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CHOOSING AN SPV JURISDICTION FOR CROSS-BORDER SECURITISATION

ВИБІР ЮРИСДИКЦІЇ SPV ДЛЯ ТРАНСКОРДОННОЇ СЕК'ЮРИТИЗАЦІЇ

Abstract. Introduction. The choice of the country of registration of a special-purpose vehicle (SPV) in a cross-border future-flow securitisation is conditional on the issuance route and, within a UK route, on the settlement mechanism. Foreign incorporation alone does not remove assets from the originator's insolvency estate, and conventional weighted matrices allow favourable scores to offset defects that would prevent the transaction from being completed. **Purpose.** The article substantiates a reproducible two-stage model for selecting an SPV jurisdiction and applies it to future iron-ore export receivables of a Ukrainian producer under two routes: an EU-facing issue within Regulation (EU) 2017/2402 and a UK-facing listed issue. **Methods.** Stage 1 applies six non-compensatory admissibility conditions – asset and transaction fit, effectiveness under originator-country law, SPV integrity, lawful movement of funds, operational continuity and compatibility with the issuance perimeter; a negative result at any condition cannot be offset by a favourable score elsewhere. Stage 2 compares only alternatives with complete evidence across five weighted criteria, with the route as an explicit parameter; robustness is tested on 100,000 joint scenarios per sampling design. **Results.** Five conditions and four criteria are route-invariant; only the issuance-perimeter condition and the settlement criterion vary. Under the EU route Luxembourg leads with a baseline score of 4.20, ranking first in 62–71% of scenarios. A UK route does not lighten the retention and transparency duties of an EU-established securitisation special-purpose entity, so under a global note settlement is domicile-neutral, the UK route reproduces the EU result and Luxembourg leads. Jersey leads (4.15 points against 4.05) only under an assumed direct-CREST configuration, conditional on operator acceptance of the particular security. The British Virgin Islands fail the issuance-perimeter condition under the EU route but pass it under the UK route; the Ferrexpo case shows that originator viability must be tested before the country of registration is selected. **Conclusion.** The model structures due diligence, treats settlement as a closing condition and can be regarded as a recommendation for SPV-jurisdiction selection rather than a legal opinion on a specific transaction.

Keywords: future-flow securitisation; special-purpose vehicle; jurisdiction selection; bankruptcy remoteness; export receivables.

Анотація. Вибір юрисдикції компанії спеціального призначення (SPV) для транскордонної сек'юритизації майбутніх грошових потоків залежить від багатьох факторів, зокрема від країни її розміщення, що обумовлює безліч умов, в т.ч. механізму розрахунків. Побудовано двоетапну модель, яка розглядає різні умови допустимості та порівняння за зв'язаними критеріями, де країна є окремим параметром, – і застосовано її до майбутньої експортної виручки українського виробника залізничної продукції. Доведено, що від юрисдикції країни реєстрації SPV залежать умова допустимості емісії цінних паперів та критерій розрахунків. Люксембург посідає перше місце за умовами розміщення в ЄС (базовий бал 4,20) і Британія – виходячи із розрахунків за глобальними сертифікатами. Джерсі виходить на перше місце (4,15 бала проти 4,05) лише за прямих розрахунків у CREST, можливість яких для конкретного випуску потребує підтвердження оператором системи.

Ключові слова: сек'юритизація майбутніх грошових потоків; компанія спеціального призначення; вибір юрисдикції; відокремленість від банкрутства; експортна виручка.

Statement of the problem. The jurisdiction of an SPV's country of registration can be ranked only after analysing the conditions and constraints inherent in the specific country. A conventional weighted model reflects none of the selected factors. The proposed model can assess the issuer and access to the capital market as ordinary compensatory criteria, so a favourable score, for example a tax score, offsets a defect that prevents completion of the transaction. In addition, the model can identify the most suitable country for the SPV, taking into account exchange activity, investors and the settlement conditions – and presents the ranking as universal.

