Chambers AND PARTNERS

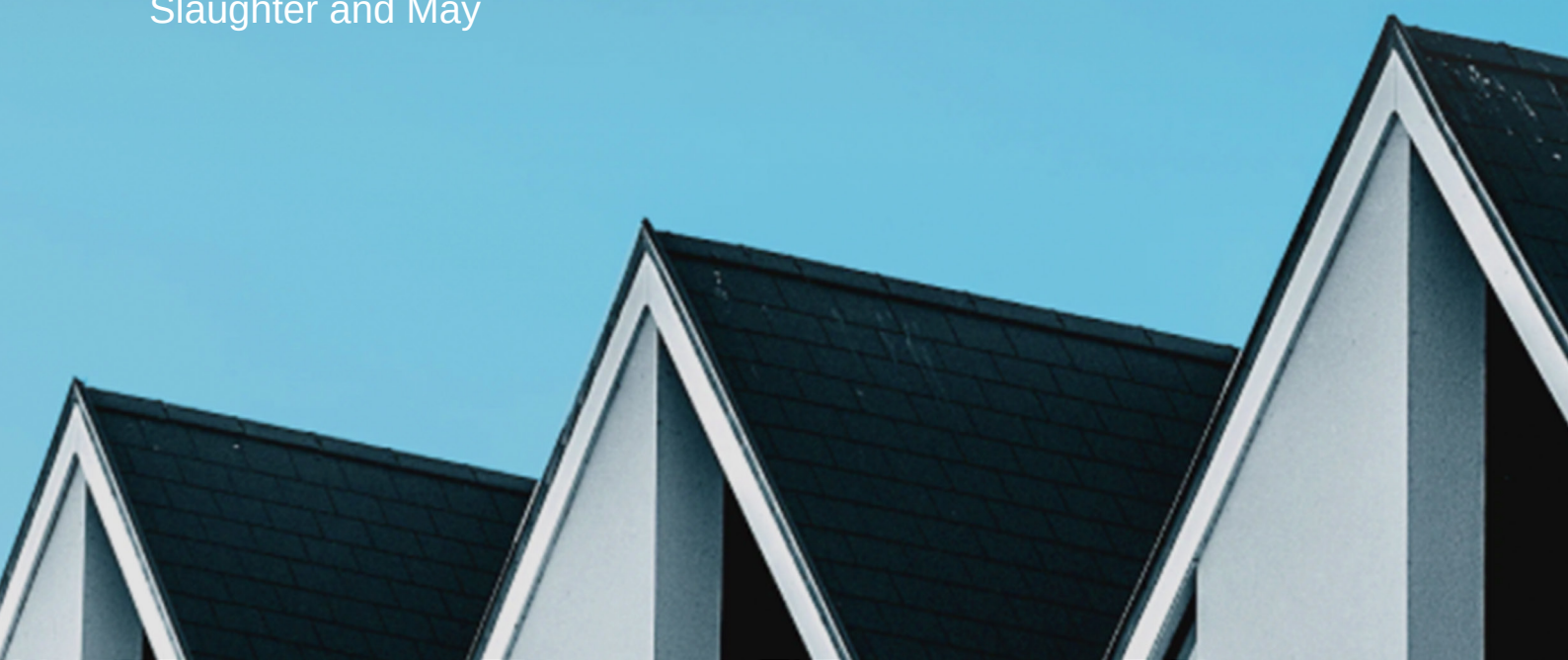
CHAMBERS GLOBAL PRACTICE GUIDES

Securitisation 2026

Definitive global law guides offering comparative analysis from top-ranked lawyers

UK: Trends and Developments

Guy O'Keefe, Richard Jones, Charlie McGarel-Groves and Kate Patane
Slaughter and May



Trends and Developments

Contributed by:
Guy O'Keefe, Richard Jones, Charlie McGarel-Groves and Kate Patane
Slaughter and May

Slaughter and May has a market-leading securitisation and structured finance team that advises originators, investors and arrangers on public and private securitisations (as well as related structures, such as forward flow arrangements) of every major asset class. It has a core team of securitisation-focused lawyers in its London office, and the broader multi-specialist financing team is also brought onto matters as needed. The firm works with the best local law firms on cross-border matters. Clients include some of the most prolific ABS issuers in Europe and a number of the largest global banks (which come to Slaughter and May for their highest-value, most-complex and innovative structured transactions), as well as specialist lenders setting up their first funding transactions. The team regularly works on STS securitisations in the UK and the EU, and also on deals marketed to US and other global investors.

