

Project bonds and project SPVs

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New Law on Securitisation – key developments

Federal law No. 379-FZ “On introduction of amendments to certain Legislative Acts of the Russian Federation” dated 21 December 2013, entered into force on 1 July 2014:

- permits pledge of monetary claims, including future claims (shall be owed to issuer and free of encumbrance);
- permits subordination for issuers of secured bonds (subordination not only among different bond tranches, but also among agreements secured by the same collateral);
- CBR may expand the list of permitted types of assets which may serve as a collateral for asset-backed bonds (CBR is about to adopt the relevant regulations soon).

Specialised vehicles

2 new types of Russian specialised vehicles (SPVs):

-project finance specialised vehicle (“SOPFs”);

-specialised financial vehicle (“SFOs”).

Non-petition and limited recourse clauses are permitted with these SPVs.

Project Finance Specialised Vehicle - SOPF

Purpose and scope of activity:

- financing of long-term (at least 3 years) investment project via acquisition of monetary claims which will arise in connection with:
 - disposal of project property;
 - rendering services, production of goods, performance of works relating to project property;
- acquisition of other property necessary for implementation of the project ;
- issue of asset-backed bonds (secured by the pledge of such claims and other property).

Status of SOPF vs SFO

- SFO can not hire individuals, form BoD, Management Board, Audit Committee; powers of CEO are transferred to Management Company;
- SFO may dispose of its property, raise loans and credits, insure and hedge its risks;
- SOPF may refrain from forming BoD, Management Board, Audit Committee, may transfer powers of CEO to Management company;
- specialised vehicles are immune from application of certain provisions of JSC Law and LLC Law;
- no special reorganisation/liquidation procedures: issue for SOPF and sponsors after all project finance indebtedness has been repaid.

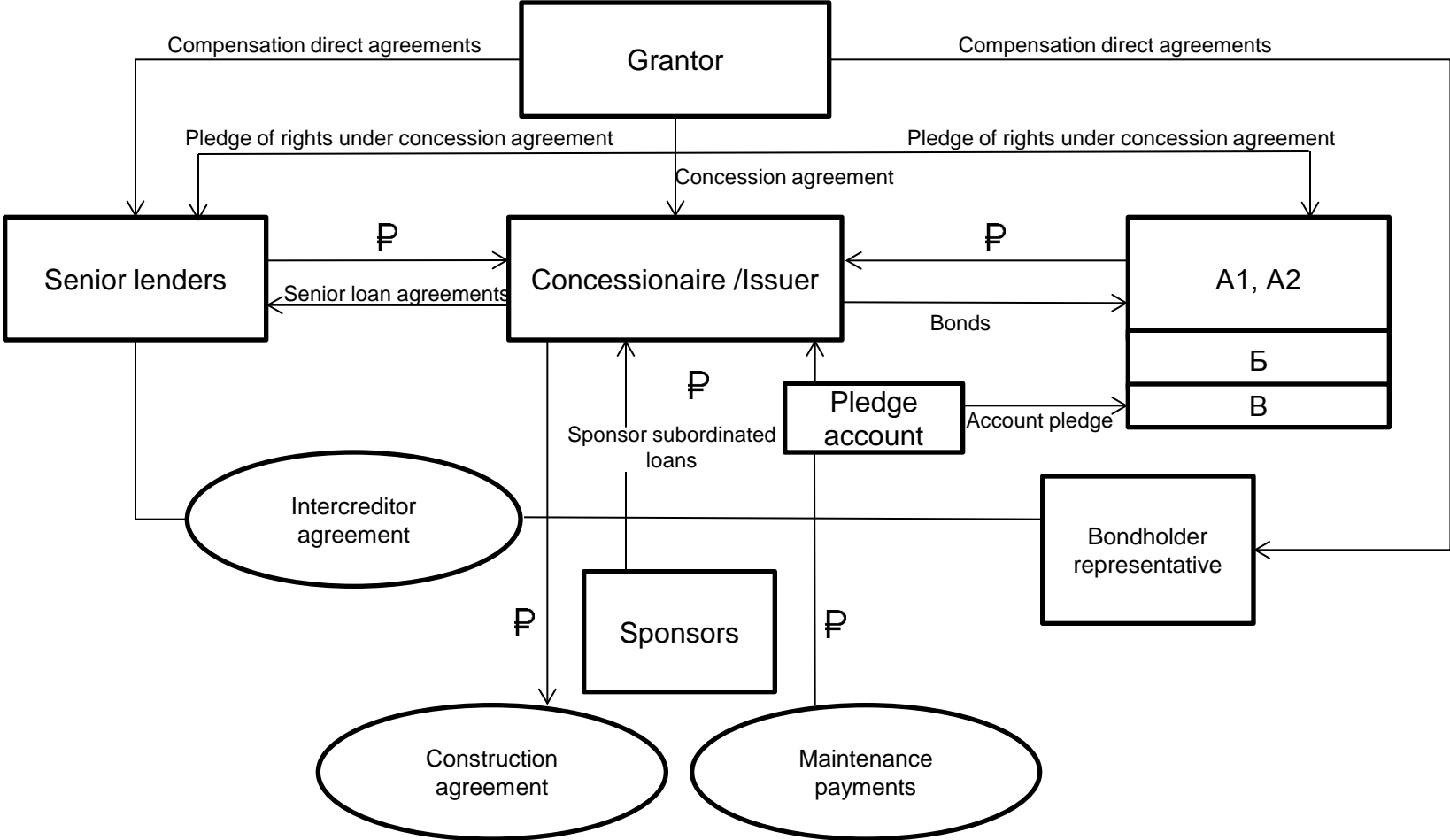
Bankruptcy procedures for specialised vehicles

- the application shall be filed by bondholders representative pursuant to the decision of the general meeting of bondholders;
- non-petition: a lender is not permitted to initiate bankruptcy procedures prior to a specified date or event, if so provided contractually (i.e. before redemption of the bonds);
- CEO shall not be obliged to file an application for bankruptcy if the charter provides for a specified date or event until occurrence of which such application shall not be filed;
- simplified procedure: no supervision, financial rehabilitation and external management; solely competition management;
- creditors have one month to file their claims.

Asset-backed bonds

- real estate, securities and monetary claims may serve as collateral for asset-backed bonds (including future claims, subsequent pledge of claims is prohibited);
- subordination among different tranches of asset-backed bonds and issuer's agreements is permitted where secured by one collateral;
- subordination applies to: (i) enforcement against pledged claims, (ii) distribution of proceeds from the sale of such claims and (iii) acceleration of secured obligations;
- payments under the pledged claims shall be credited to the issuer's pledge account.

Example of project financing structure



Example of project financing structure (cont.-d)

- two senior loans and class A1 and A2 bonds have a shared security among themselves (as well as class B and C bonds) and have equal ranking between themselves without priority;
- class B and C bonds are subordinated to senior loans and class A1 and A2 bonds and between themselves;
- security: pledge of monetary claims under Concession Agreement and pledge over Pledge Account ;
- payments under pledged claims under the Concession Agreement shall be credited to Pledge Account;
- a bondholders' representative (acts in the interests of bondholders) is required to execute Intercreditor Agreement and Direct Agreement on behalf of bondholders;
- enforcement against security is subject to the voting of senior bondholders and senior lenders pursuant to the terms of Intercreditor Agreement.

Questions?

