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France

Securitisation

Contributor

GIDE

Gide Loyrette Nouel
A.A.R.P.I.

Dimitrios Logizidis

Partner | logizidis@gide.com

Alexander Tompkins

Counsel | tompkins@gide.com

Alessia Longo

Associate | alessia.longo@gide.com

Lucile Meurin

Associate | lucile.meurin@gide.com

This country-specific Q&A provides an overview of securitisation laws and regulations applicable in France.

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France: Securitisation

1. How active is the securitisation market in your jurisdiction? What types of securitisations are typical in terms of underlying assets and receivables?

The securitisation market in France is well established and among Europe's largest markets. According to the Association for Financial Markets in Europe ("AFME"), as at the end of Q3 2025, securitisation of France-originated assets amounted to (i) EUR 2.6 billion out of a European total of EUR 41.4 billion of placed issuances and (ii) EUR 180.3 billion of outstanding issuances out of a European total of EUR 1270.3 billion, with leading issuances in Europe more widely including pan European CLOs/CDOs, UK residential mortgage-backed securities (RMBS) and German Auto-collateralisation leading issuance totals.

The French securitisation market covers a wide range of assets in addition to those mentioned above, such as trade receivables, non-performing loans (NPL), commercial mortgage-backed securitisations (CMBS), whole business securitisations, credit card receivables etc. and both traditional (i.e. 'true sale') and synthetic (using credit derivatives) securitisation structures are utilized in the market.

Notably, publicly available data excludes privately placed securitisation transactions, in which France is a leading jurisdiction in Europe with French banks and market participants having been at the forefront of the development of certain private markets since the 1980s. Furthermore, securitisation transactions without France-originated assets can still have a French element, for example by submitting the transaction documents to French law in pan-European transactions such as CLOs or incorporating a transaction's special purpose or receivables seller/originator entity in France.

2. What assets can be securitised (and are there assets which are prohibited from being securitised)?

In France, securitisation is governed by (i) the Regulation (EU) 2017/2402 of the European Parliament and of the Council (the "EU Securitisation Regulation") which regulates securitisation in the European Union member states, as well as (ii) specific French law provisions regarding receivables transfer modes and French

securitisation vehicles.

Under French law, any receivables and debt securities can be securitised. However, different legal regimes will apply and should be investigated depending on the nature of the securitised assets.

Although not a specific element laid down by French law, pursuant to the EU Securitisation Regulation (Article 8), the underlying exposures forming part of a securitisation cannot include a securitisation position. French law allows to securitise tangible assets and intangible assets, however this latter category is subject to specific conditions set forth in article L214-190-1 of the French Monetary and Financial Code.

3. What legislation governs securitisation in your jurisdiction? Which types of transactions fall within the scope of this legislation?

The main legislation directly regulating securitisation is the EU Securitisation Regulation. Any transaction which falls within the definition of "securitisation" under the EU Securitisation Regulation will be subject to this legal framework.

The definition of securitisation for these purposes does not relate only to any traditional structure or concept of securitisation but focuses on there being a tranching of credit risk associated with an underlying exposure or a pool of exposures.

The transaction also needs to fall within the jurisdictional scope of the French legislation. The main differences between the EU Securitisation Regulation and the French securitisation regulations relate to jurisdictional scope and adaptation of the provisions to the French jurisdiction.

As regards French law, the main provisions governing securitisation are gathered in a dedicated sub-section of the French Monetary and Financial Code (Articles L. 214-166-1 to L. 214-190-3-1).

Outside of European and French securitisation legislation, other elements of French law apply to securitisation transactions.

These include but are not limited to:

- the specific exemption from the French banking monopoly rules applicable to securitisation vehicles (Article L. 511-6 of the French Monetary and Financial Code);
 - the rules regarding the computation and presentation of an effective annual percentage rate for credit interests (*taux effectif global* or *TEG*) (Article L. 313-4 of the French Monetary and Financial Code);
 - the rules governing collective investment undertakings (Articles L. 214-1 *et seq.* of the French Monetary and Financial Code);
 - the General Regulations of the French Financial Markets Authority (*Autorité des Marchés Financiers*, hereunder the "AMF");
 - the Directive (EU) 2021/2167 of 24 November 2021 on credit servicers and credit purchasers as implemented in France (the "NPL Directive");
 - a specific "*securitisation assignment*" regime (Articles L.214-169, V and D. 214-227 of French Monetary and Financial Code), as presented in question (17);
 - Article L.442-3 of the French Commercial Code which forbids the restriction or prohibition of the assignment of receivables within commercial contracts.
- an investment fund structured as a co-ownership without legal personality and fiscally transparent, a *fonds commun de titrisation*, which is the commonly used legal form, notably in the context of private securitisation; or
 - a *société de titrisation* taking the form of a limited liability commercial company (*société par actions simplifiée* or *société anonyme*) endowed with legal personality and which is subject to general corporate taxation.