Authors

Guy O'Keefe has a wide-ranging financing practice that covers securitisation and structured finance, as well as banking and capital markets. He advises issuers, borrowers, lenders and counterparties of all types. He also advises governments and financial institutions, funds and lending platforms on various matters, including restructuring and asset sales.

Richard Jones is head of Slaughter and May's securitisation and structured finance practice, and has over 20 years' experience in advising on securitisations and other structured finance transactions, covering credit card, store card, point-of-sale, personal loan, auto loan, trade and commercial, and residential mortgage receivables. He also advises on whole-business securitisations and regulatory capital-driven internal securitisations. Richard frequently works on master trust and standalone public transactions, and on private/bilateral transactions and related structures (eg, whole loan and forward flow arrangements). He regularly speaks at industry events and is a key point of contact with AFME. Clients include Hyundai Capital, HPS, Legal & General, NewDay, Octopus Electric Vehicles, Oodle, Santander, Song Capital and Volvo Car Finance.

Charlie McGarel-Groves advises public and private institutions, corporates and sponsors on a wide range of securitisations and structured products, with extensive experience across asset-backed securities, bespoke structured finance solutions and forward flow transactions. He also advises on complex security and collateral arrangements, derivatives, repackagings and debt capital markets, ensuring tailored and innovative solutions for clients in the structured finance space. Key clients in this practice area include Blue Motor Finance, M&G, Octopus Electric Vehicles, the Department for Education, and Dignity.

Kate Patane is a knowledge lawyer in the securitisation and structured finance team at Slaughter and May. She has extensive experience in advising arrangers, lead managers, rating agencies, servicers, issuers and trustees on the structuring and rating of transactions of various receivables, including auto loans, RMBS and CMBS. Recently, Kate has written articles for the Journal of International Banking and Financial Law.

Contributed by: Guy O'Keefe, Richard Jones, Charlie McGarel-Groves and Kate Patane, **Slaughter and May**

Slaughter and May

Slaughter and May
One Bunhill Row
London
EC1Y 8YY
United Kingdom

Tel: +44 020 7090 4549
Fax: +44 020 7090 5000
Email: kate.patane@slaughterandmay.com
Web: www.slaughterandmay.com

The story of the UK securitisation market in 2025 has generally been one of continued investor confidence and gradual regulatory evolution. The market has benefited from the opportunities presented by private credit investors, increased interest in non-bank lenders, and the continued development of forward flow and platform lending structures providing a pipeline for public and private securitisations. New transaction structures and emerging/growing asset classes – electric vehicles, data centres and equity release mortgages – keep the UK at the forefront of the European securitisation market.

Issuance volumes of residential mortgage-backed securities (RMBS) in the UK declined in 2025 but the market has been supported by steadily increasing lending activity in 2025 (2.9% higher than the same time in 2024; Bank of England – Mortgage Lenders and Administrators Statistics – 2025 Q3). The commercial mortgage-backed securities (CMBS) market has seen strong issuance volumes and large transactions, especially in the logistics and industrial sectors – though there remain challenges in the retail sector. There has been a spotlight on the motor finance sector in 2025, which has been particularly affected by the *Hopcraft* litigation and the Financial Conduct Authority's (FCA) proposed redress scheme. Finalisation and implementation of that scheme in 2026 is hoped to provide the certainty required to support more securitisation activity in that sector – in particular, for specialist and non-bank lenders.

