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Wouter Ghijsels, Pieter Nobels
and Pieter-Jan Leemen
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Contributed by:
Wouter Ghijsels, Pieter Nobels and Pieter-Jan Leemen
Stibbe see p.17

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1. Loan Market Panorama

1.1 Impact of Regulatory Environment and Economic Cycles

Until the onset of the COVID-19 pandemic, the Belgian loan market remained very active. The activity was mainly driven by the low interest rate environment and quantitative easing policies by central banks around the world. The onset of COVID-19 caused a strong initial drop in activity levels. Many large cap transaction were temporarily put on hold. Activity in the mid cap transactions slowed but many transactions did go ahead, albeit at a slower pace.

According to the most recent forecasts by the Federal Planning Agency of September 2020, GDP is expected to decrease by 7.4% in 2020. A quick recovery is expected in 2021, with GDP expected to grow again by 6.5%. Government relief measures and a decrease in tax revenue are expected to cause important budget deficits and increased sovereign debt issuance.

Central banks reacted quickly to the pandemic by lowering interest rates and expanding quantitative easing again. Governments implemented relief measures for companies and private individuals, mitigating the direct impact of the pandemic and quarantine measures on the economy. Many companies that were not or only mildly hit by the pandemic, used the opportunity of a sharp increase in liquidity provided by central banks to refinance their existing credit facilities, to raise additional financing, and to draw down (revolving) credit facilities as much as possible, mainly out of fear of future financing difficulties. Companies in the most hard hit sectors, including (air) travel and the hospitality industry, have started restructurings and insolvency proceedings.

In line with European Banking Agency (EBA) guidance, the National Bank of Belgium has implemented certain measures to ease the impact on banks' solvency and liquidity and on banks' lending activity generally. The countercyclical capital cushion was lowered from 0.5% to 0%. Eligibility criteria for collateral (including loans) used by banks for Eurosystem funding purposes were made more flexible.

Meanwhile, Belgium is also affected by Brexit talks that remain ongoing. The United Kingdom is currently the fourth largest country to which Belgian goods are exported. According to one study by a university professor, a "hard Brexit" would cause the loss of 42,000 jobs in Belgium, while a "soft Brexit" would cause 10,000 jobs to be lost.

1.2 Impact of the COVID-19 Pandemic

Overall the COVID-19 pandemic had a negative impact on the Belgian economy with many business still experiencing a drop in revenues in September 2020. To mitigate the consequences of the COVID-19 pandemic, and to ensure that the most urgent liquidity needs of Belgian companies could be met, the Federal Government of Belgium has imposed several measures, including a general payment deferment of principal payments for certain existing loans and a guarantee scheme for new loans to SMEs.

Deferral of Principal Payments

Non-financial companies, SMEs, self-employed individuals and non-profit organisations (meeting certain criteria) who are borrowers under a corporate loan (term loans, revolving loans, etc. other than leasing or factoring arrangements), could request a deferral of payment of principal of up to 6 months. Interest remained due and payable during such period.

Since the measures entered into force on 31 March 2020 and until the beginning of June 2020, at least 250,000 deferrals of payments have been made, of which 130,000 were corporate loans for an underlying credit volume of EUR21 billion or an average of EUR160,000 per loan. More than 80% of payment deferrals were granted to SMEs and the self-employed.

Government Guarantee

Additionally, the Federal Government of Belgium developed a guarantee scheme to backstop certain loans made by the financial sector before 31 December 2020. This guarantee scheme applied to all new loans and credit lines (term loans, revolvers, etc, including syndicated loans, it being understood that only Belgian credit institutions will be able to benefit from the guarantee) made to "viable" non-financial companies, SMEs, self-employed individuals and non-profit organisations with at least an activity in Belgium. Provisions have to be included in the loans to ensure that, in case of an international group, the Belgian activities of the group will benefit from the funds made available under the loan. The new loan or credit line has a maximum duration of 12 months and has a maximum amount equal to the lower of (i) EUR50 million per borrower (or group of affiliated companies) and, (ii) the borrower's liquidity needs for its activities for the next 12 months (or 18 months for SMEs, including self-employed traders), unless the government agrees, on a case-by-case basis, to a higher amount being made available.

In the beginning of June 2020, an additional guarantee scheme was put in place for SMEs, which often need longer-term loans, for loans with a duration between 12 and 36 months.

The federal guarantee scheme exists in parallel to regional (Flemish, Walloon and Brussels) measures. However, based on the information published online by some regional guarantee providers, the understanding is that a loan which is guaranteed

by the Federal Government cannot at the same time benefit from a guarantee from a regional government.

1.3 The High-Yield Market

The high-yield market is still relatively modest in Belgium. Bond issues have seen an increase in recent years, but mostly from large corporates, real estate companies and financial institutions.

1.4 Alternative Credit Providers

There has been increasing activity from direct lenders in the Belgian market, in particular in M&A transactions (with higher yield). Often, (Belgian) banks participate in such structures, alongside the direct lender, by providing a revolving credit with a super senior ranking.

Notwithstanding the presence of alternative credit providers, Belgian banks continue to play a dominant role in the loan market. Given four domestic banks are active in a relatively small market, competition is fierce, which results in favourable lending conditions, including on pricing, and, for now, a relatively limited demand for alternative lending solutions (as compared to other neighbouring jurisdictions).

There is also an interest from insurers to enter the loan market, be it mainly for long-term investment opportunities in the real estate, projects and infrastructure sector.

1.5 Banking and Finance Techniques

Companies that have used low interest rates to increase borrowing are reaching leverage limits and are now more often looking for off-balance asset-backed financing. This allows them to continue benefitting from the low interest rate environment, while avoiding increased margins due to over-leveraging.

Typical asset-backed financing techniques include factoring of trade receivables, inventory financing, and securitisation, depending on the sector and type of assets available. For example, companies in commodities sectors such as coffee, diamonds or oil have increasingly set up trade receivables and/or inventory financing schemes. Car manufacturers and leasing companies that usually already had car loan or lease securitisation programmes abroad have recently set up similar programmes in Belgium.

Companies facing substantial capital expenditure projects are increasingly considering leasing or even DBFMO-like schemes (Design, Build, Finance, Maintain and Operate) to lower funding costs and/or avoid on-balance sheet financing.

1.6 Legal, Tax, Regulatory or Other Developments

A new companies code was introduced in Belgium in 2019. The new code has abolished some "red tape" requirements and generally introduced more flexibility in the most commonly used company forms. Although the new code still includes restrictions on financial assistance (see **5.4 Restrictions on Target**), there have been some changes that facilitate the use of a "safe harbor" in some instances, particularly in case of real estate finance. The exact rules on the entry into force of the new code are rather complex, but, generally speaking, most rules of the new companies code have entered into force with respect to most Belgian corporations since 1 January 2020.