Both types of SPVs must be incorporated and managed by a regulated, duly authorized management company (*société de gestion de portefeuille*, Articles L. 214-168, III and L. 532-9 of the French Monetary and Financial Code), which will also be the legal representative of the *fonds commun de titrisation*. The management company will represent the SPV generally, will enter into agreements in the name and on behalf of the SPV and will take certain actions in the securitisation.

The receivables and funds transferred to the SPV must also be held by a custodian (*dépositaire*), which must be an authorized credit institution (*établissement de crédit*).

In a standard securitisation, other key roles are:

- The originator, which is the entity that ultimately receives the funds raised through the securitisation. In the ordinary course of its business, the originator owns receivables – being claims against certain debtors for payment – in connection with its activities which are subsequently transferred to the securitisation SPV.
- The servicer and back-up servicer. The originator typically acts as servicer under the transaction documents, enabling it to maintain its relationship with customers by administering the receivables on the SPV's behalf. The servicer is appointed by the SPV and receives a servicing fee in consideration for its services. To mitigate the risk of servicer default, a back-up servicer may be appointed either at closing or during the life of the transaction to assume the servicing role if the primary servicer fails to perform its obligations. Any back-up servicer must possess the requisite experience and capability to undertake all servicing functions.
- The arranger. Given that asset-backed securities are capital markets instruments and securitisation structures can be highly complex, an investment bank typically acts as

4. Give a brief overview of the typical legal structures used in your jurisdiction for securitisations and key parties involved.

A typical securitisation structure usually involves the transfer of a portfolio of assets (e.g. receivables) generated and/or owned by an originator to a special purpose vehicle ("SPV", *Organisme de titrisation*) incorporated in France. In order to fund the purchase price of the assets, the SPV issues securities, in the form of units or debt securities, to investors. The securities may be privately or publicly issued, depending on the individual circumstances of a transaction.

The transfer of a portfolio of receivables to an SPV can also be undertaken by a credit institution or an investment firm which owns and manages an asset-backed commercial paper programme or purchase exposure from third-party entities and wishes to securitise its portfolio. Under the EU Securitisation Regulation these particular originators are qualified as "*sponsors*".

In France, the SPV (*Organisme de titrisation*) can be incorporated under two different legal forms:

arranger. The arranger is responsible for structuring the transaction, analysing the risk profile of the underlying assets, and managing the transaction through to closing.

- The investors. Investors typically comprise financial institutions, insurance companies, pension funds, hedge funds and other private lenders, and corporates.
- Other parties. Additional parties that may be involved in a securitisation include: (i) a security agent, holding security granted by the issuer on behalf of the investors; (ii) a paying agent, administering payments of interest and principal on the securities; (iii) a listing agent, if the securities are to be publicly listed; (iv) a hedging counterparty, providing derivative contracts to address currency or interest rate mismatches between the assets and the securities; (v) an investment manager or collateral administrator, if the asset pool is actively managed; (vi) rating agencies, providing credit ratings for the securities; (vii) credit insurers, covering portfolio credit risk (particularly in deconsolidated transactions); and (viii) statutory auditors, validating GAAP or IFRS deconsolidation treatment where applicable.

5. Which body is responsible for regulating securitisation in your jurisdiction?

In France, the Financial Markets Authority (Autorité des Marchés Financiers) is the supervision authority of the management companies of the SPV and the SPV itself as collective investment undertaking. It is also the authority in charge of the approval of the prospectus in the event of a public offering of financial securities.

Other authorities play a role in the supervision of the entities partaking to securitisation transactions, notably the Banque de France with regard to the issuance of commercial papers, and the Prudential Supervision and Resolution Authority (Autorité de Contrôle Prudentiel et de Résolution) in respect to (i) the custodian which must be a regulated credit institution and (ii) the SPV which must obtain a specific authorization to underwrite insurance risks.

6. Are there regulatory or other limitations on the nature of entities that may participate in a securitisation (either on the sell side or the buy

side)?