UK/EU Divergence

On 1 November 2024, the UK introduced a new securitisation framework to replace the version of the EU Securitisation Regulation (2017/2402) which was (with some limited amendments) incorporated into UK domestic law in the wake of Brexit (the "UK Securitisation Framework"). The UK Securitisation Framework is set out in the Securitisation Regulations 2024 (SI 2024/102) (as amended), the Securitisation Part of the Prudential Regulation Authority (PRA) Rulebook (the "PRA Securitisation Rules") and the Securitisation Sourcebook (SECN) of the FCA Handbook (the "FCA Securitisation Rules"), together with the relevant provisions of the Financial Services and Markets Act 2000 (FSMA) (as amended).

On the whole, the UK Securitisation Framework retains much of the language and substance of the EU Securitisation Regulation, but includes a number of useful clarifications and small yet important improvements (for example, by allowing UK regulated investors greater flexibility in the manner of reporting required to be provided by securitisations in which they invest). Nevertheless, despite the introduction of the UK Securitisation Framework, the regulatory regimes applicable to securitisations in the UK and the EU remain largely aligned, and the UK Securitisation Framework has not undergone any significant reforms since it was introduced.

On 17 June 2025, the European Commission released its proposals for amendments to the EU Securitisation Regulation and the EU Capital Requirements Regulation (the "EU Proposals"). Industry bodies

have thus focused their attention this year on digesting and responding to these EU Proposals and the subsequent consultations in respect of the EU Liquidity Coverage Ratio Delegated Regulation and the EU Solvency II Delegated Regulation. These proposals aim to reinvigorate the EU securitisation market by reducing operational complexity and recalibrating prudential requirements to achieve greater proportionality. Key elements include streamlined reporting for private securitisations and adjustments to capital treatment for banks and insurers, mitigating some of the punitive aspects that have historically constrained investor participation.

In the UK, no new consultations have been released during 2025 by the FCA or the PRA in respect of the UK Securitisation Framework, though market participants expect that the UK regulators will focus on improving the reporting and disclosure regimes in 2026. In particular, echoing a theme of the EU Proposals, it is hoped that a more proportionate reporting regime for private transactions may be introduced.

Given the desire of UK and EU issuers to maximise their access to UK and EU investors, divergence of the UK and EU securitisation regimes remains a key focus for market participants. Any divergence between those regimes risks introducing additional complexity, enhanced reporting obligations and duplication of processes for those transactions looking to achieve dual compliance, which can increase cost and adversely affect the functionality of the UK and EU securitisation markets. Areas of divergence arising from the EU Proposals and causing particular concern include:

- the new definitions of public and private securitisation;
- the allocation of legal responsibility for compliance with due diligence requirements; and
- the potential sanctions for institutional investors' failure to meet due diligence requirements.

Each of these topics has been the subject of significant discussion and debate across a broad range of participants in the securitisation market, and the final outcome of the consultation process for the EU Proposals is keenly awaited.

Regulatory Evolution

In addition to the securitisation regulatory developments, 2025 has seen the continued implementation of Basel 3.1 reforms in the UK, certain of which will impact the capital treatment for securitisation exposures. The PRA published PS 12/25: Restatement of CRR and Solvency II Requirements in the PRA Rulebook – 2026 implementation (effective from 1 January 2026) and the PS19/25: Restatement of CRR Requirements – 2027 implementation – near final (published as final in PS 3/26 – Restatement of CRR requirements – 2027 implementation – final), which largely preserve current requirements and supervisory expectations relating to the securitisation requirements, but propose some targeted policy changes, including changes to p-factor calculations for the standardised securitisation approach and clarifications relating to the use of unfunded credit protection in synthetic significant risk transfer (SRT) securitisations. Full Basel 3.1 implementation is scheduled for 1 January 2027, with transitional arrangements running until 2030.

