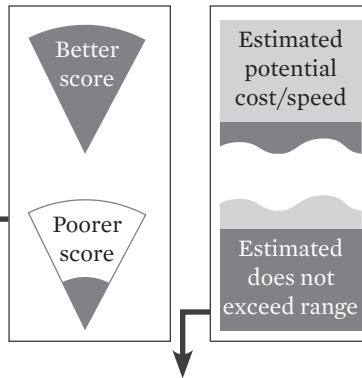


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MARIO KIJANOVIĆ, Senior Associate, mario.kijanovic@bd2p.com



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Overall Score	Category
<b>36%</b>	<b>HIGHER</b>
Weighting	Score:
22.5%	Repossession <b>25%</b>
12.5%	Insolvency <b>20%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>15%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>N/A</b>	<b>San Marino</b>	<b>38%</b>	<b>HIGHER</b>
Operator (if not also the owner): <b>NO</b>	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Owner: <b>N/A</b> Mortgagee: <b>YES</b>			

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

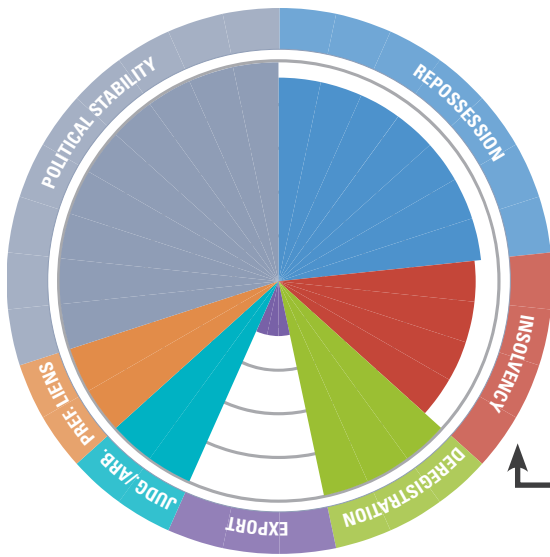
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**Allen & Gledhill LLP**

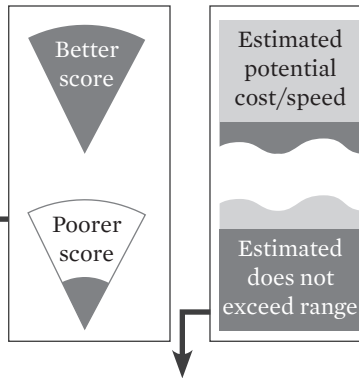
**ALLEN & GLEDHILL**

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GINA LEE WAN, Partner, gina.leewan@allenandgledhill.com



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Overall Score

**90%**

Category

**LOWER**

Weighting	Score:
22.5%	Repossession <b>93%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>25%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>100%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

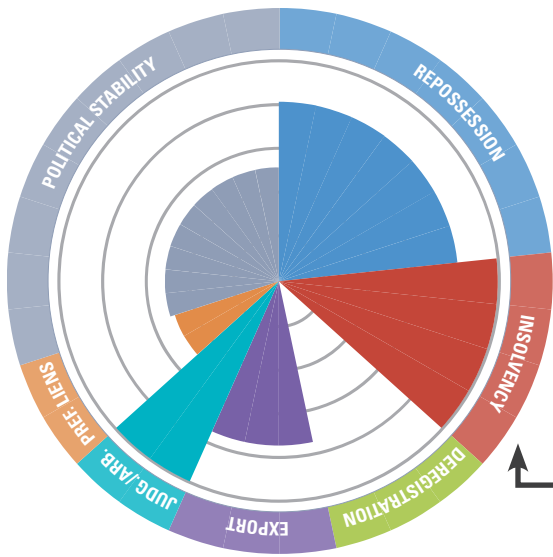
COMPLETED BY:

**Barger Prekop s.r.o.**

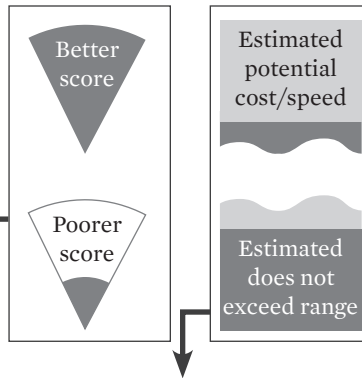


CONTACT: PETER SUBA, Partner, psuba@bargerprekop.com

ANTHONY P. HERNANDEZ, Of Counsel,  
aphernandez@bargerprekop.com



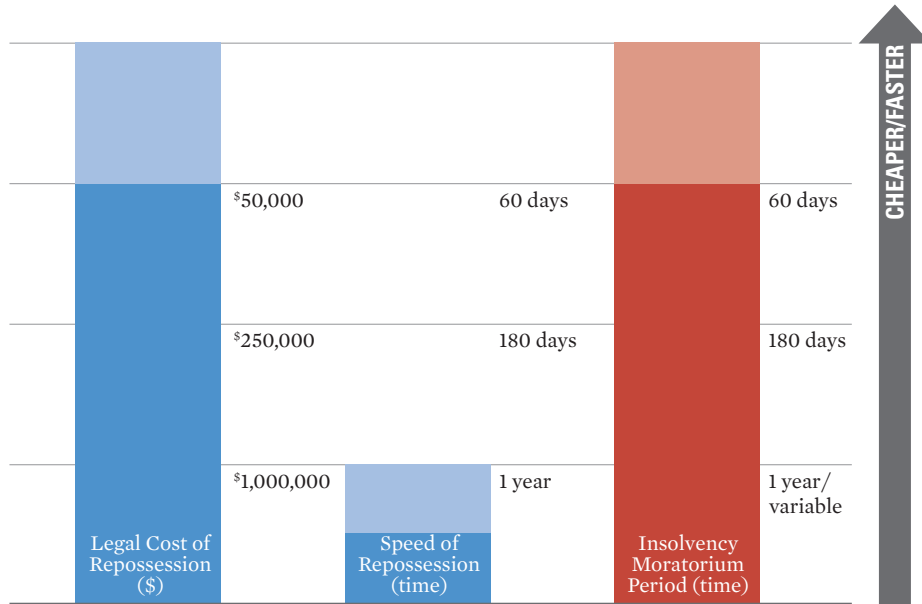
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Overall Score **65%** Category **MODERATE**

Weighting	Score:
22.5%	Repossession 82%
12.5%	Insolvency 100%
10.0%	Deregistration 0%
10.0%	Export 75%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 50%
30.0%	Political Stability 52%

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country: **YES**
- Cape Town Contracting State: **NO**
- Eligible for ASU Cape Town Discount: **NO**
- Self-help (Lessor-owners): **YES**
- Self-help (Mortgagees): **YES**
- Moderately or well-developed insolvency laws: **YES**
- Absence of significant taxes or similar fees payable on export: **YES**
- Absence of fleetwide liens: **YES**
- Local court will enforce, without reexamination of case on merits... **YES**
- a New York court judgment: **YES**
- an English court judgment: **YES**
- an arbitral award: **YES**

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

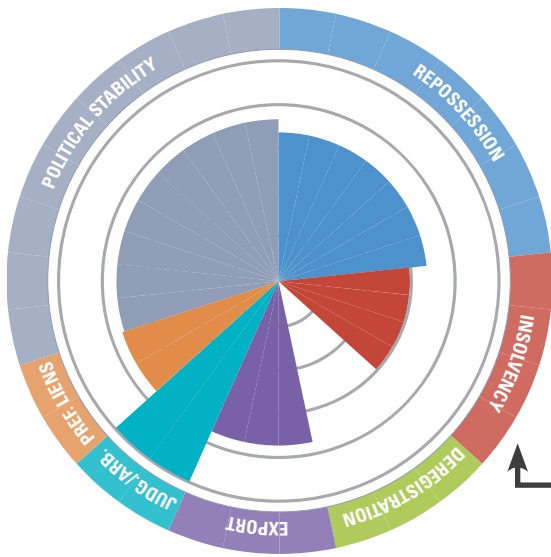
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**Odvetniki Šelih & partnerji, o.p., d.o.o.**

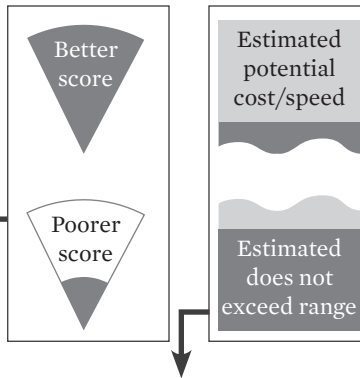


CONTACT: MIA KALAŠ, Partner, mia.kalas@selih.si

BLAŽ OGOREVC, Partner, blaz.ogorevc@selih.si



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Overall Score

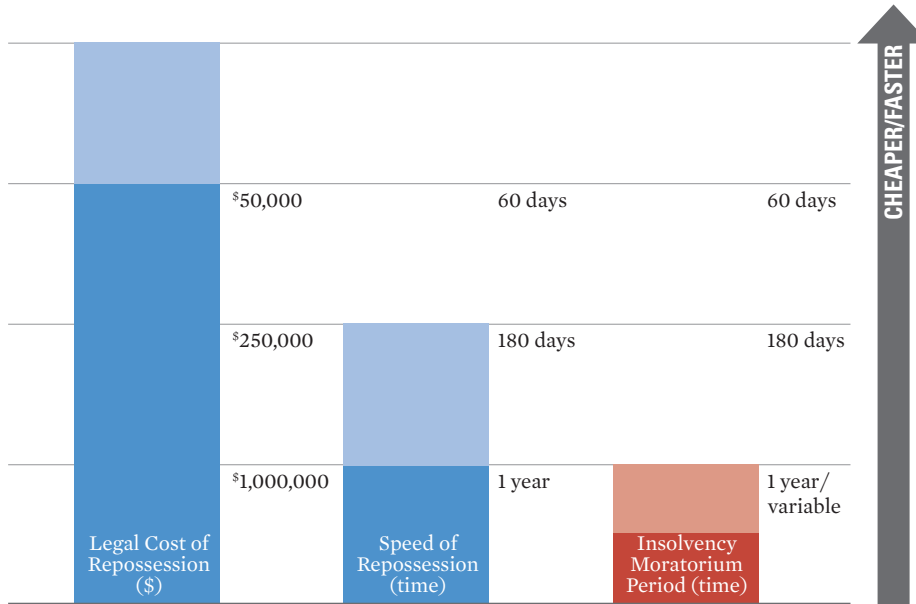
Category

**66%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>68%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>0%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>74%</b>

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**



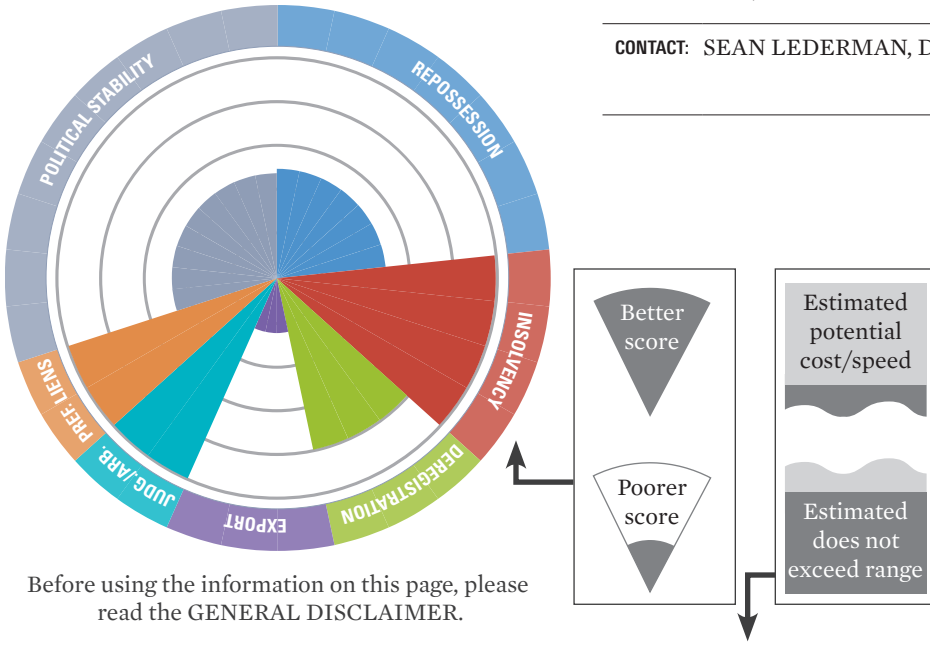
(\*) Local counsel has provided additional notes for this country.

COMPLETED BY:

**ENSAfrica, Sandton office**



CONTACT: SEAN LEDERMAN, Director, slederman@ensafrika.com



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Overall Score	Category
<b>64%</b>	<b>MODERATE</b>
Weighting	Score:
22.5%	Repossession <b>50%</b>
12.5%	Insolvency <b>100%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>25%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>48%</b>

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>NO</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

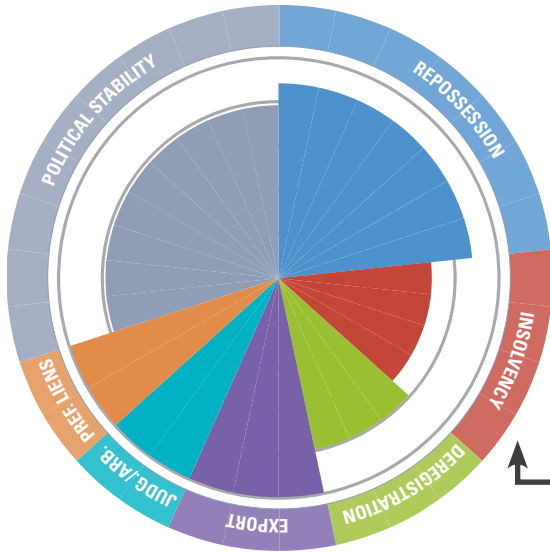
(\*) Local counsel has provided additional notes for this country.

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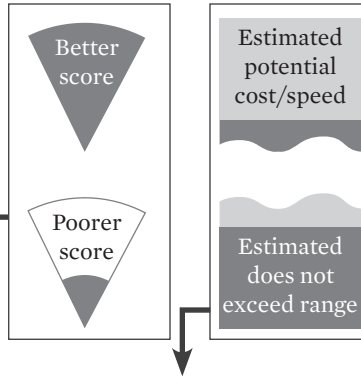
**Gómez-Acebo & Pombo  
Abogados, S.L.P.**

**G A \_ P**  
Gómez-Acebo & Pombo

CONTACT: FERNANDO HERRERO SUÁREZ, Senior Associate, fherrero@ga-p.com  
CARLOS RUEDA GÓMEZ-CALCERRADA, Managing Partner, crueda@ga-p.com



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Overall Score

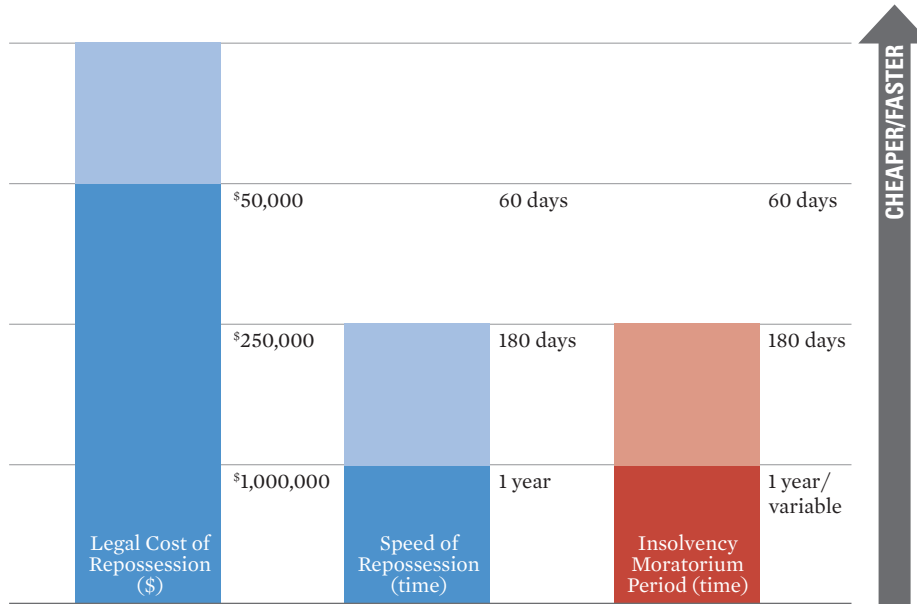
Category

**86%**

**LOWER**

Weighting	Score:
22.5%	Repossession 89%
12.5%	Insolvency 70%
10.0%	Deregistration 80%
10.0%	Export 100%
7.5%	Judgments/Arb. 100%
7.5%	Preferential Liens 100%
30.0%	Political Stability 79%

**Time & Cost Indicators**



**Key Facts<sup>†</sup>**

- OECD high-income/zero-rated country: **YES**
- Cape Town Contracting State: **YES**
- Eligible for ASU Cape Town Discount: **NO**
- Self-help (Lessor-owners): **YES**
- Self-help (Mortgagees): **YES**
- Moderately or well-developed insolvency laws: **YES**
- Absence of significant taxes or similar fees payable on export: **YES**
- Absence of fleetwide liens: **YES**
- Local court will enforce, without reexamination of case on merits...: **NO**
- a New York court judgment: **YES**
- an English court judgment: **YES**
- an arbitral award: **YES**

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

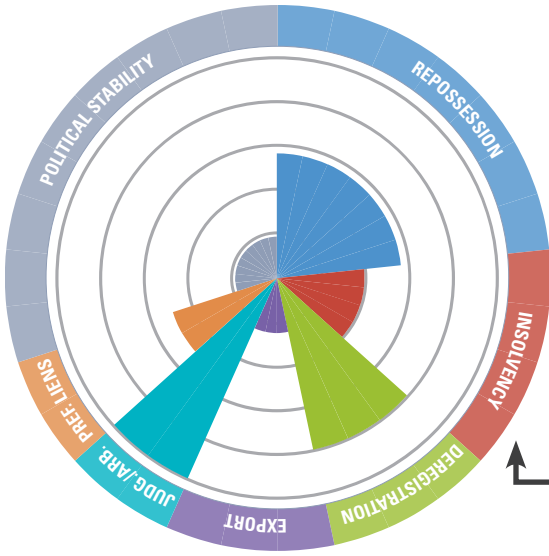
COMPLETED BY:

**Lasantha Hettiarachchi & Associates**

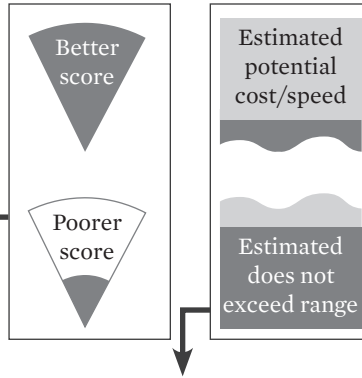


CONTACT: MR LASANTHA HETTIARACHCHI, Precedent Partner,  
lasantha1970@gmail.com

MS. PIYUM DASSANAYAKE, Partner, lhlaw@eureka.lk



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Overall Score	Category
<b>45%</b>	<b>HIGHER</b>
Weighting	Score:
22.5%	Repossession <b>57%</b>
12.5%	Insolvency <b>40%</b>
10.0%	Deregistration <b>80%</b>
10.0%	Export <b>25%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>50%</b>
30.0%	Political Stability <b>19%</b>

**Time & Cost Indicators**

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

**Key Facts<sup>†</sup>**

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

**Aircraft Registration**

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

**More Results**

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

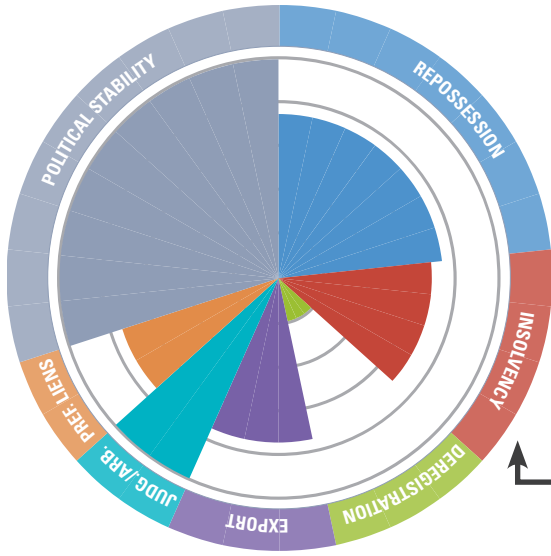
COMPLETED BY:

**Advokatfirman Vinge**

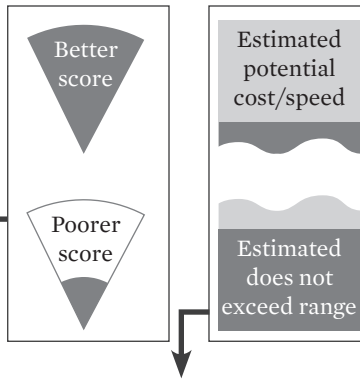
**VINGE**

CONTACT: FREDRIK WILKENS, Partner, fredrik.wilkens@vinge.se

HENRIK SCHON, Associate, henrik.schon@vinge.se



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Overall Score

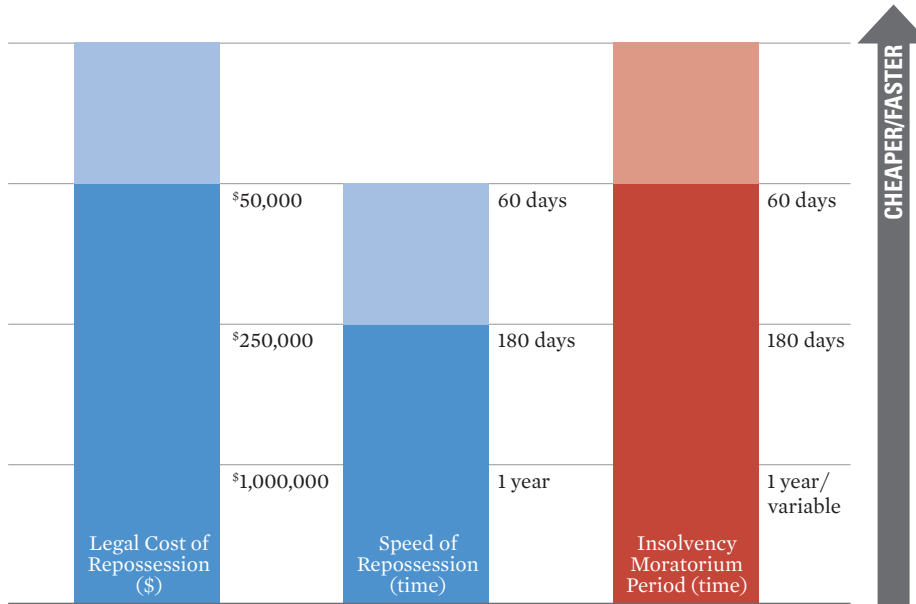
**78%**

Category

**LOWER**

Weighting		Score:
22.5%	Repossession	75%
12.5%	Insolvency	70%
10.0%	Deregistration	20%
10.0%	Export	75%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	75%
30.0%	Political Stability	100%

## Time & Cost Indicators



## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

**N/A**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

Blended Category:

**N/A**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

# Switzerland (\*)

Jurisdiction(s): Switzerland

Up to Date: June 2018

(\*) Local counsel has provided additional notes for this country.

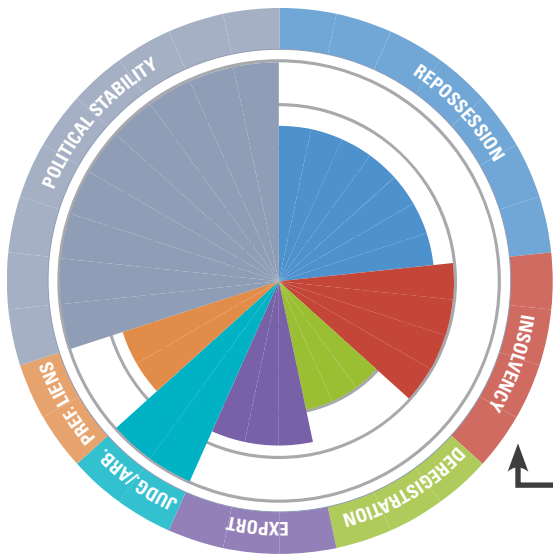
COMPLETED BY:

**Lenz & Staehelin**

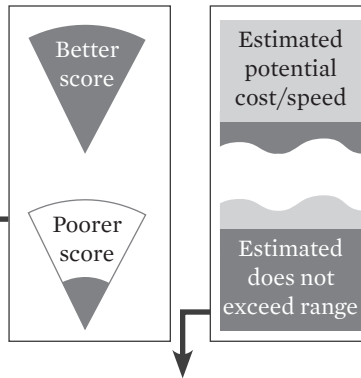


CONTACT: OLIVIER STAHLER, Partner, olivier.stahler@lenzstaehelin.com

EMILIE JACOT-GUILLARMOD, Associate,  
emilie.jacot-guillarmod@lenzstaehelin.com



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Overall Score	Category
<b>83%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>71%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>60%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>100%</b>

## Time & Cost Indicators

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoindex@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

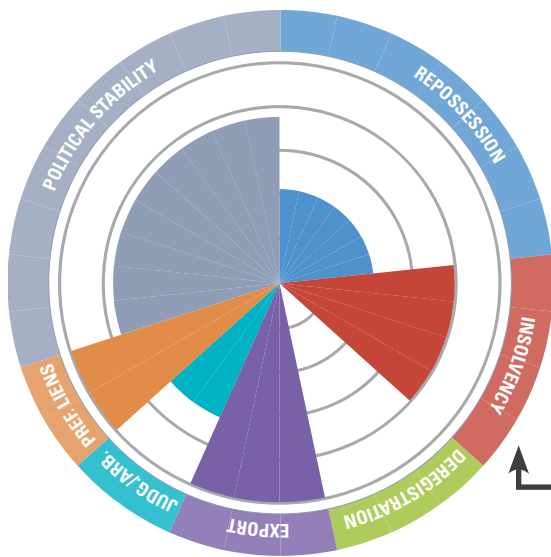
COMPLETED BY:

**Russin & Vecchi**

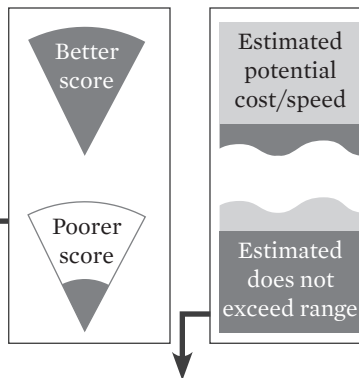
泰運法律事務所  
 RUSIN & VECCHI  
 INTERNATIONAL LEGAL COUNSELLORS

CONTACT: THOMAS H. MCGOWAN, Sr. US. Licensed Attorney,  
 THMcGowan@russinvecchi.com.tw

H. Y. CHO, Senior Professional, HYCho@russinvecchi.com.tw



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Overall Score

Category

**65%**

**MODERATE**

Weighting	Score:
22.5%	Repossession <b>43%</b>
12.5%	Insolvency <b>80%</b>
10.0%	Deregistration <b>0%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>67%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>76%</b>

## Time & Cost Indicators

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>NO</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>NO</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
[repointindex@pillsburylaw.com](mailto:repointindex@pillsburylaw.com)

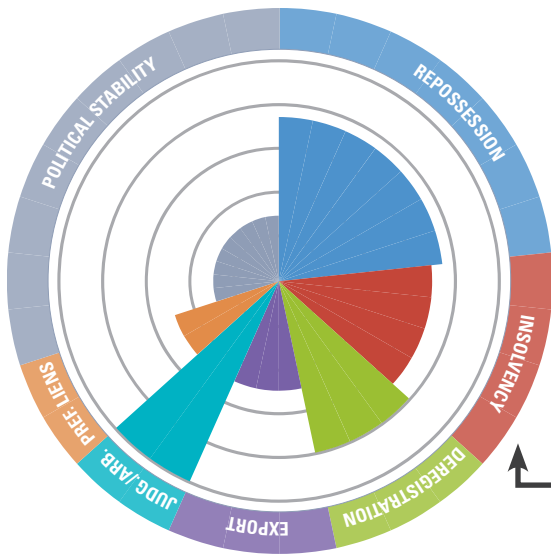
COMPLETED BY:

**Centil Law Firm**

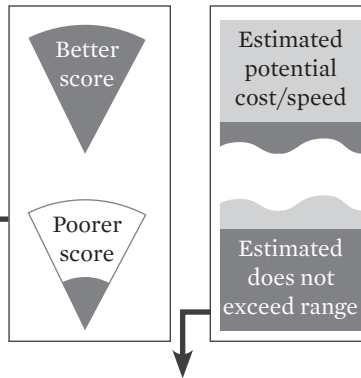
**CENTIL.LAW**

CONTACT: GANJINA NURALIEVA, Associate, ganchina.nuralieva@centil.law

ALISHER KHOSHIMOV, Senior Associate, alisher.k@centil.law



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Overall Score

Category

**59%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	75%
12.5%	Insolvency	70%
10.0%	Deregistration	80%
10.0%	Export	50%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	50%
30.0%	Political Stability	30%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

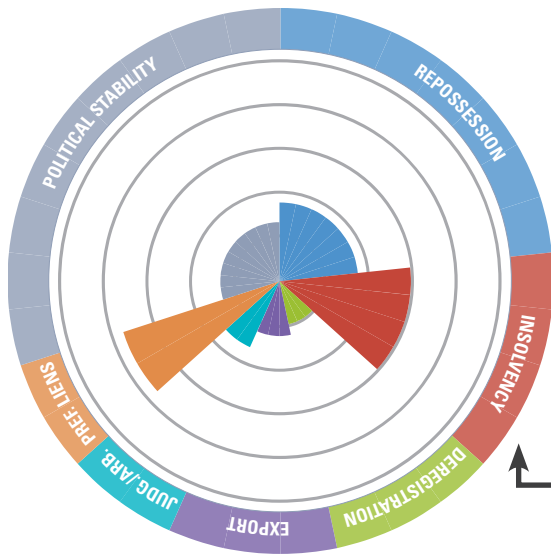
COMPLETED BY:

**Tilleke & Gibbins**

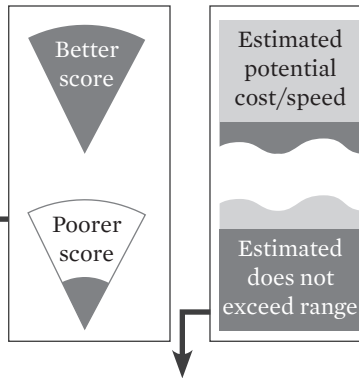
**Tilleke & Gibbins**

CONTACT: JOHN FRANGOS, Consultant, john.fr@tilleke.com

NUANCHUN SOMBOONVINIJ, Attorney-at-Law,  
nuanchun.s@tilleke.com



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Overall Score

Category

**36%**

**HIGHER**

Weighting	Score:
22.5%	Repossession 36%
12.5%	Insolvency 60%
10.0%	Deregistration 20%
10.0%	Export 25%
7.5%	Judgments/Arb. 33%
7.5%	Preferential Liens 75%
30.0%	Political Stability 27%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>NO</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>NO</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

(\*) Local counsel has provided additional notes for this country.