In a future-flow securitisation, collections on specified receivables are routed through controlled accounts and distributed by priority of payments. Rating methodologies

established in international practice assess continued receivable generation, legal effectiveness of the assignment, cash capture, diversion risk, sovereign interference and debt-service capacity, and foreign incorporation alone does not remove assets from the originator's insolvency estate [18; 23; 25]. The essence of securitisation, its classification and the conditions for its use in Ukraine have been set out separately [1].

The proposed approach is applied to an illustrative cross-border securitisation of future iron-ore export receivables of a Ukrainian producer. Operating covenants, cash controls and creditor coordination reproduce whole-business securitisation (WBS), but the operating assets stay with the producer, so the case is not a pure WBS. Without legal confirmation of an effective assignment of

ownership rights or the possibility of enforcement, the proposed structure is appropriately described as structured future-flow financing.

The contribution is a source-coded two-stage model that separates transaction feasibility from the comparison of preferences, makes the SPV's country of placement an explicit parameter, and demonstrates that the choice of jurisdiction depends on the conditions of placement. The article examines seven jurisdictions against six non-compensatory admissibility conditions. Jurisdictions with complete data are then compared across five weighted criteria for the selected country.

Analysis of recent research and publications. The Securitization and Structured Finance Committee [26] treats bankruptcy remoteness from the originator as one of the principal criteria for SPV-jurisdiction selection and shows that it is achieved through a combination of separateness of the SPV, asset transfer, limited recourse, non-petition covenants and non-consolidation analysis. G. Gorton and N. Souleles [19] explain the use of SPVs by the possibility of reducing expected bankruptcy costs, yet implicit support preserves the economic link between the SPV and the originator.

The legal environment sets the terms of the debt contract. J. Qian and P. Strahan [24] established that the level of creditor protection and contract enforcement is associated with loan ownership, maturity, collateral and pricing, while private terms adapt to the surrounding legal order. A. Sikochi [27] established that greater legal-entity complexity is associated with higher parent-company loan spreads, in particular through the risk of incomplete recovery. At the same time, additional legal entities do not lower financing costs.

J. Caulton and J. Cornett [9] show that, in practice, SPV-jurisdiction selection depends on financial instruments, assets and investor requirements. M. Cinelli, P. Burgherr, M. Kadziński and R. Słowiński [11] establish that multi-criteria decision analysis (MCDA) treats weights as trade-off coefficients between scales and separates threshold conditions from compensatory preferences. R. Lahdelma and P. Salminen [22] developed stochastic rank-acceptability analysis, which reports the share of scenarios in which an alternative attains each rank over a defined uncertainty space. None of these studies makes SPV-jurisdiction selection conditional on non-compensatory admissibility conditions or on an explicit issuance route.

Highlighting previously unresolved parts of the overall problem. Existing matrices can rank a jurisdiction even when the transaction cannot be completed; confuse a failed condition with missing data; do not disclose the source and date behind each score; and report a point rating without testing its robustness or its dependence on the SPV's country of placement. The proposed model incorporates the following elements:

- six non-compensatory admissibility gates;
- a criterion-to-function map;
- the source, date and confidence level of every score;
- joint variation of weights and scores;
- the issuance route as an explicit parameter that indexes one gate and one criterion.

A condition failed during the analysis excludes the SPV jurisdiction from further consideration for the corresponding country. Where comparable data are lacking, the result is "not ranked".

The purpose of the article. The objective of the article is to substantiate the expediency of a two-stage model for selecting an SPV jurisdiction for a cross-border future-flow securitisation. The unit of assessment is not a jurisdiction in the abstract, but its suitability for the specific asset, originator, conditions of issue and available source data. Legal and regulatory sources were verified as at the data-fixing date, 22 July 2026.

Research methods.

The study employs a two-stage procedure: a non-compensatory screening of admissibility conditions and a weighted additive multi-criteria decision analysis (MCDA) model, recording the source, date and confidence level of every score. Robustness is tested by joint stochastic variation of weights and scores (100,000 scenarios in two samples) under the rank-acceptability approach. Legal provisions are analysed from primary sources as at the data-fixing date.