As from 1 September 2021, an extensive reform of Belgian property law will enter into force. Key changes include more flexible "limited" property rights in respect of real estate. For example, a "long term lease right" (*erfpacht/emphythéose*) which is typically used in real estate leasing transactions, will no longer have a minimum term of 27 years. The property law reform will also provide a legal basis for multiple property rights in respect of "volumes" on the same plot of land, where the current co-ownership regime for apartments would not be appropriate.

On the tax front, some recent case law from the Supreme Court validates the Belgian tax administration's attempts to disallow interest deductions on loans that were entered into to finance dividend distributions and/or capital reimbursements in certain circumstances. This creates an additional obstacle for organising debt pushdowns and poses some significant challenges in setting up efficient acquisition structures.

2. Authorisation

2.1 Authorisation to Provide Financing to a Company

The activity of lending in Belgium is in principle not regulated when the lender is not obtaining its means to provide financing from repayable funds from the public (ie, if the lender is not a credit institution). Credit institutions need to obtain a license in accordance with the Belgian Act of 25 April 2014 relating to the status and supervision of credit institutions and stockbroking firms, by submitting an application for authorisation with the National Bank of Belgium. The authorisation will only be granted if a wide range of operational conditions and requirements are complied with.

An EU credit institution however may perform the activities for which it has been authorised in Belgium as well, through an establishment or branch office in accordance with the principle of single authorisation.

There are specific rules of conduct and certain restrictions on loan terms when granting loans to small and medium sized enterprises (SMEs) in the SME Financing Act of 21 December 2013. No specific authorisation is required to lend to SMEs, but lenders will have an increased duty of care and information duties, among other things. Break fees and prepayment fees are limited. Small and medium sized enterprises are companies that do not meet at least two of the following criteria during two consecutive financial years:

- average number of employees (full-time equivalents) of at least 50;
- turnover of at least EUR9 million euro; and/or
- balance sheet total (ie, total assets) of at least EUR4.5 million.

These criteria must be tested on a global consolidated basis if the company is part of a group.

3. Structuring and Documentation Considerations

3.1 Restrictions on Foreign Lenders Granting Loans

For as long as the activity of a foreign lender in Belgium is limited to corporate lending, no registration, licence or other filing requirements apply.

3.2 Restrictions on Foreign Lenders Granting Security

The granting of security or guarantees to foreign lenders is not restricted in Belgium.

3.3 Restrictions and Controls on Foreign Currency Exchange

In principle, there are no foreign exchange restrictions on financial transactions in Belgium. As an exception, United Nations, European and Belgian embargoes usually contain provisions focused on financial transactions with the specified country and/or its persons or companies deemed to be linked to the governments of embargoed countries. These financial embargoes often prohibit money transfers and currency dealings with the embargoed countries and they could also provide an obligation to freeze or block assets.

The National Bank of Belgium is competent to collect information for statistical purposes in international trade and foreign direct investment. In that regard, outbound foreign transactions may be subject to disclosure or registration.

3.4 Restrictions on the Borrower's Use of Proceeds

Apart from any contractual restrictions, borrowers are required to use the proceeds from loans or debt securities in accordance with Belgian law. This primarily includes rules against corruption, money laundering, terrorism financing and any breach of country-specific sanctions. Financial assistance (ie, borrowing or granting security to finance the acquisition of own shares) is also prohibited for most Belgian companies.

3.5 Agent and Trust Concepts

The trust concept is not recognised under Belgian law. The concept of the security agent is however explicitly recognised under Belgian law, yet only for security over movable assets and financial collateral (and thus not for real estate security). On that basis, security can be created for the benefit of a security agent, which security agent acts as a representative of the lenders/secured parties.

If security over real estate is taken for and on behalf of several lenders or when the loan is envisaged to be syndicated at a later stage, either all lenders will have to become beneficiary of, and party to, the mortgage deed (pursuant to which effective real estate security is taken in Belgium), or a parallel debt construction will have to be put in place. Pursuant to a parallel debt structure the security agent will be a creditor in its own right under a parallel debt undertaking/security agent claim. Although this structure has yet to have been tested in the Belgian courts, it has been relied upon in numerous deals and has become market practice to use in Belgian financing transactions.

3.6 Loan Transfer Mechanisms

Transfer of Rights

A transfer of rights under a loan agreement can be documented by means of a regular transfer agreement between the original creditor and the incoming creditor. There are no specific formal requirements such as notarisation in respect of the transfer agreement, unless the loan is secured by a mortgage and the transferor or transferee is not a credit institution, securitisation institution or other exempt financial institution. The transfer will only be effective towards the debtor once it has been notified thereof.

As a general rule, security interests, being accessory rights to the principal (secured) obligation, will follow the transferred claim. However, depending on the type of security, and in particular the asset class over which security is created, certain perfection and other formalities might apply, including in case of:

- security over registered shares: update of the share register, reflecting the identity of the transferee;

- security over dematerialised shares: transfer of the shares to a securities account held by the transferee;
- security over real estate (pursuant to a mortgage): if the transferor and/or transferee is a credit institution, a securitisation company or another type of exempt financial institution, no perfection formalities have to be taken into account in order for the transfer of the mortgage loan to be effective against third parties; in any other case (eg, a transfer to a non-exempt fund), the transfer of a claim secured by a mortgage will only be enforceable against third parties if such transfer takes place pursuant to a notarial deed (which triggers a registration duty of 1% of the secured amount) and provided that the assignment is indicated ("*gekantmeld*") in the records of the competent local mortgage registry.

These perfection requirements do not apply if a security agent has been appointed, as long as the security agent remains the same.

Novation

Rights and obligations can be "transferred" by means of novation. Novation will require the agreement of the transferor, the transferee and the debtor, and will result in a new debt being created between the debtor and the transferee. Unless expressly agreed otherwise, novation will result in the release of all security interests that were granted in respect of the novated rights (and obligations).

Sub-participation

Although not a transfer in the strict sense, it is often seen that the initial lender enters into a sub-participation agreement with a third party pursuant to which such third party obtains a claim against the initial lender for part of the amounts due to the initial lender by the debtor. The initial lender will remain the lender of record and the only creditor of the borrower and beneficiary of the security interests.

3.7 Debt Buy-Back

Belgian law generally does not restrict the option for a sponsor or a borrower to buy-back its own debt, however, the option to do so it is often contractually restricted, in particular in transactions involving a club or syndicate of lenders or structures with multiple layers of debt.

