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## Greece
## Securitisation

## Contributor

PwC Greece


**Kely Pesketzi**

Director | kely.pesketzi@pwc.com

**Palmyra Chantzara**

Manager | palmyra.chantzara@pwc.com

**Mary Samioti**

Senior Associate | maria.samioti@pwc.com


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

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# Greece: Securitisation

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

Since its enactment back in 2003, Greek Law 3156/2003 (the **Greek Securitisation Law**) has been used predominantly on loan receivables and has actively followed through the course of local banking and financial industry developments without significant amendments.

Historically, the framework was used by Greek banks to securitise to the financial markets all types of asset classes relevant to loan and credit products, then to obtain emergency liquidity by means of retained and/or circular schemes and, more recently, to deleverage their balance sheets from non-performing exposures, noting the systemic scale of Greek NPL stock between the years 2015-2020. Following a number of synthetic deals on performing books from most of the Greek systemic banks, the market is now heading towards deleveraging any remaining NPL stock by means of bilateral deals or with the help of the Greek state's guarantee under the Hellenic Asset Protection Scheme (HAPS) on NPLs securitisations. In parallel, lending activity picks up pace and will accumulate volumes to create a new performing securitisable portfolios.

The European Commission's approval (by decision 8749/13.12.2024 – SA. 116229) of the HAPS regime extension until 30 June 2025, along with an increase in the guarantee amount by €1 billion (bringing the total to €3 billion), has significantly contributed to this activity. The market has seen a number of HAPS securitisations launch this past year, such as Project Solar the joint securitisation of the four Greek systemic banks of their joint exposures, the parallel securitisation of two medium-sized banks under merger (Attica and Pancreta banks) and a series of diverse portfolio securitisations from other systemic banks in certain of which we had the privilege to be involved in.

Outside the banking sector, the market has seen large-scale deals in two main asset classes, namely electricity supply receivables and auto lease claims. The successful use of the securitisation tool within and beyond the financial services industry attests the potency of securitisation as a tool finance business backed by pools of receivables.

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

Eligible for securitisation are commercial receivables of Greek based commercial entities, namely the claims arising from their originator's business activity. Only receivables can be securitised, meaning there is no novation or transfer of the entire contractual relation; together with the receivable, any ancillary rights (such as guarantees, the benefit of collateral, termination rights etc.) are transferred *ipso iure*. The law allows for future or contingent receivables to be securitised in so far as it is possible to determine them in any way.

The transfer as such does not affect the nature of the receivables sold; for example, if special rights or privileges are inherent to the type of any asset class (such as creditor prerogatives in bank loans), these are maintained regardless of the legal nature of the transferee SPV (which is not a bank, in our example). Inversely, where consumer claims are assigned and serviced in the context of securitisation, the standard rules on communication with and collection from consumers should be adhered to (for example the rules imposed by Greek law 3758/2009 on debtor notification companies, i.e. companies allowed to contact non-performing consumers to inform them of their overdue financial obligations).

The law includes a prevalence provision with statutory effect, allowing securitisation even where the underlying claim arises from a contract with restrictions on assignability. The Greek Securitisation Law will not set aside transferability restrictions imposed by law (as opposed to contractual limitations on assignability) and therefore careful consideration and diligence should be given on the regulations governing the each time relevant asset class.

By way of background, Greek legislation does include provisions on real estate securitisation as well as public claims securitisation, but neither has produced consistent transactional track record, for different reasons each.

 

Particularly on the real estate front, repossessed collateral through enforcement of NPLs has created a significant stock of REOs at the hands of banks and servicers which, in turn, attracts significant investor interest. Investors and market players have been increasingly interested in bundling assets and using synthetic, hybrid or other elaborate structures to bring forward the economic results of portfolio transactions, all while the technical and legal maturity and development works advance on the physical assets. These structures may involve various legal and financial instruments, such as securitizations, derivatives, and synthetic risk allocation arrangements.

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

Securitization in Greece is governed by the Greek Securitisation Law, and the Regulation 2017/2402 (the **Securitisation Regulation**).

A securitisation transaction, as such is described and governed by the Greek Securitisation Law, is one where a person with commercial activity and establishment in Greece assigns, by way of sale, receivables originating from their business activity to a special purpose vehicle (SPV). The SPV finances the acquisition of the receivables by issuing and offering, by private placement only, notes the repayment of which is funded by the proceeds of the transferred receivables.