Highly discussed in the UK RMBS arena was the 2025 Renter's Rights Act, which applies to residential "assured" tenancies to individuals only (eg. buy-to-let (BTL) properties and not commercial/business leases). With fixed-term assured shorthold tenancies and Section 21 "no-fault" two-month notices to regain possession being abolished, and new rent increase controls, the slower landlord remedies and reduced income flexibility or potential income voids have reallocated risk towards lenders and landlords, resulting in BTL lenders tightening their underwriting standards. Stricter affordability testing, lower loan-to-value ratios and tighter portfolio and income scrutiny have been a focus for lenders in 2025, as well as the potential impact they may have on the pipeline for UK RMBS transactions.

Environmental, social and governance considerations continue to play an influential role in the UK securitisation market, impacting investor demand, transaction structures and asset eligibility. Regulatory initiatives, including the sustainability and disclosure regime in the UK, have sought to encourage issuers to improve disclosures and transparency regarding the environmental performance of underling assets and thereby inform investors' investment decisions. This is expect-

ed to remain an evolving area in 2026 and beyond, reflecting the changing governmental and regulatory priorities and developments in the macro-economic and political environment.

Motor Finance – Moving on From Hopcraft

During 2025, the UK motor finance industry was beset by uncertainty arising from the *Hopcraft* case decisions in the Court of Appeal and Supreme Court, and the subsequent FCA proposed redress scheme. These have had a material impact on the UK motor finance industry and may have broader consequences for consumer financing and any other financial products originated through brokers.

The case involved three linked appeals that raised common issues about the lawfulness of the payment of commission by auto finance lenders (the "Finance Companies") to motor dealers (the "Dealers") in connection with the provision of finance for the hire purchase of cars, where that commission was either not disclosed (as alleged in the case of *Hopcraft and another v Close Brothers Limited*), or only partly disclosed (as alleged in the case of *Johnson v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance (FirstRand)* and *Wrench v FirstRand Bank Limited (London Branch) t/a MotoNovo Finance*), to the hirers of the cars (the "Customers").

Before the Court of Appeal, the claimants claimed that the commissions paid to the Dealers by the Finance Companies amounted to bribes, or to secret profits received by the Dealers in breach of the fiduciary duties that they owed to the Customers. Two claimants claimed payment of an amount equivalent to the commissions from the Finance Companies under the tort of bribery. Two claimed, in the alternative, compensation from the Finance Companies for dishonest assistance in the Dealers' receipt of secret profits. In *Johnson*, it was further claimed that the hire purchase agreement gave rise to an unfair relationship under Section 140A of the Consumer Credit Act 1974 (CCA). The Court of Appeal upheld these claims, and the Finance Companies appealed to the Supreme Court.

On 1 August 2025, the Supreme Court handed down its judgment, in which it determined that the Dealers did not owe fiduciary duties to their Customer. The Dealers were acting in their own commercial interests and not pursuant to a duty of single-minded loyalty to the Customers, and the parties to the three-cornered commercial transaction would have expected that to be the case. As a result, the Supreme Court dismissed the claimants' claims in tort and equity against Close Brothers Limited and FirstRand in their entirety, as such claims depended on the Dealers owing a fiduciary duty to the Customer. However, the Supreme Court found that, in *Johnson*, the claimant's claim of unfairness under the CCA succeeded on the facts – ie, the size of the commission was very high (55% of the interest charge and 25% of the total sum advanced), the commission was not prominently disclosed, and there was an undisclosed commercial right of first refusal between the Dealer and the Finance Company.

Following the Supreme Court judgment, the FCA announced its decision to introduce an industry-wide redress scheme to compensate motor finance customers who had been (in the FCA's view) treated unfairly. The FCA subsequently published a consultation on the proposed redress scheme on 7 October 2025, and the deadline for consultation responses was 12 December 2025. The FCA is aiming to publish its final rules in February or March 2026.

In order for the consumer to be owed redress under the proposed scheme, at least one of the following "relevant arrangements" must have been present and must not have been adequately disclosed to the consumer:

- a discretionary commission arrangement;
- a high commission arrangement, where the commission represents, at a minimum, 35% of the total cost of credit and 10% of the amount financed; or
- a tied arrangement, where the lender has exclusivity such that the broker is obliged to introduce customers exclusively to that lender or where the lender has a right of first refusal or an equivalent right.