Pursuant to Article L. 313-1 of the French Monetary and Financial Code, as interpreted by case law, the acquisition of unmatured receivables – which include most receivables and loans sales – can be considered as a credit operation, an activity strictly reserved to banks being licensed as credit institutions in France (or the EU, under a passport) or to other entities benefiting from an exemption, such as securitisation SPVs (organismes de titrisation). Therefore, to acquire unmatured receivable for securitisation purposes, a purchaser needs to be either a licensed bank in the European Union or an SPV (organisme de titrisation), which is a limitation for foreign purchasers of receivables as they therefore need to implement a structural solution to meet these requirements.

In practice, most investors are credit institutions, undertakings for collective investment in transferable securities (UCITS), insurance undertakings or pension funds which are subject to their own specific regulatory frameworks, which can have an impact on their investing capabilities.

7. Does your jurisdiction have a concept of “simple, transparent and comparable” securitisations?

The EU Securitisation Regulation, directly applicable under French law since January 1st, 2019, sets out the conditions under which a securitisation framework can be labelled as “simple, transparent and standardised” (the “EU STS label”).

Only securitisation schemes with originators, sponsors and SPV established in the EU are eligible to the EU STS label.

8. Does your jurisdiction distinguish between private and public securitisations?

An SPV can issue shares or units and debt securities through private placement and/or through public offering. A same SPV can have a compartment issuing securities offered to the public, with or without these securities being subsequently listed on a regulated market, and a compartment issuing privately placed securities.

If an SPV offers to the public or lists on a regulated market some of its securities, their issuance is subject to the publication by the management company of a prospectus established following the regime of EU

Regulation 2017/1129 (the "EU Prospectus Regulation").

The specific rules applicable to the regulated market will also apply to the securities listed on the said market, as well as broader legal frameworks such as the EU Regulation N°596/2014 on Market Abuse (the "EU Market Abuse Regulation").

9. Are there registration, authorisation or other filing requirements in relation to securitisations in your jurisdiction (either in relation to participants or transactions themselves)?

The incorporation of a SPV to realise a securitisation isn't subject, under French law, to any previous authorisation requirement – except when its purpose is to underwrite insurance risk in which case a previous authorisation of the Autorité de contrôle prudentiel et de résolution (ACPR) is required.

The incorporation of a SPV is subject to a filing with the Financial Markets Authority (Autorité des Marchés Financiers) within one month of its creation.

Article 7 (1) of the EU Securitisation Regulation provides that the originator, sponsor and SPV must provide information to the AMF and holders of a securitisation position following specific requirements, notably regarding inside information under the scope of Article 17 of the EU Market Abuse Regulation and specified significant events.

Regulatory authorisations or permissions can be required for entities using securitisation as part of a regulated activity particularly in relation to the origination and servicing of regulated loans or receivables arising from regulated contracts or non-performing loans. The servicing of receivables on an amicable basis for a third party is also a regulated activity in France.

More generally, certain regulatory requirements applicable to credit and financing activities also apply to securitisation transactions (for instance, the banking monopoly rule or the TEG requirement).

10. What are the disclosure requirements for public securitisations? How do these compare to the disclosure requirements to private securitisations? Are there reporting templates that are required to be used?

When a SPV offers to the public or list on a regulated market some of its securities, the disclosure obligations

are reinforced, and a specific legal regime applies.

When securities are offered to the public by an SPV or a Compartment, the management company must publish a prospectus established following the regime of EU Prospectus Regulation (Article L.214-181, second paragraph of the French Monetary and Financial Code). The prospectus must be reviewed and approved by the AMF before its publication. The conditions and procedures under which a visa is delivered by the AMF for the prospectus are presented in a specific publication of this authority (DOC-2011-01).

Any material modification of the elements presented in the prospectus must be submitted to the AMF and be subject to an approved publication.

11. Does your jurisdiction require securitising entities to retain risk? How is this done?

Pursuant to Article 6 of the EU Securitisation Regulation, the originator, sponsor or original lender of a securitisation must retain a material net economic interest in the securitisation of not less than 5 %, in order to retain part of the risk inherent to the securitised receivables.