Title on the receivables passes upon registration of the transaction to a public registry, which (registration) also creates a statutory pledge over the receivables and the relevant collection account in favor of the noteholders and other creditors of the SPV. Servicing of the receivables, especially where there are consumer claims, is assigned to eligible servicers per the servicer typology of the law. The law provides for claw-back protection of the sale and ringfencing of the portfolio and collections from the insolvency of the servicer.

By way of general background, applicability of the Securitisation Regulation on the Greek Securitisation Law would be triggered, among others, where the structure of the securitisation notes is such to reflect risk tranching. Notwithstanding this, there is a wealth of precedents in unitranche transactions where the Greek Securitisation Law framework was used to achieve an outright sale through an investor-friendly legal scheme.

The Greek securitisation legal framework is supplemented, when it comes to loan securitisations, by Greek Laws 5072/2023 (**Greek NPL Law**, replacing previous law 4354/2015 and transposing into Greek legislation EU Directive 2021/2167 on credit servicers and credit purchasers a (the "**EU NPL Directive**")) which applies on management of loan and credit receivables by entities licensed by the local banking regulator to that effect. Further, Greek Law 4649/2019 established the Hellenic Asset Protection Scheme (HAPS) program, a government guarantee scheme for the senior tranche of eligible non-performing securitisations; the program, known as "Hercules" has supported three rounds of herculean NPL deals across all four systemic banks and further extended to smaller banks and other case-specific securitisation projects. Recently, the program was extended for an additional six (6) months, until 30 June 2025, by virtue of the Ministry of Finance's decision No 191694/18.12.2024, issued following the European Commission's European Commission's approval of the HAPS extension by decision 8749/13.12.2024 – SA. 116229.

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

Please see above under question (3) for a typical legal structure in a Greek securitisation. By way of prevailing market practice, most transactions are governed by English (or other non-Greek law) for all contractual aspects (including the sale) other than the assignment as such, which is governed by Greek law, being the law governing the underlying, transferred claim.

Note that features such as deferred purchase price (DPP), revolving structures and/or put-back triggers are permissible subject to the overarching principle that the deal needs to be a true sale (from a legal perspective at least) and any security or fiduciary provisions are set aside by the Greek law and considered void; conceptually, the law seeks to assert that the seller will not be purported to be guaranteeing the performance of the receivables.

It is worth noting that the Greek Securitisation Law may not apply as such on the secondary market given the requirement for a Greek based originator. This does not preclude applicability of the Securitisation Regulation where the sale is achieved by other legal tools (including Greek laws on the sale of loan and non-loan receivables) but risk tranching still applies.

Also, the Greek Securitisation Law does not regulate synthetic securitisations as it presupposes assignment, i.e. change in title, of the receivables. Synthetic deals are

 

usually governed by non-Greek law contracts (given that Greek law does allow parties to form their own contractual arrangements and choose their governing law) and, where relevant and/or applicable, are subject to the requirements of the EU legislation on this type of transactions.

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

Regulatory aspects of securitisations are mainly driven by (a) the EU Securitisation Regulation requirements, for example with respect to simple/transparent/standardized securitisations per ESMA's technical standards, and (b) industry specific requirements, such as significant risk transfer certification for credit institutions per EBA's technical standards.

The Hellenic Capital Markets Commission (HCMC) is responsible for type (a) supervisory operations, though there is limited, if any precedent, of transaction structures that render jurisdictional relevance in Greece or (b) to the HCMC for this type of certifications. HCMC has not independently published a list of certified STS verifiers, but rather aligns its practices with those outlined by ESMA.

Industry-specific supervisory powers are exercised by the each time relevant competent authorities, in the case of banks the local regulatory (Bank of Greece) or the Single Supervisory Mechanism (SSM) of the European Central Bank (ECB) depending on the type of institution originating the deal.

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

As noted, (a) the seller must be a person with commercial activity and establishment in Greece, (b) the buyer must be a special purpose vehicle (SPV) established under the laws of any jurisdiction with exclusive corporate scope the acquisition of business receivables in the context of securitisation. If the SPV is established in Greece, it must be incorporated under the corporate form of a société anonyme.

Restrictions are in place under the Greek Securitization Law regarding which entity can serve as the servicer of the securitization portfolio. In particular, the assignment of the collection and overall management of the transferred receivables may be entrusted to (a) a credit or financial institution operating within the European Economic Area (EEA) (licensed loan and credit services formally qualifying as a financial institution) (b) the transferor/ originator itself or (c) a third party, provided that the third party either acted as a guarantor to the transferred receivables or was previously authorized to manage or collect the receivables before their transfer, on behalf of the originator (the latter case applicable to trade receivables rather than credit). Furthermore, if the Special Purpose Vehicle (SPV) does not have a presence in Greece and the transferred receivables represent claims against consumers that are payable in Greece, the servicer must have an establishment in Greece.