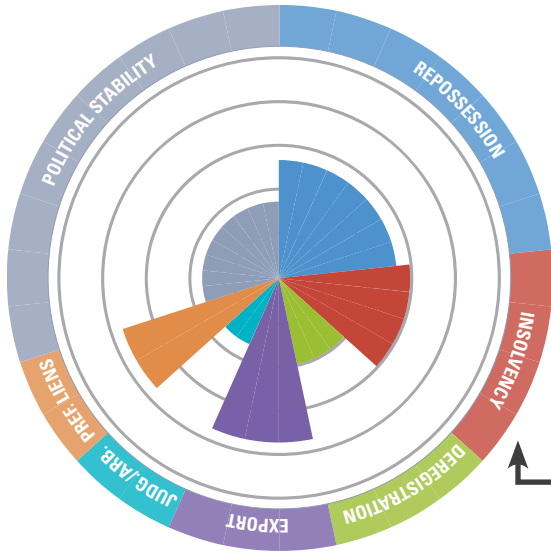
COMPLETED BY:

**Dikici Law Office**

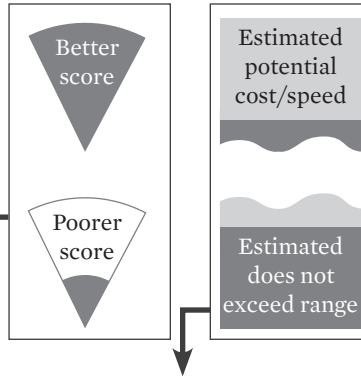
**DIKICI LAW OFFICE**  
ATTORNEYS AT LAW

CONTACT: FULYA DIKICI, Managing Partner, office@dikici-law.com

ASLI TEKIN, Junior Partner, office@dikici-law.com



Before using the information on this page, please read the GENERAL DISCLAIMER.



Overall Score

Category

**49%**

**HIGHER**

Weighting	Score:
22.5%	Repossession <b>54%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>40%</b>
10.0%	Export <b>75%</b>
7.5%	Judgments/Arb. <b>33%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>31%</b>

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

# Recent Tax Law Changes Affecting Private Aircraft Ownership

By Michael Kosnitzky, Paul E. Campbell

Source: Published in *Corporate Jet Investor*

August 31, 2018

You decided to buy a private aircraft. Before getting on the runway, you must be mindful that aircraft acquisition requires comprehensive planning and raises a number of difficult questions: Will the aircraft be acquired by your business? If not, will it be acquired by your family office? What are the potential liability risks? What are the tax consequences of the purchase? How should the purchase be structured? What are the costs of regulatory compliance?

To add to the complexity, the Tax Cuts and Jobs Act of 2017 (hereinafter, the “Act”) significantly altered the landscape of private aircraft acquisitions and ownership by eliminating tax-free exchanges under Internal Revenue Code § 1031, modifying the depreciation rules applicable to aircraft and limiting the deductibility of business entertainment and commuting expenses.

To maximize federal income tax benefits and develop an ownership plan most beneficial for your needs, thoughtful planning and the help of competent professionals who will guide you through any potential pitfalls will ensure that your dream of aircraft ownership takes off.

## Structure of Aircraft Acquisition

Before the acquisition is made, careful consideration should be given to the ownership structure that will be utilized. As you will see, significant tax benefits—or significant tax liability—will flow from this crucial determination.

Typically, the aircraft will be owned and operated by the business of the acquirer. As a result, the operating costs associated with the aircraft are incidental to the company’s business and deductible under Section 162 of the Internal Revenue Code (hereinafter, the “Code”) as ordinary and necessary expenses paid or incurred in carrying on a trade or business. In many cases, the aircraft is owned by a special purpose entity that is wholly owned by the taxpayer’s business. The special purpose entity may be a limited liability company or an S-corporation which not only purchases and operates the aircraft but also employs the crew, pays the aircraft vendors, and dry leases the aircraft to the business.

Thoughtful planning regarding the structure of the acquisition is even more critical when the entity acquiring the aircraft is a family office. In general, a family office is a family controlled investment vehicle which allows the family members to retain direct control over the family’s assets. The family office provides significant economies of scale for the family by providing services in areas such as investment management, tax planning and estate planning.

With proper planning, a family office may be respected as a “trade or business” under the Code. While not defined in the Code, case law describes a trade or business as a continuous and regular activity the owner engages in to earn income or make a profit. Being engaged in a trade or business is very important as significant tax advantages flow from this determination. Notably, in the case of a family office that owns a private aircraft, the family office could deduct the expenses related to the aircraft under Code § 162 which allows deductions for ordinary and necessary trade or business expenses paid or incurred during the course of a taxable year. Without such designation, these expenses can only be deducted under Code § 212 which governs the deductibility of expenses relating to investment activities. Historically, this has been a critical distinction as deductions under Code § 212 were only partially deductible as miscellaneous itemized deductions and is even more critical under the Act as miscellaneous itemized deductions are no longer deductible.

As a result, if the family office is respected as a trade or business, costs associated with the aircraft will be treated as above-the-line fully deductible trade or business expenses rather than non-deductible expenses (miscellaneous itemized deductions). Of even more significance, qualifying as a trade or business may allow the family office to deduct 100% of the cost of the aircraft in the year it is acquired under the new rules related to bonus depreciation which will be discussed in greater detail later in this article.

The recent Lender Management decision should serve as guidance on how to properly structure a family office as



the Tax Court found that the activities of the family office were sufficient to constitute a trade or business. In *Lender Management, LLC v. Comm’r*, T.C. Memo. 2017-246, the family office provided investment management and financial planning services to three investment limited liability companies, the beneficial owners of which were other family members. Although a familial relationship existed between the owners of the family office and the owners of the investment limited liability companies, the Court found that the family office was carrying on a trade or business because it “carried on its operations in a continuous and businesslike manner for the purpose of earning a profit, and it provided valuable services to clients for compensation.” The Court also emphasized that the family office provided individual investors in the investment limited liability companies with investment advisory and financial planning services, employed full-time employees including a CFO who oversaw all financial accounting, and that the family office not only received a return on its investment, but also compensation attributable to the services it rendered in the form of profits interests in the investment partnerships it advised.

A well-structured acquisition plan also allows a taxpayer to save—and possibly avoid—state sales and use taxes. Many aircraft sales are not subject to sales tax as long as the acquirer takes delivery of the aircraft in a tax-friendly jurisdiction. The key is to determine which jurisdiction most efficiently caters to the needs of the taxpayer. For example, an acquirer may seek to close on the purchase while the acquirer is on the ground in a state that does not have a general sales tax. Alternatively, the owner may take delivery in a state that exempts aircraft from sales tax altogether. Another option is to deliver the aircraft in a state that has enacted a “fly-away” exemption for aircraft sales. The “fly-away” exemption may be available only if the aircraft is based in another state after the sale, removed from the state promptly after the sale, and does not return to the state for a certain period of time. Failing to fully comply with the “fly-away” exemption requirements may result in considerable tax liability for the aircraft owner.

Use tax may be imposed regardless of where the owner takes delivery of the aircraft as the application of use tax depends on where the aircraft is based or used most frequently. Laws regarding use tax vary significantly from state to state as some states exempt aircraft from such tax while others do not have such tax.

### **The Tax Cuts and Jobs Act of 2017**

The Act significantly altered the landscape surrounding the acquisition and ownership of private aircraft. At first blush, many of the changes seem to benefit the private aircraft

owner or acquirer, but a closer inspection reveals that there are many potential pitfalls. As a result, these issues should be carefully explored through consultations with competent professionals.

Before the Act, Code § 1031 provided that no gain or loss was recognized when property held for productive use in the taxpayer’s trade or business was exchanged for property that was “like-kind.” Under the former § 1031, if an aircraft used in a taxpayer’s trade or business was sold to trade up, the taxpayer could utilize this provision to essentially defer the gain on the sale. This is no longer the case as the Act modified Code § 1031 to only permit like-kind exchanges of real property. Although this change is quite significant, the impact of the elimination of like-kind exchanges can be mitigated by the new bonus depreciation rules.

Under the Act, 100% of the cost of an aircraft used in a trade or business may be depreciated during the first year of ownership (hereinafter referred to as “bonus depreciation”). These new rules apply to purchases of either new or pre-owned aircraft acquired and placed in service after September 27, 2017 but before January 1, 2023. If the aircraft does not qualify for bonus depreciation, its acquisition cost will be depreciated using the straight line method.

In order to qualify for bonus depreciation under the Act, the taxpayer must comply with the stringent and complex provisions of Code § 280F which limits the allowable depreciation deduction where the property is not predominantly used in a “qualified business use.” In general, property is treated as predominantly used in a qualified business use if the business use for the year exceeds 50%. A “qualified business use” is any use in the taxpayer’s trade or business, but is subject to some notable exceptions. In the case of an aircraft, qualified business use does not include (1) flights provided as compensation to a five-percent owner or related person or (2) flights provided as compensation to other service providers, unless the flights were included in such service providers’ gross income. In addition, qualified business use does not include leasing to a 5% or more owner or related party. If, after application of the above exceptions, at least 25% of the use of the aircraft is qualified business use, the exceptions will not apply for purposes of the general 50% analysis.

A trap for the unwary occurs if qualified business use falls below these thresholds in any year and the taxpayer fails Code § 280F as a result. In that case, the deduction would be prorated between the qualified business use and personal use, greatly reducing the value of the deduction. Worse yet, if the taxpayer fails Code § 280F in a year after bonus depreciation has been taken, the bonus depreciation taken in prior years will be recaptured as the owner must recognize recapture income equal to the amount of bonus depreciation

taken in the prior years in excess of the amounts that would have been deducted using the straight line method.

Given the complexity of the rules and the dollar amounts at stake, in the year of acquisition the aircraft should not be used for any personal, non-business use and, to the greatest extent possible, the taxpayer should avoid any possible entertainment or commuting use. In order to avoid these potential pitfalls, the general professional advice being given is to acquire and place the aircraft into service late in the tax year so as to avoid any inadvertent non-business use and to clearly and unambiguously document the exclusive business use of each flight taken during that year, even if there are only a few exclusively business flights (or perhaps only one such flight).

As previously noted, bonus depreciation is only available for aircraft used in a trade or business. As a result, if the aircraft is to be acquired by a properly structured family office that is engaged in a trade or business, the taxpayer may obtain a sizable tax deduction in the year of acquisition if the family office has other business income that may be offset by the bonus depreciation. Otherwise the loss will be carried forward under the new more limited deductibility rules. Under these rules, a so called excess business loss may only offset up to \$500,000 (for married taxpayers filing jointly) and \$250,000 (for single taxpayers) of non-business taxable income like dividends, interest and capital gains in the year of the business loss.

In future years, the carryforward loss may only offset up to 80% of a taxpayer's taxable income for these subsequent years.

Owners must also be particularly cautious about how much time the aircraft is used for personal, non-business uses, including entertainment and commuting. Prior law disallowed entertainment expenses incurred on behalf of existing or prospective clients and customers and other entertainment related events unless actual business activities or discussions were being conducted immediately before, after or during the entertainment event. The Act modified Code § 274 so that entertainment expenses are no longer deductible. This new rule applies to aviation related expenses irrespective of whether the expenses were directly related to a taxpayer's trade or business. Until guidance is issued, it is reasonable to apply existing rules that look to the primary purpose of the trip from the standpoint of each individual traveler to determine the deductibility of such expense.

This is a very complex issue as many business trips involve both business and entertainment activities, and there is often not a fine line between them. Despite this hazy distinction, there is limited guidance clarifying what expenses are subject to the entertainment disallowance.

In most cases, an objective test will be used to determine whether an activity is considered entertainment: if an activity is generally considered to be entertainment, it will constitute entertainment for purposes of the statute. Examples of this are parties, rounds of golf and sporting events. Unfortunately, this is not always a straightforward inquiry as variables such as the nature of the taxpayer's business and the location where the expense in question took place can shift the analysis.

If a trip included both business and entertainment activities, it is not clear what expenses should be subject to the new disallowance. Until guidance is issued it is reasonable to use a "primary purpose test" to determine whether the trip was primarily for entertainment or business. This is a facts and circumstances based inquiry that centers on whether the trip's main objective is the furtherance of the taxpayer's trade or business. If the primary purpose of the trip is business, only the direct entertainment expenses should be nondeductible (for example, the cost of playing a round of golf) and the deductibility of the other costs associated with the trip (for example, the cost of air travel) should be evaluated in accordance with the typical rules applicable to business expenses.

The Act also modified the deductibility of expenses incurred in providing transportation between an employee's residence and place of employment, unless the transportation related expenses are incurred primarily for the employee's safety. Before the Act, commuting expenses of this type were generally deductible as a compensation related fringe benefit. These expenses were deemed ordinary and necessary expenses under Code § 162. Additional guidance should be provided to determine the boundaries of this new provision. For example, does the new limitation include travel between each residence and place of employment of the employee or just travel between the employee's primary residence and primary place of employment?

A reasonable interpretation of the provision is that transportation expenses incurred for travel to or from business locations other than the employee's primary place of business should not be considered a non-deductible commuting expense, but should be considered as ordinary and necessary business travel expenses under Code § 162 even if the trip begins or ends at the employee's primary residence.

Furthermore, the new provision does not provide guidance regarding how to determine the non-deductible amount and leaves open the question regarding the deductibility of commuting expenses that are imputed as income to the employee. A reasonable reading is that the full amount of the expenses should be deductible to the employer if the proper amount of income is imputed to the employee.

As noted above, there is an exception for travel that is “necessary for ensuring the safety of the employee.” Unfortunately, compliance with this exception could be difficult as there is currently no guidance on what exactly it means. In this situation, most practitioners agree that an employer can avoid the application of this disallowance if the employee is flying pursuant to an “overall security program” established based on the employer’s “independent security study” that a bona fide business-oriented security concern exists (Treas. Reg. § 1.132-5(m)(2)(ii) and (iii)). Under current guidance, determining whether a bona fide business-oriented security concern exists will be based on the facts and circumstances of the situation. An example of a factor indicating a specific basis for concern would be a death or kidnapping threat to the employee. The employer must periodically evaluate the situation to determine whether the security concern continues to exist.

Finally, this new disallowance applies to employees and, while this may seem straightforward on its face, guidance should be provided as to who, exactly, is an employee. It is reasonable to assume that the term “employee” refers to the definition of employee under Treas. Reg. § 31.3401(c)-1. Under this definition, partners, independent contractors (a group that includes directors) and other self-employed individuals are not considered employees. Would a 2% or greater shareholder of a Subchapter S-corporation be considered an employee? Most practitioners don’t believe so, but without additional guidance confirming, the question will remain.

### **Conclusion**

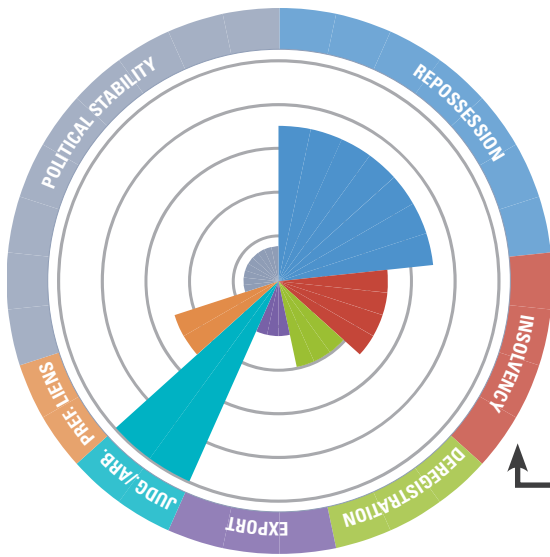
Before purchasing an aircraft, careful thought and consideration must be given to the variety of issues the purchase will raise. From the outset, it is critical to enlist the help of competent professionals to lay the foundation for the transaction by selecting the proper acquisition structure and shepherd you through the process to ensure the purchase meets your needs and that the most efficient tax results flow from the transaction. Said simply, make sure not to rush the take off. ■

COMPLETED BY:

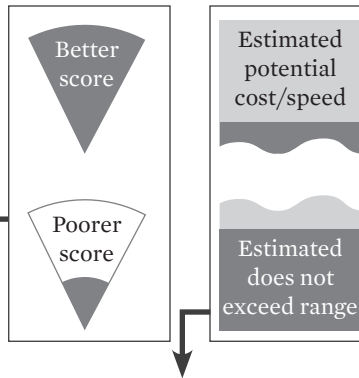
**Jurvneshservice International  
Legal Services**



CONTACT: ANNA TSIRAT, Partner, a.tsirat@jvs.com.ua



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Overall Score

Category

**45%**

**HIGHER**

Weighting	Score:
22.5%	71%
12.5%	50%
10.0%	40%
10.0%	25%
7.5%	100%
7.5%	50%
30.0%	16%

## Time & Cost Indicators

**N.B. Low political stability may affect reliability of these values**

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

**CHEAPER/FASTER** ↑

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **NO**

Alternative Country of Registration #1:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

Alternative Country of Registration #2:

**N/A**

Blended Score:

**N/A**

Blended Category:

**N/A**

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

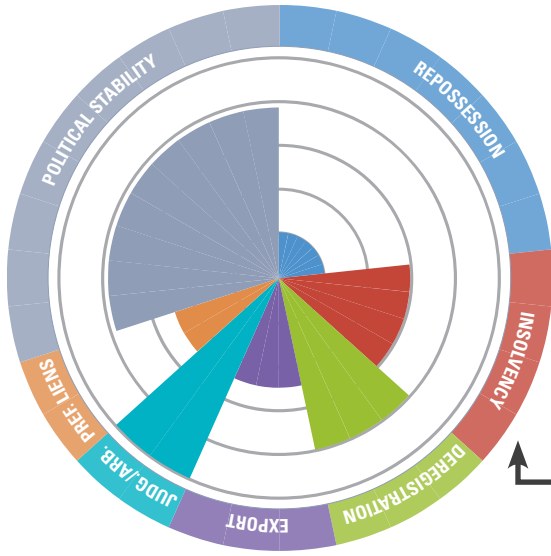
COMPLETED BY:

**Al Jallaf Advocates**

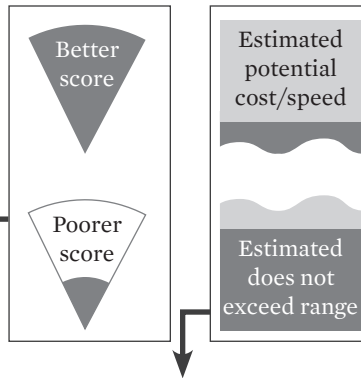
**AL JALLAF**  
Advocates & Legal Consultants

CONTACT: AMNA AL JALLAF, Managing Partner, amna.aljallaf@aljallaflegal.com

IHAB ARJA, Senior Lawyer / Aviation Expert,  
ihab.arja@aljallaflegal.com



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Overall Score

Category

**60%**

**MODERATE**

Weighting		Score:
22.5%	Repossession	21%
12.5%	Insolvency	60%
10.0%	Deregistration	80%
10.0%	Export	50%
7.5%	Judgments/Arb.	100%
7.5%	Preferential Liens	50%
30.0%	Political Stability	78%

## Time & Cost Indicators

	Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
	\$50,000	60 days	60 days
	\$250,000	180 days	180 days
	\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>NO</b>
Self-help (Mortgagees):	<b>NO</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>NO</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>YES</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>YES</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**



(\*) Local counsel has provided additional notes for this country.

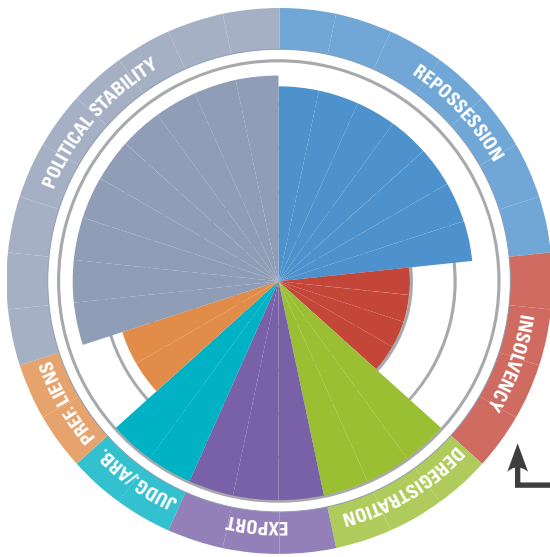
COMPLETED BY:

**Pillsbury Winthrop  
Shaw Pittman LLP**

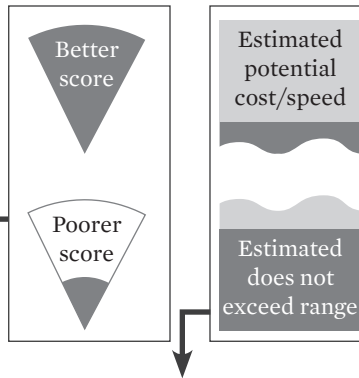


CONTACT: DEBRA ERNI, Partner, [debra.erni@pillsburylaw.com](mailto:debra.erni@pillsburylaw.com)

GRAHAM TYLER, Partner, [graham.tyler@pillsburylaw.com](mailto:graham.tyler@pillsburylaw.com)



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Overall Score

**89%**

Category

**LOWER**

Weighting	Score:
22.5%	Repossession <b>89%</b>
12.5%	Insolvency <b>60%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>75%</b>
30.0%	Political Stability <b>94%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>NO</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator):	<b>YES</b>
Operator (if not also the owner):	<b>YES</b>

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner:	<b>NO</b>	Mortgagee:	<b>YES</b>
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Alternative Country of Registration #1:  
**N/A**

Blended Score:	N/A	Blended Category:	N/A
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Alternative Country of Registration #2:  
**N/A**

Blended Score:	N/A	Blended Category:	N/A
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## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**[repointindex@pillsburylaw.com](mailto:repointindex@pillsburylaw.com)**

(\*) Local counsel has provided additional notes for this country.

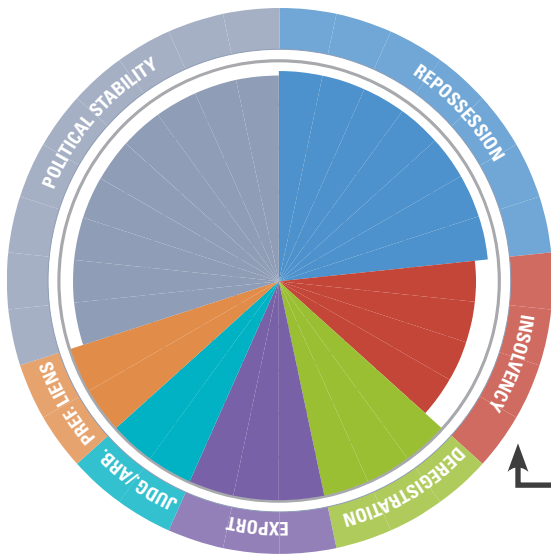
COMPLETED BY:

**Pillsbury Winthrop Shaw Pittman LLP**

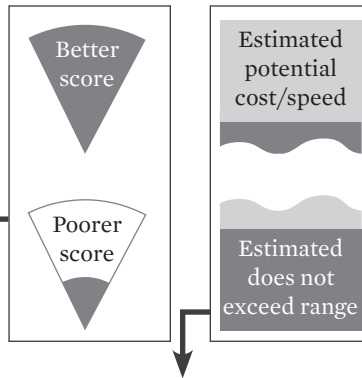


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LEO T. CROWLEY, Partner, leo.crowley@pillsburylaw.com



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Overall Score	Category
<b>96%</b>	<b>LOWER</b>
Weighting	Score:
22.5%	Repossession <b>96%</b>
12.5%	Insolvency <b>90%</b>
10.0%	Deregistration <b>100%</b>
10.0%	Export <b>100%</b>
7.5%	Judgments/Arb. <b>100%</b>
7.5%	Preferential Liens <b>100%</b>
30.0%	Political Stability <b>94%</b>

## Time & Cost Indicators

Legal Cost of Repossession (\$)	Speed of Repossession (time)	Insolvency Moratorium Period (time)
\$50,000	60 days	60 days
\$250,000	180 days	180 days
\$1,000,000	1 year	1 year/variable

↑ CHEAPER/FASTER

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>YES</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>NO</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>YES</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>YES</b>
an English court judgment:	<b>YES</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:	Alternative Country of Registration #1:	Blended Score:	Blended Category:
Owner (if not also the operator): <b>YES</b>	N/A	N/A	N/A
Operator (if not also the owner): <b>NO</b>			
Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:	Alternative Country of Registration #2:	Blended Score:	Blended Category:
Owner: <b>N/A</b> Mortgagee: <b>YES</b>	N/A	N/A	N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repoinde@pillsburylaw.com**

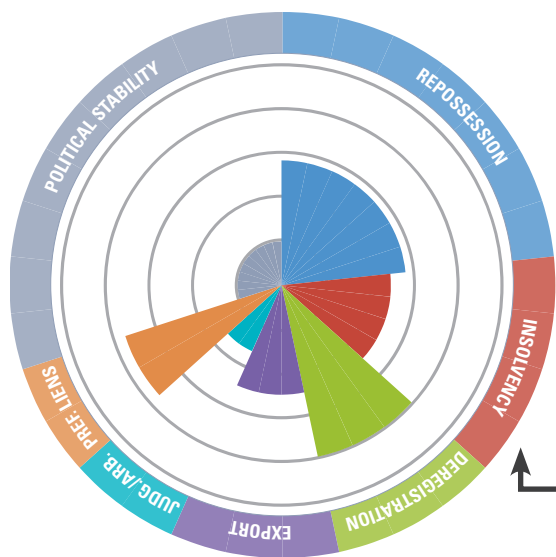
COMPLETED BY:

**Vietnam International Law Firm (VILAF-Hong Duc)**

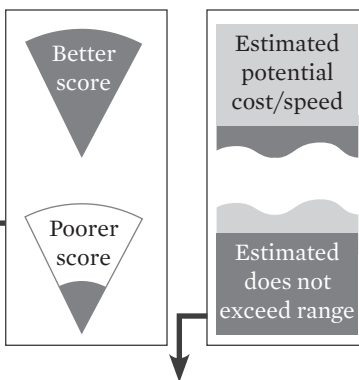


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NGUYEN THANH TUNG, Senior Associate, tung.nguyen@vilaf.com.vn



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Overall Score Category

**46%** **HIGHER**

Weighting	Score:
22.5%	Repossession 57%
12.5%	Insolvency 50%
10.0%	Deregistration 80%
10.0%	Export 50%
7.5%	Judgments/Arb. 33%
7.5%	Preferential Liens 75%
30.0%	Political Stability 20%

## Time & Cost Indicators

N.B. Low political stability may affect reliability of these values

Indicator	Value	Unit	Direction
Legal Cost of Repossession (\$)	\$50,000	60 days	↑ CHEAPER/FASTER
Speed of Repossession (time)	60 days	60 days	
Legal Cost of Repossession (\$)	\$250,000	180 days	
Speed of Repossession (time)	180 days	180 days	
Insolvency Moratorium Period (time)	1 year	1 year/variable	

## Key Facts<sup>†</sup>

OECD high-income/zero-rated country:	<b>NO</b>
Cape Town Contracting State:	<b>YES</b>
Eligible for ASU Cape Town Discount:	<b>YES</b>
Self-help (Lessor-owners):	<b>YES</b>
Self-help (Mortgagees):	<b>YES</b>
Moderately or well-developed insolvency laws:	<b>NO</b>
Absence of significant taxes or similar fees payable on export:	<b>YES</b>
Absence of fleetwide liens:	<b>YES</b>
<i>Local court will enforce, without reexamination of case on merits...</i>	
a New York court judgment:	<b>NO</b>
an English court judgment:	<b>NO</b>
an arbitral award:	<b>YES</b>

<sup>†</sup>Additional information regarding third party data is available on page 221.

## Aircraft Registration

Possible principal registrants:

Owner (if not also the operator): **YES**

Operator (if not also the owner): **NO**

Additional interests that may be noted, either on the aircraft register, some other public register, or on the certificate of registration:

Owner: **N/A** Mortgagee: **YES**

Alternative Country of Registration #1:

N/A

Blended Score:

N/A

Blended Category:

N/A

Alternative Country of Registration #2:

N/A

Blended Score:

N/A

Blended Category:

N/A

## More Results

For a more detailed results sheet or the full set of responses to the Jurisdictional Questionnaire, please contact:  
**repointindex@pillsburylaw.com**

# Local Counsel Explanatory Notes

If there is an asterisk (\*) next to the country name on the one-page summary, it means that local counsel for that country has provided additional explanatory notes to accompany some of its answers to the jurisdictional questionnaire. Please be sure to read these notes together with the material in the one-page summary, and please note that the question references tie to the form of jurisdictional questionnaire which begins on page 222.

Country / Jurisdiction	Comments
Aruba	<b>Generally.</b> Under Aruba law there are 2 types of security interests that can apply to aircraft. When using the term “mortgage” in this context, reference is made to both a mortgage and a right of first pledge. The latter is more flexible and efficient.
Australia	<b>Insolvency: Insolvency moratorium (question 2(d)).</b> A transaction may be structured to take the benefit of certain provisions modifying the effect of the moratorium. Also, the Cape Town Convention applies with effect from 1 September 2015. <b>Insolvency: Overreaching of the lessee’s insolvency estate (question 2(e)).</b> In conjunction with the CTC (Alternative A, 60 calendar days), after a waiting period, the insolvency administrator may continue the lease by paying rent and other amounts attributable to the use and possession of the aircraft. <b>Registration: Aircraft register type (question 3(a)).</b> If the owner is not an Australian citizen, the registered operator must be an Australian citizen. Certain other eligibility criteria apply. <b>Registration: Convenience of registration (question 3(d)).</b> We are not aware of CASA having entered into an article 83bis agreement as this requires CASA to publish a notice in a gazette. However we are aware of aircraft in New Zealand and USA regularly stationed in Australia. <b>Export: Export licenses/permits (question 5(c)).</b> This assumes applicable requirements to operate an aircraft under safety laws and regulations (including flight permits) have been obtained.
Belgium	<b>Generally.</b> The only security interest that can be established in Belgium with regards to aircraft is for the time being, setting up a Belgian law governed “pledge” on the aircraft and register the pledge in a special “Register of Pledges”. Belgian law does not recognize any other consensual non-possessory security interests over moveable property, such as aircraft.
Bermuda	<b>Judgments/Arbitration: Enforceability of judgments (question 6(a)).</b> As a matter of Bermuda law, the courts of Bermuda would recognize as a valid judgment, a final and conclusive judgment <i>in personam</i> obtained in a New York state or US federal court sitting in New York against a Bermuda company based upon the relevant documents under which a sum of money is payable (other than a sum of money payable in respect of multiple damages, taxes or other charges of a like nature or in respect of a fine or other penalty) and would give a judgment based thereon provided that: (a) such courts had proper jurisdiction over the parties subject to such judgment; (b) such courts did not contravene the rules of natural justice of Bermuda; (c) such judgment was not obtained by fraud; (d) the enforcement of the judgment would not be contrary to the public policy of Bermuda; (e) no new admissible evidence relevant to the action is submitted prior to the rendering of the judgment by the courts of Bermuda; and (f) there is due compliance with the correct procedures under the laws of Bermuda.