To fulfil this obligation, several methods can be employed:

- retaining more than 5% of the nominal value of each tranches sold or transferred to investors;
- for revolving securitisations or securitisation of revolving exposure, retaining more than 5% of the nominal value of each of the securitised exposures;
- when the number of potentially securitised exposures is less than 100 at origination and when the non-securitised exposures would otherwise have been securitised in the securitisation, retaining randomly selected exposures representing more than 5% of the nominal value of the securitised exposures;
- retaining the first loss tranche, and if necessary the additional retaining of other tranches having the same or a more severe risk profile than those transferred or sold to investors in order to reach a retention above 5% of the nominal value of the securitised exposure; or
- retaining a first loss exposure of more than 5% of every securitised exposure in the securitisation.

12. Do investors have regulatory obligations to conduct due diligence before investing?

"Institutional investors" – as defined in Article 2, (12) of the EU Securitisation Regulation which notably mentions insurance and reinsurance undertakings, UCITS, and credit institutions are subject to due diligence requirements prior to any investment in a securitisation position (Article 5 of the EU Securitisation Regulation).

These investors are required to:

- when the originator or original lender isn't a credit institution or an investment firm (subject to EU regulation n°575/2013 regarding prudential requirement for these entities) or when it is established in a third country, verify that the credits giving rise to the underlying exposures are granted on the basis of sound financial criteria and processes;
- that the originator, sponsor or original lender retains a material economic interest above 5% (Article 6 of the EU Securitisation Regulation, see question (11) hereabove) and discloses information regarding this risk retention (Article 7 of the EU Securitisation Regulation);
- that the originator, sponsor or SPV made the required information available (Article 7 of the EU Securitisation Regulation, see question (9) hereabove); and
- in the presence of non-performing exposures, that sound standards are applied in their selection and pricing.

13. What penalties are securitisation participants subject to for breaching regulatory obligations?

In the event a participant to a securitisation operation violates any applicable law or regulation, offenders are liable to administrative penalties (Articles 32 and 33 of the EU Securitisation Regulation) imposed by the Sanction Committee (Commission des sanctions) of the AMF or any other public authority for breaches falling within their authority's scope (Article 30 of the EU Securitisation Regulation).

Administrative sanctions for any breach may include pursuant to Articles L. 621-15 et seq. of the French Monetary and Financial Code administrative fines of up to 100 million euros or ten times the amount of the benefit gained from the breach, if this can be determined. The management company, its employees and agent can, in addition to administrative fines, be subject to a temporary or permanent ban on the provision of all or part of its

services.

14. Are there regulatory or practical restrictions on the nature of securitisation SPVs? Are SPVs within the scope of regulatory requirements of securitisation in your jurisdiction? And if so, which requirements?

The main legislation directly regulating securitisation is the EU Securitisation Regulation. Any transaction which falls within the definition of "securitisation" under the EU Securitisation Regulation will be subject to this legal framework. As regards French law, the main provisions governing securitisation are gathered in a dedicated subsection of the French Monetary and Financial Code (Articles L. 214-166-1 to L. 214-190-3-1).

Outside of European and French securitisation legislation, other elements of European and French law apply to securitisation transactions.

These include but are not limited to:

- the specific exemption from the French banking monopoly rules applicable to French securitisation vehicles (Article L. 511-6 of the French Monetary and Financial Code), which, however, does not cover foreign securitisation vehicles and may therefore require structural solutions for pan-European structures;
- the rules regarding the computation and presentation of an effective annual percentage rate for credit interests (*taux effectif global* or *TEG*) (Article L. 313-4 of the French Monetary and Financial Code) which can be complied with by including the standard, credit market practice, written mention in one of the transaction documents or in a separate side letter;
- the rules governing collective investment undertakings (Articles L. 214-1 et seq. of the French Monetary and Financial Code);
- the General Regulations of the French Financial Markets Authority (*Autorité des Marchés Financiers*, hereunder the "AMF");
- the Directive (EU) 2021/2167 of 24 November 2021 on credit servicers and credit purchasers (the "NPL Directive");
- a specific "securitisation assignment" regime (Articles L.214-169, V and D. 214-227 of French Monetary and Financial Code), as presented in question (17);
- Article L.442-3 of the French Commercial Code

which forbids the restriction or prohibition of the assignment of receivables within commercial contracts.

In France, the SPV (*Organisme de titrisation*) can be incorporated under two different legal forms:

- an investment fund structured as a co-ownership without legal personality and fiscally transparent, a *fonds commun de titrisation*; or
- a *société de titrisation* taking the form of a limited liability commercial company (*société par actions simplifiée* or *société anonyme*) endowed with legal personality and which is subject to general corporate taxation.