3.8 Public Acquisition Finance

Public takeovers in Belgium are generally governed by the Public Takeover Act of 1 April 2007 and the implementing Royal Decree of 27 April 2007. The legislation is generally based on the EU Public Takeover Directive (2004/25/EG) and related EU legislation.

For a voluntary public takeover, the bidder must submit to the FSMA, together with the offer, a "certainty of funds" confirmation issued by an EU licensed credit institution. The credit institution must confirm that either the bidder either the total funds required for the bid on a blocked bank account, or that funds are available in the form of an irrevocable and unconditional credit facility granted by one or more EU licensed credit institutions.

It is not required that the credit institution issuing the certainty of funds certificate is itself holding the blocked bank account or is a lender under the credit facility. In practice, some non-Belgian lenders who are not familiar with the Belgian certainty of funds requirements request that a Belgian credit institution acts as "certainty of funds agent".

The requirements on "irrevocableness" and "unconditionality" of the credit facility are deemed to be more stringent than in certain other jurisdictions such as the United Kingdom. In a Belgian public takeover bid, it is not acceptable that the credit facility would be conditional upon no "major defaults", unlawfulness or repudiation having occurred.

4. Tax

4.1 Withholding Tax

Belgian source interest payments are in principle subject to a 30% withholding tax. However, depending on the nature of the debt instrument and the identities of the parties, a reduced rate or a full exemption may be available under either Belgian domestic tax laws or under one of Belgium's numerous tax treaties. By way of example, an exemption applies for interest payable by a Belgian corporate borrower under an ordinary loan granted by a qualifying credit institution based in either the European Economic Area or in a qualifying treaty country. The same goes for interest paid between associated companies to the extent that they qualify for the benefits of the European Interest and Royalty Directive.

The (re)payment of principal and guarantee payments are generally not subject to Belgian withholding tax.

4.2 Other Taxes, Duties, Charges or Tax Considerations

Mortgages on real estate that is located in Belgium are subject to a 1% registration tax and a 0.3% inscription tax. Given the high financial cost that this implies, mortgages are often combined with mortgage mandates which are not subject to proportional registration taxes under certain conditions. Mortgages on ships that are not destined for sea transport trigger a 0.50% registration tax.

A stamp duty of EUR0.15 is payable for each original copy of agreements containing a debt obligation or indebtedness for the benefit of banks, if signed or registered in Belgium.

4.3 Usury Laws

Usury is prohibited under Belgian law, which implies that it is forbidden to charge an abnormally high interest rate.

The court has the discretionary power to review the applicable interest. In case the default interest charged is higher than the damage resulting from the delay in payment by the debtor, the court may reduce the applicable rate.

This should, however, be approached on a case-by-case basis, taking into account the current low interest rates.

5. Guarantees and Security

5.1 Assets and Forms of Security

A typical Belgian security package consists of pledges over shares, receivables, bank accounts, movable assets (including the business as a whole) and, depending on the transaction, real estate.

Shares

A pledge over registered shares in a Belgian company is granted by way of a "simple" (non-notarial) agreement and is perfected by registering the pledge in the share register of the company whose shares are pledged. The share register is held at the registered seat of the company and is not publicly available. There is no requirement to hand over share or title certificates or blank stock transfer forms. Specific rules apply if the shares are in dematerialised form (ie, entered into a clearing system and held on a securities account) instead of registered form (ie, registered in the share register held by the company itself).

Receivables and Bank Accounts

Under Belgian law, a bank accounts pledge is considered to be a pledge over the receivables owned by the account holder vis-à-vis the account bank, notably for the intermediate balance from time to time and the end balance upon closing of the account. Although governed by a different legal regime, the rules for the taking of security over receivables and bank accounts are similar, save for some specific rules relating to bank account pledges, notably with respect to enforcement.

A pledge over receivables and/or bank accounts owned by a Belgian company is granted by way of a "simple" (non-notarial) agreement and is perfected by sending a notice of pledge to the debtor/account bank or obtaining the acknowledgement of the pledge by the debtor/account bank. There are no filing or registration requirements.

Movable Assets and IP rights

Under Belgian law, a registered pledge over any type of tangible or intangible movable assets (other than receivables, bank accounts and shares, for which the perfection formalities as set out above apply), such as inventory or machinery and equipment, can be perfected by registering such a pledge in the Belgian National Pledge Register, without having to transfer the assets into the possession of the pledgee.

In addition, a registered pledge can be taken over the "business" of the pledgor as well. In such case, the pledge will cover all the movable assets that constitute the business of a pledgor including, among other things, the inventory, the clientele, goodwill, commercial name and signs, commercial organisation, trademarks, patents, know-how, rights under leases, furniture, commercial records, equipment, vehicles, etc – land and buildings (real estate) are however excluded.

It is however also possible to perfect a pledge over movable assets by a transfer of possession to the pledgee (or an agreed third party pledgeholder).

Notwithstanding the generality of the above, it should be noted that, in order to perfect a pledge over intellectual property rights (being intangible movable assets) additional perfection formalities might apply (eg, registration in the relevant IP register, if any). To avoid complex/burdensome perfection formalities, and in particular in transactions where the IP rights are not a core asset of the business of a pledgor, IP rights are often not pledged separately, yet only as part of the "business" (under a registered pledge without disposession).

A pledge over movable assets is granted by way of a "simple" (non-notarial) agreement, which must specify a maximum secured amount up to which the security can be enforced.

In case the movable assets security is perfected by means of registration in the Belgian National Pledge Register (and not by means of dispossesion of assets), a registration fee will be due. Such fee will range between EUR20 and EUR500.

Real Estate

Mortgage

A mortgage over real estate must be granted by way of a notarial deed. A power of attorney to sign the mortgage deed on behalf of the mortgagor must also be in the form of a notarial deed and in some cases (involving foreign owners) legalised or apostilled. A power of attorney to sign the mortgage deed on behalf of the beneficiary, on the other hand, is not subject to specific Belgian

law formal requirements. A mortgage is perfected by registering it at the mortgage office that is competent due to the location of the real estate, triggering 0.3% mortgage duties and registration fees of approximately 0.2 to 0.3% of the secured amount. The mortgage deed must also be registered at the tax registration office, triggering registration taxes of 1% of the secured amount. A fixed documentary duty of EUR50 is due on the mortgage deed. Taken together, the total costs amount to approximately 1.5% to 1.6% of the secured amount.

Mortgage mandate

Given the relatively high costs associated with registered mortgages (see above), it is common practice in Belgium to split up the total amount that is to be secured in a part that is taken as an actual registered mortgage (typically between 5% and 20%), and the remaining part as an irrevocable mortgage mandate.