If any relevant arrangement was not adequately disclosed, the relationship is presumed to be unfair under the proposed scheme (this presumption may be rebutted in certain circumstances). The FCA noted that the redress scheme is designed to be easy for consumers

to participate in and does not require a claims management company or law firm to be involved.

The Supreme Court judgment was largely welcomed by the UK's auto finance industry, though many auto lenders and industry bodies have expressed concerns with the scope of the FCA scheme. Nevertheless, after a period of limited UK auto asset-backed securities (ABS) securitisations in the wake of the Court of Appeal judgment, public motor finance securitisations (such as Oodle Finance's Dowson 2025-1) began re-emerging in 2025. 2026 will hopefully see the transition to more sustained growth in motor finance securitisations, particularly if the FCA consultation process results in a UK redress scheme that can be implemented in an efficient and proportionate manner from the perspective of both lenders and consumers.

Forward Flow

Forward flow has moved from a relatively niche structure to a mainstream funding solution for originators over the last few years. It covers a broad range of asset classes, including mortgages, auto loans, small and medium-sized enterprise (SME) lending and fintech originated receivables. Its (relative) simplicity, efficiency and flexibility have added to its attractiveness for lenders and investors alike.

In particular, for non-bank lenders, forward flow provides a useful combination of the opportunity to build long-term partnerships with funders with a deep understanding of their business, funding certainty to support investment in growing originations, reduced refinancing risk, and the possibility of operating an asset-light balance sheet where accounting derecognition of assets is achieved. Forward flow has increasingly become a viable alternative to warehouse securitisation facilities for start-ups and non-bank lenders seeking to scale without raising significant equity or debt.

There have also been an increasing number of partnerships between banks and private credit funds, which have used forward flow structures to allow funds to benefit from banks' sophisticated origination platforms and to provide banks with increased balance sheet to fund new originations.

Forward flow structures typically have the advantage of lighter documentation and fewer regulatory obligations compared to other asset-backed funding solutions. However, as there remains no standardised approach for forward flow structures or terms, there is broad scope for negotiation for both originators and funders. Key points for negotiation commonly include the following.

Managing originations

This includes setting allocation targets and minimum allocation requirements with a view to ensuring that the funder achieves expected capital outflows, agreeing eligibility and portfolio criteria designed to meet funding objectives – in particular, when a funder is using back leverage or senior funding that needs to meet simple, transparent and standardised (STS) requirements, designing stop purchase events that are tailored to ensure that funding can be switched off where the originator or the assets no longer meet the funder's investment assumptions.

Facilitating refinancing

Where the funder's long-term plans may involve refinancing the purchased assets, in particular by way of a securitisation, they will look to agree upfront on the level of support that the originator and servicer provide for that refinancing, including reporting meeting regulatory requirements, servicing being portable, and warranty and eligibility criteria being suitable for a securitisation (and potentially an STS transaction).

Keeping interests aligned

In its simplest form, a forward flow transfers the entire beneficial interest of originated assets to the funder, with the originator retaining no economic interests in the sold assets – noting that regulatory risk retention requirements do not apply to bilateral forward flow transactions. Funders will often need to carefully consider how their and the originator's interests are kept aligned. Solutions may include one or a combination of contractual requirements for originators to adhere to such detailed origination and servicing policies, and a general obligation on the originator to comply with reasonable lender and servicer standards or profit-sharing arrangements with respect to excess spread.

The growth in forward flow structures is likely to continue into 2026, with originators seeking to have a broad mix of funding sources that are not all exposed to the potential vagaries of the capital markets, and with funders – in particular private credit funds – being under increasing pressure to find opportunities to allocate capital.