<b>Brazil</b>	<p><b>Repossession: Legal cost of repossession (question 1(f)).</b> Local costs for repossession could be equal to or less than US\$50,000 in most cases, however, this will depend on a number of factors, including the exact location of the aircraft. A sum between US\$35,000 and US\$75,000 would be more accurate.</p>
<b>Bulgaria</b>	<p><b>Repossession: Taxes and fees (question 1(d)).</b> Significant, because the fees are based on 2% of the value, but not less than BGN 25 (approx. EUR 12.5).</p> <p><b>Repossession: Speed of repossession (question 1(e)).</b> The term includes also the time for the second (appeal) and third (cassation) instances.</p> <p><b>Repossession: Legal cost of repossession (question 1(f)).</b> Only the court fees may vary from to 2% to 8% of the value of the property (in all instances) and therefore the costs may be above US\$1,000,000.</p> <p><b>Export: Export licenses/permits (question 5(c)).</b> Export Certificate of Airworthiness.</p>
<b>Canada</b>	<p><b>Generally.</b> The answers to the questionnaire apply also to the following jurisdictions: Provinces of Quebec, British Columbia, Alberta, Manitoba, Saskatchewan, Nova Scotia, New Brunswick, Newfoundland &amp; Labrador, Prince Edward Island, Territories (Yukon, Northwest Territories, Nunavut).</p> <p><b>Registration: Aircraft register type (question 3(b)).</b> The Canadian Civil Aircraft Register is an operator only register. International interests under the Cape Town Convention are noted in the International Registry. Interests in non-CTC aircraft objects may be perfected under each province's Personal Property Security Act (PPSA) (The Civil Code of Quebec in the case of Quebec).</p>
<b>Cayman Islands</b>	<p><b>Insolvency: Insolvency moratorium (question 2(c)).</b> While no claim may be started or continued against a company in a Cayman Islands compulsory liquidation without the Court's leave, under the Companies Law a secured party may enforce its security without the Court's leave or reference to the liquidator.</p> <p><b>Registration: Convenience of registration (question 3(c)) and Deregistration Convenience of deregistration (question 4(d)).</b> The Civil Aviation Authority (CAACI) has advised that it has discretion to relax its notarization policies depending on the circumstances. It is generally prepared to relax such policies where documents are provided through known agents, such as local law firms.</p> <p><b>Deregistration: Third party rights to deregister (questions 4(a) and 4(b)).</b> In hostile repossessions, where it may be difficult to obtain the original certificate of registration, the CAACI will accept a copy of the certificate of registration duly signed by the owner or its attorney-in-fact.</p> <p><b>Preferential Liens: Unusual or onerous preferential liens (question 7(b)).</b> Cayman Islands law provides for liens in favor of the CAACI and the Airports Authority for fees and charges owed to them and does not stipulate whether such lien is only in respect of the aircraft incurring such fees and charges or any aircraft operated by the person who owes such fees or charges.</p>
<b>Chile</b>	<p><b>Repossession: Self-help remedies (questions 1(a) and 1(b)).</b> There is no real repossession in Chile; rather, the secured creditor shall request to the relevant court the sale of the aircraft in a public auction (in which he can participate and pay by setting-off the auction price against its credit, subject to certain limitations).</p> <p><b>Preferential Liens: Unusual or onerous preferential liens (questions 7(a) and 7(b)).</b> The answers are without prejudice to: (i) certain statutory preferences; and (ii) preferential transfers claw-back rules. With respect to the liens described in question 7(a), "fleet-wide" non-consensual liens could arise but only with respect to extraordinary expenses required for the conservation of the aircraft.</p>



<b>China (People's Republic of)</b>	<p><b>Repossession: Speed of repossession (question 1(e)) and Legal cost of repossession (question 1(f)).</b> Answers were chosen after considering the corresponding declarations made by PRC to Article 13 of the Cape Town Convention, which requires PRC court to make a court order within 10 calendar days and enforce such order immediately.</p> <p><b>Insolvency: Insolvency moratorium (questions 2(c) and 2(d)).</b> Answers were chosen after considering the corresponding declarations made by PRC to Article XI of the Protocol, which provides for a waiting period of 60 calendar days.</p> <p><b>Deregistration: Third party rights to deregister (questions 4(a) and 4(b)).</b> Answers were chosen if owner/lessor or mortgagee apply to CAAC for deregistration of aircraft by using IDERA pursuant to relevant CAAC regulations.</p> <p><b>Export: Export licenses/permits (question 5(c)).</b> The confirmation of the Airworthiness Department of CAAC (as a matter of procedure) as to the airworthiness for ferry flight of the aircraft is required for the export purpose.</p>
<b>Costa Rica</b>	<b>Generally.</b> Costa Rica will be a contracting state for the Cape Town Convention from December 2018.
<b>Croatia</b>	<b>Registration: Aircraft register type (question 3(a)).</b> Both the owner and the operator of the aircraft are registered with the Croatian Registry of Civil Aircraft, maintained by the Croatian Civil Aviation Agency. It is visible from the registration in which capacity each of them is registered.
<b>Curacao</b>	<b>Generally.</b> Under Curacao law there are 2 types of security interests that can apply to aircraft. When using the term "mortgage" in this context, reference is made to both a mortgage and a right of first pledge. The latter is more flexible and efficient.
<b>Czech Republic</b>	<p><b>Repossession: Self-help remedies (questions 1(a) and 1(b)).</b> Self-help test: (i) protected rights are endangered and (ii) public authority action would come too late.</p> <p><b>Insolvency.</b> Preferential possessory liens are well recognized.</p>
<b>Denmark</b>	<p><b>Registration: Aircraft register type (question 3(b)).</b> The mortgagee's interest can only be registered in the Danish rights registry to the extent that the interest is not governed by the Cape Town Convention.</p> <p><b>Judgments/Arbitration: Enforceability of judgments (question 6(b)).</b> Danish courts will currently recognize and enforce a judgment rendered by an English court. However, following Brexit this may change.</p> <p><b>Preferential Liens: Unusual or onerous preferential liens (question 7(c)).</b> By general applicable law, lessee may have a right of retention over the aircraft for a valid claim under the lease against the owner-lessor. However, it will often be agreed in the lease that the lessee does not have such right.</p>
<b>Dominican Republic</b>	<b>Insolvency: Sophistication of insolvency laws (question 2(a)).</b> The current insolvency law was approved by Congress about two years ago but its application in the court is yet to be determined.
<b>Ecuador</b>	<b>Export: Taxes and fees (question 5(d)).</b> Applicable taxes depend on how the aircraft was imported into Ecuador and the year of manufacture of the aircraft. Generally, in a well structured transaction no taxes apply.
<b>Egypt</b>	<b>Repossession: Legal cost of repossession (question 1(f)).</b> We could not respond to this question as part of these costs under certain claims are calculated based on the value of the claimed debt.

<b>El Salvador</b>	<p><b>Generally.</b> There are no precedents of repossession in El Salvador, neither bankruptcy is a common practice in El Salvador.</p> <p><b>Repossession: Legal cost of repossession (question 1(f)).</b> The estimation of legal fees will be determined depending on each case.</p> <p><b>Registration: Aircraft register type (question 3(a)).</b> Registration of aircraft in El Salvador are only for aircraft with a Salvadoran license.</p> <p><b>Registration: Aircraft register type (question 3(b)).</b> Mortgages over aircraft can be registered in El Salvador only on aircraft with a Salvadoran license.</p>
<b>Estonia</b>	<p><b>Export: Export licenses/permits (questions 5(a) to 5(d)).</b> The answer relates to the export of civil aircraft to non-EU countries. Separate regimes apply to military aircraft and intra-EU trade.</p>
<b>Ethiopia</b>	<p><b>Repossession: Taxes and fees (question 1(d)).</b> Stamp duty at the rates of 1% and 0.5% on value is payable on security deeds and leases/sub-leases, respectively. Failure to pay the applicable stamp duty will render the relevant document inadmissible as evidence in court. However, the relevant document can be admitted in evidence by paying two times the applicable stamp duty.</p> <p><b>Deregistration: Convenience of deregistration (question 4(d)).</b> In the very first hostile case of deregistration of an Ethiopian registered aircraft, the Ethiopian civil aviation authority required the original certificate of registration of the aircraft as a condition to deregister the aircraft. However, due to the difficulty involved in providing the original certificate of registration, the aviation authority expressed willingness to accept a notarized copy of the certificate with an undertaking that the original certificate would be provided once in possession.</p>
<b>Fiji</b>	<p><b>Registration: Aircraft register type (question 3(b)).</b> Strictly, local legislation does not permit registration of mortgagee interests. However, the local Authority will note a mortgagee interest as a matter of practice.</p>
<b>Finland</b>	<p><b>Repossession: Judicial proceedings: requirement for a deposit, bond or other security (question 1(c)).</b> If precautionary measures are applied, a deposit is required by the enforcement agency. However, in an action for declaratory judgement a deposit is not required but this process is a much longer one.</p> <p><b>Insolvency: Insolvency moratorium (question 2(d)).</b> Finland has not ratified the Cape Town Convention.</p> <p><b>Judgments/Arbitration: Enforceability of arbitral awards (question 6(d)).</b> "YES" now but will be subject to the outcome of "Brexit".</p>
<b>France</b>	<p><b>Repossession: Speed of repossession (question 1(e)).</b> I assumed that the lease was terminated and that a New York or London judgment has been entered before the lessee's judgment of bankruptcy or before the lessee is protected by a judgment of judicial safeguard.</p>
<b>French Polynesia</b>	<p><b>Repossession: Speed of repossession (question 1(e)).</b> I assumed that the lease was terminated and that a New York or London judgment has been entered before the lessee's judgment of bankruptcy or before the lessee is protected by a judgment of judicial safeguard.</p>

**Georgia**

**Judgments/Arbitration: Enforceability of judgments (question 6(a)).** The judgments of foreign courts may be recognized and enforced in the courts of Georgia without reconsideration of the merits of the case in accordance with and subject to limitations set forth in the Law of Georgia on Private International Law, dated April 29, 1998, as amended. The recognition and enforcement of such judgment may be refused, however, where, inter alia, the courts of the rendering jurisdiction do not recognize judgments of Georgian courts. We believe that it is less likely for the courts of Georgia to refuse recognition and enforcement of judgments rendered by US and UK courts based on the above ground.

**Preferential Liens: Unusual or onerous preferential liens (question 7(b)).** For the purposes of this Question, we have assumed that the respective third party has possession over the aircraft.

**Germany**

**Repossession: Legal cost of repossession (question 1(f)).** Lawyers' legal fees in Germany are governed by statutory law which provides for graduated fees based on the value of the matter (maximum value in repossession proceedings = total amount of lease rentals for one year). The answer to question 1(f) on the estimated legal cost of repossession is based on the hypothetical total amount of lease rentals for one year of US\$9 million. Based on this hypothetical statutory legal fees would amount to approximately US\$11,250 where the proceedings are contested. Depending on the specific circumstances lawyers may require the conclusion of a fee agreement for higher fees, but the legal costs for obtaining a court order for repossession may still be less than or equal to US\$50,000.

**Guernsey**

**Aircraft Registration: Aircraft register type (questions 3(a) and 3(b)).** Responses are subject to the overriding requirement that persons must be Qualified Persons to hold legal/beneficial interest in registered aircraft. Qualified Persons include the Crown, natural persons who are (i) Nationals of any EEA State (ii) British Islands Resident (iii) British Overseas Territory Resident or (iv) represented by resident agent, legal persons which (i) are a business in Appendix C to the GFSC's handbook on countering financial crime or (ii) represented by resident agent or (iii) any other person at discretion of Registrar subject to additional requirements imposed. There is no definition of "operator" so we assume this is the end user & includes a lessee (to which the plane has been chartered by demise) and there is no third party structure i.e. owner, lessee/charter & operator. The interest of the owner or the operator would be registered (not both) plus a mortgagee.

**Hong Kong**

**Repossession: Self-help remedies (questions 1(a) and 1(b)).** Provided that self-help remedies are stipulated in the relevant underlying lease or mortgage documents (as applicable).

**Registration: Aircraft register type (question 3(a)).** Provided that the operator OR the owner are a "qualified person" under the Hong Kong Air Navigation Order 1995 (Ch. 448C) AND the operator is also registered as a charterer by demise. "Qualified persons" include the government of Hong Kong or the PRC, Chinese Citizens, permanent resident of Hong Kong and bodies incorporated in or under the law of Hong Kong or other parts of the PRC and having their principal business in Hong Kong or other parts of the PRC.

**Registration: Aircraft register type (question 3(b)).** There is no register of aircraft mortgages but an aircraft mortgage needs to be registered at the Hong Kong Company Registry to the extent that the mortgagor is a company incorporated in Hong Kong or having a place of business in Hong Kong.

**Deregistration: Third party deregistration rights (question 4(a)).** "YES" provided that the Owner-Lessor is a "qualified person" (see foregoing note on question 3(a)).

**Deregistration: Third party deregistration rights (question 4(b)).** "YES" so long as the mortgagee is the qualified person in which name the aircraft is registered.

**Export: Lessee/debtor cooperation (question 5(b)).** "YES" so long as the mortgagee is the qualified person in whose name the aircraft is registered.

**Judgments/Arbitration: Enforceability of judgments (question 6(a)).** A judgement rendered by a New York state or U.S. federal court sitting in New York or by an English court cannot be recognized and enforced in Hong Kong through a process of registration of judgments allowed for certain other countries designated by the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap. 319) of Hong Kong but have recourse under common law, provided that, *inter alia*, (i) proceedings are commenced by writ before the Hong Kong courts; (ii) the foreign judgment is a proof of a valid debt (not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty) which can be sued upon and is final and conclusive; and (iii) a judgment that recognizes the foreign judgment is given directly by the Hong Kong courts, which judgment can be later enforced like any other Hong Kong judgment. We have rendered a "YES" answer to this question as the aforementioned requirement that Hong Kong courts scrutinize the foreign judgment as to whether it is a proof of a valid debt does not seem to exceed the "permitted threshold conditions".

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## India

**Preferential Liens: Unusual or onerous preferential liens (questions 7(a) and 7(b)).** Please note that once the aircraft has been deregistered, the owner/lessor is entitled to export the aircraft without lessee's consent. However, this right is subject to certain conditions, for instance, if the lessee is under corporate insolvency resolution process under the newly enacted Insolvency and Bankruptcy, 2016, the owner/lessor is restricted from recovering its aircraft which is in possession of the lessee due to application of a moratorium of 180 days (extendable up to 270 days).

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## Indonesia

**Insolvency: Insolvency moratorium (question 2(c)).** Indonesia adopts "Alternative A" in its entirety to all types of insolvency proceedings, and the waiting period shall be sixty (60) calendar days. Compared to general insolvency proceedings, the application of a sixty (60) calendar day waiting period is more beneficial to the lessor.

**Judgments/Arbitration: Enforceability of judgments (questions 6(a) and 6(b)).** Foreign judgment can be offered at trial as prima facie evidence of matters governed by the relevant foreign law and of the underlying factual issues.

**Preferential liens: Government requisition and confiscation (question 7(d)).** Under State of Emergency Law, any goods, including aircraft and the engines attached to the aircraft, might be used or owned by the government for the interests of security and defense in case of statement of war.

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## Israel

**Repossession: Legal cost of repossession (question 1(f)).** Both legal fees and court fees are determined in relation to the debt that has been repaid. The court fees are equal to 1% of the amount of the repayment, and the higher the repayment amount is, the lower the percentage of the legal fees are, respectively.

**Preferential Liens: Unusual or onerous preferential liens (question 7(a)).** A repairer/mechanic/hangar-keeper lien may subsist only as long as the aircraft is in the possession of the repairer/mechanic/hangar-keeper.

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**Japan**

**Repossession: Taxes and fees (question 1(d)).** Ad valorem taxes are paid upon the full registration of a mortgage as a percentage of the value of the mortgage. Market practice has developed to allow for a provisional mortgage registration to be made on payment of a nominal amount in order to secure priority for the mortgagee. If the mortgage becomes enforceable, the provisional registration of the mortgage will need to be converted to a full registration and the necessary ad valorem taxes paid at such time before approaching the court for an enforcement order.

**Insolvency: Insolvency moratorium (questions 2(c) and 2(d)).** No moratorium period applies in the case of bankruptcy proceedings. A moratorium may apply in the case of corporate reorganization proceedings and the period of such moratorium is determined by the (mandatorily appointed) reorganization trustee in its discretion.

**Registration: Aircraft register type (question 3(a)).** The Japanese registry is an owner registry and only a Japanese individual or corporate entity may be registered as the owner of an aircraft.

**Registration: Convenience of registration (question 3(c)).** There is no system for registering a lease in Japan. If a foreign owner wants to register an aircraft in Japan it will need to do so by selling the aircraft to a Japanese entity and entering into contractual arrangements whereby all ownership rights are transferred back to the foreign owner pursuant to a conditional sale agreement. The foreign owner will often take a Japanese mortgage with provisional registration over the aircraft in order to secure its rights under the conditional sale agreement. Any foreign mortgagee will need to notarize its signatures and supporting documents before it can complete a provisional registration of the mortgage in Japan.

**Deregistration: Third party rights to deregister (questions 4(a) and 4(b)).** Only the registered owner can deregister the Aircraft. An owner can deregister an aircraft acting alone provided it has the necessary documents which includes the certificate of registration. Although the consent of the airline is not required for deregistration, Article 59 of the Civil Aeronautics Act requires that the certificate of registration is kept on the aircraft and therefore an uncooperative airline could in practice prevent deregistration.

**Deregistration: Convenience of deregistration (question 4(d)).** There is no need for the Japanese registered owner to notarize or authenticate any documents filed on deregistration. However, if a mortgage is also to be removed from the register and the mortgagee is a foreign entity, any documents signed by the foreign mortgagee must be notarized and translated.

**Export: Export licenses/permits (question 5(c)).** An export permit must be obtained from the Director-General of Customs.

**Export: Taxes and fees (question 5(d)).** The taxes or fees imposed on export of the aircraft depend on the country to which the aircraft is being exported and are typically imposed by that country not Japan.

**Preferential liens: Unusual or onerous preferential liens (question 7(a)).** Please note that the holder of a possessory lien (as opposed to a non-possessory lien) has the right to sell the aircraft through the courts by public auction. Examples of such possessory liens include those arising in favor of an airport administration for unpaid landing charges (although there is no precedent for this particular kind of lien) or in favor of a maintenance provider for unpaid maintenance fees.

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**Jersey**

**Registration: Aircraft register type (questions 3(a) and 3(b)).** Responses to questions 3(a) and 3(b) must be read in conjunction with the overriding requirement that a person must be a Qualified Person to hold a legal or beneficial interest in a registered aircraft. A Qualified Person is a body incorporated or undertaking established in, or a citizen or resident of, one of the following countries: Jersey, Guernsey, Isle of Man, Switzerland, a Commonwealth country, a European Economic Area country.

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<b>Jordan</b>	<p><b>Repossession: Self-help remedies: (questions 1(a) and 1(b)):</b> Prior to the ratification of the Cape Town Convention, Jordanian laws prohibited the exercise of “self-help” remedies. Given Jordan’s declaration under Article 54(2) whereby Jordan has declared that the exercise of self-help remedies under the Convention and Protocol are available to creditors, and in light of Articles 8 and 10 of the Convention and Article IX of the Protocol, this has been overturned specifically in relation to aircraft. Notwithstanding this declaration, we believe that, from a practical perspective, it would be very difficult for a creditor to exercise a self-help remedy in relation to its interest over an aircraft that is located in a Jordanian airport/hangar, and the creditor may be forced to obtain a court order to attach and ground the aircraft and commence legal proceedings to exercise any of its remedies under the Convention and Protocol. Moreover, there are no precedents on the application and interpretation of the Convention or the Protocol.</p>
<b>Kazakhstan</b>	<p><b>Repossession: Legal cost of repossession (question 1(f)).</b> The state duty amount is 3% of the balance sheet value of aircraft.</p> <p><b>Deregistration: Third party rights to deregister (questions 4(a) and 4(b)), Precedent of refusing to deregister (question 4(c)), Convenience of deregistration (question 4(d)):</b> Answers are given based on the assumption that the aircraft is registered in the Kazakhstan register in the owner’s name.</p> <p><b>Export: Lessee/debtor cooperation (questions 5(a) and 5(b)).</b> Please note that new Code on customs regulations in the Republic of Kazakhstan dated December 26, 2017, came into effect on 1 January 2018 and there is little practice of application of its provisions.</p>
<b>Kenya</b>	<p><b>Repossession: Legal cost of repossession (question 1(f)).</b> Advocates legal fees are guided by the Advocates Remuneration Order 2014 (Legal Notice No. 35) which provides for graduated fees (minimum fees chargeable) based on the value of the matter. By way of illustration, the statutory legal fees chargeable for seeking a court order for repossession of an aircraft with a hypothetical value of US\$ 80 million would be approximately US\$ 1.3 million where the proceedings are contested.</p> <p><b>Registration: Convenience of registration (question 3(c)).</b> The official language of Kenya is English. The Kenya Civil Aviation Authority provides no mandatory requirement for documents to be filed with it to be translated into English, however, in order to ascertain the ownership or which party has operational control of an aircraft, an English translation of the indicative document should be submitted.</p>
<b>Korea (Republic of)</b>	<p><b>Insolvency: Insolvency moratorium (question 2(c)).</b> In rehabilitation proceedings, if the receiver elects to perform the lease, the lessee will continue to possess the aircraft so long as it thenceforth performs the lease in accordance with its terms.</p>
<b>Lithuania</b>	<p><b>Repossession: Taxes and fees (question 1(d)).</b> If litigation on the merits of the case is stated in Lithuanian courts, then the court fees may exceed US\$1,000 depending on the type and amount of the claim.</p> <p><b>Deregistration: Third party rights to deregister (question 4(a)).</b> Assuming that no mortgages or arrests are registered in the Lithuanian Civil Aircraft Registry over the aircraft (engines) in favor of the lessee, practically no cooperation of the lessee is required for the aircraft owner in order to achieve deregistration. It is important however that the lessee’s cooperation would be required at a later stage as the aircraft deregistration certificate will be issued only upon providing the Lithuanian Civil Aviation Authority with the original aircraft registration certificate, which is normally located aboard the aircraft.</p>

<b>Macau</b>	<p><b>Generally:</b> The answers to the questions above are given on a general basis and do not intend to address any specific issues. Furthermore, the answers above do not represent an exhaustive analysis of Macau law or of any specific case. Interested parties should request separate legal advice for any particular concern as the answers may differ on a case-by-cases basis depending on the circumstances and details of each case. On a final note, the solution to each question depend on the existence of a repossession/deregistration power of attorney and the powers granted thereunder.</p>
<b>Malta</b>	<p><b>Repossession: Self-help remedies (question 1(a)).</b> The right of an owner/lessor to repossess an aircraft without the need for court intervention is conditional upon the registration of the interest of the owner/lessor in the International Registry under the Cape Town Convention.</p> <p><b>Export: Export licenses/permits (question 5(c)).</b> This depends on the export destination and on whether the aircraft has a valid CoA. An Export Conformity Certificate will be required for export to non-EASA Member States. A Permit to fly will be required if the aircraft does not have a valid CoA.</p> <p><b>Preferential Liens: Unusual or onerous preferential liens (question 7(c)).</b> Non-consensual privileges arise by operation of law in priority to the rights of a mortgagee also in favor of the registry of courts in relation to costs for the enforcement of a mortgage or other executive title; in favor of the Director General for Civil Aviation for any fees due; in favor of crew for their wages; in favor of the holder of a possessory lien for any debt due in connection with the repair or preservation of the aircraft; and in respect of wages and expenses for salvage in respect of an aircraft.</p>
<b>Mexico</b>	<p><b>Export: Taxes and fees (question 5(d)).</b> Applicable taxes are subject to the importation regime with which the aircraft is introduced into Mexican Territory. VAT and import taxes are exempted if the importation is made under the temporary importation (Article 106(V)(b) Customs Law). The temporary importation regime permits the importation of an aircraft dedicated to public air transportation services for a period of up to 10 years. The party that conducts the importation (e.g. airline, air taxi or a third party operator) is responsible to maintain possession during the temporary importation period and shall also be responsible for the exportation at the end of the same, or for the renewal thereof.</p> <p><b>Judgments/Arbitration: Enforceability of judgments (questions 6(a) and 6(b)).</b> Whilst a foreign judgement would not be subject to any additional requirements other than the threshold conditions enumerated herein, the judicial process to homologate a foreign judgement is highly complicated and not recommended.</p>
<b>Nepal</b>	<p><b>Repossession: Self-help remedies (questions 1(a) and 1(b)).</b> Self-help repossession is effective only if the lease is (1) for a period exceeding one year; (2) for an indefinite period; (3) initially for a period of one year or less and the lessee, with the consent of the lessor, retains uninterrupted possession of the leased goods for a period of more than one year after the lessee first acquired possession of the goods; or (4) for a period of one year or less but which may be renewed for a period of more than one year.</p>
<b>Netherlands</b>	<p><b>Registration: Aircraft register type (question 3(a)).</b> The registration of a leased aircraft must refer to the owner as well as to the operator.</p> <p><b>Registration: Convenience of registration (question 3(c)).</b> If the aircraft is to be registered in the ownership/mortgage register (which is not mandatory unless the aircraft is to be made subject to a mortgage, a right in rem in relation to a lease agreement and/or a right in rem in relation to a purchase option) notarized/authenticated documents will be required.</p> <p><b>Deregistration: Third party rights to deregister (questions 4(a) and 4(b)).</b> For deregistration the original certificate of registration must be submitted.</p>

**Deregistration: Precedent of refusing to deregister (question 4(c)).** Dutch CAA will in practice cooperate if it is demonstrated that the lessee is no longer entitled to possess and operate the aircraft.

**Export: Lessee/debtor cooperation (question 5(b)).** This assumes that under applicable law the deregistration and export power of attorney is valid and will not terminate upon the owner's insolvency.

**Preferential Liens: Unusual or onerous preferential liens (question 7(a)).** Dutch law does provide for non-consensual preferential liens for repairmen/mechanics, but only as long as the aircraft is in their possession.

<b>New Caledonia</b>	<b>Repossession: Speed of repossession (question 1(e)).</b> I assumed that the lease was terminated and that a New York or London judgment has been entered before the lessee's judgment of bankruptcy or before the lessee is protected by a judgment of judicial safeguard.
<b>New Zealand</b>	<b>Judgments/Arbitration: Enforceability of judgments (questions 6(a) and 6(b)).</b> We have answered "YES" to these questions on the assumption that, while the additional conditions below exist, these are assumed to be not sufficiently significant to render a "NO" answer. In the case of an English judgment, it would be enforceable under the Reciprocal Enforcement of Judgments Act 1934 and the following extra conditions would apply (1) it must not be in respect of taxes or similar charges or a fine or other penalty; (2) it must be enforceable in England; (3) it must not have been wholly satisfied; (4) the defendant must have had sufficient notice of the proceedings to enable him to appear; and (5) the rights under the judgment must be vested in the applicant. In the case of a New York judgment, it would be enforced at common law (usually by way of summary judgment) and additional condition (1) above would also apply. It would be a further defense to an enforcement action that the judgment was obtained in breach of natural justice.
<b>Nigeria</b>	<p><b>Repossession: Taxes and fees (question 1(d)).</b> Please note that stamp duty (at a nominal rate) is payable as condition to admitting documents in evidence for the purpose of a repossession.</p> <p><b>Repossession: Legal cost of repossession (question 1(f)).</b> Please note that legal costs may vary due to certain factors such as time spent by counsel, the state of the court's list, the amount of documentation which are relevant to the matter, the caliber of counsel and the length of time for trial.</p> <p><b>Deregistration: Convenience of deregistration (question 4(d)).</b> Please note that the NCAA will require the translation of a document not in English.</p> <p><b>Preferential Liens: Unusual or onerous preferential liens (question 7(b)).</b> Please note that Nigerian courts will likely, should the need arise, make reference to persuasive English authorities.</p>
<b>Norway</b>	<p><b>Generally.</b> Norway has adopted the Cape Town Convention and aircraft protocol, and will respect an IDERA registered in the Norwegian Civil Aviation Registry.</p> <p><b>Deregistration: Third party rights to deregister (question 4(b)).</b> A mortgagee must rely on a registered IDERA in order to be able to unilaterally request the aircraft to be deregistered, without the cooperation of the registered owner.</p>

<b>Pakistan</b>	<p><b>Preferential Liens: Unusual or onerous preferential liens (questions 7(a) and 7(b)).</b> The answers in the questionnaire are predicated upon the assumptions set out in the questions. For example for question 7(a), our law does not recognize any non-consensual preferential non-possessory liens over aircraft in favor of a repairer/mechanic/landlord/hangar-keeper. However under Pakistan law, there are two categories of priority non-consensual rights (i) claims against aircraft which may be enforced by an action in rem under the relevant provisions of the Admiralty Jurisdiction of the High Courts Ordinance, 1980; and (ii) where there are unpaid taxes or other public dues directly related to the use of that aircraft and owed by the owner of that aircraft. Similarly, for question 7(b), our law does not recognize “fleet-wide” liens however under the Implementation Rules (which incorporates CTC into our domestic law), any person including a state entity with the requisite powers can arrest/detain an aircraft for violation of law or for payment of any amount owed and directly relating to the services pertaining to that aircraft.</p>
<b>Panama</b>	<p><b>Judgments/Arbitration: Enforceability of judgments (questions 6(a) and 6(b)).</b> Apart from a special treaty, any judgment for a definite sum given by the courts of a given country would be recognized and accepted by the Panamanian courts unless (a) the courts of the given country would not generally enforce the judgments of the corresponding Panamanian courts; and (b) subject to the provisions of the Panamanian Judicial Code relating to the enforcement of a foreign judgment in Panama, which may only be enforced without a rehearing of the issues if the courts of Panama grant an exequatur for such an enforcement. This will be granted provided the foreign judgment satisfies the following requirements (i) judgment has been rendered in an action <i>in personam</i>; (ii) summons and complaint have been personally served on the defendant in the place where the action is filed; (iii) the obligation sought to be enforced is lawful under the laws of Panama; and (iv) a copy of the said foreign judgment has been duly legalized by a Panamanian Consulate and translated into the Spanish language.</p>
<b>Papua New Guinea</b>	<p><b>Registration: Aircraft register type (question 3(b)).</b> The Personal Property Security Act 2011 commenced in operation on May 9, 2016, one of the most significant pieces of legislative reform for the Papua New Guinea finance sector and commerce generally. Security holders can submit a notification of security interests granted by corporations and individuals in relation to personal property situated in Papua New Guinea (and security interests governed by Papua New Guinea law).</p>
<b>Paraguay</b>	<p><b>Repossession: Legal cost of repossession (question 1(f)).</b> Judicial fee is between 0.50% and 0.74% of amount claimed depending on the claim’s nature. Officer of Justice fee is up to 5% of amount claimed, but generally 1 or 2% of amount claimed. Attorneys’ fees are between 5% and 20% of amount claimed; one third of such percentages in case of precautionary measures proceedings.</p> <p><b>Insolvency: Sophistication of insolvency laws (question 2(b)).</b> Although to the best of our knowledge there is no precedent of owners, lessors or mortgagees claiming repossession, sequestration or export of aircraft whether involved in insolvency/bankruptcy proceedings or not.</p> <p><b>Preferential Liens: Unusual or onerous preferential liens (question 7(b)).</b> A creditor may not exercise his privilege over the aircraft unless it is duly registered before the National Aeronautical Registry within 3 months of the end of operations, acts or services that originated them.</p>

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**Poland**

**Registration: Convenience of registration (question 3(c)) and Deregistration: Convenience of deregistration (question 4(d)).** The applicable legal provisions require that documents be notarized and/or authenticated, however in practice the aviation authority tends to accept simple copies of any presented documents.