Such mandate allows a third party beneficiary of the mandate to grant a mortgage to the creditor at any time on behalf of the debtor (so-called "conversion" of the mandate into an actual registered mortgage). That way, registration and mortgage duties will only be due upon the conversion of the mandate, instead of upfront at the time the mandate is granted.

A mortgage mandate is subject to the same formal requirements as an actual mortgage. There are no upfront requirements such as registration but as any notarial deed the mortgage mandate will need to be registered at the tax registration office (triggering a limited amount of registration taxes).

5.2 Floating Charges or Other Universal or Similar Security Interests

Under Belgian law the entire movable assets or business of a Belgian company can be pledged through a movable assets pledge (see **5.1 Assets and Forms of Security**).

Such movable assets pledge can be granted through a private agreement, which the pledgee (or its attorney) has to register in the national pledge register (which will trigger a registration fee of EUR20 to maximum EUR500). This type of pledge allows for the creation and perfection of a pledge over movable assets without the need for dispossession of such movable assets.

5.3 Downstream, Upstream and Cross-Stream Guarantees

In order for a Belgian company to grant downstream, upstream and cross-stream guarantees, the granting of such guarantee needs to be compatible with such company's corporate object clause as set out in its articles of association and it should be in its corporate interest to grant such guarantee.

As regards the corporate interest, as a general rule, a Belgian company may in principle not enter into transactions for the sole benefit of its parent or affiliated companies. The corporate interest must, in principle, be considered in each individual company. It is, however, generally held that within a group of companies, the corporate interest of each entity can, to a certain extent, be tempered by taking into account the interests of the group. Therefore, a company may be considered to be acting in its best interest by enhancing the interests of the group.

Guarantees granted are therefore often limited to a certain amount (eg, the amount of on-lending to that guarantor, a percentage (80/90%) of its net assets, etc).

Only the board of directors can properly assess whether these conditions are met. If these conditions are not met, the transaction would be deemed contrary to the company's interest. The corporate interest assessment by the board of directors is typically set out in detail in the minutes of the board of directors' meeting approving the transactions.

Note that a violation of the corporate object or corporate interest principles could lead to the nullity or unenforceability of the transaction if the other contracting party knew or should have been aware that the transaction did not serve the company's corporate purpose or was not in the company's corporate interest. Moreover, the directors of the company may be held liable if the company enters into a transaction that is contrary to its corporate interest.

5.4 Restrictions on Target

Under Belgian law, a limited liability company is restricted to advance funds, grant security interests or guarantees with a view to a third party acquiring that company's shares. These restrictions however do not prevent the target to guarantee or secure debt that is entered into to refinancing existing debt, or that will be applied towards general corporate purposes.

Belgian law provides for an exception to this rule – a so-called "safe harbour" – yet the conditions are strict and cumbersome and not often relied upon in practice. Generally, parties will structure the transaction in a way to avoid the application of the financial assistance restrictions.

5.5 Other Restrictions

No other restrictions or significant costs are associated with finance transactions, nor are certain specific consents (works' council, etc) required.

5.6 Release of Typical Forms of Security

The security will be unconditionally and irrevocably released by the security agent/pledgee by means of a release agreement or release letter.

Further, there are some additional perfection requirements in order to release certain security interests:

- share pledge: a recordation should be made in the share register to deregister the share pledge;
- movable assets pledge: the registration in the national pledge register should be removed;
- mortgage: the security agent/pledgee will instruct a notary public in writing to deregister the mortgage from the mortgage registry.

5.7 Rules Governing the Priority of Competing Security Interests

Under Belgian law, the rules governing the priority of competing creditors are rather complex. In principle, creditors will rank equally, unless a creditor benefits from a lien or a security interest as provided for by law.

In the case of competing security interests, the security interest that has been made effective against third parties first will often have priority. For example, if several pledges have been granted over the same shares, the pledge that was registered first in the share register will have priority. In case of receivables, the pledge that was notified to the debtor first will have priority. As regards a registered movable assets pledge, ranking will depend on the time of registration in the national pledge register. The same applies to mortgages, where ranking will depend on the time of registration in the mortgage registry. However, mortgage securities registered on the same day will rank equally and will be paid pro rata.

Further, certain creditors benefit from a super-priority lien and will always rank ahead of other creditors (eg, creditors for certain judicial costs and creditors for costs made to maintain or preserve assets).

Finally, under Belgian law subordination can be contractually achieved between creditors by way of an intercreditor agreement or a subordination agreement.

6. Enforcement

6.1 Enforcement of Collateral by Secured Lenders

Collateral can only be enforced if a default has occurred in respect of the secured obligations under the relevant security agreement.

Shares

A share pledge can be enforced without the prior consent of a court, provided that a default has occurred in respect of the secured obligations. The pledge can be enforced by way of a public auction or by way of appropriation of the shares by the pledgee. The latter requires that the share pledge agreement explicitly allows appropriation and specifies the procedure and valuation rules.

Receivables

A receivables pledge is most commonly enforced by using the right to collect the receivable and directly obtain payment from the debtor of the pledged receivable. This does not require prior authorisation by a court or other public body. Theoretically, the pledgee could also request a court to authorise a private sale or public auction of the pledged receivables.

Bank Accounts

A bank accounts pledge can also be enforced by using the collection right, which in practice usually means that the pledgee takes control of the bank account and operates it. Additionally, if the pledgee and the account bank are the same entity, the pledgee may "appropriate" (ie, set-off) the funds standing to the credit of the bank account in payment of the secured obligations.

Movable Assets

A movable assets pledge can be enforced without the prior consent of a court, provided that the enforcement trigger set out in the movable assets pledge agreement has occurred. The enforcement procedure starts with a prior notice given by the pledgee to the debtor and, if applicable, the third party pledgor. After such notification, a waiting period will start during which the pledgor or any interested party will have the opportunity to avoid the enforcement and obtain the release of the pledge by discharging the secured obligations.

The types of enforcement methods can be determined by the parties in the pledge agreement or at a later time. Appropriation of the pledged assets is also possible provided that the pledgor consented to this and the pledgor and the pledgee have reached an agreement on the valuation of the pledged assets.

Mortgage

Before a mortgage can be enforced, the beneficiary must have an "executable" title for the secured obligations. Having obtained an executable title, the beneficiary of the mortgage can initiate court proceedings for the public auction or private sale of the mortgaged real estate. Any public auction or private sale is led by a notary. The notary will receive the purchase price, draw up a ranking between the various creditors and pay out the proceeds to the various creditors according to their rank.