Presentation of the main research material. *Limits of the contractual structure.* The documented terms between investors and the issuer can strengthen five creditor-protection functions within the transaction: isolation of cash-flow rights, payment priority, reporting and control indicators, coordination of debt enforcement and servicer replacement, and maintenance of an issuer with a defined purpose (Figure 1). The mechanisms outlined do not determine the permissibility of the assignment or its third-party effects under originator-country law. They cannot defeat avoidance rules, legalise blocked currency transfers or sustain production through war, sanctions or issuer insolvency.

The SPV's country (route) of registration as a parameter. The country of registration determines the listing venue, the investor base, the settlement system and the securities-issuance rules. Admissibility conditions and criteria split into a jurisdiction-invariant core and a jurisdiction-variant component. The score for jurisdiction j under route r is computed by formula (1):

$$S_j(r) = \sum_{k=1}^5 w_k s_{jk}(r), \quad \sum_{k=1}^5 w_k = 1. \quad (1)$$

where $s_{jk}(r) = s_{jk}$ for the route-invariant factors and varies only for the settlement criterion. Two routes are examined:

- Route E – an EU-facing institutional issue within Regulation (EU) 2017/2402, marketed to EU-regulated investors and settled through an international central securities depository (ICSD);
- Route U – a UK-facing listed issue on the London Stock Exchange for UK institutional investors, settled through CREST (the U-CREST configuration); an ICSD-settled variant under a global note – the default for international debt issues – is examined as the alternative option.

Components independent of the SPV's country (route) of placement. Five admissibility conditions (G1–G5) and four of the five criteria do not depend on the route: they concern the asset, Ukrainian law, the SPV's separateness and execution costs independent of the listing venue. The Civil Code of Ukraine (Articles 512–519) permits the assignment of receivables subject to the contract and applicable law. The Law on Private International Law preserves mandatory Ukrainian rules despite a foreign-law clause. Article 42 of the Code of Ukraine on Bankruptcy