**Export: Export licenses/permits (question 5(c)).** An Export Certificate of Airworthiness may be required. For the purposes of the questionnaire, we do not consider this to constitute an export license or permit or any other restriction on the ability to export the aircraft.

**Export: Taxes and fees (question 5(d)).** Provided that the owner-lessor does not conduct business operations in Poland through a permanent establishment and that it is not obliged to register in Poland for VAT purposes.

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**Saudi Arabia**

**Repossession: Judicial proceedings requirement for a deposit, bond or other security (question 1(c)).** In case the proceedings aim for a final order, no bond or guarantee is required. However, if the proceedings aim for a preliminary order, the deposit of a bond or guarantee is likely to be required.

**Insolvency: Insolvency moratorium (questions 2(c) and 2(d)).** Saudi Arabia has approved a new Bankruptcy Law on or around 18 February 2018. However, the same will only come into effect after the approval of the Implementing Regulations.

**Deregistration: Third party rights to deregister (questions 4(a) and 4(b)).** It is standard practice of the General Authority of Civil Aviation to request confirmation from the Lessee in advance. Hence, despite the assumption, our answer is "NO".

**Export: Lessee/debtor cooperation (questions 5(a) and 5(b)).** It is standard practice of the General Authority of Civil Aviation to request confirmation from the Lessee in advance. Hence, despite the assumption, our answer is "NO".

**Judgments/Arbitration: Enforceability of judgments (questions 6(a) and 6(b)).** Among other threshold conditions, the recognition/enforcement of a foreign subject is always subject to the requirement of reciprocity.

**Judgments/Arbitration: Enforceability of arbitral awards (question 6(c)).** The enforcement of an arbitral award will also be subject to the requirement of reciprocity.

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**Singapore**

**Repossession: Judicial proceedings requirement for a deposit, bond or other security (question 1(c)).** The application considered is for a final and not an interim order.

**Repossession: Taxes and fees (question 1(d)).** Reference is only to GST, subject to fulfilling the relevant conditions.

**Registration: Aircraft register type (question 3(a)).** Nationality requirements apply.

**Registration: Aircraft register type (question 3(b)).** There is no prescribed field/form for this on the Certificate of Registration; the notation has no legal effect.

**Registration: Convenience of registration (question 3(c)).** Notarization and legalization requirements apply for the submission of an IDERA.

**Deregistration: Third party rights to deregister (question 4(a)).** Although in our view this isn't a specified requirement under Singapore law, please note that in an advisory circular, the registry has stated that return of the Certificate of Registration is necessary.



**Export: Taxes and fees (question 5(d)).** Reference is only to GST, subject to fulfilling the relevant conditions.

**Preferential Liens: Unusual or onerous preferential liens (question 7(a)).** Assumes the stated parties are not the Singapore government or related agency.

**Preferential Liens: Government requisition and confiscation (question 7(d)).** Excludes the airport authority's statutory powers of seizure and sale for unpaid charges.

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## Slovakia

**Repossession: Self-help remedies (questions 1(a) and 1(b)).** Conditions for self-help remedies are (i) an imminent threat, (ii) an unauthorized intervention, (iii) that the remedy is performed by the affected person and (iv) in a reasonable manner.

**Insolvency: Insolvency moratorium (question 2(c)).** Although Slovak law does not recognize a "moratorium," a debtor may stay insolvency proceedings for a period of 60 days if an administrator is properly appointed to prepare a restructuring opinion.

**Export: Export licenses/permits (question 5(c)).** Although an Export Certificate of Airworthiness may be required, it is ignored for purposes of this questionnaire.

**Judgments/Arbitration: Enforceability of judgments (questions 6(a) and 6(b)).** Slovak courts sometimes broadly interpret the public policy restriction and thereby, indirectly, open examination of the merits.

**Preferential Liens: Unusual or onerous preferential liens (question 7(a)).** A non-consensual preferential non-possessory lien over an aircraft may arise in favor of a landlord (hangar-keeper) in the event of unpaid rent, but may cease to exist if the aircraft is removed from the landlord's premises before the lien is recorded by a court officer.

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## South Africa

**Registration: Aircraft register type (question 3(b)).** The registration of the aircraft will confer "legal ownership" of the aircraft on the name of the registered party as a matter of South African law. There is currently no filing allowed to recognize the rights of the true legal owner of the aircraft under the regulations of the South African Aviation Authority.

**Deregistration: Third party rights to deregister (questions 4(a) and 4(b)) and Precedent of refusing to deregister (question 4(c)).** The answers here reflect the bald legal and administrative position but we do not have any evidence that the South African Aviation Authority will, in practice, comply with the exercise of these rights absent a court order.

**Export: Lessee/debtor cooperation (questions 5(a) and 5(b)).** Whilst the exercise of these rights may be technically possible we have assumed that the non-co-operation of the Lessee will comprise a major obstacle.

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## Spain

**Repossession: Self-help remedies (questions 1(a) and 1(b)).** Pursuant to article 54(2) of the Cape Town Convention, Spain shall require leave of a court for the creditor to exercise self-help remedies, but shall not require leave of a court for an authorized party to unilaterally procure deregistration of an aircraft under Article XIII of the Aircraft Protocol. Spain has made such declaration in the instrument of accession to the Cape Town Convention, but not in the accession to the Aircraft Protocol as prescribed by art. 54(2) of the Cape Town Convention.

**Deregistration: Precedent of refusing to deregister (question 4(c)).** Since Cape Town Convention entered into force in Spain on 1 March 2016, there are no precedents yet on the application of the provisions the Convention or the Aircraft Protocol regarding the deregistration where the debtor has issued an irrevocable deregistration and export requests authorization substantially in the form annexed to the Aircraft Protocol and has submitted such authorization for recordation to the Spanish Civil Aviation Authority.

<b>Switzerland</b>	<p><b>Repossession: Speed of repossession (question 1(e)).</b> Our answer relates to proceedings up to the first instance decision being specified that if all appeals are made, judiciary proceedings may take up to several years. Please note that the duration of court proceedings is difficult to assess as there is no applicable statutory period and may vary depending in particular on the applicable canton and the complexity of the concrete case.</p> <p><b>Repossession: Legal cost of repossession (question 1(f)).</b> The cost of proceedings may be less than we estimated, in particular (1) in the event of repossession by an owner-lessor and/or (2) in the event of repossession by a mortgagee where the contractual situation is clear and the debtor has no ground to challenge the validity of the secured obligations and/or of the security interest.</p>
<b>Taiwan (Republic of China)</b>	<p><b>Registration: Aircraft register type (question 3(a)).</b> Assumes owner is domiciled outside Taiwan. If owner domiciled in Taiwan, registration in name of owner is permitted.</p> <p><b>Registration: Convenience of registration (question 3(c)) and Deregistration: Convenience of deregistration (question 4(d)).</b> Checked "YES" solely because translation is required.</p> <p><b>Export: Lessee/debtor cooperation (questions 5(a) and 5(b)) and Export licenses/permits (question 5(c)).</b> Assumes airworthiness certificate and aviation approvals have been obtained.</p>
<b>Thailand</b>	<p><b>Registration: Aircraft register type (question 3(a)).</b> While an aircraft owner can register the aircraft, the owner must have Thai nationality.</p> <p><b>Deregistration: Third party rights to deregister (question 4(a)) and Convenience of deregistration (question 4(d)).</b> Any party submitting a registration or deregistration application on behalf of another party must submit a notarized power of attorney document. All non-Thai supporting documents to the power of attorney must be authenticated and legalized.</p> <p><b>Preferential Liens: Unusual or onerous preferential liens (question 7(a)).</b> "Liens", as a registrable or legally-recognized security interest, do not exist under Thai law. However, a third party creditor, such as an airport authority, can still have a "preferential right" over an aircraft which must be satisfied before the aircraft is permitted to be exported from Thailand.</p>
<b>Turkey</b>	<p><b>Registration: Aircraft register type (questions 3(a) and 3(b)).</b> The answers are provided irrespective of enforcement of Cape Town remedies. The Turkish registry is an owner registry however there are some cases where the operator was registered as owner.</p> <p><b>Deregistration: Convenience of deregistration (question 4(d)).</b> Despite its established practice concerning the surrender of the original certificate, this has not been requested in recent cases.</p> <p><b>Judgments/Arbitration: Enforceability of judgments (questions 6(a) and 6(b)).</b> There are no reciprocal treaties with the UK or with the USA. In order for enforcement of a judgment, Turkish courts require de facto reciprocity to be proven. We are not aware of de facto reciprocity with the USA. De facto reciprocity examples we have seen for English court judgments are not aviation related.</p>
<b>United Kingdom</b>	<p><b>Registration: Aircraft register type (question 3(a)).</b> There is nothing in the Air Navigation Order 2009 (SI 2009/3015) prohibiting registration of an aircraft in the name of the owner in circumstances where the aircraft is leased or chartered to another party who is the operator; however, it has become clear following discussions with the U.K. Civil Aviation Authority ("CAA") that it would be reluctant to allow such an arrangement, strongly preferring the aircraft to be registered in the name of the operator wherever possible.</p> <p><b>Registration: Aircraft register type (question 3(b)).</b> While there is no register to which the public have access recording or noting the identity of the legal owner, the application to register an aircraft requires the legal owner, if not the registrant, to be identified to the CAA who will keep a note of this on (private) record.</p>

**Deregistration: Third party rights to deregister (questions 4(a) and 4(b)).** The U.K. has adopted the Cape Town Convention and Aircraft Protocol and an IDERA registered with the CAA will be honored provided the correct forms are submitted to the CAA. The CAA will not countersign any IDERA but will confirm acceptance of the IDERA by email or letter to the registered owner and the authorized party. If an owner-lessor requests the deregistration of an aircraft which is subject to a mortgage registered on the UK Register of Aircraft Mortgages created prior to 1 November 2015, then the mortgage must be discharged or the consent of the mortgagee must be obtained before such deregistration can occur. If a mortgage is registered on the UK Register of Aircraft Mortgages created after 1 November 2015 consent is not required prior to deregistration.

**Export: Lessee/debtor cooperation (question 5(b)).** A mortgagee does not need the consent of the registered owner or any other party on the CAA's registration records in order to rely on a registered IDERA in order to be able to unilaterally request the aircraft to be deregistered and exported.

**Export: Export licenses and permits (question 5(c)).** An Export Certificate of Airworthiness may be required. For the purposes of the jurisdictional questionnaire, we do not consider this to constitute an export license or permit or any other restriction on the ability to export the aircraft.

**Judgments/Arbitration: Enforceability of judgments (question 6(a)).** While there is no automatic recognition of New York judgments under English law, where the judgment in question is an order for a sum of money, other than judgments in respect of taxes or similar charges or a fine or other penalty, common law allows the judgment creditor to sue on the judgment for payment as if it were any other debt (usually by way of summary judgment). In practice, such a process will often amount to de facto recognition and enforcement without re-examination on the merits.

**Preferential Liens: Government requisition and confiscation (question 7(d)).** While requisition compensation is payable in the United Kingdom in the circumstances described, the degree to which such compensation may be viewed as "reasonable" will be determined by the government.

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## United States

**Repossession: Judicial proceedings: requirement for a deposit, bond or other security (question 1(c)).** Bond/deposit with court - required for an interim order, but not for a post-judgment order.

**Insolvency: Insolvency moratorium (question 2(c)).** For the insolvency moratorium period, the 60 days can be extended in circumstances where the debtor has cured all defaults (other than those defaults constituted by the filing of bankruptcy proceedings).

**Preferential Liens: Unusual or onerous preferential liens (questions 7(a) and 7(b)).** For mechanic's liens, New York law does provide that the lien remains attached for a 30 day period following the lienholder relinquishing possession, although it is uncertain whether its preferential status (above that of a holder of a security interest or an owner-lessor) would continue during such period.

# About the Contributors

Pillsbury gratefully acknowledges and would like to thank all of the contributors in each jurisdiction listed below for dedicating their time, free of charge, to make this publication possible.

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ARGÜELLES & ASOCIADOS  
ABOGADOS

## Argentina - Argüelles & Asociados

**Emilio Argüelles** was the founding senior partner of Argüelles & Asociados in 1985. Mr. Argüelles' aviation practice included six years as general counsel of Argentina's then largest private airline, Austral Líneas Aéreas, and more than 30 years of private practice representing many of the world's leaders aircraft and engines manufacturers, aircraft lessors, banks and financial institutions, including US Eximbank and European ECAs, on most of the major aircraft transactions taken place in Argentina including operative and financing leases, purchase, sale and lease-back, securitization and cross-border operations. Also an extensive practice representing major international as well as domestic airlines on regulatory matters, operational issues, air traffic rights, bilateral air-transport agreements, airport and ground handling matters and litigation. He has worked in several jurisdictions, principally in the USA and other American and European countries. He was member of various committees on air transportation regulations in Argentina, and is currently the coordinator of the Argentine Contact Group for the Aviation Working Group with respect to the Cape Town Convention and a member of the AWG Legal Advisory Panel. Mr. Argüelles is a Fulbright Scholar, received awards from the Institute of Law of the Americas and the Ford Foundation, and was appointed Honorary Citizen of the State of Texas, USA.

**Jorge A. Pezzuti** joined Argüelles & Asociados as partner in 2008, after having worked as senior counsel for another major argentine aviation legal firm since 1994. Mr. Pezzuti has represented through the years most of the principal aircraft manufacturers, lessors and international banks in transactions involving the sale, finance, refinance and transfer of both business aircraft and airliners. As Head of the Litigation Department of Argüelles & Asociados, he has contributed decisively to build the firm's current reputation as the leading firm in this field in Argentina, through its continuing success in protecting creditor's rights at court through the fast collection of defaulted credits and the prompt repossession of aircraft and parts, even in insolvency scenarios. He assists his partner Emilio Argüelles in the coordination of the Argentine Contact Group of the Aviation Working Group, and coordinates the joint activity with local major aviation companies and the federal authorities in matters of implementation of the Cape Town Convention.



### Aruba - Gomez & Coffie

**Lincoln D. Gomez** is a partner of Gomez & Coffie. His corporate law practice is concentrated in the areas of aircraft title, registration, and financing and leasing and related matters. He is also a guest lecturer at the Universiteit van Aruba on Aviation Registration and Aviation Finance Law. His clients and peers refer to him as “the Aruba Guy” for finding creative solutions to complex legal issues in Aruba. He authors an aircraft registration and aviation blog: [www.lincolngomez.com](http://www.lincolngomez.com). Lincoln holds degrees in International Tax & Financial Services from Thomas Jefferson School of Law, a law degree from the Universiteit van Aruba and undergraduate degrees in Sciences from Saint Leo University. He is past President of the Aruba Bar Association. Lincoln counseled the Government of Aruba about the adoption by the Kingdom of the Netherlands of the Cape Town Convention in 2010. He has also advised on implementation of new aviation regulations. He is a frequent speaker at global international aviation registration and finance conferences and works closely with the Registry of Aruba in creating tailor made solutions for aircraft registration in Aruba.



### Australia - King & Wood Mallesons

**John Canning** is a partner in King & Wood Mallesons’ Sydney office where he specializes in cross border, structured finance transactions. John is recommended as a leading individual in the area of Aviation by The International Who’s Who of Aviation Lawyers and by The Best Lawyers in Australia 2015. John has been involved in the design and implementation of the Personal Property Securities Legislation (PPS) with the Attorney General’s Department and Senate Inquiries. John is now advising clients on the impact of the PPS on their business and products. In Chambers Global Guide, John was described as “one of the leading practitioners in Australia” and “well respected on the aviation side.”

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### Austria - Binder Grösswang

**Emanuel Welten** joined Binder Grösswang in 2001 and was promoted to partner in 2009. He specializes in finance, restructuring, banking law and aviation law. He has advised several financing banks and lessors in relation to all aspects of aircraft financing, including the repossessing and relocation of aircraft. Emanuel studied and worked in Vienna, Paris, Brussels and New York.

**Robert Wippel** joined Binder Grösswang in 2014 as a senior associate from a magic circle law firm and specialises in banking and finance as well as aviation law. Robert holds a masters and a doctorate degree in law and studied in Vienna, St. Gallen and Hamburg.





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**Delara Israfilova** joined BM Morrison Partners in 2003 and is a partner of the firm as of 2013. She specializes in finance, including project financing, employment, and general corporate matters. She regularly advises foreign lenders on aircraft finance deals in Azerbaijan. Delara's particular experience includes pioneer transactions such as representing a foreign lender negotiating the Emissions Reduction Purchase Agreement (ERPA) in Azerbaijan and its registration as a "project participant" in the Clean Development Mechanism (CDM) contemplated by the Kyoto Protocol, aircraft financing secured by local pledge, and Eurobond offerings.

**Leyla Safarova** joined BM Morrison Partners in 2013 as an associate. She specializes in intellectual property, including licensing and general corporate matters along with the banking and finance industry expertise. She regularly advises foreign lenders on aircraft finance deals in Azerbaijan. Recently, she advised a US export credit bank and a manufacturer on aircraft finance deals, including engine leases, involving the national air carrier in Azerbaijan.



### Bahrain - Al Salam Advocates

**Ahmed Rahmi** is a partner at Al Salam Advocates. Prior to joining Al Salam Advocates, Ahmed was the Deputy General Counsel of Gulf Air. Ahmed is one of the few lawyers in Bahrain who has, in the aviation field, extensive in-house experience in addition to private practice experience. Ahmed is experienced in reviewing, negotiating and advising on aircraft sale and purchase, wet and dry leasing and all aspects of aircraft financing. Ahmed's experience further extends to undertaking aircraft and security registration/deregistration before the Bahrain CAA; advising in relation to opening new routes/destinations for airlines; and advising on the appointment/termination of general sales agent of airlines. Ahmed is fluent in both Arabic and English.

**Alaa AlQassab** is a senior associate at Al Salam Advocates. Prior to joining Al Salam Advocates, Alaa was a Legal Advisor at Gulf Air. Alaa has extensive experience in advising on the opening and closure of routes and destinations for airlines; and has acted for a number of regional airlines and ground handlers in relation to dispute resolution, commercial and regulatory matters. Alaa possesses a working knowledge of passenger rights and carrier liability and has participated in several seminars and has contributed to many publications relating to these fields. Alaa qualified as a lawyer in Bahrain in 2011, and is fluent in both Arabic and English.



## Bangladesh - Hossain & Khan Associates

**Ali Asif Khan** is one of the Managing Partners of Hossain & Khan Associates and specializes in Company Law, Merger & Acquisitions, Foreign Investment, Banking, Law of Telecommunication & Information Technology, Constitutional Law, Energy Law and Aviation Law. Mr. Khan has extensive experience in the telecommunication sector and has worked as a Legal Consultant for the Bangladesh Telecommunication Regulatory Commission (BTRC) on various Government projects. He is the lead counsel for Robi Axiata Limited, the second largest Cellular Mobile Operator in Bangladesh and he is also the Legal Advisor of Biman Bangladesh Airlines Limited, which is a state owned national carrier of Bangladesh. He has extensive experience in syndication loan financing and has acted as counsel in several loan syndication projects. He was called to the Bar of England and Wales from the Hon'ble Society of Lincoln's Inn upon completion of the Bar Vocational Course (BVC) from the Inns of Court School of Law (ICSL), & PGDL from the City University, London, United Kingdom. Thereafter, he entered the legal profession in Bangladesh and currently practicing as an Advocate of the Hon'ble Appellate Division & High Court Division of the Supreme Court of Bangladesh.

**Mohammed Muddasir Hossain** is a Partner in Hossain & Khan Associates, one of the leading law firms in Bangladesh. He specializes in the areas of corporate law, project finance and banking, aircraft and shipping finance, mergers and acquisitions, foreign exchange regulations, bankruptcy and international arbitration. He leads the firms Asset Finance practice, with a particular focus on international asset finance, leasing and trading. In particular, Mr. Hossain has extensive experience in aircraft related leasing and financing, and over the years, have represented many client in the aviation industry including Biman Bangladesh Airlines Limited, the national airlines of Bangladesh. He was called to the Bar of England and Wales from the Hon'ble Society of Lincoln's Inn, UK and is also an Advocate of the Supreme Court of Bangladesh, the apex court of the court. He also holds an LLM from University of Toronto, Canada.



### Belgium - LVP Law

**Mia Wouters** currently works as Of Counsel at the law firm LVP Law in the Brussels office. She and her team solve problems and represent the interest of airlines and regional airports in all aspects of their operations, from dealing with day-to-day contracts to managing the more complicated relations with ground handlers, security and safety issues or setting up airlines in Belgium. She works with regulators and represents loss adjusters and insurance companies in major accidents and incidents. Her practice, supported by the finest lawyers in the field, also includes wet and dry leasing, buying/selling and repossessing of aircraft and taking care of all the necessary formalities that go with it. In sum, Mia is actively involved in the full range of legal issues arising in the aviation and tourism industry. In 2009, Mia was appointed Professor at the University of Gent, Department of European, Public and International Law where she gives courses in Air Transport Law. She is a director of the European Aviation Club, and serves on the Committee of the UK based Royal Aeronautical Society (RAeS) Brussels Branch. She is also past Chair of the Aviation Law Committee of the International Bar Association (IBA). Mia is one of the founding members of the International Aviation Women's Association (IAWA) and a member of various air law associations. She served as a judge on the European Nuclear Energy Tribunal in Paris under the OECD's Nuclear Energy Agency from 2006 until 2014. Besides regularly being requested as a guest lecturer in aviation law at different universities, Mia has addressed several conferences world-wide on air transportation and has modestly published on aviation matters. She has also been involved in several reports drawn up for the European Commission and was awarded numerous mentions as a leading aviation expert in Belgium.



### Bermuda - Conyers Dill & Pearman

**Julie McLean** is a director in the Bermuda office of Conyers Dill & Pearman and is global head of the Aviation Finance team. Her practice covers asset finance with particular focus on aircraft finance and registrations, as well as investment funds with particular focus on partnerships and private equity. Julie advises investment banks, airlines, leasing companies and investment managers. Julie regularly contributes to industry publications and is the author of the Bermuda chapter of Aircraft Finance (Sweet & Maxwell) and the co-author, Bermuda chapter of Aircraft Liens and Detention Rights (Sweet & Maxwell). Julie works closely with the Bermuda Civil Aviation Authority and was an active participant in the industry group which worked with the Bermuda government to draft and pass the necessary domestic legislation to allow the United Kingdom to extend the Cape Town Convention to Bermuda. She is recognized as a leader in her industry by Legal 500 Caribbean (corporate and commercial), Who's Who Legal (aviation/transport), IFLR1000 and the Expert Guides: Women in Business Law (Aviation).



### Bolivia - C.R. & F. Rojas Abogados S.R.L.

**Maria del Carmen Ballivián**, is Partner of the firm and joined the Firm in 1998. Mrs. Ballivián obtained her law degree from the Universidad Mayor de San Andrés Law School in La Paz, Bolivia and was admitted to practice in 2002. She also holds a Masters in Business Law (LLM) from Universidad Privada de Bolivia and Universidad Javeriana de Colombia and a Masters in Economic Law from Universidad privada Boliviana and Universidad Los Andes de Colombia. She was recognized with first place on an International Baccalaureate Scholarship at Lester B. Pearson College of the Pacific. Among some of her published articles are the following: Doing Business in Bolivia; Aircraft Finance, Registration, Security and Enforcement in Bolivia; and Aircraft Liens and Detention Rights in Bolivia. Has served (i) head counsel for Global Leasing S.A., (ii) in house counsel for BHN Multibanco S.A. and Citibank Sucursal Bolivia (iii) External Legal counsel for International Development Bank (IDB) IFC, CAF, Bank of Ireland, Wells Fargo Bank, Millbank, Standard Chartered Bank, GOL Linhas Aereas S.A., ABSA, TAM Mercosur, ILFC, Pegasus Aviation Inc., Sky Holding, AWAS, GECAS, Cessna Finance Corporation, Pacific Coast Group Aircraft Leasing, Export Development Canada, CIT, K/V Aviation, AerCap, Heli Holdings Limited, Laring American Wings, S.A., ITC AeroLeasing, Inc., among others.



### Brazil - Cascione, Pulino, Boulos & Santos Advogados

**João Paulo Servera** is the Head of Cascione, Pulino, Boulos & Santos Advogados' Aviation & Aircraft Finance department, leading a team exclusively dedicated to Aircraft Finance and General Aviation matters. He focuses his practice on asset finance, with relevant experience in aircraft financing and cross-border transactions, including foreign investment and cross border securitization. With over a decade of experience in aircraft finance transactions involving commercial aircraft, engines, general air service companies, helicopters and corporate aircraft, João assists ECAs, banks, financiers, lessors and operators in the securitization of assets in Brazil and Latin America and has extensive background and experience in aircraft-related commercial litigation, mostly involving aircraft repossession, insolvency procedures and bankruptcy. João is a member of the Aviation Working Group – AWG in Brazil and was directly involved in the implementation of the Cape Town Convention and the drafting of local laws and regulations.



### British Virgin Islands - Conyers Dill & Pearman

**Audrey M. Robertson** is Counsel in the Corporate department of Conyers Dill & Pearman in the British Virgin Islands. Audrey's practice covers general corporate and commercial matters with particular focus on public offerings and joint ventures. She has extensive experience in a wide variety of international asset finance and corporate transactions. Audrey has particular expertise in financings involving aircraft, including aircraft acquisitions and dispositions, sale and leasebacks and pre-delivery payment and warehouse facilities. Audrey advises leading financial institutions, leasing companies, development agencies and companies. Audrey is recognised in a number of international legal directories, including Chambers Global, Legal 500, Who's Who Legal, Legal Media Group Experts Guide and Women in Business Law for her corporate and commercial and aviation law expertise.

**BOYANOV & Co.**  
 ATTORNEYS AT LAW

**Bulgaria - Boyanov & Co.**

**Raina Dimitrova** is a partner at Boyanov & Co. and practices in the area of aircraft finance and leasing, as well as contract law, consumer protection, franchise, procurement, tourism, TMT and other regulatory regimes. Previously, Raina was a senior legal advisor at the Ministry of Trade and Tourism in Bulgaria. She has published many publications, including contributing to *Aircraft Finance* (Longman), and *Aircraft Liens and Detention Rights* (Sweet & Maxwell). Raina graduated with an M.A. in law from Sofia University St. Kliment Ohridski, Bulgaria.

**Borislav Boyanov** is the founding partner of Boyanov & Co. and is a “lead name in the field,” and is highly regarded for his considerable experience and expertise in Bulgarian corporate matters and wider CEE transactional matters. Sources consider him “the person to talk to for strategic advice” – Chambers Europe 2015, Corporate/Commercial. Borislav is the only Bulgarian lawyer regularly listed in *Who’s Who Legal* for M&A. He is a founder and Member of the Board of Directors of the British Bulgarian Business Association, a founder and Chairman of the Indian Bulgarian Business Chamber, the founder, Co-Chair and Honorary Chair of South East Europe Legal Group (SSE Legal) and the Honorary Consul for Malta in Bulgaria. He is also a member of the Sofia Bar Association and the International Bar Association. Borislav graduated with an M.A. in law from Sofia University St. Kliment Ohridski, Bulgaria and was ranked first in his class.


**Canada - Blakes**

**Donald Gray** is head of Blakes’ international aircraft finance practice based in Toronto. He advises a number of aircraft and engine lessors, financiers, manufacturers, and domestic and international airlines on aircraft finance and aviation commercial and regulatory law matters. Donald has advised on the financing or re-financing of more than 700 aircraft over the past 10 years, and he played a leading role on behalf of aircraft lessors and financiers in every significant Canadian airline bankruptcy proceeding in the last 25 years. Donald represented: GECAS in the Air Canada restructuring (Airfinance Journal Deal of the Year Award 2004) and the underwriters in Air Canada’s historic 2013 Enhanced Equipment Trust Certificate (EETC) financing of its Boeing 777 deliveries (Airfinance Journal and Airline Economics Deal of the Year Awards 2014) and the world’s first EETC fully funded on US airline terms with non-USD. Donald was a Canadian delegate to the Unidroit/ICAO sessions which prepared the Cape Town Convention and Aircraft Protocol and has served as a member of the Cape Town Drafting Group and Chair of the Insolvency Sub-group. Donald was a founding member of and has served as chair of the Legal Advisory Panel of the Aviation Working Group (AWG).





### Cayman Islands - Walkers

**James Burch** is a partner in the Corporate & Finance Group in Walkers' Cayman Islands office specializing in all aspects of structured and asset finance. James' aviation finance experience covers aircraft portfolio securitisations and all aspects of cross-border and domestic asset financing and leasing structures, including export credit-supported financings. James is ranked as a rising star by IFLR 1000 and a recommended lawyer by Legal 500. Prior to joining Walkers, James was a partner in the structured and asset finance group of another major offshore firm and at Linklaters in London prior to that.

**Paul Osborne** is a senior counsel in the Corporate & Finance Group in Walkers' Cayman Islands office. He specializes in all aspects of asset finance, with a particular focus on aviation financing. His experience covers all aspects of cross-border and domestic asset financing and leasing structures, including export credit-supported financings, including export credit-wrapped bond refinancings, pre-delivery financing, tax-driven transactions, Japanese operating lease structures, receivables backed financings, aircraft acquisitions and disposals and restructurings. Paul is ranked as a rising star by IFLR 1000 and a next generation lawyer by Legal 500. Prior to joining Walkers Paul worked in the structured and asset finance group of Freshfields Bruckhaus Deringer in London after moving from the asset finance group at Denton Wilde Sapte.