6.2 Foreign Law and Jurisdiction

In accordance with and subject to the conditions specified in Article 3 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (the Rome I Regulation), in any proceedings taken before a Belgian court for the enforcement of the obligations of a contract, the choice of a foreign law will be upheld as a valid choice of law by the Belgian Courts.

The chosen law of a contract however shall not prevent a Belgian court to give effect to (without being exhaustive):

- any overriding provisions of Belgian international public policy and any overriding mandatory provisions of Belgian law (in accordance with Articles 21 and 9 of the Rome I Regulation);
- at the discretion of the Belgian courts, the application of mandatory provisions of the law of the country where the obligations arising out of the contract have to be (or have been) performed, to the extent such overriding mandatory provisions render the performance of the contract unlawful; and
- in case (at the time of the choice of governing law was made) all elements relevant to the situation are connected with a certain country, the mandatory provisions of the law of such country.

Note that the Rome I Regulation only applies to contracts entered into on or after 17 December 2009 (prior to that date, generally the Rome Convention will apply) and only to civil and commercial matters.

Generally, a Belgian court will respect the jurisdiction of the courts that have been chosen by parties under the contract. However in case submission to a foreign jurisdiction is made, the Belgian courts retain jurisdiction for such provisional, including protective, measures as may be available under Belgian law, even if other courts are competent as to the substance of the matter.

6.3 A Judgment Given by a Foreign Court

Generally, a judgment given in a foreign court will be recognised and enforced by the Belgian courts, without re-examination of the merits of the case.

There are, however, certain situations in which a foreign judgment will not be recognised and enforced, including among others where a Belgian court had the exclusive jurisdiction to hear the case or where the recognition or enforcement of the judgment would be manifestly contrary to Belgian public policy.

Foreign awards obtained in an arbitral hearing, will be recognised in Belgium in accordance with, and subject to the conditions (and applicability) of the New York Convention (to which Belgium is a contracting state).

6.4 A Foreign Lender's Ability to Enforce Its Rights

Other than for matters of financial assistance, corporate interest and the legal status of a Belgian company which might restrict the capacity of the company to grant security, or limit the total amount for which such security can be granted, a foreign lender's ability to enforce its rights under a loan or security agreement is subject to any limitations arising from bankruptcy, insolvency, liquidation, moratorium, reorganisation and other laws affecting the rights of creditors generally.

7. Bankruptcy and Insolvency

7.1 Company Rescue or Reorganisation Procedures Outside of Insolvency

Outside of insolvency proceedings, Belgian insolvency law allows for both voluntary informal solutions (ie, by reaching an amicable settlement with two or more creditors) and formal restructuring (ie, by entering into judicial reorganisation proceedings under court supervision).

In practice, most often is opted for formal restructuring and insolvency proceedings. However, despite never being publicly disclosed, informal work-outs have proven to be a useful tool to address financial difficulties or to reorganise a business.

7.2 Impact of Insolvency Processes

Judicial Reorganisation

After it has affirmed the opening of a judicial reorganisation procedure, the court will grant the debtor a moratorium. During such moratorium:

- no bankruptcy or liquidation proceedings may be opened in respect of or pursued against the debtor; and
- in respect of claims predating the opening of the judicial reorganisation procedure, no means of enforcement (in relation to both moveable and immoveable assets) may be used or pursued for against the debtor and none of its assets may be seized, unless the seizure is in an advanced stage and the court did not suspend it.

The prohibition of enforcement during the moratorium prevents the enforcement of security interests (eg, a pledge or mortgage) or enforcement sought by creditors benefitting from a statutory lien. However, However, such a prohibition does not apply to:

- financial collateral (eg, cash credited on account, shares and other financial instruments) created under the Belgian financial collateral act (provided that the debtor is in default); and
- pledges over specific claims.

Bankruptcy
As the court declares the opening of bankruptcy proceedings, the enforcement rights of individual creditors are suspended by way of general rule. Only after such declaration, the bankruptcy trustee is allowed to take any actions against the debtor and liquidate its assets. However, such suspension does again not apply to financial collateral created under the financial collateral act.

For creditors whose debt claims are secured by certain movable assets, such suspension is normally limited to the period required for the first verification of the debt claims. For creditors whose debt claims are secured by immovable assets, the intervention of the bankruptcy trustee is necessary to proceed with the sale of such assets.

Liquidation
In case of liquidation, unsecured creditors and creditors with a general privilege on all assets lose their enforcement rights, save to the extent that the enforcement would not prejudice other creditors or the proper course of the liquidation. However, the enforcement rights of creditors whose debt claims are secured by certain movable assets or immovable assets are preserved.

7.3 The Order Creditors Are Paid on Insolvency
In the context of a bankruptcy (or deficit liquidation), creditors will be priority-paid according to a complex set of rules.

Below is a general overview of these rules:

- Debts of the estate: all costs and debt incurred by the bankruptcy trustee/liquidator during the bankruptcy/liquidation proceedings are referred to as "debts of the estate", and these are awarded ultimate priority. Furthermore, if the bankruptcy trustee/liquidator has contributed financially towards the selling and enforcement of any secured assets, such contribution will be refunded to the bankruptcy trustee/liquidator by way of priority, which will be paid out from the proceeds from the assets sold before the rest of the proceeds are distributed to the secured creditors.
- Security interests: creditors holding a security interest have a priority right over the secured asset (whether by means of appropriation or from the proceeds generated by a sale).
- Privileges: creditors may have a particular privilege right on certain or all assets (eg, tax claims, claims for social security premiums, etc). Privilege rights on specific assets rank higher than general privilege rights.
- Pari passu: once creditors referred to above are satisfied, the sale proceeds from the remaining assets will be distributed among the unsecured creditors who are ranked on a pari passu basis (unless a creditor has agreed of course to be subordinated).

In the framework of a judicial reorganisation, it should be noted that the court may approve a restructuring plan that modifies the ranking of a class of creditors.

7.4 Concept of Equitable Subordination
Belgian insolvency law does not contain any specific provisions regarding restrictions on claims by related parties or non-arm's length creditors in general.

Abnormal transactions entered into with the knowledge that the company's creditors would be prejudiced, could however be marked as fraudulent and subsequently be declared ineffective in the company's bankruptcy.

Additionally, all transactions entered into by a Belgian company need to be compatible with the legal requirement that companies intend to make profits and be concluded in a company's proper corporate interest, in the absence of which any non-arms' length transactions might be held unenforceable.