Equity Release Mortgages

The market for UK equity release mortgages (ERM) continued to expand in 2025, with lending volumes increasing 32% year-on-year (Equity Release Counsel, April 2025). ERM allow consumers at or nearing retirement age to borrow funds with their home as security, without them having any repayment obligations during a period when they have no or low employment income. These assets have an unusual repayment profile as they tend to be repaid when the last surviving borrower dies or goes into long-term care (and interest can be paid on a periodic or rolled-up basis). The ageing UK population, the cost-of-living crisis, inadequate pension provisions and sustained historic increases in UK property values remain key drivers for consumers looking to equity release as a form of retirement funding. Providers are responding to evolving customer needs with more innovative products – eg, inheritance protection models, mortgage products featuring downsizing protections, and loan portability and loans with optional repayment features and drawdown options.

ERM tend to be offered by life insurers (as a tool to improve liability matching and manage longevity risk, since the repayment profile of a portfolio of ERM can correspond to the liability profile of a portfolio of life insurance policies) or by specialist lenders. Traditionally, ERM have been held on balance sheet or, in the case of life insurers, securitised in internal securitisations (in order to create matching adjustment eligible notes under the relevant solvency capital regime).

The downside of funding ERM portfolios through internal securitisation is that, as well as the senior matching adjustment eligible securities, life insurers are also required to hold the junior variable tranches, which absorb (in addition to the usual risks) the payment volatility associated with this asset class. The benefit of a public ERM securitisation, therefore, is that a life insurer may hold the matching adjustment senior notes, but the mezzanine notes (which can have attractive cash flows), and potentially the junior notes, can be held by third parties.

2024 and 2025 saw a handful of public securitisations of ERMs in the UK and European securitisation markets, with the roughly GBP1 billion Lifetime Mortgage Funding 1 plc securitisation of ERMs originated by Aviva closing in December 2024. These transactions have shown the market that it is possible to achieve a public securitisation of ERMs at scale. In each deal, to make the junior and mezzanine notes attractive to third-party investors, the majority junior noteholders hold a circa three-year refinancing call option in respect of all the mezzanine and junior notes. This means that, while the senior notes are structured to be suitable as long-term buy-to-hold instruments, the mezzanine and junior noteholders are not required to take such a long-term position. The success of these deals may pave the way for further transactions in the UK and EU equity release securitisation markets, which have seen limited activity in recent years, providing liquidity, improved capital efficiency and funding options for equity release product originators and owners.

Significant Risk Transfer (SRT)

The SRT market in the UK continues to grow, covering a wide range of asset classes, including corporate and SME loans, subscription lines, residential mortgages and commercial real estate, consumer credit and auto loans. SRT remains an area of regulator focus with the PRA re-confirming in 2025 its supervisory expectations (which, while not a rule, firms are expected to have regard to) in SS9/13 (Securitisation: Significant Risk Transfer), including proving that capital reflects genuine, ongoing risk transfer, notifying the PRA of SRT deals in a timely manner and obtaining self-assessment SRT approval.

Policy statement 12/25 (Restatement of CRR requirements – 2026 implementation) published in July 2025, with final legally enforceable rulebook changes effective from 1 January 2026, permits unfunded credit protection such as insurer guarantees for synthetic SRT and requires senior management approval for SRT transactions. In addition, in October 2025, the

near-final PS19/25 (Restatement of CRR requirements – 2027 implementation) (published as final in PS 3/26 – Restatement of CRR requirements – 2027 implementation – final) delivered the Basel 3.1 reforms (effective 2027) into the SRT framework, by including, among other things, a risk-sensitive formula-based "p-factor" in capital calculations – however, unlike the similar proposals in the EU, it did not introduce a "fast-track" SRT approval process in the UK.

CHAMBERS GLOBAL PRACTICE GUIDES

Chambers Global Practice Guides bring you up-to-date, expert legal commentary on the main practice areas from around the globe. Focusing on the practical legal issues affecting businesses, the guides enable readers to compare legislation and procedure and read trend forecasts from legal experts from across key jurisdictions.

To find out more information about how we select contributors, email Rob.Thomson@chambers.com