Both types of SPVs must be incorporated and managed by a duly authorized management company (*société de gestion de portefeuille*, Articles L. 214-168, III and L. 532-9 of the French Monetary and Financial Code), which will also be the legal representative of the *fonds commun de titrisation*.

The receivables and funds transferred to the SPV must also be held by a custodian (*dépositaire*), which must be an authorized credit institution (*établissement de crédit*).

It is interesting to note that SPVs used for securitisation purposes can, subject to compliance with the specific conditions laid out in Article R. 332-14-2 of the French Insurance Code regarding the composition of its assets (receivables of public institutions or companies with commercial, industrial, agricultural, craft, or real estate activity, excluding financial activities and collective investment undertakings) and its liabilities (prohibition of tranching), use the label "*economic loan fund*" (*fonds de prêt à l'économie*) pursuant to Article L. 214-166-2 of the French Monetary and Financial Code. This label allows insurance and reinsurance undertakings investing in securitisation SPVs to benefit from favourable accounting and prudential treatment. It is subject to the respect of some conditions regarding the assets in which the SPV invests, and tranching is not possible under this label.

15. How are securitisation SPVs made bankruptcy remote?

Under French law, the insolvency legal regime (Book VI of the French Commercial Code) is not applicable to the different forms of SPV used for securitisation purposes (which are excluded therefrom), ensuring their bankruptcy remoteness in line with international standards (Article L. 214-175 of the French Monetary and Financial Code).

SPVs are also protected by a specific regime submitting civil enforcement measures to the respect of the allocation rules defined by the regulations or statutes of the SPVs (Article L. 214-169, II, second paragraph of the French Monetary and Financial Code).

Furthermore, the receivables collection can be made on a specially dedicated account, dedicated to the FCT. This special dedication of the account is similar to a security interest on the collection account, but the distinction is that the collection is then deemed outside of the estate of the seller/servicer as already specially dedicated to the estate of the SPV, even if on a daily basis it is being used by the seller/servicer for the collection of the receivables. This account will be therefore protected from any insolvency proceeding – under French or any foreign law – brought against the seller/servicer (Article L. 214-173 of the French Monetary and Financial Code). The use of FCT specially dedicated accounts is standard practice on the French market.

It is also standard practice to include non-petition clauses with regard to investors in the bylaws or other contractual framework of the SPV.

16. What are the key forms of credit support in your jurisdiction?

Credit support (or credit enhancement) is the use of various finance techniques in a securitisation to improve the creditworthiness of a security (*i.e.* the securities issued by an SPV) by reducing the probability of default by the issuer/SPV or (depending on the structure) simply mitigate the credit risk of the securitised portfolio of receivables. Credit support features protect the repayments to be made by the issuer under the notes in the event that any losses arise from the underlying securitised assets.

The typical forms of credit support utilized in a securitisation and commonly used in French law transactions are:

- Creation of subordinated tranches. This can take the form of junior notes and/or a subordinated loan (including mezzanine notes and/or loans) and provides credit enhancement to the more senior tranches by absorbing the first losses on the underlying collateral. The senior tranche holders will be repaid by the SPV in priority over the junior tranche holders and the latter's enforcement rights against the SPV will not be exercisable until the senior tranche holders are fully

repaid.

- Over-collateralisation. The originator transfers underlying assets to the SPV which are greater in value than the purchase price paid by the SPV for such assets. The excess in value provides protection in the event that the underlying debtors of the assets default on their payment obligations.
- Creation of "retained spread". Cash reserves are often utilised to provide credit enhancement in securitisations and one way of funding such cash reserve is through retained (or excess) spread. Retained spread is created when the amounts received by the SPV in respect of the underlying assets is greater than the amount of the SPV's liabilities under the securities issued by it. The difference is then used to fund the cash reserve and can be used to cover costs and expenses of the transaction.
- Purchase Price mechanisms. In certain French securitisations, the purchase price of receivables will generally equal the face amount of the receivables minus a small discount to cover expected losses on the purchased receivables and other costs of the SPV. In addition, a "Deferred Purchase Price" or "DPP" mechanism can be implemented whereby a portion of the purchase price due from the SPV to the originator is not paid upon the transfer of the receivable but at a later date and is paid out of collections received on the receivables. Similar to the discount feature, the DPP is a credit enhancement tool used to cover potential losses on the purchased assets.
- Letters of credit, credit insurance or guaranteed liquidity facilities. These types of credit enhancement provide additional risk mitigation and liquidity support to the SPV should it not have sufficient funds to pay the entirety of amounts due by it in the transaction and are usually granted by a creditworthy source such as a third party bank or a credit insurer.