### Chile - Claro & Cia

**Juan León** focuses on Banking & Finance, Capital Market and Bankruptcy and Restructuring. He has been professor of Business Law in Universidad Adolfo Ibáñez. He joined Claro & Cia. in 2004. Since 2016, he has been a member of Toesca Asset Management's Board of Directors. He is admitted to practice in Chile. Languages: Spanish and English.



### China (People's Republic of) - King & Wood Mallesons

**Ma Feng** specializes in banking, project finance, domestic and international lending, establishment projects for financial institutions, and aircraft and equipment financing. He has advised a variety of domestic and foreign banks on banking and foreign exchange matters; and has participated in numerous loan financings, including bank financing, syndicate financing, acquisition financing, export credit and trade financing. Ma Feng has been extensively involved in project financing for numerous cross-border investments, involving natural resources and infrastructure, power plants and subways. He has also been involved in numerous financing and leasing projects for aircraft, ships, large machinery and other equipment, and has advised various domestic and international lessors, financiers and airlines on various commercial aircraft finance structures. In 2016, Ma Feng was ranked as a "Leading Individual" by Chambers Asia Pacific Guide. In 2015, he was recognized as a Rising Star in the area of Banking & Finance by Euromoney's first Rising Stars guide published by Legal Media Group. Ma Feng joined King & Wood Mallesons in 2002. From 2007 until 2009, Ma Feng also held a position as legal adviser at a well-known foreign bank where he provided legal support for bank management personnel and all business lines in China including Global Credit Trading, Private Wealth Management, Private and Corporate Banking, and Global Transaction Banking. Ma Feng earned his LLB and LLM at the University of International Business and Economics.

**Wang Ning** specializes in aviation, banking and finance and debt capital markets. He has extensive experience in aircraft financing and leasing, and assists various domestic and overseas lessors, financiers and airlines in almost all types of transactions in the market, including US Ex-Im guaranteed financing, European ECA financing, French tax leasing, JOLCO leasing and Chinese bonded area leasing. Wang Ning also represents clients in business jet acquisitions and is familiar with each aspect of the purchase, importation, finance and operation of such transactions. He also assists financial institutions in asset backed securitization transactions and advises on offshore bond issuance projects. Wang Ning joined King & Wood Mallesons in November 2006. He received his bachelor's degree in law in 2005 from the China University of Politics and Law, and received his master's degree in internal business law in 2006 from the University of Manchester. Wang Ning was admitted to practice the law of the PRC in 2009.

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**AGUILAR CASTILLO LOVE****Costa Rica - Aguilar Castillo Love**

**Marco Solano** is a corporate partner in the Costa Rica office of Aguilar Castillo Love. His practice focuses on mergers and acquisitions, corporate, finance, transactional and private equity both locally and cross border. He has represented a wide range of clients, including corporations, foreign governments, private equity sponsors and investment banks. He holds an LL.M. from Georgetown University Law Center, Washington, DC. He has practiced in the offices of global law firms in Washington D.C. and New York, gaining exposure to cross-border transactions throughout the Americas. He advises clients in a diverse spectrum of sectors including: banking and financial services, pharmaceutical, retail/services, automobile, heavy construction, medical devices, technology and software among other industries.

**John Aguilar Jr.** is a corporate partner in the Costa Rica office of Aguilar Castillo Love. He is currently the co-managing partner of the firm. His practice focuses on corporate law, antitrust, foreign investments, mergers and acquisitions, and taxation both locally and cross-border throughout the offices in Central America. He holds an LL.M. from Harvard University Law School, Cambridge, MA. He advises clients in a diverse spectrum of sectors including: technology, renewable energies, travel and leisure, real estate, media and entertainment, among other industries.

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### Cote D'ivoire - AnyRay & Partners

**Ika Raymond Any-Gbayere**'s main concentration is corporate transactions in a variety of business sectors and mainly in finance, oil and gas, mining, aviation and telecommunication. With 23 years of experience, Mr. Any-Gbayere has extensive practice in legal advisory and arbitration in the West Africa region. Recent works involve representing clients such as Macquarie AirFinance, Appolo Aviation, CIT, Aviation Capital, Anadarko Petroleum Corporation, Ophir Energy and African Petroleum on PSC and Techmahindra in business acquisitions matters. Recent works also involve representing clients such as Anglo Gold Ashanti and CAT for mining finance deals, Rabobank and India Eximbank in a project finance transaction, Commerzbank for securities regulations and Societe Generale, BNP and ADM for an employee's share plan scheme. Mr. Any-Gbayere is cited as one of the Ivory Coast's leading corporate lawyers in Chambers and Partners and Legal 500. Mr. Any-Gbayere graduated from the University of California at Berkeley (USA) and from the University of Queen Mary in London (UK) where he received respectively a JSD and an LL.M degree and a PgDip in International Commercial Arbitration. He also holds a postgraduate degree in Business law from the University of Abidjan in Cote d'Ivoire and a Certificate in English law from the London School of Economics and Political Science. He received his first law degree from the University Francois Rabelais (Tours in France) and he studied Tax Law at University of Paris I Pantheon-Sorbonne. Mr. Any-Gbayere is currently a member of the Chartered Institute of Arbitrators of London and is a lecturer at the University of Abidjan in the Ivory Coast.

**Marie-Claude Koffi-Dihye** has showed in the last 4 years extensive knowledge and leadership in financial transactions and regulations. She has worked on project finance deals (backed by complex guarantees), credit insurance in the field of Import-Export, mining, banking and micro-finance. She has assisted clients such as SACE (Italian Credit Insurance Institution for Export), the Bank of America and GE Capital. Ms. Koffi-Dihye has also worked on projects in the field of telecommunications for clients such as Apple, Samsung and Amazon in the OHADA space. In the last two years, she has showed progressive leadership in aviation law assisting clients such as CIT, Macquarie Airfinance and Pillsbury. Ms. Koffi-Dihye graduated from the Catholic University of Abidjan in the Ivory Coast, the Universities of Vannes and Le Havre in France, where she respectively received a Bachelor, a Master's degree in Business Law and New Technologies, and a Graduate degree in General Theory of Law.



### Croatia - Kovačević Prpić Simeunović LLC

**Danijela Simeunović** is one of the founding partners of Kovačević Prpić Simeunović LLC. Aviation and transport law, as well as banking and finance, are the core areas of her practice. Danijela was engaged in some of the largest transactions in the Croatian aircraft industry in the last decade. She has significant expertise in advising international financial institutions and lessors, predominantly on aircraft purchase and deliveries, leasing, financing and refinancing of aircraft and aircraft engines. She regularly represents clients before the Croatian Aviation Authority (Civil Aviation Agency) in Croatia, in particular in registration and deregistration proceedings before the Civil Aircraft Registry. She also advised airlines in regulatory matters, wet lease arrangements and legal disputes arising from their commercial contracts. She is a member of European Air Law Association (EALA), while Kovačević Prpić Simeunović LLC is one of the founding members of the Croatian Transport Law Association. Danijela has been recognised in the leading legal directories, namely, Legal 500, Chambers & Partners and IFLR1000. She is a standing court interpreter for English and German and is the firm's main contact for clients from German speaking countries.



### Curacao - Gomez & Coffie

**Lincoln D. Gomez** is a partner of Gomez & Coffie. His corporate law practice is concentrated in the areas of aircraft title, registration, and financing and leasing and related matters. He is also a guest lecturer at the Universiteit van Aruba on Aviation Registration and Aviation Finance Law. He authors an aircraft registration and aviation blog: [www.lincolngomez.com](http://www.lincolngomez.com). Lincoln holds degrees in International Tax & Financial Services from Thomas Jefferson School of Law, a law degree from the Universiteit van Aruba and undergraduate degrees in Sciences from Saint Leo University. He has also advised on implementation of new aviation regulations, including those related to the Cape Town Convention. He is a frequent speaker at global international aviation registration and finance conferences.

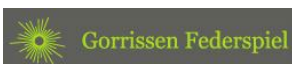


### Czech Republic - Kocián Šolc Balaščík, Advokátní Kancelář, S.R.O.

**Jiří Horník** is a partner and leader of KSB's aviation practice. Apart from graduating from Czech universities (Masaryk, Charles), he also graduated from McGill's Institute of Air & Space Law (2001) and was an intern at the Aviation Directorate at the European Commission (2004). Jiří has built up KSB's aviation practice, which is considered one of the few aviation practices in the Czech Republic. He has been advising local and foreign airlines on aircraft financing, repossession, regulatory and other issues and represented them in many litigation cases. Jiří is a member of the Management Committee of the European Air Law Association (EALA) and is recognized by Who's Who Legal as leading aviation lawyer in the Czech Republic.

**Petr Koblavský** is a senior associate at KSB. He graduated from Yale in 2004, as well as from other leading universities (Masaryk, Charles, Goethe); he was also a visiting researcher at Harvard Law. Petr joined KSB in 2014 from a top tier international firm where he focused on banking. He has been advising clients on a wide range of domestic and cross-border financing, private equity and M&A transactions. His previous experience also includes advising on general debt and equity capital market transactions. Petr is admitted to practice in New York and in the Czech Republic and his strong knowledge of economics and finance assists him in his position as a head of the Liberal Institute and a chairman of the Institute for the Behavioral and Economic Studies.

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#### **Denmark - Gorrissen Federspiel**

**Morten Hans Jakobsen** is a Partner and heads up the aviation department of Gorrissen Federspiel in Copenhagen, Denmark. Since 1997 he has specialised in aviation and aircraft finance and advises airlines, aircraft and engine lessors, banks and other players within the aviation sector in matters relating to, inter alia, leasing, wetleasing, charters, purchase/sale, maintenance, incidents and accidents, regulatory matters, registration, arrest and repossession, traffic rights, insurance, code-sharing, airline start-ups, insolvencies and insolvency work-outs and industry related M&A, procurement and restructurings. In addition to his aviation and aircraft finance practice, Morten advises on ship finance and other asset finance and leasing matters. Also, in 2015, Morten joined the firm's restructuring and insolvency department and is the head of the Copenhagen department. Morten is on the management committee of the European Air Law Association and holds office as secretary of the association. He co-lectures at the annual 'Aircraft Finance' workshop at Leiden University's International Institute of Air and Space Law and speaks at aviation related conferences and seminars, both nationally and internationally. Morten also contributes often to various national and international publications on aviation and finance issues. Morten is also on the Aviation Working Group's legal advisory panel and chairs the Nordic contact group in that respect. For many years, Gorrissen Federspiel has been positioned as a leading corporate law firm in Denmark with strong and long standing international relations. Gorrissen Federspiel numbers more than 260 lawyers and has offices both in Copenhagen and Aarhus.

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### Dominican Republic - Raful Sicard & Polanco

**María Esther Fernández A. de Pou** is a partner at Raful Sicard & Polanco and has extended experience in the fields of aeronautics and airports. She has been for several years the Legal Counsel for Asociación de Líneas Aéreas (ALA- Airlines Association), as well as the Airports Association. She provides specialized consulting services to private sector clients in the different branches of these sectors with regard to all their legal needs in the country. She has worked for several years in the maritime, corporate (mergers and acquisitions), foreign investment and finance structuring domains, customs, tax, as well as concessions, privatizations, agreements, real estate law and dispute resolution. Throughout her professional career she has advised leading companies in these sectors in their business operations in the Dominican Republic. In addition, she has represented the Dominican Republic before the International Civil Aviation Organization (ICAO) and the Latin American Civil Aviation Commission (LACAC). She has participated in numerous national and international conferences of the subject as speaker and has been a professor at several national universities and institutions. She has made several contributions to various national and international publications and has collaborated internationally in several books on aeronautics.



### Ecuador - CorralRosales

**Xavier Rosales** is a senior partner at CorralRosales in Ecuador. Xavier leads the aviation practice at the firm, serving the industry for over 15 years. Xavier also practices in the areas of corporate and competition law. His extensive aviation practice, business-oriented legal advice, industry-specific knowledge, and economic knowledge and understanding have been key for rendering sophisticated and tailored advice and solutions to his clients. Clients praise his ability to develop thoughtful strategies for dealing with highly complicated cases, making it seem as if dealing with the case were straight forward. Clients also highlight his availability and hands-on approach, together with his accuracy and detail-oriented style in providing legal advice. Xavier is involved in financing, regulatory and litigation aviation work. He handles all phases of the airline process to start operations, obtain route authority and keep current with its regulatory obligations to operate. Xavier is also involved in competition cases involving airlines and the aviation industry. He also represents airlines in regulatory, consumer protection and other litigation in representation of different airlines. Xavier also represents lessors, financiers and others in the sale, lease and use of aircraft.



### Egypt - Rizkana & Partners

**Sherif El Hosseney** is a founding Partner of Rizkana & Partners. His practice areas are aviation (mainly aircraft finance), banking & finance, project finance, energy, general corporate and acquisitions, real estate and hospitality.

**Hazim A. Rizkana** is the Managing Partner of Rizkana & Partners. Hazim focuses on litigation and arbitration, banking and finance, civil, commercial and private law, aircraft finance, mergers and acquisitions, securities, trademarks and patents. Apart from assisting some of the biggest multinational companies execute high-value deals, he has also been called on to assist draft and review the new Banking Law, the Acquisition Rules under the Capital Market Law, the Mediation Law and the amendments to the Competition Law.

# Arias

## El Salvador - Arias & Muñoz

**Ana Mercedes Lopez** is a partner at Arias & Muñoz and holds a Law Degree from Universidad Dr. Jose Matías Delgado. She is authorized as a practicing attorney and notary public by the Supreme Court of El Salvador. She has a Master's Degree in Entrepreneurial Law from Universidad Navarra, Spain and a Diploma in Family Education from the European Institute of Education. Ana Mercedes obtained a Master's degree in Bioethics, by Universidad del Istmo, Guatemala. She is a Partner at Arias & Muñoz and leads important transactions related mainly to the Corporate and Banking and Finance practices, along with other specialized areas. She has led project financing deals for aviation and electricity companies, among others. She has also advised multinational companies on mergers and acquisitions as well as corporate governance.

**Carolina Lazo** is a partner at Arias & Muñoz and obtained her Law Degree from Universidad Dr. José Matías Delgado in 2002. In 2005 she was granted the Fulbright Scholarship by the United States Government to carry out her Master's Degree and obtained an LL.M. in International Legal Studies, with a specialization in International Environmental Law from American University in Washington, D.C. in 2006, where her performance was recognized by the Washington College of Law, awarding her with the Edward Bou Award, an academic award given by American University for outstanding performance in the ILSP program. Prior to these studies, in July 2005, Carolina participated in the seminar "Introduction to the US Legal System" at Tulane Law School in New Orleans. Carolina has also participated and attended seminars and conferences, both in El Salvador and abroad, related to aviation, aviation financing, environmental law, energy, real estate, among others. Carolina has advised a great number of clients in different aircraft financing transactions from a local regulatory point of view, which has involved leases, subleases and guarantees, involving local air operators. In that area, Carolina's participation is to provide opinions and other advice related to issues arising from such transactions such as the registration of documents on the register.

## Estonia - Ellex Raidla

# Ellex<sup>®</sup> Raidla

**Toomas Vaher** is a Partner of Ellex Raidla law firm in Estonia. He is one of the most highly regarded litigation experts in Estonia and is also known as a long-standing board member and the former president of the Estonian Bar Association (2010–2013). Over the years, Toomas has advised clients in a number of large and complex litigation matters. Toomas has participated in arbitration proceedings as an Arbitrator and a Party Representative, both in domestic and international arbitration. He is also a recognized expert and adviser in alternative dispute resolution. Chambers Global notes that Toomas Vaher is a long-standing figure in the market, with extensive experience of arbitration and litigation proceedings. Sources state: "He is one of a kind - a big ideas generator who thinks outside the box and offers some unique approaches to cases."

**Arne Ots** is one of the most widely recognised litigation and public procurement specialists in Estonia. Over the years, he has advised both procurement vendors and bidders in procurement processes and related disputes. He has also organised a large number of seminars and training sessions in the field for various companies in the energy, IT, construction and health care sectors. In addition to his profound experience in the procurement area, Arne has significant experience in advising clients in litigation in Estonian courts, bankruptcy proceedings, international arbitration cases in Estonia and abroad and in labour law matters as well as in white collar crime cases. He has spoken at a number of local and international conferences, forums and seminars on issues related to his chosen fields. Chambers Global recognizes that market commentators applaud Arne as a well-respected litigator and “a very sharp and systematic lawyer,” who is “able to dig deeply and effectively into the complicated cases and figure out non-standard solutions.”.



#### Ethiopia - EDG Law

**Eidom H. Gebreyohannes** founded EDG LAW in response to the need for genuine experience and expertise in the areas of aircraft finance and leasing, aviation liability matters and in aviation law in general. Eidom is recognized internationally as pre-eminent in international aircraft transactions, airline liability, aviation regulatory and insurance matters having worked as Head of Legal and Insurance for a major aircraft lessor and in-house counsel for one of the most successful airlines in the world. He is able to draw from his invaluable experience with the Cassation Division of the Federal Supreme Court where he played a prominent role in some of the leading binding legal interpretations of the Court, and experience gained in independent practice representing a wide array of clients. Eidom has also had the opportunity to represent the lessor in the very first and only hostile deregistration of an Ethiopian registered aircraft. Eidom holds an LLB (Honors) from the Law School of Addis Ababa University having graduated top of his class and an LLM in Air and Space Law from the Law School of Leiden University courtesy of merit-based scholarships from ISTAT and Leiden University.



#### Fiji - Munro Keys

**Richard Naidu** is a Partner at Munro Leys and the leader of the firm’s aviation practice. Richard acts for operators, lessors and financiers on aircraft leases, security documentation, taxation and general advice. He is a member of the *International Bar Association Aviation Committee* and joint author of the Fiji chapter of *Aircraft Finance: Registration, Security and Enforcement* (ed. Graham McBain, Sweet & Maxwell) and *Aircraft Liens and Detention Rights* (ed. Graham McBain, Sweet & Maxwell).

**Emily King** is an Associate at Munro Leys and advises operators, lessors and financiers on aircraft leases, security documentation and general registration issues in Fiji. Emily is a joint author of the Fiji chapter of *Aircraft Liens & Detention Rights* (ed. Graham McBain, Sweet & Maxwell).

**BORENIUS****Finland - Borenius**

**Ulla von Weissenberg** has been working with shipping, aviation and other logistics law issues since 1994. She is regularly involved in complex cross-border litigations and arbitrations. Ulla is as well-experienced in contract drafting with deep knowledge on issues relating to various aspects of shipbuilding and sale of second hand tonnage, aircraft financing and various insurance related issues. She is one of the most renowned experts in Finland in legal aspects of international trade including sanctions and trade restrictions. Presently Ulla is heading the Shipping, Transport and Insurance practice of Borenius, and the team works closely together with the other experienced practices of Borenius.

**Robert Peldán** gives advice on insolvency, dispute resolution and banking & finance related matters. Robert has substantial experience in advising companies, creditors, lenders, investors, and other stakeholders on a variety of liquidations, distressed situations, and complex restructuring matters. During his career, Mr. Peldán have engaged in more than 450 insolvency and corporate related tasks and has acted as administrator in bankruptcies and restructurings. In addition to legal insolvency proceedings, Robert have given advise in several voluntary restructurings advising both the creditors and the distressed companies. Currently, Robert leads Borenius Restructuring & Insolvency team in Helsinki and forms a part of Borenius highly-merited Banking & Finance team.

**France, French Polynesia - Hénaff D'estrées**

**Yves Hénaff d'Estrées** is a member of the Paris and New York bars, practices and is officially certified in France as a specialist in commercial, business and competition law, and in international law and the law of the European Union. Yves is the Chairman of the Section on Aircraft and Vice-President of SFDAS (the French Society of Air and Space Law, [www.sfdas.org](http://www.sfdas.org)) and the Chairman of Eurolegal ([www.eurolegal.net](http://www.eurolegal.net)). He organized the first conference on aircraft repossession in France, June 1, 2015 which included the participation of the DGAC, the French Civil Aviation Authority. Yves is the author of many publications including "Aircraft Finance, Registration, Security and Enforcement", sections on France, French Polynesia and New Caledonia, "Aircraft Liens & Detention Rights", sections on France, French Polynesia and New Caledonia, and "Aircraft Financing in France" (Thomson - Sweet & Maxwell, London, General Editor Graham McBain), and "La Location d'Aéronef" (Aircraft leasing) (JurisClasseur Transport - LexisNexis, Paris).



### Georgia - BGI Legal

BGI Legal is recognized as Georgia's leading independent full-service law firm, offering clients full range of legal and professional services. BGI Legal are routinely ranked as a top law firm in Georgia by all leading international legal directories (Chambers Global, Chambers Europe, PLC, Legal 500 and IFLR1000). BGI's lawyers have taken a lead role in substantially every major transaction to take place in Georgia over the last two decades. Our experience of recognized market leaders puts us in a unique position to assist clients by effectively synergizing international experience with peculiarities of local business environment. We represent major foreign investors and lending institutions, real estate and infrastructure developers, national companies, joint ventures, diplomatic missions and international organizations. Almost all of our attorneys have advanced law degrees from US and European law schools and are well-versed in the tradition of western law practices, while two of our partners are also licensed to practice in the State of New York.



### Germany - Ehlers, Ehlers & Partner

**P. Nikolai Ehlers** (Dr.), the partner in charge of the aviation practice of Ehlers, Ehlers & Partner (Munich/Germany), is qualified as a lawyer both in Germany and in New York. Dr. Ehlers regularly advises on aircraft and engine finance and lease transactions (German and cross-border leases, sale and purchase of aircraft and engines, registration of title and security interests and repossession). He has extensive experience of advising and representing airlines, aerospace manufacturers and their insurers in liability matters and conducting complex litigation involving international parties. His practice also focuses on regulatory issues, passenger rights, airport access, competition matters, alliances and code sharing, insolvency proceedings, tour operator liability regulation, CRS matters, maintenance contracts, licensing and corporate transactions. Dr. Ehlers holds degrees from the Cologne and the McGill Institutes of Air and Space Law. He is an officer of the European Air Law Association, a member of the advisory board of the Journal of Air Law and Commerce (SMU-Dallas) and of the German Journal of Air and Space Law (ZLW). Dr. Ehlers has written and co-written several books and numerous articles. He has spoken on air law topics in Europe, the US, the Middle East, Asia and Australia. For many years he has organized the biennial Munich Liability Seminar of the European Air Law Association.



### Greece - Bahas, Gramatidis & Partners

**Betty Smyrniou** is a Senior Associate and the leading lawyer in the aviation practice. She is also one of the leading Greek experts in aviation law, representing leasing companies, as well as banking institutions, in aircraft finance, leasing, acquisitions and operational matters and dealing with all sorts of issues relating to airlines in Greece. She is an author in various publications on Aviation law (Aviation Law ICLG & Getting the deal through).



## AGUILAR CASTILLO LOVE

**Guatemala - Aguilar Castillo Love**

**Juan Carlos Castillo** is a partner in the Guatemala office of Aguilar Castillo Love. Juan is a graduate of the Universidad Francisco Marroquin (Lawyer and Notary Public, magna cum laude (1991) and Harvard University, Law School (LL.M., 1991). Juan has been a legal advisor to the Guatemalan Government in the Privatization of Electric Generation and Distribution Companies, and to the Guatemalan Government in the Privatization of Guatemala's Ports and Airports. He is a member of the Colegio de Abogados de Guatemala. Juan authored a publication titled "Judicial Independence in Guatemala, A Critical Analysis", which was published at Harvard Law School in 1991. Juan was also the President of the Guatemalan Stock Exchange Market, 1999 – 2007 and is a professor of Public International Law, Universidad Francisco Marroquin since 1993.

**Natalia Callejas** is an associate in the Guatemala office of Aguilar Castillo Love and is admitted to practice in Guatemala. Natalia is a graduate of the Universidad Francisco Marroquín (Lawyer and Notary Public, 2013) and a member of the Guatemalan Bar Association.

## MOURANT OZANNES

**Guernsey - Mourant Ozannes**

**John Rochester** is a partner in Mourant Ozannes' Guernsey Finance & Corporate team. John's practice covers corporate (including private equity, public and private M&A, joint ventures, corporate structuring and corporate real estate structuring and transactions), banking and finance and asset finance (including aircraft and ship finance). Prior to joining the Guernsey office, John spent five years working in Mourant Ozannes' Jersey Finance & Corporate team and, prior to that, four years in another major offshore firm's BVI office. John trained as a solicitor at Linklaters' London and Hong Kong offices, and qualified into their Asset Finance department.

**Alana Gillies** is a Senior Associate at Mourant Ozannes. Prior to joining Mourant Ozannes, Alana worked at Anderson Strathern LLP in Scotland from 2008 until April 2014. Alana specialises in providing advice on all aspects of Guernsey corporate and banking law for private limited companies, partnerships, public bodies and individuals including advising on mergers and acquisitions, banking and finance (including aircraft finance), Guernsey competition law, standard terms & conditions and bespoke commercial contracts.



### Hong Kong - Pillsbury Winthrop Shaw Pittman LLP

**Paul Jebely** is the managing partner of Pillsbury's Hong Kong office and co-leader of the firm's Asset Finance practice. Recognized as a leading aviation lawyer, Mr. Jebely advises on billions of dollars' worth of commercial and business aircraft finance transactions, leasing and trading transactions and enforcement and repossession situations. Mr. Jebely has been repeatedly recognized by *Chambers*, *Legal 500* and *Who's Who* as a "very highly rated" leading individual in aviation finance and has been singled out in *Chambers* as "extremely competent," "commercially aware," "responsive," "courteous," "technically skilled," "capable," "attentive" and "driven." He has been quoted by the *Financial Times*, the *Wall Street Journal*, *Bloomberg*, the *China Business Network* and various industry publications on the basis of his experience in the aviation markets in Asia and Africa in particular. He was the 2015 recipient of the "Outstanding Contribution to African Aviation Development" award—the only lawyer to receive the award since its inception in 1999, and was recognized by *Asian Legal Business* in October 2016 among "Asia 40 Under 40" top "brightest legal minds in the region." Mr. Jebely has earned a Band 1 ranking globally in *Chambers High Net Worth* for private aircraft-related legal counsel in 2018. Sources have noted that "he is one of the best lawyers [they] have ever met in [their] life, in terms of professionalism and knowledge in the field and patience explaining everything."



### Hungary - Lakatos, Köves And Partners

**Szabolcs Mestyán** is a partner at Lakatos, Köves and Partners and head of the firm's banking and finance and aviation practice. He has developed expertise in and acquired knowledge of asset and project finance, as well as the Hungarian law aspects of securitization matters. Szabolcs is recognized internationally as the best Hungarian aviation law expert. Szabolcs is also regarded as an up-and-coming and cutting-edge expert in capital markets transactions, in aircraft finance and in banking consumer protection matters. He obtained a diploma in law from the Faculty of Law and Politics at Eötvös Loránd University in 2005. He also holds an LL.M. degree which he obtained from the University of London. He joined Lakatos, Köves and Partners in 2005, and became a partner as of 2014.



### Iceland - LOGOS

**Erlendur Gíslason** has been partner since 1998 and his primary practice areas are aviation law and aircraft finance. Erlendur is a leading aviation lawyer in Iceland and regularly advises airlines and financiers on all aspects of different aircraft leasing structures, aircraft acquisitions and aircraft financing, as well as aircraft and mortgage registrations in Iceland. He has been nominated as a leading individual by *Chambers* and *Legal500*.



### India - AZB & Partners

**Ashwin Ramanathan** is a Partner at AZB & Partners and the head of the Firm's aviation practice. Ashwin's practice areas include banking and finance, structured finance transactions, mergers and acquisitions, fund formation and private equity transactions. He also advises clients in the derivatives and aviation finance space. Ashwin's expertise includes deregistration and repossession of aircraft, operating and finance leasing and commercial financing for corporate jets. Ashwin regularly represents private equity investments in publicly listed as well as privately held companies. He is also a part of the firm's regulatory advisory practice advising clients on banking and securities laws and regulations. Due to the fact that his background covers both debt and equity, in recent times, he has been particularly active in the restructuring and insolvency space.

**Rishiraj Baruah** is an Associate at AZB & Partners. Rishiraj primarily works with AZB & Partners' aviation practice. He has assisted in leasing, financing, securitization, and structuring of various cross border aviation matters. Rishiraj graduated from Leiden University with a specialization in aviation and space law and was previously a research scholar at UNIDROIT, Rome. He is also involved with the firm's banking, finance and insolvency related practice.

### Indonesia - Roosdiono & Partners



**Afriyan Rachmad** is a partner at Roosdiono & Partners and is a projects and infrastructure specialist with particular expertise in resources and projects including turnkey and construction contracts, production sharing contracts, farm-out as well as service agreements. He represents onshore and offshore clients and assists government institutions and regulators on major infrastructure projects in the sectors of toll roads, electricity, railways, power plants and water, and major companies in mining and oil & gas sectors. He also advises clients on corporate & commercial matters, mergers and acquisitions and due diligence transactions. Afriyan's litigation experience includes dispute resolution matters, arbitration proceedings and criminal and civil proceedings throughout various court levels in Indonesia. Prior to joining Roosdiono & Partners, Afriyan practiced in a major corporate law firm focusing on infrastructure projects. Afriyan is a frequent speaker at various highly regarded conferences and seminars. His previous speaking engagements include the Construction Business Mission to Jakarta, SBM ITB – Business Contract and Alternative Dispute Settlement and Capitalizing on Indonesia's Diverse Investment Opportunities.

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**Louise Patricia Esmeralda** is a Senior Associate with more than 8 years of in-house and private practice experience. Louise is experienced in handling a wide range corporate and commercial transaction areas, including Corporate Commercial, Aircraft Financing, Investment, Corporate & Project Financing, Mergers & Acquisitions and Capital Market & Securities. During her time with the firm, she has advised and represented numerous onshore and offshore clients in various industries, including aviation, mining & energy, technology, media & telecommunication. She has also advised clients on regulatory compliance, in particular on anti-corruption matters. Previously as an in-house counsel, she has been involved in various transactions such as corporate financing and refinancing, initial public offering preparation, project financing and business development projects; in addition to daily corporate and commercial contract areas including procurement and supply chain contracts, and corporate secretarial matters. Prior to joining Roosdiono & Partners, Louise has worked for a publicly listed company and a multinational company in the coal-mining sector.

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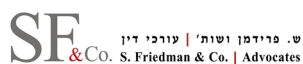


#### Ireland - Walkers

**Ken Rush** is a partner and head of the Walkers Ireland Asset & Aviation Finance Group. He specializes in all aspects of asset finance and leasing with a focus on the financing and leasing of aircraft, aircraft engines, helicopters and other heavy transportation assets (such as rolling stock and vessels). Ken's clients include aircraft owners, arrangers, airlines, asset financiers and lessors. Ken is ranked as one of Ireland's leading aviation finance experts by the major legal directories including Chambers & Partners, Legal 500 and IFLR 1000. Prior to joining Walkers Ken worked in the asset and structured finance practice of Clifford Chance London and also in-house with RBS Aerospace (now SMBC Aviation Capital).

