The Luxembourg Rail Protocol
Enhancing the scope of
Financial Services Centres
Basic Principles

- The Luxembourg Rail Protocol creates a new international security interest to protect a creditor’s position when financing railway rolling stock.
- It applies to:
  - Pledges
  - Leases
  - Conditional sales (title reservation agreements)
- The security interest is registrable and searchable via the internet in a public international registry based in Luxembourg (for competing interests, the first to register has priority unless otherwise agreed).
- The Protocol applies when the pledgor, lessee or conditional vendor is located in a ratifying state.
Basic Principles

- Banks and investors financing operators and lessors will have better security (and therefore the costs will go down) when the debtor is located in a ratifying state.
- To isolate risks, creditors often provide finance through a Single Purpose Company (SPC) established by the debtor.
- Financial Services Centres (FSCs) in states that have adopted the Luxembourg Protocol can provide efficient, fiscally neutral and cost-effective solutions for national and multinational rail financings through SPCs.
- For example …
Classic Financing

Finance group establishes SPC in an FSC

Parent of Lessor

Equity

Lessor SPC in FSC location

FSC State has ratified the Luxembourg Rail Protocol
The SPC agrees to buy rolling stock

Parent of Lessor

Lessor SPC in FSC location

Vendor

The Contract of Sale is a registrable title reservation agreement
The SPC agrees to lease rolling stock to operators in other States.

Lease is a registrable security interest if Lessee is located in a ratifying state.
Classic Financing

The SPC borrows from its parent and a bank

Vendor

Parent of Lessor

Lessor SPC in FSC location

Equity

Secured subordinated debt

Contract of Sale

Lease

Lease

Lease

Operator 1

Operator 2

Operator 3

Bank

Loan

Security pledge

Security interests given to lenders are registrable at the International Registry
The SPC completes the rolling stock purchase and leases to operators.

The Notice of Sale may be registered at the International Registry.
Results

- Because the Protocol applies at the SPC level, this means
  - Better security for the bank
  - The priorities of concurrent registered security interests are clearly regulated
  - There is no need for the parent to pledge the SPC shares to the bank (avoiding any potential loss of management control)
  - It is easier to finance multinational revenue streams
Results

This protected structure will also assist where

• A financing bank
  • syndicates its position, or
  • places the secured senior debt in the capital markets, or
  • wishes to create different tranches of debt (e.g. senior and junior debt)

• Investment, private equity or institutional funds take over the equity of the lessor SPC and
  • wish to structure the investment through a mixture of debt and equity, or
  • wish to leverage their investment with external debt
Results

For FSCs, when the Luxembourg Rail Protocol is adopted, it will attract new areas of business, which will

• Enhance the jurisdiction’s attraction for the global financial services community
• Deliver additional revenue for corporate service providers, legal advisers and government
• Create new jobs
• Result in new local financing skill sets
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For more information please visit www.railworkinggroup.org