17. How may the transfer of assets be effected, in particular to achieve a 'true sale'? Must the obligors be notified?

Under French law, the transfer of the underlying receivables in a standard securitisation can be made by the common method of acquisition, disposal or transfer

of rights under French civil law (assignment of receivables, subrogation), by means of a specific "securitisation assignment" regime (Articles L.214-169, V and D. 214-227 of French Monetary and Financial Code) or under the special regime of Dailly assignment if specific conditions are met (Articles L. 313-23 *et seq.* of the French Monetary and Financial Code). Synthetic securitisations on the other hand utilise guarantees and credit derivatives.

The most common method of transfer in French law securitisations is through the simplified "assignment-securitisation" regime (Articles L.214-169, V and D. 214-227 of French Monetary and Financial Code) which is directly inspired by the Dailly assignment framework. Under this regime, the transfer of the receivable is effected solely by the transferor submitting a form entitled "receivable transfer deed" (*bordereau de cession*) to the management company. This simplified process avoids the cumbersome nature of assignment under French civil law as the mere submission of the form is constitutive of a transfer of ownership of the receivable and directly enforceable against third parties on the date affixed on the document upon delivery, with the terms of the transfer being set out in a separate agreement between the management company and the transferor. The assignment of the receivable need not to be notified to the debtor to be effective. However, absent such notification, the debtor remains entitled to discharge its obligations by paying the original creditor. The assigned debtor may continue, even if the assignment is notified, to raise against the assignee all the defences arising from the initial contract that it could have raised against the assignor.

Furthermore, pursuant to Article 14 of Regulation (EC) N° 593/2008 on the law applicable to contractual obligations (Rome I), the assignor and assignee are free to choose the law applicable to the assignment agreement. However, the law governing the assignability of the receivable and the formalities required for enforceability against the debtor and third parties remain subject to the law governing the assigned or subrogated receivable.

In the context of cross-border securitisations, the Rome I Regulation does not impose the applicable law on the assignment itself, but only on the formalities concerning enforceability against third parties and the assigned debtor. Article L.214-169, V of the French Monetary and Financial Code expressly contemplates this distinction, save in respect of receivables taking the form of financial instruments. Accordingly, whilst the assignment agreement may be governed by foreign law, it is common practice to use a *bordereau de cession* governed by French law in order to benefit from the highly effective

French true sale regime under the French Monetary and Financial Code. The advantages of this approach include the simplicity of the transfer mechanics (requiring only submission of the *bordereau*), the absence of any requirement to notify the assigned debtor, and the immediate validity of assignments of future receivables. Additionally, this ensures that any French court called upon to adjudicate the transfer would face no issues of interpretation or characterisation.

18. In what circumstances might the transfer of assets be challenged by a court in your jurisdiction?

The rules applicable to challenging the transfer of assets differ depending on the legal regime applied to the transfer.

Under the simplified "*securitisation assignment*" regime (Articles L.214-169, V and D. 214-227 of French Monetary and Financial Code), it is important to note that notwithstanding the application of derogatory rules, the assignment of receivables remains subject to general French civil law principles. Therefore, as confirmed by case law (Cass. com., 15 Apr. 2008, n°03-15.969; Cass. com., 6 Dec. 2011, n°10-17.879), the debtor of a transferred receivable may discharge its obligation by paying the transfer price (as well as acquisition fees and legal interests from the acquisition date) to the purchaser – *i.e.* the SPV (Article 1699 of the French Civil Code). This mechanism prevents the transfer of receivables at a price significantly below their face value.

In the event the "*receivable transfer deed*" does not meet the specific requirements set out in Article D. 214-227 of French Monetary and Financial Code, the true sale effect of the assignment may be challenged by the debtor (Article L. 313-23 of the French Monetary and Financial Code). This is a risk managed by lawyers in securitisation transactions to ensure that documents are drafted in line with the legal requirements.

In principle, pursuant to Article L.442-3 of the French Commercial Code, clauses restricting or prohibiting assignment of receivables are forbidden in commercial contracts, such provisions being null and unenforceable. However, some commercial contracts entered into force within the short period of time between March 2019 and December 2020 (when French law was briefly reformed on this point) might not benefit from the flexibility offered by this prohibition. This can present an issue for agreements giving rise to longer dated exposures, however shorter-term exposures will benefit from this prohibition and the proportion of commercial agreements

which are concerned with this problem will continue to reduce with the passage of time.