**Killian McSharry** is a senior associate in the Walkers Ireland Asset & Aviation Finance Group. He has extensive experience advising banks, financial institutions, international aircraft operating lessors, aircraft owners, financial arrangers and private equity groups on asset finance transactions. Killian has advised on the financing and leasing of both fixed wing and rotary aircraft including government-supported financings, secured lending, pre-delivery financings, cross-border and operating leases, the purchase and sale of single aircraft and multi-aircraft portfolios, workouts and restructurings, debt finance and security matters, domestic and cross-border tax-driven leasing, and sale and lease-back financing. Killian also has experience on a wide range of cross border banking and finance transactions, including bilateral and syndicated lending, leveraged and acquisition financings and restructurings. Prior to joining Walkers, Killian was an associate in the finance department of a leading law firm after qualifying at the same firm. During his time there, Killian was seconded to Lloyds Banking Group, London.

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### Israel - S. Friedman & Co. Advocates

**Sarit Molcho** is a senior partner in S. Friedman & Co., and the head of its corporate practice. Sarit's practice covers corporate (including private equity, public and private M&A, joint ventures, corporate structuring and commercial transactions), banking and finance and asset finance (including aircraft and ship finance). Sarit is the co-contributor of the Israeli chapter of the books "Aircraft Liens" and "Aircraft Finance – Registration, Security and Enforcement". Sarit has been recognized by legal directories such as Legal 500 as a "highly knowledgeable and very supportive lawyer. Sarit is a member of the Israeli bar and the NY bar. During the years 1991-1992, Sarit practised as a foreign lawyer in the New York office of Davis Polk.



### Italy - Studio Pierallini

**Laura Pierallini**, founder and named partner of Studio Pierallini, spent years at the legal and tax department of Arthur Andersen and was the managing partner of the international law firm Coudert Brothers in Rome. She is a professor of commercial law and Director of the Air Law Executive Course at LUISS University of Rome. She has practised aviation law since 1988. Her practice includes all areas of aviation law such as aircraft financing, regulatory, contentious, insurance, tax, labour, customs and corporate. Ms. Pierallini organises and attends many conferences on aviation, delivering speeches and moderating panels at various Italian and international symposia including those organised by IATA, EALA, and EAC. She is a Committee member of European Air Law Association, member of the International Aviation Women's Association and the European Aviation Club and has been shortlisted as Best Aviation Lawyer for the Europe Women in Business Law Awards in 2015, 2016, 2017 and 2018 and recognised as Thought Leader of Aviation by Who's Who Legal Expert Guide of 2018.

**Gianluigi Ascenzi** is a senior associate at Studio Pierallini and has an extensive expertise in all areas of aviation law, with over 16 years of practice. He concentrates on commercial, cargo and private jet carrier transactions, with broad experience in the structuring, drafting and negotiation of acquisition, financing and leasing operations and portfolio sales. Gianluigi also provides a full range of legal services to clients involved in the industry (mainly financial institutions, lessors, lessees, airframe and engine manufacturers, airlines, purchasers and sellers of aircraft equipment) in respect of aircraft management, registration and deregistration of aircraft and mortgages, security matters, enforcement issues. He deals on a regular basis with the negotiation and closing of sophisticated transactions, including operating leases, code-share agreements, wet leases, maintenance and technical services agreements. He has a significant expertise in various regulatory aspects of the air transport system, including competition issues, traffic rights and slots, data and consumer protection, relationships and filings with the civil aviation authorities, environmental issues, airport charges and ground handling. Gianluigi also represents clients in all aspects of corporate and commercial law, including M&A transactions, relationships with suppliers, clients and business partners, corporate governance, acquisition and management of assets. He is an attendee at aviation conferences worldwide and contributes to international publications on aviation law. Gianluigi is a member of the bar in Italy. He received his law degree from LUISS - University of Rome in 2000.



### Japan - Pillsbury Winthrop Shaw Pittman LLP

**Olivia Matsushita** is a partner in Pillsbury's Finance practice and a member of the Asset Finance team. Based in Tokyo, Olivia has been resident in the Japanese market for several years and her practice spans acquisition financing, project financing of cross-border energy and infrastructure transactions and the financing of moveable assets utilising a range of financing structures. Olivia is an English and Australian law qualified solicitor and is registered as a Foreign Admitted Lawyer (gaikokuho jimusho) in Japan. She is fluent in Japanese. Olivia has been named a "Next-Generation Lawyer" for Projects and Energy in Japan in the 2016 edition of The Legal 500.

**Masao Kasatsugu** is a senior associate based in Pillsbury's Tokyo office and is a member of the Asset Finance team. He regularly advises Japanese clients that include major trading houses, financial institutions and manufacturers on their cross border financing transactions, energy related projects, mergers and acquisitions, restructurings and general corporate law. He is a Japanese qualified Bengoshi and a member of the Dai-ichi Tokyo Bar Association.

### MOURANT OZANNES

### Jersey - Mourant Ozannes

**James Hill** is a partner in Mourant Ozannes' Finance & Corporate team. James has a wide ranging practice covering corporate (including private equity, public and private M&A, joint ventures, corporate structuring and JPUT and corporate real estate structuring and transactions), equity capital markets (including IPOs and redomiciliations), banking and finance, debt capital markets and Channel Island Securities Exchange listings. James has been involved in many of the major transactions in Jersey in recent years and has played an important role in company law developments.

**Alastair Syvret** is a Partner in Mourant Ozannes' Jersey office. Alastair has advised on the establishment and operation of a variety of aircraft owning structures using Jersey companies over more than 20 years. These have included a number of significant aircraft securitisation vehicles. He has also advised on various refinancings and restructurings of distressed entities.



### Jordan - Ali Sharif Zu'bi Advocates & Legal Consultants

**Khaled Asfour** joined Ali Sharif Zu'bi Advocates & Legal Consultants in April 1992 as an associate. He became a partner in August 1997 and Ali Sharif Zu'bi Advocates & Legal Consultants' Managing Partner in 2005. Khaled, an exceptional lawyer with extensive legal and financial expertise, is head of Ali Sharif Zu'bi Advocates & Legal Consultants' Projects and Major Transactions Department. He has acted as lead lawyer on a variety of financing transactions including several aviation finance transactions, the underwriting and syndication of loans, secured commercial lending transactions, commercial paper, foreign trade financing transactions and a variety of equity and debt finance.



**Farah Alrefai** joined Ali Sharif Zu'bi Advocates & Legal Consultants in September 2016 after having graduated with a Bachelors of Law (L.L.B) from Lancaster University and completed the Legal Practice Course in BPP University, London. She became a member of Ali Sharif Zu'bi Advocates & Legal Consultants' Projects and Major Transactions Department in September 2017. Farah has worked on several project finance transactions including leasing transactions representing aircraft leasing companies and owners.

#### Kazakhstan - Kinstellar

KINSTELLAR

**Joel Benjamin** is the Managing Partner of the Almaty office of Kinstellar. Joel advises international and local clients in various industries, including oil and gas, mining, banking, telecommunications and media. His practice focuses on mergers and acquisitions, banking, finance and capital markets transactions. Joel is highly recommended by *Chambers Global*, *The Legal 500* and *IFLR 1000*. Joel is admitted to practice law in California, holds an MBA in Finance from the Wharton School, University of Pennsylvania and is a graduate of the University of Pennsylvania Law School. In addition to Kazakh law expertise, Joel has more than 15 years of experience assisting clients on Uzbekistan law issues.

**Maksim Grekov** is Of Counsel in the Almaty office of Kinstellar. Maksim has over 20 years of experience advising major international and local companies in Kazakhstan and other Central Asian countries spanning a wide range of practice areas, including M&A and general corporate, banking and finance, including debt & equity capital markets, derivatives and other financial products. Maksim is ranked among the top practitioners in Kazakhstan by global legal guides such as *Chambers Global* and *IFLR1000*.

**Kuanysh Kanlybayev** is a Managing Associate in the Almaty office of Kinstellar. Practicing law since 1993, Kuanysh advises clients regarding M&A, corporate, competition and employment issues. His experience includes representation of companies in cross-border transactions, corporate acquisitions, equity and loan investments and the establishment and liquidation of legal entities. He also advises on the sale and purchase and leasing of real estate, and leasing of aircraft and helicopters.

#### Kenya - MMAN Advocates



**Suzanne Muthaura** is a Partner at MMAN Advocates. She has over eighteen years' experience in commercial and corporate law practice, with particular expertise in asset finance, equipment leasing, capital markets, corporate advice, commercial contracts, infrastructure projects, mergers and acquisitions and private equity. Suzanne has acted as lead counsel to both local and international clients in numerous transactions over the years. In addition to being an Advocate of the High Court of Kenya, she is a Certified Public Secretary and a member of the Law Society of Kenya. She holds an LL.M. in Corporate and Commercial law from the London School of Economics, and an LL.B. degree from the University of Warwick. Suzanne was recognized as one of the world's leading practitioners in Aviation Finance by Who's Who Legal in 2015. An internationally recognized rating firm, Chambers Global, has ranked Suzanne as one of Kenya's leading commercial lawyers for several years. In the 2017 Chambers Global guide, Suzanne was described "...as one of the best aviation lawyers in the country."

**Christopher Kiragu** is a Senior Associate with MMAN Advocates. He has over six years' experience in commercial and corporate law practice with emphasis in aircraft leasing and financing, capital market transactions, mergers and acquisitions and private equity. In addition to being an Advocate of the High Court of Kenya, he is a member of the Law Society of Kenya. He holds an LL.B. (Hons) degree from the University of Leeds and a Diploma from the Kenya School of Law.

## KIM & CHANG

### Korea (Republic of)- Kim & Chang

**Robert Gilbert** is a partner at Kim & Chang and a member of the firm's Transportation Finance team with over 20 years of experience. Mr. Gilbert advises export-credit agencies, lessors, commercial and investment banks and others in matters including sales and purchases of new and used commercial aircraft, cross-border aircraft operating and finance leases, registration and transfer of aircraft mortgages and similar transactions for spare aircraft engines, corporate jets, rolling stock and vessels. His main areas of practice include the financing of commercial aircraft and aircraft engines, acting for foreign lenders, owners and lessors in cross border loans and finance and operating leases of commercial aircraft, and the licensing of life and non-life insurers in Korea. He also remains active in financial litigation, particularly relating to disputes under letters of credit, and in certain US defense contracting disputes. He has repeatedly been recognized as one of the world's leading aviation lawyers in "The International Who's Who of Aviation Lawyers".

**Young Min Kim** is a partner at Kim & Chang. His practice focuses on cross-border finance transactions, including aircraft, banking, corporate, and project finance. He is praised by clients for his ability to bring solutions that go beyond legal advice.



### Latvia - Klavins Ellex

**Ivars Slokenbergs** is a senior counsel at Klavins Ellex. He has experience in a wide range of corporate transactions, including mergers and acquisitions of numerous companies in the energy, financial, manufacturing, services, media, telecommunications, IT and food and beverage sectors. He also has expertise in aviation, including advising clients in commercial aircraft leasing and finance transactions. He is Vice Chairman of the Foreign Investors' Council in Latvia, and a Board Member of the Latvian Transatlantic Organization.

**Valters Diure** is a senior counsel at Klavins Ellex. He specializes in banking and finance, insolvency and commercial law issues. He also has expertise in aviation, including advising clients in commercial aircraft leasing and finance transactions. He regularly participates in conducting legal reviews of companies for financing, merger, acquisition and other purposes and advises clients on general corporate matters as well as industry-specific issues in the field of his expertise.



### Lithuania - Ellex Valiūnas Ir Partneriai

**Gediminas Rečiūnas** is a partner and a head of Ellex Valiūnas Banking and Finance Practice Group, which is focused on all major areas of finance law, including banking and finance, capital markets, finance regulatory (including banking regulatory), finance restructuring and refinancing, funds, investments services, project finance and aircraft, shipping and other asset finance. Gediminas has over 20 years' experience in finance and is well regarded in the market for his multiple fields of expertise. Before joining LAWIN Vilnius office (currently Ellex Valiūnas) back in 2001, Gediminas was appointed as a General counsel and Board member at AB SAMPO Bankas, Vilnius (formerly the Lithuanian Development Bank), Legal advisor at Pragma Corporation (US consultancy firm carrying out Lithuanian capital markets development projects) and Legal advisor at World Council of Credit Unions.

**Enrika Tamašauskaitė** is an associate of Ellex Valiūnas Banking and Finance Practice Group having over 5 years of experience in a wide range of financing projects, from ordinary lending transactions to complex issues of secured lending, restructuring of delinquent loans and finance-related litigation. Enrika's experience also spans aviation asset finance where she has experience in assisting clients in all aviation business processes, such as financing, licensing, aircraft financing and leasing, aviation-specific litigation and day-to-day airline activities.



### Macau - Manuela António

**Hugo Maia Bandeira** is an Associate at Manuela António – Lawyers and Notaries, having joined the firm in 2010. He has gained exposure to all areas of the law despite his focus on Banking & Finance, Corporate, Gaming, Leisure and Hospitality and Project Finance. Since 2011, Hugo has been assisting in providing advice to one of the gaming operators in Macau, having acquired vast experience dealing not only with corporate day-to-day challenges but also with major project financing arrangements aimed at funding its growth, development and operation. Hugo has also been building and developing his expertise in other areas of practice, such as Employment and Immigration, having been involved in the drafting of companies' internal policies and employment agreements; Aviation, in which he has collaborated in several aircraft transactions; and Property and Real Estate, having participated in various transactions and judicial cases.

**Daniel da Silva e Melo** is an Associate at Manuela António – Lawyers and Notaries, having joined the firm in 2015. Daniel has been since then active in several practice areas. Daniel's practice has been focused on advising clients on corporate, banking and finance matters, assisting in all corporate and financial matters, including several financial arrangements acting for both borrowers and lenders. Daniel has also been building and developing his expertise in other areas of practice, such as Aviation, Capital Markets, Insurance and Intellectual and Industrial Property.



### Malaysia - Raja, Darryl & Loh

**Chong Kok Seng** is a partner at Raja, Darryl & Loh and is the firm's specialist in aviation law, having acted for major airlines, aircraft lessors and banks, collateral agents and security trustees in advising on local laws in relation to the sale and purchase, lease and/or financing and securitization of aircraft. In particular, Kok Seng advised various lessors that had their leases terminated or repudiated by Malaysian Airline System Berhad ("MAS") as a result of or arising from the restructuring of the business of MAS to a new entity, Malaysian Airlines Berhad, via the Malaysian Airline System Berhad (Administration) Act 2015. Kok Seng obtained his Bachelor's degree in Law from the University of London in the United Kingdom in 2001 and subsequently sat for and obtained the Certificate in Legal Practice from the Malaysian Qualifying Board. He was called to the Peninsular Malaysian Bar in November 2003 after having read in Chambers with the Firm. Kok Seng joined the ranks of the partners on 1st March 2011.



### Malta - Fenech & Fenech Advocates

**Nicolai Vella Falzon** has been a partner at Fenech & Fenech Advocates since 2004 and heads the Commercial and Corporate Law Department and the Asset & Project Finance Department and co-heads the Aviation Law Department. Nicolai is an experienced commercial and corporate lawyer having practised in this area since 1998. In particular, his practice includes commercial and corporate litigation, mergers & acquisitions, asset, corporate and project finance, aviation law and general commercial law. Nicolai is an examiner at the Faculty of Law of the University of Malta. He is a contributor to a number of international publications such as Aircraft Liens and Detention Rights (Sweet & Maxwell) and Aircraft Finance - Registration, Security and Enforcement (Sweet & Maxwell) and he is ranked and recommended in a number of peer-to-peer publications including *Chambers Global*, *Chambers Europe*, *Legal 500*, and the *Martindale-Hubbell Law Directory*.



### Mauritius - Venture Law (in association with Conyers Dill & Pearman)

**Sameer K. Tegally** is a Partner and founder member of Venture Law, a Mauritius law firm in association with Conyers Dill & Pearman. Sameer's practice covers corporate structuring, corporate, banking and finance (including Islamic finance) and trusts/foundations. Sameer advises leading multinationals and international banks on their cross-border investments, financing and trading, particularly with Asia, Africa and the Middle East. Sameer also advises institutional and private clients on all aspects of Mauritius trusts and foundations law. Sameer has contributed several articles in renowned global publications in the fields of corporate law, Islamic finance and trusts. Sameer is a member of the bar in Mauritius, the International Bar Association, and was a registered associate in Bermuda. Sameer is recognized in the 2017 edition (and since 2012) of *Chambers Global*. He is also recognized as a leading lawyer in *Islamic Finance News 2012* (offshore Islamic finance) and is named a leading lawyer in the *Islamic Finance News poll 2012* (asset and fund management).

**Ashvan Luckraz** is a Partner of Venture Law. Ashvan's practice includes all areas of corporate and commercial law, with particular emphasis on finance, trusts and investment funds. He advises investment banks, private equity houses and multinationals on cross border and multi-jurisdictional aspects of their transactions. Ashvan is a member of the bar in England and Wales and in Mauritius. Ashvan holds both a Bachelor of Laws (LL.B.) and Master of Laws (LL.M.) degree from the London School of Economics and Political Science.

## sierra

### Mexico - Abogados Sierra y Vazquez

**Carlos Sierra** is a partner at Abogados Sierra y Vazquez and has been in private practice for more than 21 years. He has been involved in the structuring and implementation of transactions involving the lease, sale and finance of commercial and business aircraft to various airlines, companies and individuals in México. He has advised lessors, financiers, commercial aircraft owners and business aircraft owners regarding their rights in various contexts, including in insolvency and liquidation proceedings of various Mexican airlines. Mr. Sierra is a member of the International Registry Advisory Board, a former chairman of the legal advisory panel of the Aviation Working Group and currently chairs the board of the Aviation Law Committee of the International Bar Association (IBA).

**Viridiana Barquin** is an associate and practices in the areas of aviation, corporate and command Law, cross-border transactions and international business. Mrs. Barquin acts as Legal Counsel for international companies dealing with financing, leasing, sales, acquisitions, corporate matters, antitrust, bankruptcy and insolvency, foreign investment, structuring and negotiation of a full range of commercial agreements and representation of foreign companies in numerous disputes resulting in the successful repossession of assets through settlement and alternative methods of dispute resolution.

### Mongolia- Anderson and Anderson LLP



**David C. Buxbaum** was the first American lawyer invited to China to represent American business interests in 1972, after President Nixon's historic visit. He founded the firm's first overseas office in Guangzhou (Canton). Subsequently, the firm opened offices in Mongolia, elsewhere in China and Asia. Mr. Buxbaum is a well-regarded expert on private international Chinese, Mongolian and Asian law who, in addition to being an experienced and highly respected practitioner, has also published extensively in the legal field. He is presently very active in M&A, securities and commodities projects and cases. In addition to international transactional matters, Mr. Buxbaum, is also professionally active in litigation, particularly regarding international business disputes, as well as intellectual property and commodities and securities matters. He represented the successful respondents before the United States Supreme Court in the landmark case of *Butz v Economou*, 438 US 478 (1978), and successfully handled leading cases in China, including Microsoft, Autodesk and Wordperfect v. Juren, Beijing Intermediate Court, 1996. He has been involved in leading commercial arbitration, IP, civil and criminal cases in China, Hong Kong, London, and New York.

**Ms. Otgontuya** is an attorney licensed to practice law in Mongolia. Her legal practice and experience focuses on corporate and commercial law with an emphasis on litigation. She enjoys a vast understanding of Mongolian corporate law. She is passionate and well-respected within the larger Mongolian community and continues to develop her already honed legal skills.

**Morocco - Hajji & Associés**



**Amin Hajji** is a partner in Hajji & Associés. Amin has a PhD in law from Hassan II University - Faculty of Law of Casablanca and a Doctoral in Law from Faculty of Law-Toulouse, France. He is a Professor of international commercial law and business law at Faculty of Law of Casablanca. He is an attorney at law and member of Casablanca Bar. Amin specializes in Aircraft Financing, Private Equity, Project Finance & Derivatives, Capital Markets, Litigation & arbitration, Competition & Merger Control.

**Nihma El Gachbour** is a lawyer in Hajji & Associés. Nihma is a PhD student in business law at Faculty of Law, University Hassan II- Casablanca. She holds a Master's degree in Business Law from Hassan II University -Faculty of Law of Casablanca. Nihma is a holder of the professional proficiency certificate for attorney at law; and specializes in Contracts, Project Finance, Capital Markets, Labor and Litigation.

**Mozambique - CSBA & Associates**



**Mafalda Rodrigues Fonseca** is a founding partner of CSBA - Carlos de Sousa e Brito, Isabel Marinho, Mafalda Rodrigues Fonseca & Associados - Sociedade de Advogados RL and practices in the areas of commercial, corporate and company law, maritime law, aviation law and labor law. Mafalda graduated with a law degree from the Portuguese Catholic University. She also holds a postgraduate degree in Commercial Law from the Portuguese Catholic University, and is a speaker in various seminars and conferences relating to her areas of practice. Mafalda has been admitted to the Portuguese Bar Association since 2004.

**Isabel Marinho** is a founding partner of CSBA - Carlos de Sousa e Brito, Isabel Marinho, Mafalda Rodrigues Fonseca & Associados - Sociedade de Advogados RL and practices in the areas of tax law, tax litigation, corporate restructuring, debt recovery and insolvency, agriculture, environment and public procurement. Isabel graduated with a law degree from the University of Lisbon. She also holds postgraduate degrees in Management and Taxation from ISCTE and in Legislative Elaboration from the Law Faculty of Lisbon. Isabel has been admitted to the Portuguese Bar Association since 1990.

**Myanmar - DFDL**



**Thida Aye** is a partner in DFDL. She is a licensed Myanmar lawyer and a former judge. She has practiced business and commercial law at the law firm that is now DFDL for over twenty years.

**James Finch** is a lawyer and licensed in the United States. He is a partner in DFDL and has practiced in Myanmar with Thida Aye for over twenty years, as well.

A major portion of the practice of Thida Aye and James Finch is aviation law, particularly representing foreign sellers, sources of finance and lessors of aircraft to airlines in Myanmar. They have collaborated on several international publications with respect to aviation law.





### Namibia - ENSafrica

**Wolf Wohlers** is a director at ENSafrica, Namibia (incorporated as Lorentz Angula Inc.), which forms part of the ENSafrica group of legal practices which has offices across various jurisdictions in Africa. Wolf specializes in corporate commercial, mining and energy (including oil and gas), banking and finance and mergers and acquisitions. He has represented clients in a number of industries including mining and petroleum. Wolf's experience includes advising clients on matters relating to mining, petroleum and energy, mergers and acquisitions, contracts and trusts drafting and general corporate and commercial law. He is also experienced in advising on aviation law financing issues and notarial work. Wolf is recognized as a leading lawyer by the following reputable rating agencies and their publications: Chambers and Partners Guide to the World's Leading Lawyers – General Business Law (Namibia); – Mining (Namibia), IFLR 1000 – Banking, Energy and Infrastructure, Mergers and Acquisitions, Project Development, Project Finance (Namibia) and The International Who's Who of Mining Lawyers (Namibia).



### Nepal - Pradhan, Ghimire & Associates

**Devendra Pradhan** is the founder and managing partner of Pradhan, Ghimire & Associates and is designated a "Senior Advocate" by the Supreme Court of Nepal. In addition to Nepal, Devendra is also admitted as an attorney-at-law in New York, District of Columbia and various Federal Courts in the United States of America. Devendra focuses his practice on advising and representing foreign companies primarily in the area of aviation, banking and finance, commercial, energy, hydroelectricity, infrastructure project development, telecommunications, technology, mergers & acquisitions, project finance, intellectual property, international franchising, commercial arbitration and cross-border and international transactions. Devendra has been recognized by Chambers Global, Chambers Asia, Who's Who Legal, Expert Guides, Lawyers World Magazine, ACQ Magazine, InterContinental Finance Magazine, etc.

**Shirshak Ghimire** is a Senior Associate within Pradhan, Ghimire & Associates. Shirshak works in the area of aviation, banking and finance, corporate and commercial, trade and customs, TMT, M&A, foreign investment, franchising, insurance and reinsurance, labor and employment, taxation, infrastructure development, intellectual property, competition law and advising non-profit entities. Shirshak has handled matters relating to air carriers' liability, insurance and reinsurance claims, management of accident liability claims, aircraft lease, financing, technology transfer and aviation service related contracts.

### ● NautaDutilh

#### Netherlands - NautaDutilh N.V.

**Kees Koetsier** is a partner at NautaDutilh N.V. and has a broad transaction based practice focusing on commercial real estate, aircraft finance and corporate structuring. He advises on both Dutch property law and corporate law and on Dutch Caribbean law aspects of transfer of seat, joint ventures, corporate restructurings and finance. Kees graduated from Leiden University in 1993. He joined NautaDutilh in 1994 and became partner in 2002. From 2004 until mid 2011 he headed the firms corporate practice in the New York office. Kees is a member of the American Bar Association, International Bar Association, and registered as a foreign legal consultant with the New York State Bar.

**Esther Vochteloo** is a senior associate at NautaDutilh N.V. Esther specializes in commercial real estate and aircraft finance. She advises clients on commercial real estate transactions, property development, aircraft and (other) real estate leasing transactions (including cross-border leases), financing and other real estate-related contracts. Esther graduated from the University of Utrecht in 2009. After graduation she was employed for one year as a corporate lawyer at a trust company, after which she joined NautaDutilh in September 2010. Esther is a member of the Royal Notarial Association and the Association of Young Real Estate Lawyers.

#### New Caledonia - Hénaff D'Estrées



**Yves Hénaff d'Estrées** is a member of the Paris and New York bars, practices and is officially certified in France as a specialist in commercial, business and competition law, and in international law and the law of the European Union. Yves is the Chairman of the Section on Aircraft and Vice-President of SFDAS (the French Society of Air and Space Law, [www.sfdas.org](http://www.sfdas.org)) and the Chairman of Eurolegal ([www.eurolegal.net](http://www.eurolegal.net)). He organized the first conference on aircraft repossession in France, June 1, 2015 which included the participation of the DGAC, the French Civil Aviation Authority. Yves is the author of many publications including "Aircraft Finance, Registration, Security and Enforcement", sections on France, French Polynesia and New Caledonia, "Aircraft Liens & Detention Rights", sections on France, French Polynesia and New Caledonia, and "Aircraft Financing in France" (Thomson - Sweet & Maxwell, London, General Editor Graham McBain), and "La Location d'Aéronef" (Aircraft leasing) (JurisClasseur Transport - LexisNexis, Paris).



#### New Zealand - Buddle Findlay

**Frank Porter** is a senior partner in Buddle Findlay's Auckland office and heads Buddle Findlay's aviation team. Frank has for many years advised airlines, aircraft manufacturers, banks, leasing companies, export credit agencies and insurers on all matters relating to aircraft. He is very experienced particularly in matters relating to the leasing, financing and repossession of aircraft. Frank has published many articles and written chapters for books on aircraft financing and related areas. The International Who's Who of Aviation Lawyers has in the past commented that "New Zealand is led by Buddle Findlay who can call on the 'excellent' Frank Porter, the most highly nominated lawyer in the country." Who's Who Legal recognizes Frank as a leading individual in aviation, banking, project finance and procurement.

**Rishalat Khan** is a senior associate in Buddle Findlay's aviation team. She has considerable experience in aircraft matters particularly the leasing and financing of aircraft. Rishalat has considerable knowledge on Cape Town Convention matters and has also been involved with major private debt placements in the US market by Australasian airlines. In addition, Rishalat has advised airlines on general corporate and commercial matters and has a particular interest in liability issues under the Montreal Convention.

## AJUMOGOBIA &amp; OKEKE

**Nigeria - Ajumogobia & Okeke**

**Patrick A. Osu** is a partner in the law firm of Ajumogobia & Okeke, a leading commercial law firm in Nigeria. Patrick is a skilled litigator and an experienced corporate lawyer. He has been involved in active legal practice for over twenty years since his call to the Nigerian Bar. Patrick specializes in aircraft and aviation matters and other commercial and corporate law areas of law. He leads the firm's aviation team and heads the Corporate Commercial Law group of the firm. He has been actively involved in the provision of legal advisory services for leasing and financing aircraft to owners and lenders globally for over fifteen years, and contributes to the Nigerian chapters on Aircraft Finance and Aircraft Liens which are published by Longman and Sweet & Maxwell respectively. He has also worked on a sizeable amount of private equity and other acquisition transactions. His hands on experience in various Federal Government Privatization initiatives are invaluable. He is a member of the Nigerian Bar Association and the International Aviation Lawyers and a Member of the Chartered Institute of Arbitrators UK.

**Kate I. Onianwa** is a senior associate in the firm and a member of the Corporate & Commercial and Aircraft & Aviation practice groups. Kate has worked in and gained valuable experience from the corporate division of the firm. She has practical experience in legal, regulatory and corporate governance matters, and particularly aircraft/aviation transactions. She advises on foreign investment in Nigeria, renders general legal advisory services to both individual and corporate clients and has been involved in due diligence exercises for local and foreign entities. Kate is a member of the firm's aviation team and has been actively involved in the provision of legal advisory services for leasing and financing aircraft to owners and lenders globally for about ten years. She contributes to the Nigerian chapters on Aircraft Finance and Aircraft Liens which are published by Longman and Sweet & Maxwell respectively. She is an Associate of the Chartered Institute of Arbitrators UK and a member of the Chartered Institute of Taxation of Nigeria.

**Norway - Arntzen De Besche**

**Paul Sveinsson** is partner and Head of the Banking and Finance department in Arntzen de Besche. He has wide experience as advisor to and counsel for Norwegian and foreign banks and finance institutions, listed and private companies in connection with banking, financing transactions and regulatory matters. Sveinsson has extensive experience within the aviation and aircraft industry relating to Norway. His work also comprises litigation, mainly in the areas of banking, finance and insolvency and appointments as an arbitrator.

**Atle Stensrud** is a senior lawyer of the Banking and Financing department in Arntzen de Besche. He has long experience in advising foreign banks and financing institutions, listed and private companies in connection with, in particular, aircraft financing transactions, Norwegian bond issues, acquisition financing and financing transactions in the oil and energy industry.



### Oman - Trowers & Hamlin LLP

**Roger Clarke** has previously lived and worked in Oman for a number of years and a significant portion of his practice continues to be related to the Omani market. He advises lessors, banks and operators on a range of asset finance (including aviation finance) transactions. One of his recent deals has involved acting for newly established Oman based operating lessor, Oman Brunei Asset Management Company (OBAM), on the initial acquisition, financing and leasing of three new B737-900ERs by an Isle of Man incorporated SPV (with bank funding from DVB Bank) and again in a second transaction, the acquisition, financing and leasing of two new Boeing B737-900ER aircraft (with bank funding from Arab Banking Corporation) on long-term operating leases to Omani flag carrier, Oman Air. The DVB funded aircraft were delivered in November 2014, March 2015 and November 2015 and the two ABC funded Aircraft in May 2015. Roger is recognized in Chambers Global 2015 as a 'Foreign Expert (Based Abroad)' with particular reference to his responsiveness and experience. Roger is the author of the Oman chapter in Aircraft Finance (McBain) and the Oman chapter in Aircraft Liens and Detention Rights (McBain). Roger was also included in Who's Who Legal: Transport 2016 as a leading lawyer in the Aviation section.



