



MAPLES  
GROUP

# A CLOser

LOOK AT REGULATORY  
DEVELOPMENTS

MARCH 2022

## INTRODUCTION

There have been several new regulatory developments over the past few months that potentially impact CLO transactions. The Maples Group is proactively monitoring and addressing these regulatory developments to ensure that our clients' CLO transactions are compliant with new requirements. This CLOser Look focuses on the implications of the recent regulatory developments on the CLO market in particular, and provides a gateway to the more general updates that have been issued by the Maples Group.

## CAYMAN ISLANDS

### EU AML LIST

As highlighted in the October 2021 CLOser Look, the EU Securitisation Regulation was amended on 9 April 2021 to prevent the use of SPVs from countries on the EU AML high-risk third countries list ("EU AML List"). The EU added several countries to the EU AML List, including the Cayman Islands, following the adoption of a Delegated Regulation, which came into force on 13 March 2022. The Maples Group has been proactively developing solutions for clients who are impacted. To date, we are finding that the preferred solution is to relocate affected transactions to Jersey. The Maples Group has a full service offering in Jersey that mirrors our Cayman Islands service offering to the CLO market. Our teams in the Cayman Islands and Jersey have been working closely together to provide a seamless solution to clients whose transactions are impacted by the updated EU AML List.

[Cayman Islands and the EU AML High-Risk Third Countries List](#)

### THE REGULATORY 15/15

The Reg 15/15 is a monthly 15-minute webcast released by our Cayman Islands Regulatory team on the 15th day of each month, providing timely updates on current regulatory developments. The March 2022 webcast covered the following topics:

- Russia Sanctions
- EU AML High-Risk Third Countries List
- EU Tax List
- DITC Portal Updates
- CIMA Updates
- VASP – Travel Rule
- The Maples Group New Product

The webcast can be accessed on demand [here](#).

## **STOP PRESS: EU TAX GREY LIST**

On 24 February 2022, the British Virgin Islands (“BVI”) and Bermuda were each added to Annex II to the EU list of non-cooperative jurisdictions in taxation matters (“Annex II”). There are no specific sanctions imposed on a jurisdiction as a result of being on Annex II. While this does not prohibit the use of Bermuda or BVI SPVs for EU risk retention compliant securitisations, Article 4 of the EU Securitisation Regulation does require an EU investor to notify the tax authorities in its home state of any investment in such an SPV for so long as the Annex II listing continues.



## JERSEY

### JERSEY: AN ALTERNATIVE JURISDICTION FOR GLOBAL SECURITISATION SPONSORS

From the start of 2022, Jersey has found favour as an alternative jurisdiction for securitisation and other securities issuance in 2022.

As a reminder of where Jersey is located: it is an island jurisdiction which sits approximately 14 miles off the French coast. As US readers may guess, the island gives its name to New Jersey in the United States. Jersey is an OECD territory and, in fact, has a long-standing reputation for facilitating structured debt issuance, dating back to the mid-1990s. Importantly however, and notwithstanding its proximity to France, Jersey is not part of the EU and EU directives have no impact on the island or companies and other structures established there.

Jersey has a long history of debt-issuing vehicles and those have ranged from short-dated issuers such as asset backed commercial paper (“ABCP”) and structured investment vehicle (“SIV”) entities through to term ABS and high-yield bond issuers. Those issuers have been both rated and unrated and both listed and unlisted.

[Read full article](#)

### MODERNISATION OF JERSEY PROSPECTUS RULES REGIME

In Q4 2021, Jersey introduced changes to modernise and streamline its prospectus rules to more closely reflect the UK and EU prospectus regimes. The changes exclude certain categories of debt and equity invitations from being a prospectus for Jersey law purposes. The main benefits being that such invitations no longer require approval from the Jersey Registrar of Companies prior to their circulation and issuance.

Our linked [Legal Guide](#) summarises the changes to the ‘prospectus’ definition under the Companies (Jersey) Law 1991, following changes introduced by the Companies (Amendment of Law) (No. 2) (Jersey) Order 2021.

Streamlining the Jersey prospectus rule regime so the Jersey regulatory status of an offering document can be clearly stated in such offering document is a significant and positive change for CLO and other structured note issuers.



## IRELAND

### ESG – SUSTAINABLE SECURITISATION REPORT

The European Banking Authority published its report on Developing a Framework for Sustainable Securitisation on 2 March 2022. The report particularly focuses on: (i) how the EU green bond standard (“GBS”) can be applied to securitisations; (ii) the relevance of a dedicated framework for sustainable securitisation at this time; and (iii) the nature and content of sustainability-related disclosures for securitisation products. The implications for CLOs of extending the EU GBS rather than introducing a dedicated framework for sustainable securitisation remain to be seen. While the proposed adjustments to the EU GBS to accommodate securitisation generally are very welcome, they may not fit secondary market securitisation activity such as CLOs given the issuance proceeds do not flow to a single asset-level originator.