Accordingly, due diligence on the underlying contracts is essential to identify any such restrictions and assess their impact on the proposed securitisation structure.

In the presence of foreign receivable, the assignment pursuant to French law must be held enforceable.

19. Are there data protection or confidentiality measures protecting obligors in a securitisation?

Management companies, originators, sponsors and SPVs as well as other implicated actors shall ensure their compliance to the EU Regulation 2016/679 (the "**GDPR**") as well as the French law n° 78-17 of January 6, 1978 regarding the processing of personal data, as explicitly provided in the EU Securitisation Regulation (Article 7, §1).

The agreements concluded between the different parties involved in the securitisation process shall include a specific provision to clarify who is responsible for the data processing operations (Article 28 of the GDPR provides that this type of clause is mandatory for agreements concluded with third parties acting as processors).

Depending on the method of reporting used and the categories of data processed, the appointment of a data protection officer (DPO) in the structure may be required to ensure that the structure remains compliant with GDPR.

Furthermore, if the assigned debtors cannot oppose bank secrecy in the context of a securitisation, the transmitted information remains subject to this professional confidentiality (Articles L. 511-33 of French Monetary and Financial Code).

In addition, confidentiality provisions contained in underlying contracts benefiting the assigned debtors may be considered to be a restriction in certain circumstances to the assignment of the receivables arising under such contract in a securitisation particularly if the assignment may breach the confidentiality provision or give rise to a claim against the SPV. However, in many cases it is considered that either the assignment does not breach the confidentiality provision or alternatively that any potential breach of the relevant provision may not give rise to a claim against the SPV.

20. Is the conduct of credit rating agencies regulated?

Credit rating agencies are under French law subject to the specific legal regime established by the EU regulation n°1060/2009 on credit rating agencies (the "EU CRA Regulation").

When the securities issued by the SPV are offered to the public or listed, it is mandatory to obtain a credit rating from an agency duly authorized under the EU CRA Regulation to assess the level of risk of the issued securities, which shall also be monitored over time (Article L.214-170 of the French Monetary and Financial Code).

The credit rating agencies must be duly authorized by the European Securities and Markets Authority ("ESMA"), which is in charge of their supervision.

21. Are there taxation considerations in your jurisdiction for originators, securitisation SPVs and investors?

Taxation of the Assignment of Receivables

Under French law, the assignment of receivables is exempt from transfer tax, stamp duty and similar taxes, provided it is not voluntarily submitted to tax registration. Such assignments, and more generally transactions on receivables, also qualify as VAT-exempt financial transactions, irrespective of the nature of the underlying receivables (Article 261 C, 1°, c of the French General Tax Code), save in respect of operations relating to the collection of receivables.

The assignment is subject to the capital gains or losses tax regime. The sale price is only subject to taxation for the portion exceeding the book value of the receivable sold, and any loss may be fiscally deducted. Where receivables are sold at a discount, or where a portion of the price is payable upon collection of the receivable, such discount is treated as a financial expense deductible from the seller's taxable result.

No withholding tax applies to payments of interest or other income made by debtors (under trade receivables owed by them) established or domiciled in France, unless such payments are made in a non-cooperative state or territory, in which case they are generally subject to a 75% withholding tax.

Taxation of Securitisation SPVs

There is no specific tax regime applicable to securitisation SPVs:

- A *fonds commun de titrisation* is a co-ownership without legal personality and is fiscally transparent. Accordingly, its net fiscal result is directly included in the unitholders' income for tax purposes;
- A *société de titrisation* takes the form of a limited liability commercial company (*société par actions simplifiée* or *société anonyme*) endowed with legal personality and is subject to corporate income tax on its net fiscal result at a rate of 25% (since 1 January 2022).

Taxation of Investors

The general corporate taxation regime applies to investors in a *société de titrisation*. As this securitisation vehicle is not fiscally transparent, it may be recognised as a "tax resident" and benefit from double taxation relief measures set out in applicable treaties or domestic tax regimes.

For equity investors in a *fonds commun de titrisation* residing in France, the applicable tax regime depends on their legal status:

- Natural persons: Income from net result distributions, capital gains on disposal of units, and liquidation surpluses allocated to unitholders is subject to a 31.4% flat tax rate (or, at the investor's option, the progressive income tax rate). The subscription and transfer of units is exempt from registration fees (Article 680 of the French General Tax Code), but the allocation of liquidation surpluses is subject to the right of partition under standard tax law conditions (Article 746 of the French General Tax Code); and
- Companies subject to corporate income tax: Income from net result distributions, capital gains on disposal of units, and liquidation surpluses allocated to unitholders is subject to corporate income tax at a rate of 25%.