7.5 Risk Areas for Lenders
In respect of security that has been granted, it has to be verified whether all perfection formalities required under the different regimes have been properly complied with (eg, notices being sent to the relevant debtors, registrations made in the relevant registers). As part of this exercise, it should also be checked whether any relevant triggers events have occurred that allow the notification of any debtors that were not notified upfront of the pledge (eg, commercial debtors) or whether the conditions for enforcement have been satisfied.

In case of bankruptcy, lenders should take into account that certain transactions may be declared ineffective against third parties if concluded or performed by the debtor during the so-called "hardening period" (a period of a maximum of six months before the date of the bankruptcy order, except in the case where the bankruptcy order relates to a company that was dissolved more than six months before the date of the bankruptcy order in circumstances suggesting an intent to defraud its creditors). A hardening period is however not standard and can only be declared by the court in case of serious and objective circumstances that unambiguously indicate that the debtor was in state of cessation of payments prior to the bankruptcy order.

Hardening Period

If a hardening period is declared by the court, the transactions may be set aside if they took place during the hardening period include, inter alia:

- gratuitous transactions entered into at an undervalue or on extremely beneficial terms for the counterparty;
- payments for debts which are not due;
- payments other than in cash for debts due; and
- security provided for pre-existing debts.

In addition, the court may, at the request of the bankruptcy trustee and at its discretion, declare ineffective against third parties other transactions entered into or performed during the hardening period provided that the counterparty was aware of the debtor's cessation of payments and the court determines that this declaration would benefit the bankruptcy estate.

For lenders, it could be particularly interesting to note that the above provisions have been largely made inapplicable with regard to financial collateral and with regard to certain transactions that have taken place within the framework of a judicial reorganisation procedure. In respect of transactions entailing fraudulent impoverishment of the debtor's estate, there is also a general possibility to set these aside (the so-called "*Actio Pauliana*"). This action is not specific to insolvency proceedings.

Finally, lenders should take into account a standard duty of care when awarding credit to a borrower, for example when it were to become insolvent. Failure to do so may result in a liability claim.

8. Project Finance

8.1 Introduction to Project Finance

Belgium has become a mature market for both private and public project finance, with many projects being completed across a range of sectors such as road infrastructure, (wind)energy and government infrastructure.

Projects are typically structured around a special purpose vehicle (SPV). The SPV will enter into a DBFM(O) agreement (Design, Build, Finance, Maintain and Operate) or a similar framework contract with a consortium of developers. A number of ancillary documents such as interest rate swaps, insurance policies and expert documents typically complement the main financing agreements and DBFM(O) agreement.

8.2 Overview of Public-Private Partnership Transactions

The PPP Market

A mature public-private partnership (PPP) market has developed over the last ten years. The most active PPP authorities are the Belgian Buildings Agency, the Flemish and Walloon Public Transportation Companies De Lijn and OTW, the Flemish and Walloon infrastructure agencies De Werkvennootschap and Sofico, and the Flemish school buildings agency AGIOn.

Public authorities on all levels have been entering into PPPs as such partnerships offer an attractive solution to realising much-needed public infrastructure projects, such as roads, rail, schools and hospitals, while allowing for an off-balance sheet treatment of the project debt.

A main driver for public authorities opting for the PPP model is indeed its potential for an off-balance treatment under the ESA 2010 accounting rules of the European Union. The ESA 2010 rules operate a "binary" system: the assessment is that the project is either a wholly owned government asset or else it is a non-wholly owned asset (ie, on or off-balance sheet).

In the years following the ESA 2010 rules, Eurostat (the European agency in charge of monitoring the national accounts) had adopted a much stricter application of said rules towards certain countries, including Belgium, leading to uncertainty and public authorities (temporarily) abandoning important infrastructure projects.

Statistical Treatment of PPPs

To clarify its statistical treatment of PPPs, Eurostat released its "*A Guide to the Statistical Treatment of PPPs*" in September 2016, in cooperation with the European PPP Expertise Centre of the European Investment Bank, and published under the aegis of both institutions. This 150-page document examines in detail the project structure of a typical PPP deal, and highlights particular risk allocations that it considers will point to a project being treated as on or off-balance sheet.

The Eurostat guidelines give all stakeholders clear indications of an appropriate fiscal and project risk allocation for the public sector body to assume in a PPP project, and practitioners in Belgium have welcomed the important clarifications.

As a result, major project approvals and closings continued their upward trajectory in 2019. In January 2019 the Liège tram PPP project reached financial close for a total funding requirement of EUR430 million for the design, build, financing and maintenance (DBFM) of the first, 12 km long, tramway line in the city. The Liège tram PPP was one of the first major projects to close in Belgium following publication of Eurostat's new PPP guidelines,

and the first ever major PPP project in the Walloon Region. The ambitious EUR600m PPP project to restore and manage the electromechanical equipment of the Walloon Region's 2300 km road network reached financial close in February 2019, also structured as a DBFM project with a 20-year term. Such projects remain attractive to both national and international financing parties.

Public Procurement Rules
Specific procurement rules and procedures are set out in the Public Procurement Act of 17 June 2016 and its implementing royal decrees. These rules are based on EU procurement law. PPP transactions are usually tendered through the "negotiated procedure", although recently the competitive dialogue has also been implemented and used into the Belgian legal system. Most PPPs involve a selection phase followed by one or more offer phases, consisting of rounds of negotiations leading to subsequent offers, and usually a "best and final offer". Finally, after the preferred bidder is selected, final negotiations are conducted and the contract is closed. Usually, "contract close" concurs with "financial closure" between the contractor and its funders.

There is no mandatory, standard form of PPP project agreement. Nonetheless, in line with international PPP and project finance standards, standard documentation has matured and a market practice has evolved over the years.

Although standard forms of Anglo-Saxon inspiration are being used more frequently, and provide the comfort of being recognisable to lenders and foreign investors, their application and enforcement will, in particular with respect to notices and notice periods, not be as strict, literal or rigourous as under common law, but will rather be tempered by the legal principle of good faith proper to civil law.

8.3 Government Approvals, Taxes, Fees or Other Charges

Generally, no special taxes, fees or other charges will be specifically payable under a typical project financing. Subject to conditions, certain types of PPP companies may be exempt from certain restrictive tax rules such as the thin cap rules and the EBITDA based interest deduction limitation.

8.4 The Responsible Government Body

Belgium is a federal state, where both the federal level and the three Regions (Flanders, Brussels Capital Region and Wallonia) have competencies with regard to the oil and gas, power and mining sectors.

Oil
The responsible government body will depend on the activity in question, and on the competent government (notably the federal government or one of the regional governments) for that specific activity:

- Federal: Ministry of Energy, the National Oil Office, FAPETRO and APETRA;
- Flanders: Ministry of Energy; and
- Wallonia: Ministry of Energy.