### Pakistan - Kabiraj & Talibuddin

**Kairas N. Kabiraj**, an Advocate of the High Court in Pakistan, read law at Trinity College, Cambridge and has been practising corporate and commercial law for nearly four decades. Throughout his career, he has acted in numerous commercial transactions of various kinds, contentious and non-contentious, both domestic and trans-border, including joint ventures, inward foreign investment, mergers and acquisitions, domestic and global, capital markets transactions, foreign and domestic debt and equity financings, and is recognized as one of the country's leading commercial lawyers. He has also been actively practising aircraft finance and leasing and has been involved in all major transactions for Pakistan International Airlines' lessors and lenders. He was the primary person advising on the implementation of the Cape Town Convention and Aircraft Protocol in Pakistan's domestic law.

**Syed Ali bin Maaz** is an Advocate of the High Court in Pakistan and a partner at the firm. He has worked on various corporate and commercial matters, contentious and non-contentious, advising in a wide range of commercial transactions including project finance and banking, debt and equity financing, mergers and acquisitions, foreign exchange regulations, enforcement of foreign arbitral awards and insider trading. He specialises in aviation financing and aircraft leasing. Syed has advised the Aviation Working Group on the implementation and functioning of the Cape Town Convention in Pakistan Law and a number of foreign firms and leasing corporations on the sale and leasing of aircraft to private commercial airlines in Pakistan. Such advice focuses on the structure of the transaction, registration of international security interests, filings with the Civil Aviation Authority and protection of interests in the aircraft under Pakistan law.



PATTON, MORENO & ASVAT  
INTERNATIONAL LAWYERS

### Panama - Patton, Moreno & Asvat

**Nadya Price** has more than 15 years of experience providing legal advice in a wide range of practice areas currently focusing in Corporate & Financial Law including mergers and acquisitions, establishment and implementation of joint ventures, strategic alliances and project finance. Nadya obtained her Law Degree from Universidad de Panamá (2003) and participated in the Negotiation Program at the Harvard Negotiation Institute of Harvard Law School in Cambridge, Massachusetts. She is a member of the Panama Bar Association, the Panamanian Maritime Law Association; and The Vance Center Women in the Profession Program (WIP-Panama). Co-Author of international publications on Financial Law, such as "Project Finance 2017 – Panama Chapter", published by International Comparative Legal Guides; Doing Business in Panama, published by Patton, Moreno & Asvat; Co- author of the Chambers Global Practice Guide for Shipping Law – Panama Chapter 2018 and Ship Finance 2018, Panama Chapter, published in London, England by Globe Law and Business Ltd., among others.

**Felipe Escalona** currently focuses his practice in the areas of Aviation, Corporate and Financial, Insurance, Project Finance and Commercial Law. He provides legal advice to local and international clientele on regulatory matters before the Civil Aeronautical Authority, as well as in the setup of its commercial operations in Panama. He has also advised companies in the establishment of its operations as concessionaires of the Tocumen International Airport. His business formation has allowed him to stand out in the Commercial field, through the advice to Panamanian and multinational companies in all the legal aspects of their operations. He also has experience in mergers and acquisitions of local companies. Felipe has a strong background in the aviation, banking and finance, consumer goods, maritime, logistics and transportation, insurance, media and entertainment industries, among others. Felipe graduated Magna Cum Laude from Universidad Santa Maria La Antigua (LL.B., - 2007), and Master in Business Administration from Instituto de Empresas (Madrid, Spain, 2008). He is a member of the Panamanian History Aviation Academy and the Panamanian Chamber of Commerce and Industries.

### Papua New Guinea - Ashurst

ashurst

**Tim Glenn** specializes in corporate law, and his practice has a particular emphasis on mining, oil and gas and resources projects in Papua New Guinea. Recognized as a "Leading Individual" in Corporate/Commercial by Chambers Global, Tim has extensive experience as a commercial lawyer in both Australia and Papua New Guinea. Tim has managed the Major Projects and Corporate Advisory Groups in Ashurst's Sydney office. He is currently Managing Partner of Ashurst's Port Moresby office and has over 20 years of experience as a commercial lawyer in Papua New Guinea.

**Richard Flynn** is a lead partner in the firm's corporate practice in Papua New Guinea. He is a "hands on" commercial practitioner with a broad range of experience in M&A, corporate restructuring, project finance and capital markets. Richard is recognised as a leading individual by Chambers Global and is described as impressing clients with his "commercially-focused advice", that he "always protects his clients' interests and works to be co-operative instead of adversarial" and is a "great corporate and commercial lawyer, who does excellent work".



### Paraguay - Fiorio Cardozo & Alvarado Law Firm

**María Betharram Ardissonne**, Partner. Admitted in 1991, Paraguay. Education: Universidad Católica "Nuestra Señora de la Asunción", Facultad de Ciencias Jurídicas y Diplomáticas (Attorney at Law, 1991). Languages: Spanish and English.

**Gustavo Arbo Amigo**, Associate. Admitted in 2007. Education: Universidad Católica "Nuestra Señora de la Asunción", Facultad de Ciencias Jurídicas y Diplomáticas (Attorney at Law, 2007). Master of Laws, Instituto de Empresa of Madrid Law School (LL.M., 2011). Member: International Bar Association. Languages: Spanish, English and German.



### Peru - Rodrigo, Elias & Medrano

**Jorge Velarde** is the head partner of Rodrigo, Elias & Medrano's Insurance and Reinsurance practice group, as well as of the Firm's Aviation practice. He has an exceptional professional background in insurance and reinsurance law, as well as in aviation and transport law. Jorge's expertise extends to claims handling, both through negotiation and through the judicial, extrajudicial and arbitral defense of clients, with major insurers and reinsurers between his clients. A distinguished member of the Iberoamerican Institute of Air and Space Law and Commercial Aviation, Mr. Velarde represents interests of owners and financial entities in sales, mortgages, leases and other means of supplying airplanes to airplane operators.

**Fernando Hurtado de Mendoza** is highly regarded for having a full comprehension of the international and local aviation regulation, enabling him to serve the different agents involved in the aviation industry. He renders advice to lenders, export credit agencies, wide-body aircraft owners, narrow-body aircraft lessors, among others. Helicopter operators, aircraft maintenance facilities, cargo carriers, aircraft insurers and reinsurers are also among his clients. Fernando is also highly regarded for his involvement on claims' handling related to aircraft accidents involving local and foreign victims. The settlement of over 30 claims involving personal accident, liability and cargo policies stand on their own. Knowledgeable of the Asian market as per his professional ties with such region, being Singapore, an aviation hub, where he obtained his Masters degree, Fernando Hurtado de Mendoza is vice-chair of the Cross-Border Investment Committee in the Inter-Pacific Bar Association.



### Philippines - Agcaoili & Associates

**Jose Luis V. Agcaoili** is Managing Partner of Agcaoili and Associates and has general supervision over all areas of corporate practice and litigation. He has an extensive practice in Aviation and Aircraft Finance, Banking, Corporate and Commercial Law and litigation, arbitration and other forms of Alternative Dispute Resolution, Energy, Family Law, as well as Labor and Criminal litigation. Mr. Agcaoili is currently the President of the Philippine Bar Association.



**Thomas J.T. F. de Castro** is one of the pioneer graduates from the consortium between the De La Salle University - Graduate School of Business and the Far Eastern University - Institute of Law, and holds a dual degree of Masters of Business Administration and Juris Doctor. He was admitted to the Philippine Bar in 2009 and is a member of the Integrated Bar of the Philippines-Makati Chapter and of the La Salle Green Hills Alumni Lawyers Association.



### Poland - SSW Pragmatic Solutions

**Piotr Spaczyński** is the managing partner at SSW Pragmatic Solutions, Attorney at Law (radca prawny) and advises clients from regulated sectors including the aviation sector, including air carriers, ground handling agents, airport managers, contractors of air carriers, aerospace organizations and associations, manufacturers of aircraft and aircraft parts in a wide range of issues related to their business and operations. He represents aviation clients in proceedings before the Civil Aviation Authority, the Office of Competition and Consumer Protection, the Inspector General for Personal Data Protection, the Public Procurement Office and in other legal proceedings (including staff matters). Piotr has been recognized in number of international independent rankings like Chambers Europe, Legal 500 and IFLR.

**Filip Balcerzak** is a senior associate at SSW Pragmatic Solutions, Attorney at Law in Poland (adwokat) and in Spain (abogado) with an LL.M. from the University of Ottawa and a Ph.D. from Adam Mickiewicz University in Poznań. He specializes in commercial dispute resolution at both national and international levels. He has successfully led cases for a variety of clients from different jurisdictions, utilizing his fluency in English and Spanish. Filip provides legal services for international clients on issues related to foreign investments. He assists air carriers in negotiating and drafting agreements with their contractors, such as aircraft manufacturers, travel agencies and catering companies. He advised on transactions concerning leasing and financing of aircraft and assisted, in this respect, both foreign and local entities.



### Portugal - CSBA & Associates

**Mafalda Rodrigues Fonseca** is a founding partner of CSBA - Carlos de Sousa e Brito, Isabel Marinho, Mafalda Rodrigues Fonseca & Associados - Sociedade de Advogados RL and practices in the areas of commercial, corporate and company law, maritime law, aviation law and labor law. Mafalda graduated with a law degree from the Portuguese Catholic University. She also holds a postgraduate degree in Commercial Law from the Portuguese Catholic University, and is a speaker in various seminars and conferences relating to her areas of practice. Mafalda has been admitted to the Portuguese Bar Association since 2004.

**Isabel Marinho** is a founding partner of CSBA - Carlos de Sousa e Brito, Isabel Marinho, Mafalda Rodrigues Fonseca & Associados - Sociedade de Advogados RL and practices in the areas of tax law, tax litigation, corporate restructuring, debt recovery and insolvency, agriculture, environment and public procurement. Isabel graduated with a law degree from the University of Lisbon. She also holds postgraduate degrees in Management and Taxation from ISCTE and in Legislative Elaboration from the Law Faculty of Lisbon. Isabel has been admitted to the Portuguese Bar Association since 1990.



### Romania - Tuca Zbarcea & Asociatii

**Cătălin Băiculescu** is a partner at Tuca Zbarcea & Asociatii and specializes in corporate mergers and acquisitions and Romanian privatizations, being recognized as an expert in the due diligence process, the negotiation of assets and share purchase agreements, as well as post-acquisition restructuring matters. He is also highly skilled in banking and finance, where he has advised on banking regulatory legal issues and compliance, syndicated loans, project finance transactions, and bank restructuring and privatization. In addition, he assisted international aircraft owners and financing banks in connection with aircraft lease agreements and mortgages signed with local airlines. Other areas of practice are electronic communications and IT, entertainment and media law.

**Roxana Pană** is a senior associate at Tuca Zbarcea & Asociatii and specializes in banking and finance, advising on a significant number of financing transactions, as well as advising on consumer lending, telecommunication, certain aspects of capital markets and derivatives transactions and involvement in insolvency related matters. In addition, she assisted international financiers and lessors of passenger aircraft in connection with lease agreements, repossession and deregistration aspects regarding aircraft leased to Romanian aircraft operators, legal issues pertaining to the leasing of aircraft engines to Romanian aircraft operators, sale of certain aircraft spare parts, matters of aircraft title transfer, financing and acquisition of aircraft.



### Russia - RVS LLC

**Alexander Rodin** is a co-founder of RVS LLC and the managing partner of the firm. Alexander specializes in dispute resolution, intellectual property and asset finance and has been advising both Russian and major international clients on various issues of Russian law. Alexander acted as the leading counsel in a number of notable court processes in Russia and abroad representing Russian state companies, international credit institutions, oil companies and private investors. Alexander's involvement in asset finance transactions is not limited to Russian deals but also comprises major international transactions. Alexander is a native Russian speaker and is also fluent in English and Spanish.

**Alexander Shurygin**, Ph.D., LL.M., is a partner in RVS LLC specializing primarily in the areas of corporate, aircraft and shipping finance, bankruptcy, international arbitration. Alexander advises Russian and major international clients in a considerable number of cross-border corporate transactions and shipping finance deals. Alexander's involvement in bankruptcy procedures comprises some of the biggest Russian bankruptcy processes where he acted as the counsel of Russian and foreign banks and investors. Alexander is a native Russian speaker and is fluent in English and French.



### Rwanda - ENSafrika

**Désiré Kamanzi** is the head of the Rwanda office of ENSafrika. Désiré is ranked as a leading lawyer by Chambers and Partners Global Guide to the World's Leading Lawyers 2016, 2015, 2014 and 2013 General Business Law Rwanda-Band 1 and IFLR 1000 Financial and Corporate Guide: Leading Lawyer 2016, 2015. According to Chambers and Partners Global Guide to the World's Leading Lawyers 2016, Désiré "has a lot of experience and is able to understand things on an international as well as local level." The Rwanda office of ENSafrika is widely acclaimed in and outside Rwanda in the areas of business law, acquisitions, banking and finance, assisting international / non-governmental organizations, company law and corporate governance.

**Eustache Ngoga** is a senior associate at ENSafrika in Rwanda. He specialises in corporate, aviation and employment law matters. He has advised governmental and aviation entities on a variety of matters pertaining to aircraft finance, including drafting and negotiating agreements between foreign lenders and Rwandan airline operators, bilateral air services agreements and project finance agreements. Eustache's expertise also includes advising on compliance issues and he assisted in drafting the current civil aviation legal and regulatory frameworks in Rwanda. He advised the COMESA Secretariat on the legal and regulatory framework for the establishment of the COMESA unified upper airspace integration project, and he has served as a lecturer of law at various universities in Rwanda.

### San Marino - Beccari Podeschi Law Firm

BECCARI PODESCHI  
STUDIO LEGALE NOTARILE

**Dennis Beccari** is a reputable lawyer and notary in the Republic of San Marino. He mainly focuses his practice in the field of aviation finance and advises on a regular basis some of the world's leading lessors and financiers of commercial aircraft. The legal and notarial services he provides include consultancy to structure and finalize cross-border transactions for the acquisition, financing and leasing of aircraft.

**Francesca Podeschi** is a reputable lawyer and notary in the Republic of San Marino. Francesca is mainly specialized in company and commercial law, rendering, inter alia, consultancy in the preparation of a variety of commercial contracts for local and foreign clients. Since joining the Beccari Law Firm in 2014, Francesca has been increasingly involved in the aviation practice.

### Saudi Arabia - Al Tamimi & Co.

**Pedro Castro** is a Senior Associate in the Corporate Commercial practice in Riyadh. Pedro has 10 years of international experience providing legal advice in different areas of practice and across multiple sectors, gained in Portugal, Belgium and the Macau S.A.R. (P.R.China). Pedro focuses mainly in the practice areas of Aviation, Banking & Finance and Corporate/ M&A, but he is also experienced in Project Finance, Public Procurement and Transportation. Prior to joining Al Tamimi, Pedro has worked as associated lawyer with leading law firms but also as in-house counsel with an investment bank. Pedro was recognised by Chambers and Partners Asia-Pacific (2017) as an associate to watch, especially in the Aviation, Gaming, Shipping and Transportation sectors – “He is praised by interviewees for his good commercial awareness and described as highly effective and client-focused.”, he was also recognized by IFLR 1000 - Financial and Corporate (2016 and 2017) as rising star, namely in Aviation, Banking and M&A – “Pedro provided timely and appropriate legal advice in a diligent manner.”

**Saeed Alqahtani** is an Associate in the Litigation practice in Riyadh. Saeed is practicing law as an associate focusing on litigation and arbitration matters in the Kingdom of Saudi Arabia. KSA. He has experience of litigating before the General Court, Criminal Court, Commercial Court, Labor Court, and Administrative Court. He has also involved in establishing various new companies in the Kingdom of Saudi Arabia.

### Serbia - Bojović Drašković Popović & Partners

**Uroš Popović** is a founding partner at Bojović Drašković Popović & Partners with extensive experience in corporate and commercial law in Serbia and in Montenegro. He has developed his expertise in competition law, data protection, and M&A. He heads the firm’s USA desk. He is a member of both the Serbian Bar Association and the New York Bar Association. Uroš is an active member of the Telecom and IT Committee of the Foreign Investors Council. Uroš authored a number of articles in reputable publications: Chambers & Partners “Cartels 2018”; CEE Legal Matters “TMT: Right to Privacy vs. The Media”; Global Legal Group – ICLG “Outsourcing 2016 Serbia” and “Outsourcing 2016 Montenegro”; The Lawyer “Debt concerns in Serbia” and many others.

**Mario Kijanović** is a Senior Associate at Bojović Drašković Popović & Partners. His focus is on real estate, finance and construction law, corporate and commercial matters and tax. Mario is a graduate of the University of Belgrade, Faculty of Law where he earned his LL.B. Mario is also a postgraduate student at the Faculty of Law, University of Belgrade, studying law-economics module. Mario co-authored a number of articles in reputable publications: CEE Legal Matters “Serbian construction industry is back on track”; Thomson Reuters “Construction and Projects in Serbia: overview”, “The nature of a construction contract in Serbia” and many others.

## ALLEN &amp; GLEDHILL

**Singapore - Allen & Gledhill**

**Gina Lee-Wan** is Co-Head of the Maritime & Aviation practice at Allen & Gledhill. She specialises in contentious and non-contentious shipping and offshore matters, focusing primarily on shipping, offshore and aviation financing, leasing and equity transactions as well as ship construction, sale and purchase. Her clients include all of Singapore's major banks, other lenders and shipowners and she has been involved in the majority of the ship finance transactions in Singapore.

**Yap Yin Soon** is a partner at Allen & Gledhill. Yin Soon's expertise is in the maritime, offshore and aviation sectors. He has extensive experience handling disputes in those sectors which includes matters involving ownership and possessory rights to ships, aircraft and cargo, property loss, damage and detention, international trade, casualties, charter parties, bunker trades, mortgages, lease agreements (including sale and leaseback), sale and purchase agreements, construction and repair and related insolvency issues. He regularly acts for owners, insurers, P&I clubs, carriers, charterers, lessors and lessees, banks and financiers and sellers and buyers. He has argued many leading and notable cases and in The Legal 500 Asia Pacific, he has been cited as an "excellent advocate" with clients appreciating his "'hands-on' approach".

**Slovakia - Barger Prekop**

**Peter Suba** is a partner at Barger Prekop and focuses his practice on commercial transactions, including mergers and acquisitions, restructurings, litigation, arbitration and labour law. He has deep experience with aviation law and regularly acts for aircraft insurance providers. Peter has been involved in numerous headline transactions undertaken in Slovakia and his practice also includes various niche industry specialties such as environmental law, IT and e-commerce and art restitution law. Chambers & Partners has named him as a recommended professional in the field of corporate and M&A law. Peter holds an LL.M. degree from Harvard Law School.

**Anthony P. Hernandez** is Of Counsel at Barger Prekop and focuses his practice on complex cross-border M&A, commercial transactions, dispute resolution and arbitration. He has extensive experience in the Aerospace and Defense sector, having worked with an aviation litigation defense firm in Chicago, Illinois for several years. Anthony regularly advises on aircraft finance and lease mandates and is a certified private pilot (US FAA). He is recognized by the Legal 500 as a recommended lawyer in the area of Commercial, Corporate, and M&A.

**Slovenia - Odvetniki Šelih & Partnerji, O.P., D.O.O.**

**Mia Kalaš** is a partner with Odvetniki Šelih & partnerji, o.p., d.o.o. with experience in acting for domestic and foreign banks and other financial institutions, corporations and other legal entities. She practices in the following areas: corporate and commercial law; mergers and acquisitions; real estate and construction; banking and finance; capital markets; energy and environmental law.

**Blaž Ogorevc** is a partner with Odvetniki Šelih & partnerji, o.p., d.o.o. most experienced in real estate transactions and financing as well as in other transactions involving domestic and foreign banks and other financial institutions, corporations and other legal entities. He practices in the following areas: corporate and commercial law; mergers and acquisitions; real estate and construction; banking and finance; and insolvency and restructuring.



#### South Africa - ENSAfrica

**Sean Lederman** is a director at ENSAfrica and is joint head of the firm's banking and finance department. Sean specializes in leveraged finance, asset finance and other forms of debt finance transactions, including corporate debt. His rankings reflect his position as one of the leading finance lawyers in South Africa. Sean's areas of deep specialization include aircraft finance and he is recognized as the foremost lawyer for aircraft financing transactions in South Africa. Sean has advised on the majority of the large transactions (including operating lease and export credit finance transactions) that have occurred in this area in South Africa over the past two and a half decades. Sean is also particularly known for his work on leveraged finance transactions, including in the private equity space. Sean has acted for both lenders and borrowers in this area and his clients include local and foreign banks, corporate borrowers, private equity houses, operating lessors, airlines and foreign law firms. ENSAfrica has a significant breadth and depth of experience and specialist expertise that spans all commercial areas of law, tax, forensics and IP, and benchmarks itself according to international standards while retaining a uniquely African focus. ENSAfrica currently has offices in South Africa, Namibia, Mauritius, Ghana, Uganda, Rwanda and Tanzania.



#### Spain - Gómez-Acebo & Pombo

**Carlos Rueda** is Managing Partner of Gómez-Acebo & Pombo and is based in Madrid. Carlos has been repeatedly recognized by legal directories such as Chambers, Legal 500 and IFLR 100 as a leading individual and eminent practitioner. Alongside his managerial duties, he continues to fee-earn and remains deeply involved in asset financing operations (particularly aircraft and vessel), infrastructure financing, project-finance, structured financing, banking and general consultancy services to financial institutions.

**Fernando Herrero** is a Senior Associate of our Banking, Capital Market and Insurance Department. His practice is focused on asset financing (particularly aircraft and vessel), banking work with a significant debt capital markets expertise, including credit assignments, trades and transfers and securitization services to financial institutions. He was very active in connection with the implementation of the Cape Town Convention in Spain and has advised ECA-supported financings, secured debt, operating and tax-based lease financing such as JOLCO transactions in Spain after the implementation of the Aircraft Protocol in Spain.





### Sri Lanka - Lasantha Hettiarachchi & Associates

**Lasantha Hettiarachchi** was admitted to practice in 1989 as an Attorney-at-Law of the Supreme Court of Sri Lanka. Lasantha received his Master of Laws (LL.M) at the Institute of Air & Space Law in McGill University, Montreal, Canada in 1992. Presently, Lasantha is reading for the Doctor of Civil Laws also at the Institute of Air & Space Law at McGill University. Having commenced his career in private practice in 1989, Lasantha served as Manager of International Relations of a national airline from 1993 until 1994 and thereafter as Manager of Legal in a leading Investment Bank until 1996. Reverting to private practice in 1996, Lasantha established the present Law Chambers (Lasantha Hettiarachchi & Associates) specializing in commercial, corporate, civil and aviation law. Lasantha is frequently consulted on aviation matters by domestic and international airlines, aircraft financiers, lessors, airline passengers, cargo agents, insurance companies and airline consumers in Sri Lanka. Since 1993, he has served as an external independent Legal Consultant to the Civil Aviation Authority of Sri Lanka and has also been involved in drafting of the Civil Aviation Act and subsidiary legislation relating to zoning and licensing of service providers in Sri Lanka.

**Piyum Dassanayake** was admitted to practice in 1994 as an Attorney-at-Law of the Supreme Court of Sri Lanka, and was admitted to practice as a Solicitor in the United Kingdom in 2004. Piyum joined the firm in 2007. During her tenure with the firm, Piyum was in charge of the Aviation practice of the firm and responsible for advice, negotiating, drafting all aviation related contracts and agreements for the clients of the firm including aircraft acquisitions and leases, until opting for early retirement in December 2017.

## VINGE

### Sweden - Vinge

**Fredrik Wilkens** is a Partner at Vinge in Stockholm and heads Vinge's aviation group. His aviation team has extensive experience in all aspects of the aviation industry and advises Swedish and foreign banks and lessors in relation to their aviation related activities in or connected to Sweden, including advising on sale and purchase of aircraft, financing of aircraft, creation of security interests in aircraft and engines, airline transactions, repossession of aircraft, liability regimes, registration issues, aviation regulatory issues and aviation insurance. Fredrik Wilkens is on the board of directors of several companies within the aviation industry and the financial sector and has received a number of rankings as a finance lawyer including recent Who is Who legal, World leading banking lawyers, World leading aviation lawyers and Practical Law Company's Which Lawyer. Fredrik Wilkens is a frequent writer and speaker on financing law topics. His clients include Swedish and international financial institutions and companies whom he advises on cross-border transactions and domestic matters. His wide experience within the banking and finance field includes acquisition financing, asset financing (aircraft, rolling stock, renewable energy plants, ships and real properties), project financing, leasing and financial services matters.

**Henrik Schön** is a Senior Associate at Vinge in Stockholm and is a member of Vinge's aviation group. He advises Swedish and international financial institutions and companies on finance law focusing in particular on leasing and asset finance, acquisition financing and structured financing. He works regularly with aircraft finance transactions, leasing structures and registration issues and also advises on governance issues for boards of Swedish companies within the aviation finance and leasing sector. Henrik Schön is also author of publications in relation to aviation finance and other aviation law topics.

#### Switzerland - Lenz & Staehelin



LENZ & STAEHELIN

**Olivier Stahler** specializes in banking and finance law. He has extensive expertise in finance transactions, including aircraft leasing. He acts for a broad range of Swiss and foreign financial institutions and corporate borrowers, both in a domestic and international context. Olivier is also involved in the structuring of financial products, and in particular private equity funds and hedge funds. Further, he provides regulatory advice in the context of the granting of licenses for banks, securities dealers and collective investment schemes by the Swiss financial market supervisory authority. Considered a leading individual by The Legal 500 in 2017, Olivier Stahler has been named exclusive recipient of the International Law Office (ILO) 2018 Client Choice Awards for Banking in Switzerland.

**Emilie Jacot-Guillarmod** is a member of Lenz & Staehelin's Corporate and M&A group in Geneva. She regularly advises clients on corporate matters, M&A transactions and financings. Her expertise covers in particular international finance and leasing.

#### Taiwan - Russin & Vecchi



泰運法律事務所  
RUSSIN & VECCHI  
INTERNATIONAL LEGAL COUNSELLORS

**Thomas H. McGowan** is a senior US licensed attorney with over thirty years of Taiwanese experience, all with Russin and Vecchi, a long established Taiwanese law firm with extensive experience in all aspects of financial services including aircraft related financing, enforcement and insolvency proceedings. His practice focuses on financial services and financing transactions including aircraft financing acting for lenders, lessors and airlines.

**H. Y. Cho** is a senior professional with over 30 years of financial services and transaction experience in both aircraft and vessel financing.

#### Tajikistan - Centil Law Firm



CENTIL.LAW

**Alisher Khoshimov** joined the Dushanbe office of Centil in 2013 and is currently a Senior Associate with Contracts & Trade and Contracts & Trade practices. His practice incorporates transactional, regulatory and litigation expertise to provide support on a variety of transactions, including corporate, investment, transaction security and commerce. Prior to joining Centil Law Firm, Alisher worked as a senior attorney for a Dushanbe law firm where he received a considerable variety of practical legal experience. Alisher also advised on a range of issues related to merger and acquisition in local market. His recent activity includes advising on Islamic financing in Tajikistan. Alisher is fluent in English, Russian, Tajik and Turkish.

**Ganchina Nuralieva** is a Junior Associate at Centil's Dushanbe office. She obtained her first degree in Jurisprudence at Tajik National University. Then she continued her study abroad the country at University of Oslo, where she received a degree of master in Law in International Trade, Commercial and Investment Law. Prior to joining Centil, she worked as a Leading Specialist at World Trade Organization Affairs of Ministry of Economic Development and Trade of the Republic of Tajikistan. Ganchina is fluent in Tajik, Russian and English.

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#### **Thailand - Tilleke & Gibbins**

### **Tilleke & Gibbins**

**John Frangos** is a consultant in Tilleke & Gibbins' dispute resolution group. He assists clients on complex disputes in Thailand and Vietnam, including aviation litigation, investigations and compliance, and cross-border disputes. He leads the firm's aviation disputes practice and co-leads the firm's anti-corruption practice group. With over 10 years of experience in Thailand and Vietnam, John brings strong knowledge of local business practices and customs. He also has a deep understanding of the region's political and economic landscapes which shape the legal environment that foreign investors must navigate. John has handled numerous aviation matters over the years for aircraft lessors, airlines, airports, insurers and underwriters, and others in the aviation industry. His practice covers the full range of aviation-related disputes, including aircraft repossessions and lease disputes, air carrier liability, contractual and commercial disputes, regulatory matters, accidents, and employment and labor disputes. Many of his cases have set important precedents with lasting implications for the aviation industry in Thailand. John is a regular contributor on matters pertaining to aviation law in Thailand, including to the Airfinance Journal, Aviation Law News (Getting the Deal Through), The Bangkok Post, and the American Chamber of Commerce in Thailand. John is admitted to practice law in New York. He is also a member of the Chartered Institute of Arbitrators.

**Nuanchun Somboonvinij** is a litigator in the Tilleke & Gibbins dispute resolution group. Nuanchun assists clients with aircraft lease disputes and repossessions, and commercial litigation involving the aviation industry. She has extensive experience representing clients before the Civil Aviation Authority of Thailand and the Thai courts. She works closely with clients in all phases of a case, from inception through trial, judgment, and appeal. Nuanchun is also a member of the firm's leading maritime practice group and draws on the experience she has gained from securing victories in and out of court for international carriers, multimodal transportation providers, and shipowners, to represent clients in the aviation industry. Nuanchun's business background, including earning a Business Administration degree in Thailand and an MBA in the United States, benefits her clients who count on her for pragmatic advice, sound solutions, innovative dispute resolution strategies, and, if necessary, aggressive litigation. She is a member of the Thai Bar Association and the Lawyers Council of Thailand.

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**DIKICI LAW OFFICE**  
ATTORNEYS AT LAW

### Turkey - Dikici Law Office

**Fulya Dikici** obtained her law degree from the University of Istanbul, Faculty of Law and thereafter started her career in 1982 at a reputable Istanbul law firm. Having worked for the firm for over 23 years and having established and developed the aviation department there, she set up her own practice specializing in commercial and financial law, also practicing with numerous types of asset financing. While she is highly experienced in cross-border asset and project finance, she works particularly in ship financing, aviation finance and related disputes. She has expert skills in the enforcement of the Cape Town Convention, repossession and insolvency matters. She continues to work on a large number of EETC, JOLCO, EXIM, ECA and AFIC financings. Fulya Dikici has given many speeches on aircraft and asset financing at various conferences and is recognized as a 'leading expert' and ranked by many legal guides among the top attorneys in her field in Turkey.