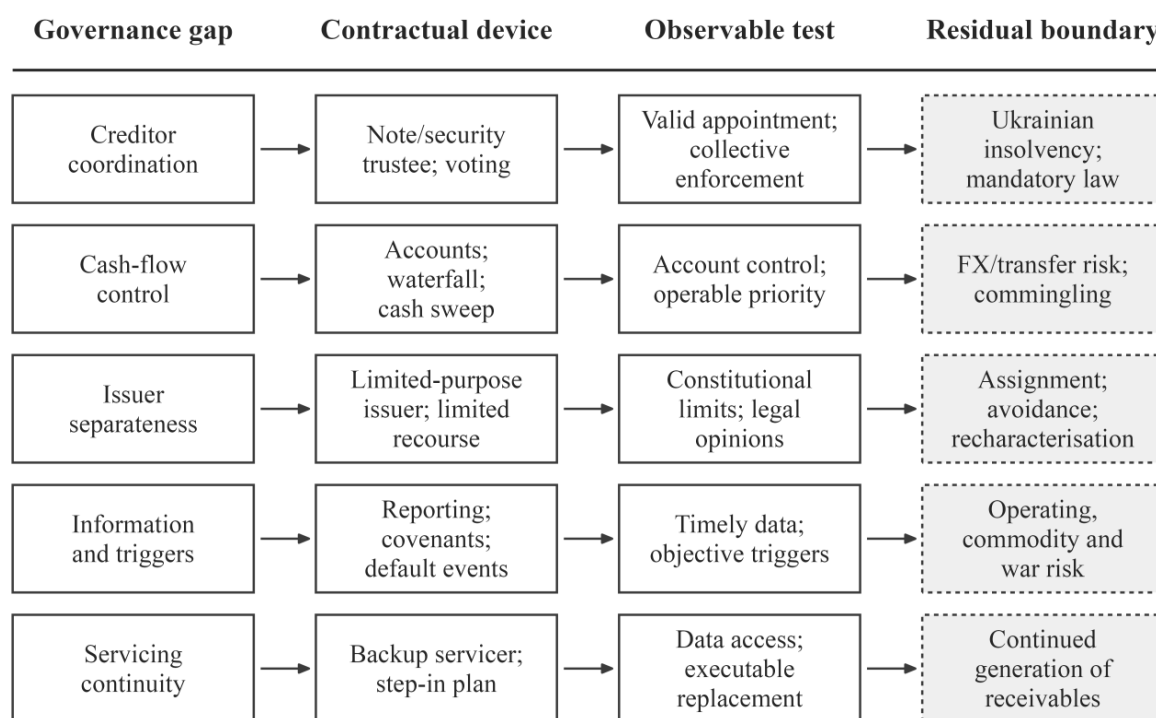


Fig. 1. Contractual relocation of selected creditor-protection functions

Source: generated by the author

Procedures permits challenge, on grounds enumerated by law, to transactions concluded after the opening of bankruptcy proceedings or within the three preceding years [2; 4; 8]. These rules do not by themselves establish a true sale or exclude future receivables from the insolvency estate; identifiability, notice, priority, set-off, avoidance and recharacterisation must be assessed by Ukrainian counsel. Cash movement is a separate gate: the Law on Currency and Currency Transactions and the wartime restrictions of the National Bank of Ukraine require a bank-confirmed route compatible with export-proceeds supervision, so directing buyers to pay into a foreign account is not sufficient [3; 5]. Law of Ukraine No. 4466-IX on factoring takes effect on 30 July 2026; Draft Law No. 15172 on securitisation remained a draft as at the data-fixing date [6; 7].

Stage 1: verification of the admissibility conditions. Stage 1 screens the seven examined SPV jurisdictions against six conditions: condition G1 – asset and transaction fit, condition G2 – effectiveness under Ukrainian law, condition G3 – legal and organisational separateness of

the SPV, condition G4 – lawful cash movement, condition G5 – operational continuity, condition G6 – issuance perimeter (Table 1). A pass requires direct confirmation. A conditional pass identifies a precondition to satisfy before the transaction completes. A negative result records incompatibility with the route. Missing factual data returns “not ranked”. Only condition G6 depends on the route. Under Route E, Article 4 of Regulation (EU) 2017/2402 bars a securitisation special-purpose entity (SSPE) established in a third country on the EU list of high-risk anti-money-laundering jurisdictions; Commission Delegated Regulation (EU) 2026/83 places the British Virgin Islands (BVI) on that list, so the BVI fails condition G6 [13; 14]. Under Route U, regulation 8A of the Securitisation Regulations 2024 bars an SSPE only in jurisdictions under a FATF call for action (Iran, North Korea, Myanmar), so the BVI and Jersey both pass condition G6 [17; 30].

The status “Admitted conditionally” permits progression to stage 2 of the analysis but does not mean all

Table 1

Stage 1 gate outcomes

Jurisdiction	Gates G1-G5	G6, Route E	G6, Route U	Decision
Luxembourg	P/CP/P/CP/CP	CP	CP	Admitted conditionally
Ireland	P/CP/CP/CP/CP	CP	CP	Admitted conditionally
Jersey	P/CP/CP/CP/CP	CP	CP	Admitted conditionally
Netherlands	CP/CP/CP/CP/CP	CP	CP	Not ranked
Cayman Islands	P/CP/P/CP/CP	CP	CP	Not ranked
Bermuda	CP/CP/CP/CP/CP	CP	CP	Not ranked
British Virgin Islands	CP/CP/CP/CP/CP	F	CP	Excluded (Route E); not ranked (Route U)

Notation: P – pass; CP – conditional pass; F – fail

Source: compiled by the author based on [10; 13; 14; 17; 20; 21; 28; 30]

factors for concluding the transaction are settled. The fail result for the BVI is specific to Route E; the Netherlands, the Cayman Islands and Bermuda, and the BVI under Route U, are not ranked on incomplete Stage-2 data rather than on condition failure. The source data are fixed before scores are assigned, so the ranking does not affect admission to the next stage.

