

*Good lawyers give good answers.
Excellent lawyers ask the right questions.*

Pontes lawyers act for international, regional and local lenders and corporate borrowers and advise on a large number of corporate finance matters such as acquisition finance projects, structured finance projects, facility agreements, bonds and private placements.

DOES YOUR JURISDICTION READILY ALLOW FOR UPSTREAM SECURITIES TO SECURE OBLIGATIONS OF A DIRECT OR INDIRECT SHAREHOLDER?

POLAND

Yes, as long as certain conditions are met.

SOLIVAN.

www.solivan.pl

CZECH REPUBLIC

No, but the provision of collateral inter alia under fair conditions and beneficial for the target is possible.



www.jsk.cz

AUSTRIA

No. Market standard is to include a limitation language into the documentation that effectively limits the secured parties' security interest and enforcement rights.



www.gpra.at

HUNGARY

Yes, with certain conditions to be met by listed companies.



www.hunlaw.hu

SLOVAKIA

Yes, upon adequate compensation.

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www.mmlaw.sk

ROMANIA

No, this should be subject to a case-by-case analyses in order to make sure that the pledgor benefits from providing security.



www.ja.ro

BULGARIA

Yes, however a joint stock company may not provide security to enable a third party to acquire its shares.

Gugushev & Partners

L A W Y E R S

www.gugushev.com

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Warning: We like clarity just as much as you do. This overview could not be made without extensive implication, generalisation and simplification.

This overview can be used for general reference, but please call or email us before drawing any conclusions based upon it.

PONTES: the CEE lawyers is a network of independent law firms providing full service commercial legal support in the Central and Eastern European countries (CEE). For more details, please visit www.ponteslegal.eu

	AUSTRIA	BULGARIA	CZECH REPUBLIC	HUNGARY	POLAND	ROMANIA	SLOVAKIA
Most commonly used instrument?	Secured loan or credit.	Secured loan or credit.	Secured loan or credit.	Secured loan or credit.	Secured loan or credit.	Secured loan or credit.	Secured loan or credit.
LMA (like) documentation customary?	YES	YES	YES	YES	YES	YES	YES
Floor of zero interest rates possible?	YES	YES	YES	YES. Without agreement: interest rate of 0.01%.	YES	YES	YES
Obligation to monitor the purpose of a loan?	NO, unless agreed.	NO, but in practice, lenders do monitor.	NO. Obligation to mitigate might apply.	NO, but recommended (may trigger acceleration).	NO	NO	NO
Equitable subordination rules applicable?	YES	YES	NO, but certain hardening periods may apply.	YES	NO	YES	YES, if lender holds 5% or more in borrower's capital.
Contractual subordination honoured by bankruptcy trustee?	YES	NO	Only certain types respected by insolvency law.	NO	NO	NO	YES
Collateral in favour of a security trustee?	Only with a parallel debt structure in place.	NO	If security agent acts as joint and several creditor with the other finance parties.	YES	YES	NO	YES
Is a locally incorporated SPV typically used in acquisition finance projects?	YES, SPV or holding company.	YES, SPV or holding company.	YES, SPV or holding company.	YES, SPV or holding company.	YES, SPV or holding company.	YES, SPV or holding company.	YES, SPV or holding company.
Is there a legal difference between loan and credit agreements?	YES, credit agreements are loan agreements made by financial institutions to lend money against interest.	YES, credit agreements are made by financial institutions to lend money against interest.	YES, credit agreements provide the borrower with funds in the future after certain conditions have been met.	YES, credit agreements provide the borrower with funds in the future after certain conditions have been met.	YES, credit agreements may be made by financial institutions only and are regulated by Polish banking law.	YES, the main difference lies in the capacity of the lender (credit institution or non-credit institution).	NO