Also, in terms of the noteholders and investors to the deal, the pool of investors cannot exceed 150. Greece-based mutual funds and portfolio investment companies may engage in private placements, provided that the notes have been credit-rated by an internationally recognised rating agency at a level internationally classified as investment grade. Greek insurance funds and insurance organizations may not participate in securitisation private placements, either through mutual funds or portfolio investment companies.

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

Yes, by means of application of the relevant EU Regulations as an EU Member State (Securitisation Regulation (EU) 2017/2402, CRR Amending Regulation (i.e., Regulation 2017/2401) and CRR (i.e., Capital Requirements Regulation (EU) 575/2013).

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

Yes, in the sense that public securitisations, namely securitisations in respect of which a prospectus must be prepared under the EU Prospectus Regulation, are not accommodated. Greek Securitisation Law stipulates that the securitisation notes may be offered exclusively by private placement, to a pool of investors not exceeding 150.

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

A summary of the receivables' sale and purchase

 

agreement and the servicing agreement, together with an annex containing the specifics of the securitized receivables, must be registered in the competent pledge registry. The transfer of the receivables becomes effective upon said registration, which also serves as notification to each obligor by operation of law, eliminating the need for individual notifications which are typically required in assignments outside the scope of the securitisations legal framework.

Upon registration of the transfer, a statutory pledge is created on the pool of securitised receivables and on the account where collections from the receivables are deposited; the pledge is constituted by operation of law in favor of the securitisation noteholders and other creditors of the SPV. Registration also renders the transfer of the portfolio immune to claw-back in case of insolvency of the Seller.

The registration process in Greece was partially modernised with the implementation of ministerial decision No 20783/2020 which allowed for the electronic registration of the annex containing the specifics of the securitized receivables in securitisation transactions.

Additionally, Greek law 5123/2024, aimed at modernising the legal framework for pledges and establishing a digital pledge registry for movable property, claims, and other rights, was published on 19 July 2024 and is expected to come into effect by 30 July 2025. This law introduces changes to the framework for establishing and perfecting pledges over movable assets, securities, claims, and other rights. Among its key updates is the creation of a Digital Pledge Register, maintained and operated by the Hellenic Cadastre. Once in force, the sale and servicing agreements of receivables in securitisation transactions will be registered in this digital registry.

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

Reporting and disclosure requirements in securitisation transactions are provided by EU Securitisation Regulation, which imposes transparency obligations to EU-established originators towards current and potential investors and competent authorities. Such requirements are further elaborated in ESMA's technical standards on disclosure requirements under the Securitisation Regulation report.

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

Greek Securitisation Law does not include any risk retention provisions. The risk retention requirements outlined in the EU legal framework on securitisation transactions also apply in Greece, including the Securitisation Regulation and Regulation 575/2013 relevant to requirements applying to credit institutions. As per Article 6 of the Securitisation Regulation, originators, sponsors and original lenders must retain at least a 5 per cent net economic interest in securitisation transactions on an ongoing basis, which shall not be subject to any credit-risk mitigation or hedging. Furthermore, the European Commission released in October 2023 the EU Risk Retention Regulatory Technical Standards (RTS), specifying in greater detail, among others, risk retention compliance methods, retention level measurement, hedging limitations and cash flow and loss distribution requirements.

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

Not as a matter of Greek law; general EU Securitisation Regulation stipulations and general similar requirements apply. Under said framework, institutional investors must undertake a comprehensive due diligence assessment before investing in a securitization whereas with respect to STS securitisations, investors must specifically ensure compliance with relevant regulatory requirements.

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

In Greece, compliance with securitisation regulatory obligations is overseen by the Hellenic Capital Markets Commission and the Bank of Greece, per the implementation provisions of the Securitisation Regulation included in Greek Law 4706/2020, depending on the originating entity and/or asset class. Under the EU Securitisation Regulation, both authorities may levy administrative sanctions for breaches of regulatory obligations, including, among others, public statements disclosing the nature of the infringement, temporary bans on management functions, and administrative pecuniary sanctions up to EUR 5,000,000, or up to twice the benefit derived from the infringement, where this amount can be determined. While the Securitisation Regulation allows competent authorities to opt for criminal sanctions instead of administrative ones, this option is not available in the Greek jurisdiction.