The primary laws and regulations (irrespective of any applicable European legislation) are as follows:

- Federal: Act of 13 June 1969 on the exploration and exploitation of non-living resources of the territorial sea and the continental shelf;
- Federal: Royal Decree of 30 October 1997 on the granting of exclusive licences for the exploration and exploitation of hydrocarbons on the continental shelf and in the territorial sea;
- Federal: Act of 13 July 1976 approving the Agreement on an International Energy Program;
- Federal: Act of 26 January 2006 on the stockholding of a mandatory stock of petroleum and petroleum products and the establishment of an agency to manage part of this stock and amending the Act of 10 June 1997 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products;
- Federal: Program Agreement between the Belgian Government and the Belgian Petroleum Federation (BPF) on maximum prices;
- Flanders: Decree of 8 May 2009 on the deep subsurface; and
- Flanders: Decree of the Flemish Government of 15 July 2011 implementing the decree of 8 May 2009 on the deep subsurface and amending various decrees.

Gas
The responsible government body will depend on the activity in question, and on the competent government (notably the federal government or one of the regional governments) for that specific activity:

- Federal: Ministry of Energy and the energy regulator CREG;
- Flanders: Ministry of Energy and the energy regulator VREG;
- Wallonia: Ministry of Energy and the energy regulator CWaPE; and
- Brussels Capital Region: Ministry of Energy and the energy regulator BRUGEL.

The primary laws and regulations (irrespective of any applicable European legislation) are as follows:

- Federal: Act of 13 June 1969 on the exploration and exploitation of non-living resources of the territorial sea and the continental shelf;
- Federal: Act of 12 April 1965 on the transport of gaseous and other products by pipeline;
- Federal: Act of 18 July 1975 on the exploration and exploitation of underground storage spaces in situ intended for the storage of gas;
- Flanders: Decree of 8 May 2009 on the deep subsurface;
- Flanders: Decree of 8 May 2009 containing general provisions on energy policy;
- Wallonia: Decree of 19 December 2002 on the organisation of the regional gas market; and
- Brussels Capital Region: Ordinance of 1 April 2004 on the organisation of the gas market in the Brussels-Capital Region, on road charges for gas and electricity and amending the Ordinance of 19 July 2001 on the organisation of the electricity market in the Brussels-Capital Region.

Power

The responsible government body will depend on the activity in question, and on the competent government (notably the federal government or one of the regional governments) for that specific activity:

- Federal: Ministry of Energy, CREG, Commission for Nuclear Facilities, Federal Agency for Nuclear Control;
- Flanders: Ministry of Energy and VREG;
- Wallonia: Ministry of Energy and CWaPE; and
- Brussels Capital Region: Ministry of Energy and BRUGEL.

The primary laws and regulations (irrespective of any applicable European legislation) are as follows:

- Federal: Act of 10 March 1925 on the electricity supply;
- Federal: Act of 19 April 1999 on the organisation of the electricity market;
- Federal: Act of 31 January 2003 on the gradual phasing out of nuclear energy for industrial electricity production;
- Federal: Act of 11 April 2003 concerning the provisions for the decommissioning of nuclear power plants and for the management of fissile materials irradiated in these power stations;
- Flanders: Decree of 8 May 2009 containing general provisions on energy policy;
- Wallonia: Decree of 12 April 2001 on the organisation of the regional electricity market; and
- Brussels Capital Region: Ordinance of 19 July 2001 on the organisation of the electricity market in the Brussels-Capital Region.

Mining

The responsible government body will depend on the activity in question, and on the competent government (notably the federal government or one of the regional governments) for that specific activity:

- Federal: Ministry of Energy;
- Flanders: Ministry of Energy;
- Wallonia: Ministry of Energy; and
- Brussels Capital Region: Ministry of Energy.

The primary laws and regulations (irrespective of any applicable European legislation) are as follows:

- Federal: Act of 13 June 1969 on the exploration and exploitation of non-living resources of the territorial sea and the continental shelf;
- Flanders: Decree of 8 May 2009 on the deep subsurface;
- Flanders: Decree of the Flemish Government of 15 July 2011 implementing the decree of 8 May 2009 on the deep subsurface and amending various decrees;
- Wallonia: Mining Decree of 7 July 1988;
- Wallonia: Royal Decree of 5 May 1919 on the general police regulations on mines, mines and underground quarries; and
- Wallonia: Coordinated legislation of 15 September 1919 on mines, mines and quarries.

8.5 The Main Issues When Structuring Deals

Belgium and its regions still benefit from favourable credit ratings. Where a PPP contract is entered into by a rating-less government agency depending from the federal or regional governments, the counter-part risk is traditionally covered by a payment guarantee for which specific legislation is then passed on a project-by-project basis.

The Belgian market is open to foreign lenders, investors and contractors. There are no specific restrictions on foreign investments and ownership. In relation to public works licensing, it is essential that both national and foreign contractors are "licensed to build", or are able to prove that they have equivalent experience and skills to entitle them to a licence. There are no currency controls that would make it difficult or impossible to change operating funds or profits from one currency to another, nor any controls or laws that restrict removal of profits and investments.

From the private side, a special purpose vehicles (SPV) created for the purpose of realising the project will be set up, taking the form of a limited liability company with limited liability for the shareholders. The SPV will be funded through a mix of equity (capital and subordinated debt) and debt.

Direct agreements and specific step-in rights on the project are part of the standard security package requested by the lenders, allowing them to step in if the financial sustainability of the project is degrading or if the project company is underperforming.

Permits and Directive 2011/92/EU

Most often, "permits" are the one issue to get the most attention from all sides involved on any PPP. The timeline of any PPP transaction is mostly determined by the timing of the permitting process. Belgium has extremely broad and detailed legislation regarding urban development, environmental issues and sustainability, and the procedure for obtaining the necessary environmental and building permits for large projects may turn out to be rigid, long and complex. In the case of construction work, a rigid procedure must be followed to obtain a building permit and an environmental permit prior to commencement of the work. In Flanders and in the Walloon Region, a unique permit combines the building and environmental permit. As of 20 April 2019, in Brussels such applications have begun to be treated more simultaneously, though the concept of the unique permit is not yet fully established there.

Moreover, all three Belgian regions have implemented Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. Projects that are within the scope of this Directive (that is, projects with a possible (significant) impact on the environment) must perform an environmental impact assessment (EIA) or must assess whether or not an EIA must be performed as part of the permitting process. This may turn out to be time-consuming. Although in PPPs it is often the public authority that will apply for the necessary permits, third parties have easy access to challenge such permits, which on some occasions forces the public authority to postpone the projects for what may be long periods due to the slow resolution of such challenges.