For equity investors residing outside France, distributions to unitholders who are not French tax residents are subject to a 75% withholding tax only if payment is made in a non-cooperative state or territory (Article 238-0 A of the French General Tax Code). Capital gains on disposal of units in a *fonds commun de titrisation* are exempt from income tax in France.

For debt investors in a *fonds communs de titrisation* the

following taxation applies:

- Natural persons: Income from interest payments and capital gains on disposal of bonds is subject to a 31.4% flat tax rate (or, at the investor's option, the progressive income tax rate);
- Companies subject to corporate income tax: Income from interest payments and capital gains on disposal of securities is subject to corporate income tax at a rate of 25%.

22. To what extent does the legal and regulatory framework for securitisations in your jurisdiction allow for global or cross-border transactions?

France legal framework regarding securitisations is particularly attractive, notably considering the simplified "securitisation assignment" regime (Articles L.214-169, V and D. 214-227 of French Monetary and Financial Code) allowing to easily realise a true sale of the receivables.

Foreign law master receivables purchase agreements are also generally well recognised under French law, although the assignment of French receivables itself is commonly effected by the issuance of a separate French transfer deed, being a simple form slip governed by French law and referring to the relevant articles of the French monetary code.

However, as acquisition of unmatured receivables is considered a credit operation which is in principle an activity strictly reserved to licensed banks in France or the EU, as stated above, the acquisition of unmatured receivables by foreign purchasers in cross-border transactions frequently require an intermediate purchaser mechanism, taking the form of either an intragroup sale or of a licensed banking institution or French securitisation SPV (organisme de titrisation).

23. How is the legal and regulatory framework for securitisations changing in your jurisdiction? How could it be improved?

The adoption of the NPL Directive on November 24, 2021 has allowed to harmonize within the European Union the legal framework applicable to the credit purchasers and servicers of creditor's right under a non-performing loan agreement.

There has been recently a consensus within the European Union on the necessity to further revive the European securitisation market. Reports published in 2024 by

Enrico Letta and Mario Draghi both underlined that developing securitisation could help to channel non-bank finance across EU financial markets to bolster investment and increase banks' financing capabilities.

On June 17, 2025, the European Commission presented a proposal to amend the EU Securitisation Regulation and the EU regulation n°575/2013 on prudential requirements for credit institutions. The main aim is to simplify the regulatory framework in order to facilitate securitisation activity in the European Union to channel more investment in the union's economy.

The main proposed amendments comprise:

- the removal of some verification requirements for investors in the event the sell-side party which is subject to compliance to sell-side provision is established and supervised within the European Union;
- the adoption of more principal based risk assessment requirements for the holding of a securitisation position giving investors more freedom in the writing of their procedures regarding the monitoring of their positions;
- the distinction between private and public securitisation to reduce the transparency requirement for private securitisation.

Easing French banking monopoly rules with some additional exemptions could also be useful, particularly as alternative funders and private credit players rise in prevalence.

24. Are there any filings or formalities to be satisfied in your jurisdiction in order to constitute a true sale of receivables?

Please refer to Question (17) above.

No filing with any court or governmental authority is required to give effect to a true sale of receivables under French Law, notably in application of the "securitisation assignment" regime (Articles L.214-169, V and D. 214-227 of French Monetary and Financial Code).

Furthermore, in the context of French private international law rules and in particular Article 14 of Regulation (EC) N° 593/2008 on the law applicable to contractual obligations (Rome I), the law to be applied to determine the conditions under which an assignment can be enforceable against third parties other than the debtor can be the law of the jurisdiction of the debtor. On that basis if the laws of the jurisdiction of the debtor dictate

any relevant formalities then these can be applicable to ensure that the true sale has valid effect. However, this point has not been definitively settled and is the subject of doctrinal disagreement, with different positions having

been put forward. The adoption of a new European legislation on this point, as it has been proposed by the European Commission in March 2018, could clarify this legal issue.

Contributors

Dimitrios Logizidis
Partner

logizidis@gide.com



Alexander Tompkins
Counsel

tompkins@gide.com



Alessia Longo
Associate

alessia.longo@gide.com



Lucile Meurin
Associate

lucile.meurin@gide.com