 

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

To the best of our knowledge there has been limited if any precedent at all, using a domestic securitisation issuer. If established in Greece, the SPV, must have as exclusive corporate scope the acquisition of business receivables from securitisation transactions implemented in accordance with Greek Securitisation Law, and must take the corporate form of a société anonyme. The relevant provisions of Greek corporate law on sociétés anonymes also apply in this regard (imposing additional restrictions, such as minimum capital requirement of EUR 25,000). Recipient of reporting of these entities is the HCMC.

## 15. How are securitisation SPVs made bankruptcy remote?

The combination of the following:

a. Exclusive purpose of the Issuer with no other exposures or operations other than the notes and any loan/credit taken out to support the securitisation.
b. Statutory pledge on the securitised receivables and collection account in favor of the noteholders and securitisation creditors; enforcement waterfall against said pledge ranks these creditors above all other claims. Negative pledge provision in the law, forbidding the establishment of other encumbrances other than the statutory pledge.
c. True sale requirement and explicit claw-back immunity to put the receivables beyond the reach of the seller's creditors and outside the seller's estate.
d. The law imposes on the servicer to deposit collections from the receivables in a separate interest-bearing account, earmarked as distinct property of both the servicer and the account bank; any collateral provided to the noteholders, the receivables collections or the securities deposited therein, are exempt from attachment, enforcement, set-off, and are not included in the collection's account bankruptcy estate.
e. The collection account, subject to standard commingling risk associated with the insolvency of the account bank, is legally segregated from the estate of the account bank;
f. Special treatment for securitisations under the BRRD, including with respect to bail-in measures (see Articles 76 and 79, which define securitisation as a protected arrangement similarly to covered bonds).

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

As a matter of the Greek Securitisation Law: (a) the SPV is permitted to engage in various forms of lending, credit, insurance, and hedging contracts, including financial derivatives, both for securitization and risk management purposes, and (b) all securitisation creditors are secured by the statutory pledge on the receivables and collection account. All other usual credit support structures such as overcollateralization, subordinated tranches or retained spread are not described by the law but can be achieved in practice.

Furthermore, under the Greek Law 4649/2019 establishing the Hellenic Asset Protection Scheme (HAPS), in securitisation transactions performed by credit institutions, senior notes are eligible for a state guarantee, provided in exchange for a commission at market rates.

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

Please refer to question 4 with respect to the concept of true sale from a Greek law perspective. In question 9 we describe how the public registration of the transaction with the pertinent registry serves as notification of the obligor and passes the title of the receivables from the seller to the securitisation issuer.

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

Although this is a question to be considered purely on an ad hoc basis, the two critical aspects of a securitisation transaction are risk allocation (true sale) and formality. If the factual background is such that renders the deal closer to a secured financing scheme rather than an actual sale or if registrations have been omitted or forgone, the deal is more susceptible to judicial challenge by a party whose has been inflicted and can prove damage from relevant facts.

Furthermore, there may be industry specific considerations to take into account, such as an obligation of banks to invite non-performing borrowers to settle their debt prior to the sale of the debt by way of conditionality for the validity of the transfer. Prevailing market practice is that this requirement does not apply to loan sales under securitisation transactions but recent

 

law transposing the NPL Directive may allow the relevant provisions to be interpreted differently.

In any event, it is important to highlight that Greek case law has not yet established precedents challenging the legitimacy of securitisation assets transfer albeit the wealth of deals and volume of receivables subject to these transactions, noting however the prevalence of English law in most sale transactions. The only major case law that changed local practices in servicing securitised loan portfolios had to do with how the licensed servicers are authorised to conduct enforcement against securitised debtors on behalf of the SPV (Supreme Court decision 1/2023) but the matter did not go as far as to consider the characterisation of the sale and transaction as a whole.

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

The requirements and procedures imposed by the General Data Protection Regulation (GDPR), governing personal information and sensitive data, are generally applicable. In addition, the Greek Securitisation Law provides that processing the debtors' personal data may occur without prior consent from the debtor.

Furthermore, both the SPV and its creditors are required to adhere to banking secrecy, which involves safeguarding clients' financial data and transactions from unauthorized disclosure. However, the Greek Securitisation Law permits the waiver of banking secrecy in two instances for securitization purposes; the relationship between the Seller and the SPV, and between the SPV and its creditors respectively.