Stage 2: conditional comparison. Complete and comparable data exist only for Luxembourg, Ireland and Jersey across five criteria: maturity of the legal regime (0.25); creditor control beyond the gate minimum (0.25); potential for domicile-level tax neutrality (0.20); execution simplicity (0.15); market and settlement functionality (0.15). Scores run from 1 to 5 points. The weight of each criterion reflects the priorities of this transaction, not an expert consensus: the legal-resilience criteria – maturity of the legal regime and creditor control – carry 0.25 each. Tax neutrality carries 0.20, because tax losses reduce debt-service coverage. Execution simplicity and market functionality carry 0.15 each since, once the conditions are verified, they mainly affect cost and timing. Each score records source, rationale, date and confidence. Without supporting data no score is assigned, and full sources appear in the supplementary data register. Cost is deliberately placed outside the model: its level is not comparable across jurisdictions and varies with the parameters of the specific transaction; published exchange fees do not reflect all-in cost.

Three criteria do not depend on the SPV's country of registration. Given the maturity of the legal regime and current legislation of Luxembourg and the officially recorded population of Irish financial vehicles, they receive 5 points. Jersey receives 4 points for a specialist regime without a comparable official body of data [10; 20; 21]. Considering the level of statutory creditor control, Luxembourg receives 5 points [20]. Jersey – 4 points: the Jersey Law of 2005 makes non-petition provisions enforceable per their terms [28]. Ireland – 3 points on general company-law tools. The potential for tax neutrality scores an equal 4 points: each regime is materially favourable but conditional, so the equal score reflects comparable potential, not identical outcomes of the analysis.

Execution simplicity of the transaction likewise does not depend on the SPV's country of registration: an SPV established in Luxembourg or Ireland remains subject to the requirements of Regulation (EU) 2017/2402 on risk retention and reporting regardless of the listing venue, so both score 2 points. Jersey's consent-based regime is lighter – 4 points, provided that no party to the securitisation is established in the EU. Only settlement depends on the SPV's country of registration, and it is the decisive factor (Table 2). Under Route E notes settle on a

domicile-neutral ICSD global note, so the criterion scores venue depth: Luxembourg and Ireland 4 points, Jersey 3 points. Under the assumed U-CREST configuration Jersey notes settle directly in CREST while the others use a CREST depositary interest, so Jersey scores 5 points and the others 3 [12]. But direct CREST participation depends on the operator accepting the particular issue (Article 17 of the Companies (Uncertificated Securities) (Jersey) Order 1999), so the scores cited are low-confidence assumptions, not established facts [29].

The baseline scores are: under Route E - Luxembourg 4.20, Jersey 3.85, Ireland 3.70 points. Under the assumed U-CREST scheme - Jersey 4.15, Luxembourg 4.05, Ireland 3.55 points (Figure 2). The scores on criteria C1-C3 are identical across routes, and the Route U totals hold only under the U-CREST scheme presented.

Sensitivity analysis. The joint sensitivity analysis varies all weights and scores at once: each weight within $\pm 20\%$, medium- and low-confidence scores by integer values within one point of their baselines. Each sample contains 100,000 scenarios: the first covers the admissible values uniformly, and in the second the baseline score occurs twice as often (the centre-weighted sample). Under Route E, Luxembourg ranks first in 61.8% and 70.5% of scenarios, with Jersey second. Under the assumed U-CREST configuration Jersey ranks first in 61.6% and 62.6% of scenarios, but this result rests on the low-confidence settlement scores: under an ICSD global note the settlement criterion becomes neutral to the jurisdiction of the SPV's country of placement, the UK route reproduces the EU result and Luxembourg leads (4.20 points against 3.85 points). The shares describe the declared scenario conditions, not legal probabilities. Until the CREST operator has confirmed acceptance of the specific issue of securities, the settlement mechanism should therefore be treated as a condition of completing the transaction rather than a driver of the baseline ranking.

Originator-level verification. The Ferrexpo case shows why confirmation of continued receivable generation must precede the selection of the SPV's country of registration under either route. On 15 April 2026 Ferrexpo reported first-quarter production of 592,751 tonnes – 72% below the prior-year quarter – after a large part of operations was suspended following strikes on energy infrastructure [15]. On 22 April the company reported access to only limited funds and warned that, without additional funding, it faced insolvency [16]. These statements do not establish that insolvency occurred, but they require confirmation of going-concern status, eligible-receivable generation and backup servicing before a jurisdiction is chosen. A negative originator-level result means “not feasible under current conditions”.