 **JURVNESHSERVICE**  
INTERNATIONAL LEGAL SERVICES

### Ukraine - Jurvneshservice International Legal Services

**Anna Tsirat** (Dr.) is a partner and head of aviation, aerospace and transportation practice at Jurvneshservice International Legal Services. She acts as counsel to foreign lenders/ lessors and other aviation companies among which AerCap, Cessna/Textron, ELFC, GECAS, Macquarie AirFinance, Willis Lease Finance Corporation, Apollo, Ex-Im Bank of USA, Erste Group Bank AG and many others. Dr. A. Tsirat also specializes in the areas of international trade (agency, distribution and franchising agreements); litigation and dispute resolution; protection of foreign investments; corporate law and tax planning and tax disputes. Dr. Tsirat is a member of International Bar Association, Kyiv Region Bar, Center for International Legal Studies (Zaltsburg, Austria). Dr. Tsirat graduated from Taras Shevchenko National University of Kyiv specializing in commercial law and the Romano-Germanic Philology Department specializing in English literature and language. She attended study courses at the Institute of International Law Development (IDL) in Rome. Dr. Tsirat is an author of almost 100 publications on franchising, aircraft financing and aviation, civil procedure, joint ventures and intellectual property. She is an author of Chapters on Ukraine in Aircraft Finance: Registration, Security and Enforcement under general editor G.McBain since 2006, The Aviation Law Review under editor Sean Gates from 2013 and in the 11th edition of Getting the Deal Through – Air Transport 2016.



### United Arab Emirates - Al Jallaf Advocates

**Amna Al Jallaf**, described by some as the “Queen of Aviation”, is recognized internationally as one of the Middle East’s leading Aviation Law and Islamic Finance specialists. Amna began her career as the first Emirati and Arabic speaking legal counsel at Emirates. In 1999, she founded the UAE’s first specialist aviation firm: Al Jallaf Advocates & Legal Consultants. Amna has been appointed to a number of prestigious institutions, including the Legal Advisory Panel of the AWG. She has served as a Member of the Board at the Dubai Chamber of Commerce for over 10 years and is a Member of the Board of Directors for the Awqaf and Minors Affairs Foundation. Amna holds an LL.M. from the Washington College of Law, American University, Washington DC, and is a licensed UAE Advocate. She advises on all aspects of national and international aviation law and regulations, including on both contentious and non-contentious matters. Al Jallaf Advocates & Legal Consultants is one of the UAE’s premier commercial law boutiques. Comprising a diverse team of internationally qualified lawyers, the firm advises and represents local and international clients on various litigation and commercial matters with a focus on aviation law.

**Ihab Arja** is an Italian attorney-at-law and expert in the aviation sector. He has been engaged in commercial and regulatory law practice for many years, with a focus on aviation. He has an extensive experience in high-profile litigation, aircraft financing and leasing, aviation regulation, aircraft accident investigations and policy & business aviation issues. During his career, he has been actively involved in a full range of legal matters arising in the aviation industry, including drafting aviation legislations, participating in major Privatization and Public–Private Partnership projects, delivering regulatory consultations & proceedings, handling general aviation and commercial issues including sale, purchase and lease of aircraft transactions, aircraft & air navigation services’ insurance and reinsurance, and other environment, security & safety issues. Ihab has addressed numerous conferences on aviation law and aircraft financing & leasing in the Middle East, Europe and Canada, and published on a variety of issues, including commercial aviation developments, environmental regulation impacting the aviation sector and the Cape Town Convention and its Aircraft Protocol. He is a member of ICAO’s Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) for the purposes of the Cape Town Convention (CTC) and the Aircraft Protocol.



### United Kingdom - Pillsbury Winthrop Shaw Pittman LLP

**Debra Erni** serves as the Managing Partner of Pillsbury's London office and represents several of the world's largest aircraft and engine leasing companies, together with financiers, airlines and certain manufacturers in connection with the sale and purchase of portfolios of new and used aviation assets, operating lease and secured debt financings, and the creation and dissolution of large scale joint venture aviation leasing platforms. Formerly resident in Japan for nearly a decade in the nineties, Debra is well-known for her ability to speak and read Japanese fluently and for her familiarity with many aspects of Japanese law and practice. Debra was also a secondee to AerCap in the formative stages of her career and is recognized in numerous directories, including Chambers UK, Asset Finance: Aviation Finance (2016-2018), Euromoney's Expert Guides – Aviation Lawyers (2013-2018), Euromoney's Expert Guides – Women in Business Law (2013-2018), Who's Who Legal Transport: Aviation Finance (2016-2018) and Legal 500 Asset Finance and Leasing (2014-2018).

**Graham Tyler** leads Pillsbury's Finance practice in London and co-leads the firm's Asset Finance team globally. He is a recognized expert in aircraft finance and leasing and regularly advises his clients on aircraft procurement, portfolio acquisitions and sales, commercial debt deals including portfolio financings and warehouse facilities, pre-delivery financing, operating and finance leases, export credit financing, Islamic financing, capital markets transactions and restructurings. Graham has also worked on deals involving other assets, including ships/offshore equipment rolling stock and yellow goods. Graham is recognized in Chambers UK, Asset Finance (2015-2018) as "very experienced in the industry," "solution-driven" and "skillful in negotiations", and in Legal 500 UK, Asset Finance & Leasing (2014-2016) as a "leading industry figure". Graham has also been recognized in Chambers Global, Aviation: Finance - Global-wide (2015-2018). He is listed as an aviation expert in Euromoney's Expert Guide - Aviation Lawyers and was awarded the 2018 deal of the year by Airline Economics for his leading role and innovative work on behalf of clients Oaktree Capital and World Star Aviation.



### United States - Pillsbury Winthrop Shaw Pittman LLP

**Mark Lessard** is a partner in the New York office and global head of Pillsbury's finance practice, primarily representing clients who are active in the Aviation, Aerospace and Transportation sectors. Mr. Lessard represents a worldwide clientele of lenders, lessors, investors, operators, underwriters, liquidity providers, manufacturers, rating agencies and trustees in connection with all forms of transportation asset-backed financings. Mr. Lessard has particular experience in cross-border transactions, having placed, financed or repossessed aviation assets in dozens of jurisdictions around the world. He has been an active member of the Legal Advisory Panel to the Aviation Working Group since 2012, at the forefront of the adoption and implementation of the Cape Town Convention.



**Leo T. Crowley** is a partner in the New York office in the law firm's Insolvency & Restructuring practice. He is a former leader of the firm's Insolvency & Restructuring Practice and the Litigation Section. Mr. Crowley has extensive experience in all fora, including Federal District Court; Federal Bankruptcy Court; the United States Circuit Courts of Appeal; New York State Supreme Court; the New York State Appellate Division; New York State Court of Appeals; federal and state administrative agencies; and arbitration and mediation tribunals.

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#### **Vietnam - VILAF**



**Duyen, Vo Ha** is a Partner and Co-head of VILAF's Finance Practice. She is a recognized leading lawyer in Vietnam by Legal 500 and IFLR1000 and a market leading lawyer in the finance practice in Vietnam by AsiaLaw. VILAF is a leading law firm in Vietnam, primarily advising foreign financial institutions and investors in cross-border transactions in Vietnam and business operations in Vietnam. VILAF has advised multinational commercial banks and international aircraft leasing firms in the leasing and financing of aircraft for a number of airlines in Vietnam. The VILAF's finance practice is ranked first tier in Vietnam by Legal 500 and IFLR 1000.

# Third Party Data Acknowledgments

All OECD data is provided courtesy of OECD, all rights reserved. High-Income or Zero-Rated data is as of June 25, 2018. ASU Cape Town Discount data is as of August 30, 2018. Source material available at <http://www.oecd.org/tad/xcred/ctc.htm> and <http://www.oecd.org/tad/xcred/cre-crc-current-english.pdf>

All Standard & Poor's data is as of August 3, 2018, and is provided courtesy of Standard & Poor's, all rights reserved.

All Moody's data is as of August 3, 2018, and is provided courtesy of Moody's, all rights reserved.

All World Economic Forum data is as of September 1, 2018, and is provided courtesy of World Economic Forum, all rights reserved. Source: The Global Competitiveness Report 2017-2018, World Economic Forum, Switzerland, 2017-2018. Source material is available at <http://reports.weforum.org/global-competitiveness-index-2017-2018/>

All World Justice Project data is as of September 1, 2018, and is provided courtesy of the World Justice Project, all rights reserved. Source: World Justice Project - Rule of Law Index 2017-2018. Source material is available at <https://worldjusticeproject.org/our-work/wjp-rule-law-index>

All Heritage Foundation data is as of September 1, 2018, and is provided courtesy of The Heritage Foundation, all rights reserved. Source: 2018 Index of Economic Freedom, Terry Miller, Anthony B. Kim and James M. Roberts (The Heritage Foundation, Washington, DC, 2018). Source material available at <https://www.heritage.org/index/>

# Appendix:

## 30-Minute (Check-Box) Jurisdictional Questionnaire

Pillsbury Winthrop Shaw Pittman LLP

General Information	
Country:	<input type="text"/>
Applicable jurisdiction(s):	<input type="text"/>
Date of completion:	<input type="text"/> <input type="text"/> <input type="text"/>
Name of law firm:	<input type="text"/>
Contact name #1:	<input type="text"/>
Position/title:	<input type="text"/>
Email address:	<input type="text"/>
Contact name #2:	<input type="text"/>
Position/title:	<input type="text"/>
Email address:	<input type="text"/>

### Guidance Notes *Please note the DISCLAIMER on page 7*

Select the country from the drop-down box

Type which jurisdiction(s) within the country your responses relate to. Include federal law if applicable

Format: [month in words] [dd] [yyyy]

List the full name of the firm and, if applicable, the local office completing the questionnaire

Maximum two persons, the first name being the lead lawyer completing the questionnaire.

Your responses, if presented in a brochure for general distribution to the public, will be subject to disclaimer language provided to you together with this questionnaire.

By providing us with your completed questionnaire, you consent to us reproducing and publishing a graphic of your firm's logo in the materials presenting the results.

If any answer is "probably yes" or "probably no", then you should answer "YES" or "NO", respectively.

Repossession	Box 1
<b>Self-help remedies</b>	
(a) May an <b>owner-lessor</b> exercise "self-help" repossession remedies in your jurisdiction?	<input type="checkbox"/>
(b) May a <b>mortgagee</b> exercise "self-help" repossession remedies in your jurisdiction?	<input type="checkbox"/>
<b>Judicial proceedings: requirement for a deposit, bond or other security</b>	
(c) In the event the owner-lessor or mortgagee applies for repossession order in the courts of your jurisdiction, would the <b>owner-lessor or mortgagee typically be required to deposit a bond or other guarantee</b> with the court?	<input type="checkbox"/>
<b>Taxes and fees</b>	
(d) Are there any "significant" <b>taxes or fees</b> payable in your country or under the laws of your jurisdiction on repossession of the aircraft, or on applying for a court order for repossession of the aircraft?	<input type="checkbox"/>

### Guidance Notes

ANSWER "YES" OR "NO". (1) You should assume that the lease has been terminated (or that the mortgage has become enforceable). (2) "Self-help" means that the laws of your jurisdiction permit an owner-lessor (and/or mortgagee) to repossess the aircraft from an uncooperative lessee (or debtor) without the need to obtain a court order, provided that it does so peaceably, without using force or the threat of force.

ANSWER "YES" OR "NO". If a bond or guarantee IS NOT typically required but MAY be required at the discretion of the court, the answer to this question should be "NO". If, on the other hand, a bond or guarantee IS typically required but MAY be waived at the discretion of the court, the answer to this question should be "YES".

ANSWER "YES" OR "NO". An example of such a tax might include a stamp tax payable as a condition to admitting documents in evidence for the purposes of a repossession (where self-help remedies are not available). We leave it to your discretion to determine if fees are significant; however, "significant" fees or taxes would include any fees or taxes assessed on a percentage basis against the value of the aircraft or the sum secured by a mortgage, etc., but would exclude nominal fees or nominal taxes amounting to less than US\$1,000 or its equivalent in the local currency.

QUESTIONNAIRE CONTINUES ON NEXT PAGE...

**30-Minute (Check-Box) Jurisdictional Questionnaire**  
(continued)

<b>Repossession (contd...)</b>	<b>Box 1 (contd...)</b>
<b>Speed of Repossession</b>	
(e) In your opinion and estimation, which of the bands below provides, on the balance of probabilities, the most accurate estimate of <b>how long it might take to obtain in your jurisdiction a court order for repossession</b> of the aircraft, following commencement of judicial proceedings?	
(1) Less than or equal to 60 days:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
(2) in excess of 60 days, but less than or equal to 180 days:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
(3) in excess of 180 days, but less than or equal to 1 year:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
(4) in excess of 1 year:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
<b>Legal Cost of Repossession</b>	
(f) In your opinion and estimation, which of the bands below provides, on the balance of probabilities, the most accurate estimate of the <b>legal costs of obtaining a court order for repossession</b> of the aircraft, following commencement of judicial proceedings?	
(1) Less than or equal to U.S.\$50,000:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
(2) in excess of U.S.\$50,000, but less than or equal to U.S.\$250,000:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
(3) in excess of U.S.\$250,000, but less than or equal to U.S.\$1,000,000:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
(4) in excess of U.S.\$1,000,000:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>

<b>Insolvency</b>	<b>Box 2</b>
<b>Sophistication of insolvency laws</b>	
Is the body of insolvency law in your jurisdiction:	
(a) Undeveloped, under development, or somewhat limited in its development:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>
(b) Moderately or well developed:	<input style="width: 40px; height: 20px; border: 1px solid black;" type="checkbox"/>

**Guidance Notes**

ANSWER "YES" TO ONE OF THE FOUR BOXES, LEAVING THE REMAINDER BLANK. For the purposes of your answer, (1) you should ignore any self-help remedies that may be available as an alternative means of repossession. You should also assume that (2) the mortgagee or the owner-lessor is ultimately successful, (3) the proceedings are contested by the lessee (or an insolvency practitioner or bankruptcy trustee on its behalf), but are otherwise not contested by any competing creditor, (4) where judicial proceedings are instigated by the mortgagee, it has the cooperation of the owner/lessor, (5) there is already either an English or New York judgment or an arbitration award ordering repossession (and your answer should represent the quickest of either litigating afresh on the merits or enforcing such judgment/award), and (6) the lessee is insolvent at such time the proceedings are instituted. (7) The proceedings may either be for a preliminary (i.e. interim) or a final order, whichever represents the quickest in your jurisdiction.

ANSWER "YES" TO ONE OF THE FOUR BOXES, LEAVING THE REMAINDER BLANK. For the purposes of your answer, (1) you should ignore any self-help remedies that may be available as an alternative means of repossession. (2) The estimated legal costs should be inclusive of all court and lawyer fees incurred by the owner-lessor or mortgagee (but without deducting any amounts that represent any potential recovery of those costs). You should also assume that (3) the mortgagee or the owner-lessor is ultimately successful, (4) the proceedings are contested by the lessee (or an insolvency practitioner or bankruptcy trustee on its behalf), but are otherwise not contested by any competing creditor, (5) where judicial proceedings are instigated by the mortgagee, it has the cooperation of the owner/lessor, (6) there is already either an English or New York court judgment or an arbitration award ordering repossession (and your answer should represent the least costly of either litigating afresh on the merits or enforcing such judgment/award), and (7) the lessee is insolvent at such time the proceedings are instituted. (8) The proceedings may either be for a preliminary (i.e. interim) or a final order, whichever represents the least costly in your jurisdiction.

ANSWER "YES" TO ONE OF THE TWO BOXES, LEAVING THE OTHER ONE BLANK. (1) Your answer should be restricted to insolvency law as it relates to the rights of a mortgagee (as a creditor) and an owner-lessor (as a creditor/owner). (2) Your answer should take into account (a) the frequency, volume and history of case law and any applicable legal commentary on the subject, and (b) the sophistication of the applicable statutes.

QUESTIONNAIRE CONTINUES ON NEXT PAGE...

**30-Minute (Check-Box) Jurisdictional Questionnaire**  
(continued)

<b>Insolvency (contd...)</b>	<b>Box 2 (contd...)</b>
<b><i>Insolvency moratorium</i></b>	
<p>(c) Under the mandatorily applicable laws of your country or your jurisdiction, how long is the <b>period during which a moratorium may be imposed in the event of a lessee (or debtor) insolvency/bankruptcy</b>, thereby adversely affecting the rights of the owner-lessor (or mortgagee) to repossess the aircraft on termination of the leasing of the aircraft (or enforcement of the mortgage):</p>	
<p>(1) Less than or equal to 60 days:</p>	<p>(2) in excess of 60 days, but less than or equal to 180 days:</p>
<p>(3) in excess of 180 days, but less than or equal to 1 year:</p>	<p>(4) in excess of 1 year, or variable:</p>
<p>(d) Does the moratorium period given in your answer in (c) above apply:</p>	
<p>(1) In all circumstances:</p>	<p>(2) Only in certain (or limited) circumstances:</p>
<b><i>Overreaching of lessee's insolvency estate</i></b>	
<p>(e) If the lessee is put into administration, liquidation or similar bankruptcy or insolvency process, under the mandatorily applicable laws of your country or jurisdiction, will the <b>aircraft be deemed to be the lessee's property and part of its bankruptcy or insolvency estate</b> (notwithstanding that the owner-lessor is the legal owner)?</p>	

<b>Registration</b>	<b>Box 3</b>
<b><i>Aircraft Register Type</i></b>	
<p>(a) May an aircraft be registered in your country in the name of:</p>	
<p>(1) the aircraft operator, if the operator is not also the owner:</p>	<p>(2) the aircraft owner, if the owner is not also the operator:</p>

**Guidance Notes**

*ANSWER "YES" TO ONE OF THE FOUR BOXES, LEAVING THE REMAINDER BLANK. For the purposes of your answer, (1) you should assume that the lessee (or debtor) entity is subject to the mandatorily applicable insolvency / bankruptcy laws of your country or jurisdiction. (2) If, in your country or jurisdiction, the full extent of the moratorium period cannot be known in advance because the law takes a variable or "ad-hoc" approach to the length of insolvency moratoria, then you should check the box "in excess of 180 days, or variable" (or the box representing the maximum limit, if there is a maximum). If, on the other hand, the law of your country or jurisdiction does provide for a definite fixed period, but that fixed period may be extended with leave of the court, you should check the box which corresponds to that fixed period, ignoring any possible discretionary extensions. (3) If, under the law of your country or jurisdiction, more than one answer may be applicable because the moratorium period may vary depending on the circumstances (e.g. whether or not the Cape Town Convention applies or some other criteria are met), then your answer should reflect the most favorable (i.e. the shortest) such time period, and you should answer question (d) below accordingly.*

*ANSWER "YES" TO ONE OF THE TWO BOXES, LEAVING THE OTHER ONE BLANK. You should check the "certain / limited circumstances" box if, for example, (1) your country has adopted the Cape Town Convention (and Aircraft Protocol) and has opted for a definite waiting period under "Alternative A" pursuant to Article 13 of the Cape Town Convention (and Article X of the Aircraft Protocol), but a different (longer) waiting period or moratorium applies under the laws of your country or jurisdiction where the Cape Town Convention does not apply, or (2) where the indicated moratorium period applies only to a class of lessee/debtors, such as airlines holding an air operator's certificate (with a different (longer) moratorium applying to other persons, such as operating lessors).*

*ANSWER "YES" OR "NO". For the purposes of your answer, you should assume that (1) the lessee (or debtor) entity is subject to the mandatorily applicable insolvency / bankruptcy laws of your country or jurisdiction, and (2) the lease is a true operating lease.*

*ANSWER "YES" OR "NO" TO EACH BOX. (1) If your country allows aircraft registration either in the name of an owner (who is not also the operator) or in the name of an operator (who is not also the owner), then you should answer "YES" to both boxes. (2) This question refers to in whose name, at a minimum, the aircraft may be principally registered, NOT whether there is an option, in addition, to note the interest of a particular party on the aircraft register or on the certificate of registration. This is addressed in the question below.*

QUESTIONNAIRE CONTINUES ON NEXT PAGE...

**30-Minute (Check-Box) Jurisdictional Questionnaire**  
(continued)

<b>Registration (contd...)</b>	<b>Box 3 (contd...)</b>
<p>(b) May the following interests also be noted on the "register":</p> <p>(1) that of the legal owner: <input style="width: 50px; height: 30px; margin-left: 10px;" type="checkbox"/></p> <p>(2) that of the mortgagee: <input style="width: 50px; height: 30px; margin-left: 10px;" type="checkbox"/></p> <p><b>Convenience of registration</b></p> <p>(c) With respect to <b>registration</b> of an aircraft, does the aircraft register/ aviation authority in your country require any document to be <b>notarized and/or authenticated</b> before it will accept and process the registration of an aircraft, or any lease or mortgage of an aircraft? <input style="width: 50px; height: 30px; margin-left: 10px;" type="checkbox"/></p> <p>(d) Please identify in the box below the two most popular <b>alternative countries, if any, in which aircraft habitually based in your country are typically registered</b>, pursuant to a delegation arrangement.</p> <p>Alternative country #1: <input style="width: 150px; height: 30px; margin-left: 10px;" type="text"/></p> <p>Alternative country #2: <input style="width: 150px; height: 30px; margin-left: 10px;" type="text"/></p>	

<b>Deregistration</b>	<b>Box 4</b>
<p><b>Third party rights to deregister</b></p> <p>(a) Will the laws of your jurisdiction and/or the local practice of the aircraft register / aviation authority in your country (subject to question(c) below) <b>honor a unilateral request by the owner-lessor to deregister the aircraft</b> from the aircraft register, without the cooperation of the lessee? <input style="width: 50px; height: 30px; margin-left: 10px;" type="checkbox"/></p> <p>(b) Will the laws of your jurisdiction and/or the local practice of the aircraft register / aviation authority in your country (subject to question(c) below) <b>honor a unilateral request by the mortgagee to deregister the aircraft</b> from the aircraft register, without the cooperation of the lessee? <input style="width: 50px; height: 30px; margin-left: 10px;" type="checkbox"/></p> <p><b>Precedent of refusing to deregister</b></p> <p>(c) <b>Are you aware of any instances where the aircraft register / aviation authority in your country has refused to honor a request</b> by the owner-lessor and/or the mortgagee (as applicable) to deregister the aircraft, despite being otherwise entitled to do so as indicated in your answers above? <input style="width: 50px; height: 30px; margin-left: 10px;" type="checkbox"/></p>	

**Guidance Notes**

ANSWER "YES" OR "NO". (1) "Register" means either the aircraft register, a separate government ownership/mortgage register, or on the aircraft's certificate of registration. (2) This question speaks to additional interests that may be noted, as an option, on the register, in the event the aircraft is registered in the name of some other party. (3) If, per your answer above, the aircraft may ONLY be principally registered in the name of the owner (and not alternatively in the name of the operator), then your answer to (b)(1) should be "N/A".

ANSWER "YES" OR "NO". For the purposes of your answer, (1) "document" includes any application forms necessary for registration, any necessary consents, authorizations or supporting documents. (2) "Authenticated" includes any requirement that a document be apostilled, legalized or translated.

IN EACH BOX, EITHER SELECT A COUNTRY, OR CHOOSE "N/A". (1) If, in your experience, aircraft habitually based in your country are typically registered in another country pursuant to a delegation arrangement between your country and that other country, then you should indicate this here. (2) Such delegation arrangements typically made pursuant to a formal "83bis delegation agreement" under the Chicago Convention, but sometimes other types of bilateral arrangements exist between countries.

ANSWER "YES" OR "NO". For the purposes of your answer you should assume that: (1) the owner-lessor (or mortgagee) has repossessed the aircraft, or is seeking simultaneous repossession of the aircraft; (2) the lease has been terminated (or that the mortgage has become enforceable); (3) where any such deregistration request is made by an owner-lessor, it is with the consent of the mortgagee (if any); and (4) "cooperation of the lessee" includes a requirement that the original of the certificate of registration be surrendered. If an original of the certificate of registration is required as a condition to deregistration, the answer to this question should be "NO". (5) A request may be honored either pursuant to (A) the exercise of a deregistration power of attorney or an irrevocable deregistration and export authorisation (IDERA) granted in its favor, or (B) its status as owner-lessor (or mortgagee) of the aircraft, even without any such power or IDERA.

ANSWER "N/A" TO THIS QUESTION IF YOU ANSWERED "NO" TO BOTH QUESTIONS (a) AND (b) ABOVE. OTHERWISE ANSWER "YES" OR "NO" TO THIS QUESTION. (1) This question relates to questions (a) and/or (b) above only to the extent you answered "YES" to those questions. (2) "Despite being otherwise entitled to do so" means that the owner-lessor (or mortgagee), in submitting the deregistration request, has complied with the local law and the paperwork required for deregistration is otherwise in order.

QUESTIONNAIRE CONTINUES ON NEXT PAGE...





**30-Minute (Check-Box) Jurisdictional Questionnaire**  
(continued)

**Guidance Notes (permitted threshold conditions for enforcement of judgments)**

Permitted threshold conditions (for questions (a) and (b) on previous page relating to BOX 5 on Judgments/Arbitration):

(1) the court rendering the judgment must have had jurisdiction over the defendant and has obtained such jurisdiction in a way that is compatible with the laws of your jurisdiction; (2) the judgment of the rendering court must be final and conclusive and not subject to appeal; (3) the judgment must have been given on the merits of the case (and, for example, must not have been obtained by way of "judgment in default"); (4) the judgment must not have been obtained by fraud; (5) the judgment must not be incompatible with the public policy of your jurisdiction; (6) the judgment must not contradict another judgment rendered by a court in your jurisdiction; and/or (7) in the case of a judgment rendered by an English court and if your country is a sister EU member state, any of the conditions or exceptions permitted by the "recast" Brussels Regulation (Council Regulation (EU) 1215/2012).

A requirement for reciprocity of recognition/enforcement by a New York or English court (as applicable) is NOT a permitted threshold condition, unless it can be said with reasonable certainty that on a general basis (rather than on a case by case basis) such reciprocity requirement will be satisfied with respect to any such New York or English court judgment (because, for example, a reciprocal enforcement treaty exists).

**Judgments / Arb. (contd...)**      **Box 6 (contd...)**

**Enforceability of arbitral awards**

(c) Has your country adopted the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) and, if so, will the courts of your jurisdiction recognize and enforce a decision of an arbitrator?

**Preferential Liens**      **Box 7**

**Unusual or onerous preferential liens**

(a) Do the laws of your jurisdiction provide for any non-consensual preferential **non-possessory** liens over aircraft that could arise in favor a **repairer/mechanic or a landlord/hangar-keeper**?

(b) Do the laws of your jurisdiction provide for any "**fleet-wide**" non-consensual preferential liens and/or equivalent rights or rights of detention over aircraft that could arise **in favor of third parties**, not requiring any form of registration?

(c) Do the laws of your jurisdiction provide for any non-consensual preferential liens and/or equivalent rights or rights of detention over aircraft that could arise **in favor of a lessee or debtor**, not requiring any form of registration?

**Guidance Notes**

ANSWER "YES" OR "NO". For the purposes of your answer, you may assume that a court in your jurisdiction would be entitled to refuse enforcement of the arbitral award based on one of the exceptions and carve-outs enumerated in the New York Convention.

ANSWER "YES" OR "NO" to all questions in this box.

(1) A "**preferential**" lien means a lien that would take priority over the owner/lessor's ownership and/or a mortgagee's secured creditor rights in the aircraft. (2) A "**fleet-wide**" lien means a lien that has arisen as a result of unpaid amounts attributable to a particular aircraft in an operator's fleet, but has attached or is capable of attaching to any other aircraft in that operator's fleet (i.e. any other aircraft operated by that operator), regardless of the fact that the owners of such aircraft may be different. (3) For the purposes of question (b) only, examples of third party non-consensual preferential liens include: (A) liens in favor of a repairer or mechanic, (B) liens in favor of an airport authority for unpaid navigation, landing or similar charges, (C) liens in favor of a landlord (hangar-keeper) for unpaid rent, (D) liens in favor of the government or a government agency, (e.g. liens for unpaid taxes and customs duties, violation of sanctions, drug-trafficking laws or other criminal activities, (E) liens in favor of a person who has provided salvage services with respect to the aircraft, and (F) liens in favor of crew or employees of the airline or operator of the aircraft, with respect to unpaid sums owed to them.

An example of such lien might include a non-consensual preferential lien over the aircraft arising by operation of law in favor of a lessee in circumstances where the lessee has a valid counterclaim against the owner-lessor.

QUESTIONNAIRE CONTINUES ON NEXT PAGE...

**30-Minute (Check-Box) Jurisdictional Questionnaire**  
(continued)

Preferential Liens (contd...)	Box 7 (contd...)
<i>Government requisition and confiscation</i>	
(d) Do the laws of your jurisdiction permit the <b>government to requisition or confiscate</b> an aircraft <b>without needing to pay the owner reasonable compensation?</b>	<input type="checkbox"/>

<i>Guidance Notes</i>
<i>ANSWER "YES" OR "NO". For the purposes of your answer, you should disregard government requisition or confiscation of the aircraft in circumstances where there has been a violation of any drug-trafficking laws or other criminal offenses.</i>

END OF QUESTIONNAIRE - SEE BELOW FOR NOTES AND DISCLAIMERS

Notes / Comments (if any)	Box 8
<p><i>Box and Question number:</i></p>	<p><i>Note / Comment (below represents the maximum permitted space):</i></p>

DISCLAIMERS
<p><i>To the extent that this Jurisdictional Questionnaire has been fully or partially completed and has been published or has otherwise been provided to any person other than the person(s) who completed it (as indicated on page 1), the following disclaimers should be noted:</i></p> <p><i>(1) The Jurisdictional Questionnaire contained in this publication has not been completed by Pillsbury Winthrop Shaw Pittman LLP ("PWSP") unless otherwise stated, but has instead been completed by the law firm and the person(s) indicated on page 1.</i></p> <p><i>(2) This publication is issued periodically to keep PWSP clients and other interested parties informed of current legal developments that may affect or otherwise be of interest to them. The comments contained herein do not constitute legal opinion of either PWSP or any other law firm identified in this publication and should not be regarded as a substitute for legal advice.</i></p> <p><i>(3) The questions and responses contained in this Jurisdictional Questionnaire provide an estimate and preliminary indication only as to the likelihood of success, cost and speed of repossessing, deregistering, exporting, etc. an aircraft from the country and jurisdiction(s) indicated, based on information received from reputable local attorneys in such country and/or jurisdiction as of the date indicated. The actual likelihood of success for any specific case may differ, depending on a more detailed analysis of the particular facts. In such circumstances specific and up-to-date legal and other professional advice in the relevant jurisdiction(s) should be sought. Furthermore, the questions and responses contained in this Jurisdictional Questionnaire do not represent an exhaustive analysis of all legal issues in the country and/or jurisdiction(s) indicated relevant to financing and leasing of aircraft in such country and/or jurisdiction. There may be other relevant issues not addressed herein and further legal and other professional advice in the relevant jurisdiction(s) should be sought.</i></p> <p><b>ATTORNEY ADVERTISING</b></p> <p><i>Results depend on a number of factors unique to each matter. Prior results do not guarantee a similar outcome.</i></p>

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