Lenders traditionally required all final permits to be in place and the permitting risk to be adequately covered by the public authority as a condition for financial close.

8.6 Typical Financing Sources and Structures for Project Financings

Project costs are typically financed by a combination of syndicated bank debt and sponsors' equity (both equity subscription and subordinated debt). Project finance transactions in Belgium are usually highly leveraged with a debt to equity ratio around 80:20, although this can vary across sectors.

Debt is usually provided by a syndicate of lenders and documented in a loan agreement, supplemented by hedging agreements, an intercreditor agreement and security agreements.

Equity usually consist of a variety of sponsor support arrangements and sponsor loans. Performance bonds and advance payment guarantees are common as well.

8.7 The Acquisition and Export of Natural Resources

Typical considerations associated with the acquisition and export of natural resources in Belgium are:

- To perform certain activities, an environmental permit, a production permit and or several authorisations and licences (eg, supply licence) may be required. In case of a transfer of ownership or a change of control, prior approval of the issuing authority is sometimes required.
- Grid users will obliged to have and maintain a grid connection and grid access contract.
- When trading energy derivatives, it should be assured that such trading is in accordance with MIFID II, EMIR, REMIT and SFTR.
- Renewable power plants or plants based on innovative technology may benefit from regional support in the form of green certificates or investment subsidies.

8.8 Environmental, Health and Safety Laws

Belgium is a country with complex legislative and institutional arrangements, which has implications for the basis of environmental law. Ever since the three Belgian regions – ie, the Brussels Capital Region, the Flemish Region, and the Walloon Region – were officially established in the 80s, the national laws on environmental protection have gradually been replaced by regional laws and regulations. In each of the three Regions, environmental law covers environmental protection in the broad sense – such as air, soil, water, habitats and species, waste management, etc – and lays down the application procedure for obtaining permits to operate polluting or hazardous plants and installations. The three regional sets of legislation that apply in their respective areas have much in common in terms of their main principles, but they also differ on some important points.

Federal Regulations

Some aspects of environmental policy and law, however, are still regulated at federal level. These include the protection of citizens and the environment against the hazards of ionising radiation, regulations on the use and commercialisation of chemicals and hazardous substances, such as biocides, on safety and wellbeing in the workplace in respect of, eg, asbestos exposure, on food quality and on marine protection in Belgium's territorial sea.

EU Directives

As in most EU Member States, environmental law in Belgium is heavily influenced by EU directives and regulations in the field of environmental law.

Court Judgments

An important source of environmental law in Belgium is case-law based on judgments rendered by the courts, including the administrative jurisdictions and the Constitutional Court, which lay down certain principles that must be observed by the authorities. Case-law from the Court of Justice of the EU (CJEU) is becoming increasingly important. Belgian courts tend to apply CJEU case-law quite naturally.

Several regional regulatory authorities and agencies are responsible for managing and enforcing environmental law in the three regions and at federal level. These include the Flemish Waste Agency (OVAM) for Flanders, the Brussels Environment Agency for the Brussels Capital Region (IBGE – BIM) and the Environmental Department of the Walloon Public Services (*Service Public Ressources naturelles et Environnemment*) for the Walloon Region. At federal level, the Federal Nuclear Control Agency ensures compliance with nuclear regulations. Local enforcement authorities play an important role in addressing violations of environmental law and are often backed by police powers.

The laws governing the competent permit-issuing authority in each region differ significantly. In general, the regional authorities oversee projects that entail certain risks to the environment and surroundings, whereas the local (municipal and provincial) authorities oversee smaller projects. For the latter, administrative appeal procedures apply. Permit-issuing authorities assess applications on their legality, as well as on opportunity, for which they enjoy a certain level of discretion.

Given their cross-regional aspects, health and safety issues are mainly regulated and harmonised at the federal level. The applicable regulations cover a broad range of themes and are often of a technical nature. Many of the regulations, such as the ones relating to food safety, product safety and labelling, do incorporate EU law into national law. The Federal Public Service Public Health, Food Chain Safety and Environment (*SPF Santé Publique, Sécurité de la Chaîne Alimentaire et Environnement – FOD Volksgezondheid, Veiligheid van de Voedselketen en Leefmilieu*) is the single most important regulatory body on the federal level which has responsibility for managing and enforcing health and safety regulations.

Stibbe is a leading internationally oriented Benelux law firm, with over 140 lawyers in Brussels, around 30 lawyers in Luxembourg and over 200 lawyers in Amsterdam and branch offices in London and New York. Stibbe's 15 banking, finance and debt capital markets experts in its Brussels office provide specialist expertise in banking and finance, including complex loan deals, project finance, acquisition finance, real estate finance, capital market transactions and reorganisations, a wide range of banking products and leveraged finance; and DCM, including all types of debt instruments, securitisation and related types of transactions, Eurobonds and structured note offerings. Stibbe also handles EMTN and commercial paper programmes, convertibles, covered bonds and RMBS and CMBS transactions and claims regarding (alleged) mis-selling of securities, asset management, investment advice, and prospectus liability; and financial regulation, covering core regulatory, compliance, supervision and enforcement issues driven by European legislation that financial institutions are confronted with, and assistance in regulatory driven transactions.

Authors

Wouter Ghijsels is the managing partner of the Brussels office of Stibbe. He advises financial institutions, corporate, and public sector clients on a broad range of domestic and cross-border financial transactions. Wouter has particular expertise in syndicated lending, acquisition finance, property finance, secured transactions, project finance and leveraged/management buyouts. He works closely with Stibbe's corporate and real estate partners.

Pieter Nobels is a senior associate who focuses on a wide range of banking, debt capital markets and structured finance work. Pieter advises companies, financial institutions, and public authorities on a wide range of Belgian and international financial transactions. Pieter has significant experience in public and private bond issues, securitisations, covered bonds, trade receivables financing and derivatives. Furthermore, he advises clients on acquisition finance, real estate finance and general banking transactions.

Pieter-Jan Leemen is a senior associate and assists financial institutions, companies and governments in Belgian and international financial transactions. Pieter-Jan focuses mainly on syndicated loans, takeover financing, restructurings, real estate financing and project financing.

Stibbe

Central Plaza
Loksumstraat 25 Rue de Loxum
1000 Brussels
Belgium

Tel: +32 2 533 54 73
Fax: +32 2 533 52 12
Email: Wouter.ghijsels@stibbe.com
Web: www.stibbe.com

Stibbe