## 20. Is the conduct of credit rating agencies regulated?

Greek Securitisation Law does not generally impose credit rating obligations; the HAPS scheme does require minimum rating for the securitisation notes to render a non-performing loan securitisation eligible for a HAPS guarantee. Credit rating agencies in Greece operate under the framework of EU Regulation 1060/2009. The Hellenic Capital Market Commission is designated as the competent authority, which, along with the ESMA, is responsible for overseeing and investigating these agencies, as well as imposing fines for any violations.

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

The Greek Securitisation Law explicitly provides that the transfer of the receivables under the receivables' sale and purchase agreement is fully exempt from any direct or indirect tax, stamp duty, contribution or charge in favour of the State or a third party. On top of that, any capital gains realised from the transfer of the receivables at the level of the Originator are fully exempt from any corporate income tax (the regime was originally designed to cover performing receivables). In case the Originator is a credit/financial institution under specific conditions any loss incurred from the transfer of the receivables is tax deductible pursuant to the mechanism provided in articles 27 and 27A of the Income Tax Code (the securitization structures are commonly used by Greek Banks for their derisking from non-performing exposures).

The registrations required are subject to minimal fixed registration duties. Notarial fees and duties in connection with the notarisation of any document or agreement in the context of the securitisation are capped.

By way of prevailing market practice, Securitisation SPVs are structured offshore as orphan entities (typically in countries where favourable double tax treaties are in force). To the extent that the Securitisation SPV does not maintain any taxable presence in Greece as per the local tax rules or the prevailing provisions of the applicable double tax treaty (if any), it should not be subject to income tax in Greece.

The Greek Securitisation Law explicitly provides that any interest received by the securitisation SPV in relation to the receivables acquired should be considered business income and as such as per the interpretation adopted by the Greek tax authorities is not subject to Greek interest withholding tax.

Recent major reforms of Greek stamp duty tax, which is now revamped as a Digital Transaction Duty, do not affect as such securitisations. The tax developments that will make a difference in the existing and ongoing bank securitisations have to do with a penalising regime of the special real estate tax (ENFIA) for real estate owned by banks or managed by NPL servicers (REOs). This reform aimed at speeding up the sale of residential properties as a response to the residential crisis and non-affordable housing discussion, but in the absence of bold initiatives addressing the overformalisation and complexity of technical and legal maturity and regularisation, the ENFIA reform is uncertain to produce the desired results.

 

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

As previously mentioned, standard and prevailing practice in Greece is for the sale aspect of a securitisation transaction to be subject to English, or other foreign, law, and for the SPV to be established in other jurisdictions (typically Ireland or Luxembourg) while the securitisation notes are almost always governed by English law. In that sense, all securitisation transactions involving Greek originators operate on a cross-border scale. Domestic-aspect restrictions are only relevant in relation to the servicing of the securitisation receivables – the Greek Securitisation Law and NPL law (where applicable), mandate that the servicing of the receivables must be assigned to an entity established in Greece, or within the EEA but operating in Greece.

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

The Greek Securitisation Law has proven to be a successful legal tool which has prevailed over, not only the turbulent cycles of Greek economy, but also alternative receivables sale tools such as the Greek law on outright NPL sales (Greek Law 4354/2015 replaced by Greek Law 5072/2023).

In the dawn of a yet another EU standardization regime, now with respect to credit servicing, the Greek Securitisation Law is expected to be minimally, if at all, affected by the new servicing requirements; the market is mature enough to have implemented most of the envisaged legal requirements prior to them becoming European-wide obligations.

Nonetheless, we observe that, while this legal instrument had such a substantial impact and solid practical implementation in the banking sector, its potential remains relatively limited in non-banking asset class. This is not so much attributable to the Greek legal framework itself but mostly to the -false at times – market perception that a securitisation transaction is a necessarily complex and cumbersome contractual and regulatory process. While this may seem so in highly structured and industry-specific cases, such as credit products, indeed, it may not be so for other types of receivables or deal sizes.

Building on the solid legal framework and the market's familiarity with the scheme, securitisation's further potential can be unlocked if the structures and documentation of such projects is simplified in a way that renders the process accessible to medium sized players.

Finally, a modernization of the framework governing securitisation of real estate receivables could propel the booming Greek real estate sector, as the law's current complexity and restrictive nature has led to a lack of practical implementation of real estate securitisations.

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

See above.

## Contributors

 

**Kely Pesketzi**
**Director**
kely.pesketzi@pwc.com

**Palmyra Chantzara**
**Manager**
palmyra.chantzara@pwc.com

**Mary Samioti**
**Senior Associate**
maria.samioti@pwc.com