

Article Title: ARCHIVE | Legal Criteria: Australian And New Zealand Asset Isolation And Special-Purpose Entity Criteria--Structured Finance Data: (EDITOR'S NOTE: — This article is no longer current. It was superseded by "Structured Finance: Asset Isolation And Special-Purpose Entity Methodology," published on March 29, 2017. ) 1. This article describes S&P; Global Ratings' methodology and assumptions for assessing legal risks in Australian and New Zealand structured finance transactions. This article follows the release of "Asset Isolation And Special-Purpose Entity Criteria--Structured Finance," published on May 7, 2013 (hereafter referred to as the AISPE criteria). This article is related to our criteria article "Principles Of Credit Ratings," which we published on Feb. 16, 2011. 2. [The information from this paragraph has been moved to the Appendix.] SCOPE OF THE CRITERIA 3. These criteria apply to all Australian and New Zealand structured finance transactions that look to incorporate asset isolation and/or the insolvency remoteness of special-purpose entities used in securitization transactions. These criteria may be modified or supplemented to the extent that S&P; Global Ratings may publish asset-specific criteria that discuss asset isolation or insolvency remoteness of special-purpose entities. 4. For the purposes of this article, the terms "insolvency remote" and "insolvency remoteness" are used interchangeably with the terms "bankruptcy remote" and "bankruptcy remoteness," respectively. SUMMARY OF CRITERIA UPDATE 5. These criteria provide the market with a description of how we consider legal risks that could affect our assessment of the creditworthiness of Australian and New Zealand structured finance debt issues. In Australia and New Zealand, S&P; Global Ratings will apply the criteria set out in the AISPE criteria article, with some limited adjustments outlined herein to reflect their application in Australia and New Zealand. 6. In Australia and New Zealand, S&P; Global Ratings applies the same criteria as those set out in "Multiple-Use Special-Purpose Entity Criteria--Structured Finance," published on May 7, 2013. 7. In the past, S&P; Global Ratings published certain articles discussing methodologies and assumptions related to how we assess legal risks in the context of our structured finance ratings for specific jurisdictions or asset types. The criteria contained herein do not constitute a departure from our existing views. Rather, following the release of the AISPE criteria, this article provides an updated description of the framework for how S&P; Global Ratings assesses legal risks in Australian and New Zealand structured finance transactions. The criteria, as set out in this article, are not intended to be read as being prescriptive but rather as providing general criteria that guide S&P; Global Ratings when we consider legal issues we view as relevant to the credit analysis of Australian and New Zealand structured finance securities. 8. [This paragraph has been deleted.] 9. [The information from this paragraph has been moved to the Appendix.] METHODOLOGY 10. The AISPE criteria provide the market with a description of how we consider legal risks that may affect our assessment of the creditworthiness of structured finance debt issues. That article focuses on a discussion of: Asset isolation in securitization. The insolvency remoteness of special-purpose entities (SPEs). 11. The AISPE criteria article also discusses related legal issues that could affect insolvency remoteness: clawback risk, set-off risk, and tax risk. In addition, that article discusses challenge risk in securitizations and sources of comfort on legal issues. 12. In Australia and New Zealand, S&P; Global Ratings will apply the AISPE criteria with some limited adjustments outlined herein to reflect their application in Australia and New Zealand. Insolvency Remoteness Of SPEs 13. S&P; Global Ratings criteria for insolvency remoteness are globally consistent, though their application may vary in detail between jurisdictions. In Australian and New Zealand securitization transactions, several types of SPEs are typically used by transaction parties, including orphan companies, subsidiary companies (in limited circumstances), and trusts. 14. The most widely used form of SPE in Australian and New Zealand securitization transactions is a trust. A trust SPE is not a separate legal entity under Australian and New Zealand law but is rather a relationship established by an independent trust company (the issuer trustee) pursuant to a declaration of trust document with respect to property to be held in trust by the issuer trustee. The cash flows from trust property are used to repay debt issued by a trust SPE. 15. The following adjustments to the AISPE criteria are applied in the assessment of the insolvency remoteness of SPEs used in Australian and New Zealand securitization transactions. Independent director 16. The AISPE criteria discuss the concern related to the commencement of voluntary insolvency proceedings by a board of directors of an SPE and the view that the presence of independent directors could reduce the likelihood of an SPE's board of directors seeking to commence voluntary insolvency proceedings. 17. In Australia and