Table 2

Scores and baseline totals by issuance route

Indicator	Route E (EU)	Route U (U-CREST)
Execution (C4): Luxembourg / Ireland / Jersey, points	2 / 2 / 4	2 / 2 / 4
Settlement (C5): Luxembourg / Ireland / Jersey, points	4 / 4 / 3	3 / 3 / 5
Baseline score (rank): Luxembourg	4.20 (1)	4.05 (2)
Baseline score (rank): Jersey	3.85 (2)	4.15 (1)
Baseline score (rank): Ireland	3.70 (3)	3.55 (3)
First-place share (uniform; centre-weighted sample)	Luxembourg: 61.8%; 70.5%	Jersey: 61.6%; 62.6%

Source: compiled by the author

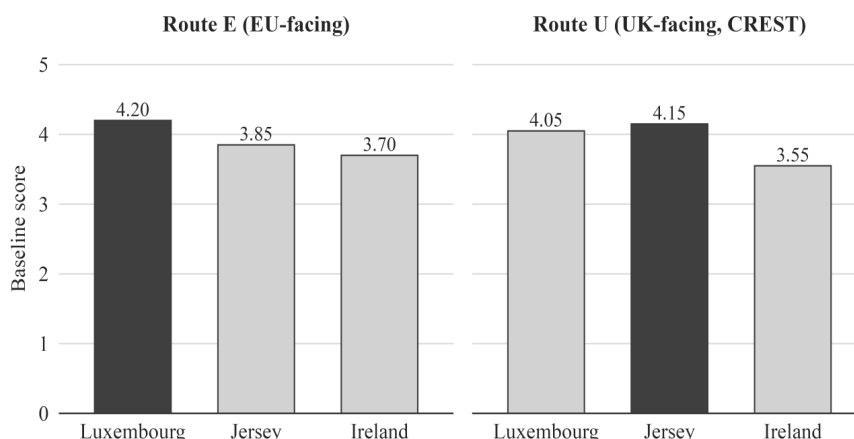


Fig. 2. Baseline scores by route (Route U under the U-CREST scheme presented)

Source: compiled by the author

The model is limited by the list of examined jurisdictions, the two routes, the data-fixing date, the author's coding and uneven source-data availability. "Not ranked" does not mean the SPV's country of registration is legally unsuitable; it records a lack of comparable data. Tax, accounting, regulatory-capital, sanctions and conflict-of-laws effects must be analysed separately. The additive model assumes approximately interval scales and preferential independence of the criteria; the scenarios show sensitivity to assumptions, not transaction performance.

Conclusions. The choice of SPV jurisdiction depends on the issuance route and, within the UK route, on the settlement mechanism. Under the EU route Luxembourg ranks first (baseline score 4.20; first place in 62-71% of scenarios). A UK route does not lighten the EU-law duties of a Luxembourg or Irish SPV, so only settlement depends on the route; under an ICSD global note the UK route reproduces the EU result and Luxembourg leads. Jersey overtakes Luxembourg (4.15 points against 4.05) only where its notes settle directly in CREST. The availability of such settlement for a specific issue is an assumption, not an established fact. The admissibility condition for

the issue of securities only narrows the admissible set, excluding the BVI under Route E. The choice between Luxembourg and Jersey is set solely by the settlement criterion. The baseline choice is therefore Luxembourg. Selecting Jersey is justified only where the CREST operator has confirmed in advance that the specific notes qualify for direct settlement.

A cross-border securitisation structure can strengthen selected creditor-protection mechanisms, but it does not remove the transaction from mandatory originator-country law or cure defects of the assignment, payment restrictions or production risk. If an admissibility condition is met only conditionally, the model records the outstanding precondition. If a condition is not met, the securitisation structure is recognised as not feasible under current conditions. Where comparable data are lacking, the SPV's country of registration is not ranked. The proposed model enables comprehensive due diligence and can be regarded as a recommendation for SPV-jurisdiction selection within future-flow securitisation, while remaining a tool for structuring that diligence rather than a legal opinion on a specific transaction.

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