

SECURITISATION LAWS IN THE EUROPEAN UNION

EU MEMBER STATE	SECURITISATION LAW	IMPLEMENTING RULES
Austria	No specific (comprehensive) law Cf. §33(21)(2)(7) of the Stamp Duty Act and §2(60) of the Banking Act	Not applicable. In 2003, the Austrian Securitisation Forum mandated a small group to draft a piece of legislation on securitisation. This draft Austrian securitisation act has not been submitted to the Parliament yet.
Belgium		
Cyprus	No	Not applicable
Czech Republic	No	Not applicable
Denmark	No	
Estonia	No	Not applicable
Finland	No	Not applicable
France	Loi Sécurité Financière (Financial Security Law) n°2003-706 of 1 August 2003 amending the Loi n°88-1201 of 23 December 1988 (« Loi relative aux organismes de placement collectif en valeurs mobilières et portant création des <i>fonds communs de créances</i> »)	Decree n° 2004-1255 of 24 November 2004 taken in application of Articles L. 214-5 and L. 214-43 to L. 214-49 of the Monetary and Financial Code relating to <i>fonds communs de créances</i> , OJ n° 275 of 26 November 2004, p. 20067 Ministerial Order of 1 st September 2005 endorsing amendments to the General Regulations (Règlement Général) of the French Financial Markets Authority (AMF) regarding the provisions applicable to the management companies of <i>fonds communs de créances</i> and prospectus for FCC units.
Germany	No single specific German law applicable to securitisations. Draft securitisation law proposed by the Federal Ministry of Justice (<i>Bundesministerium der Justiz</i>) pending which is intended to facilitate securitisation transactions in Germany Special tax provisions	Not applicable
Greece	Law 3156 of 25 June 2003 published in the Government Gazette of the Greek Republic (Issue A/n°1567 Article 14 of Law 2801/2000 regarding specific provisions applicable to public sector securitisations	?
Hungary	No	Not applicable
Ireland	No specific legislative framework Special tax regime for SPVs	Not applicable
Italy	Law n°130 of 30 April 1999 published in the Official Gazette of the Republic of Italy of 14 May 1999 Special provisions for public sector securitisations	Legislative Decree n°58 of 24 February 1998 Decree n°228 of 24 May 1999 Banca d'Italia Governor's Decision of 20 September 1999 ("fondi comuni di crediti") Law n°80 of 14 May 2005 amending the Law 130/99 introducing the possibility for banks to issue covered bonds in certain circumstances.
Latvia	No	Not applicable
Lithuania	No	Not applicable
Malta	[No]	[Not applicable]
Luxembourg	Law of 22 March 2004 regarding securitisation	
The Netherlands	No	"Solvency Regulation on Securitisation" by the Netherlands Central Bank (De Nederlandsche Bank N.V)
Poland	The provisions on securitisation were introduced to the Banking law by the law of 1 April 2004 (entered into force on 1 May 2004). The question of securitisation is also regulated by the Investments Funds Act of 27 May 2004	?

	(entered into force on 1 July 2004). A draft law on securitisation is pending in the Parliament since 23 July 2003. This is a parliamentary proposal. The last discussion on the draft took place on 28 July 2004. According to National Bank of Poland sources, the work on the draft would not be continued. It should be noted that subsequent legislative development in Poland made the draft redundant and the work cannot be continued on the proposed text.	
Portugal	Decree-Law 453/99 of 26 October 1999 Decree-Law 219/2001 of 4 August 2001 (Securitisation Tax Law)	Share Capital Regulations (Regulation 284/2000 of 23 May 2000 and Regulation 676/2002 of 19 June 2002) Banco de Portugal and Securities Commission Regulations
Slovakia	No	Not applicable
Slovenia	No	Not applicable
Spain	Royal Decree 926/1998 of 14 May 1998 on Asset-Backed Securitisation Funds (<i>Fondo de Titulización de Activos</i>) 3 rd Additional Provision of Law 1/1999 of 5 January 1999 on capital-risk entities Specific provisions applicable to public sector securitisations	?
Sweden		
United Kingdom	Common law system based on statute and caselaw	(1) Transfer and isolation of assets: <ul style="list-style-type: none"> • In the context of banks, the Financial Services Authority's (FSA)'s 'Interim Prudential Sourcebook for Banks', Volume 2, Chapter SE 'Securitisation', Sections 5.2-5.5; in the context of building societies, the FSA's 'Interim Prudential Sourcebook for Building Societies', Volume 1, Chapter 10 'Securitisation', (hereinafter collectively referred to as the 'FSA Handbook'). • Section 136 (legal assignment) and Section 114 (transfer of mortgages) of the Law of Property Act 1925; Land Registration Act 1925. • The body of case-law on prohibition of assignment and declaration of trust (e.g. <i>Don King Productions Inc v Warren and others</i> [1999]). (2) Taking security and insolvency: <ul style="list-style-type: none"> • The body of case-law on the re-characterisation of floating/fixed charges (e.g. <i>Re Brumark Investment Limited</i> [year]; <i>Agnew v Commissioner of Inland Revenue</i> [2001], <i>National Westminster v Spectrum</i> [2004]). • Land Registration Act 2002, if registered land. • Land Charges Act 1925, if unregistered land. • Companies Act 1985, Sections 395-399 relate to the creation of security by companies. • Insolvency Act 1986; Financial Services and Markets Act 2000; Enterprise Act 2002.