However, the CLO product has already made material progress towards sustainable securitisation objectives driven by both investor appetite and manager policy, initially by the adoption of ESG negative screening and latterly by the positive application of ESG manager methodology / scoring. Further, we anticipate some EU MiFID managers may in 2022 print the first Article 8 Sustainable Finance Disclosure Regulation compliant CLOs. Indeed, as the ESG asset supply increases over time, CLOs will in turn naturally access sustainable securitisation frameworks and labels.

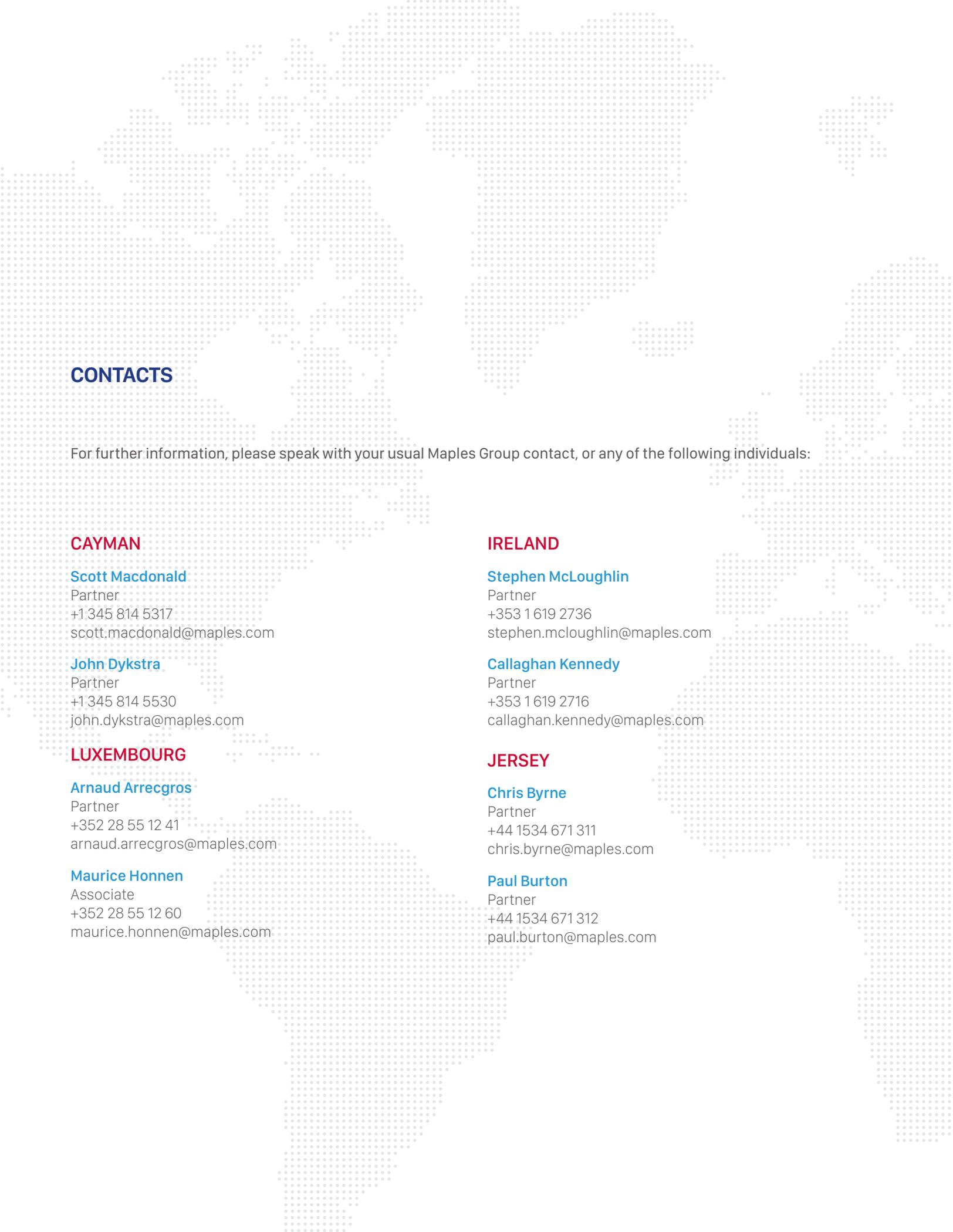
[Read full article](#)

## LUXEMBOURG

### SECURITISATION LAW

On 9 February 2022, the Luxembourg Parliament adopted a bill amending the law of 22 March 2004 on securitisation, introducing a series of major changes to further improve the Luxembourg securitisation regime.

[Luxembourg Parliament Adopts the Bill to Amend Luxembourg Securitisation Law](#)



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