New Zealand, S&P; Global Ratings believes that a similar degree of comfort can also be obtained by a security interest over all of the assets of the SPE combined with either an orphan SPE or a security interest over all the shares in the SPE. Separateness 18. The AISPE criteria discuss the concern that the courts may use principles of "piercing the corporate veil," "alter ego," "substantive consolidation," or equivalent concepts to bring the SPE and its assets into the insolvency proceeding of another entity (such as a parent). The AISPE criteria discuss how, in assessing this risk, we may look to a nonconsolidation opinion and/or separateness covenants for comfort as to the separateness of an SPE. In our view, the primary concern on separateness in Australia and New Zealand relates not to consolidation with the transferor but rather to the potential early termination of the trust. 19. As noted above, an Australian and New Zealand trust SPE is not a separate legal entity but is rather a trust relationship established by an issuer trustee under common law. Accordingly, at law, debt securities are personal obligations of the trustee, meaning the trustee can be sued by investors, subject only to the express limitations on liability in the relevant trust deed and other issue documents. Under the terms of the relevant documents, the issuer trustee's liability under the debt securities is generally limited to the proceeds from the underlying trust assets available to meet the issuer trustee's promise to pay principal and interest on the debt securities. 20. Because a trust is not a separate legal entity, it cannot technically be insolvent. In securitization transactions, a reference to a trust being "insolvent" is a shorthand way of describing a situation in which the obligations properly incurred by the trustee cannot be met from the proceeds of the trustee's indemnity, which is likely to result in acceleration of payment obligations and enforcement of security. 21. An issuer trustee may itself become insolvent, but its insolvency should not trigger acceleration and enforcement of security in respect of a securitization transaction because the trust assets will be isolated from the trustee's other assets and will not be available for general creditors. Accordingly, we typically see trust deeds in Australia and New Zealand provide for prompt replacement of the issuer trustee and all trust assets to immediately vest in the new trustee. 22. For Australian and New Zealand trust SPEs, S&P; Global Ratings may also look to a nonconsolidation opinion and/or separateness covenants for comfort if we view the transaction structure as raising particular issues regarding separateness. Appendix: Change History 23. These criteria became effective on the original publication date of this article on August 21, 2013. At that time, this article fully superseded "Guide To Legal Issues In Rating Australian Securitization," published on March 1, 2005. 24. We republished the article following our periodic review completed on July 5, 2016. As a result of our review, we deleted outdated sections that previously appeared in paragraphs [2, 8, and 9] related to the initial publication of the article, and which were no longer relevant. We also made minor editorial updates throughout the article. RELATED CRITERIA AND RESEARCH "Asset Isolation And Special-Purpose Entity Criteria--Structured Finance," May 7, 2013 "Multiple-Use Special-Purpose Entity Criteria--Structured Finance," May 7, 2013 "Guarantee Criteria--Structured Finance," May 7, 2013 "Principles Of Credit Ratings," Feb. 16, 2011 "Debt Recovery For Creditors And The Law Of Insolvency in Australia," July 5, 2007 Standard & Poor's (Australia) Pty. Ltd. holds Australian financial services licence number 337565 under the Corporations Act 2001. Standard & Poor's credit ratings and related research are not intended for and must not be distributed to any person in Australia other than a wholesale client (as defined in Chapter 7 of the Corporations Act). These criteria represent the specific application of fundamental principles that define credit risk and ratings opinions. Their use is determined by issuer- or issue-specific attributes as well as S&P; Global Ratings' assessment of the credit and, if applicable, structural risks for a given issuer or issue rating. Methodology and assumptions may change from time to time as a result of market and economic conditions, issuer- or issue-specific factors, or new empirical evidence that would affect our credit judgment.