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Provisions for Sustainability-Linked Loans:

Promoting sustainability goals and preserving integrity

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The LMA Draft Provisions for Sustainability-Linked Loans (the **SLL Provisions**) reflect the contractual "guardrails" developed by the market to protect the integrity of sustainability-linked loans (**SLLs**). These features, namely the sustainability breach provisions, the sustainability amendments mechanism and the declassification clause, are widely regarded as core features of SLLs in the EMEA market, although their detailed application varies between transactions. Together, they operate as a coherent framework and are intended to be considered as a whole.

This article examines each of the contractual "guardrails" reflected in the revised SLL Provisions, explaining their purpose and how they operate in practice.

The SLL Provisions have recently been revised for the first time since their launch in May 2023, following a detailed review by a Task Force of active market participants. While the core architecture remains unchanged, the updates seek to promote greater consistency and clarity in SLL drafting while preserving the flexibility central to the SLL product. The revisions focus on points where the template was not reflective of current market practice, required clarification or could be simplified (including by removing provisions not widely used). The Task Force also identified aspects of the SLL Provisions that are often adjusted or negotiated and on which additional guidance may be beneficial.

The guardrails in context

Incentivising ambitious sustainability targets and supporting borrower progress is at the core of the SLL product. For this reason, defaulting the loan is not the appropriate consequence of non-compliance with SLL terms[1]. Instead, the SLL Provisions include various guardrails to address non-compliance, designed to incentivise borrower performance and protect product integrity, which distinguish between:

- situations where it is appropriate to incentivise performance (e.g. by imposing financial consequences);
- situations where the parties need to return to the table because the agreed SLL metrics or terms need to change (sometimes referred to as a "rendezvous[2]"); and
- situations where there is a meaningful question as to whether the facility can continue to be labelled an SLL.

Drawing the line between these situations can be challenging. While a margin impact may initially be the appropriate response to a particular event, should that event become prolonged or more severe, it may be appropriate for the sustainability amendment or even the declassification provisions to be activated. The guardrails must therefore be crafted with a clear understanding of the aims of, and relationship between, these different mechanisms.

Articulating appropriate trigger events and positioning them within the cascade of guardrails involves commercial, policy and legal/regulatory considerations, on which individual institutions may have different perspectives. Certain triggers may also be context-specific, influenced, for example, by the geography or sector of the borrower. Given the broad range of circumstances in which the SLL Provisions may be used, these guardrails include optional provisions and placeholders to allow tailoring on a case-by-case basis.

"Sustainability Breaches" – margin impact only

A "Sustainability Breach" occurs where there is either (i) a breach of a "Sustainability Provision" (defined to encompass the sustainability reporting, information and amendment provisions), or (ii) a sustainability misrepresentation, in each case subject to an optional agreed grace period.

It is generally accepted that a breach of a Sustainability Provision or a sustainability misrepresentation should not, of itself, constitute an Event of Default. The SLL Provisions therefore expressly carve these matters out of the general Events of Default clause, instead placing a financial consequence on non-compliance.

A Sustainability Breach typically prompts an increase in margin to the highest level in the SLL margin ratchet (the **SLL Margin Adjustment**). This adjustment takes effect a specified number of days after the Agent becomes aware of the breach and remains in place for so long as the breach continues.

While the initial impact of a Sustainability Breach is on the margin only, certain Sustainability Breaches may ultimately trigger a Declassification Event, discussed further below.

"Sustainability Breach"

(i) Sustainability misrepresentation, or

(ii) failure to comply with a Sustainability Provision (including failure to deliver a Sustainability Compliance Certificate),

each subject to optional grace periods agreed between the parties.

Triggers Margin increase

- Margin adjusted to highest level in SLL Margin Adjustment.
- Repeated failure to deliver Sustainability Compliance Certificate/ prolonged Sustainability Breach triggers **Declassification Event**.

[1] Subject to specific exceptions, including declassification and related publicity restrictions.

[2] Note that "rendezvous" in this context is not a term of art; it may be used to refer to any events that trigger a re-negotiation (i.e. "Sustainability Amendment Events" in the SLL Provisions); or in a narrower sense, to refer only to changes which are not foreseeable at the date of the Agreement (e.g. changes in the perimeter of the borrower group).

“Sustainability Amendment Events” – back to the table

Circumstances may arise that necessitate changes to the agreed key performance indicators **(KPIs)**, sustainability performance targets **(SPTs)** and/or other sustainability metrics during the tenor of an SLL. For example, if the borrower disposes of part of its business, it may be necessary to re-set the SPTs to ensure they remain appropriately ambitious.

The sustainability amendments clause addresses such changes. It provides that, following the occurrence of a “Sustainability Amendment Event”, the parties will enter negotiations with a view to agreeing any necessary amendments.

The SLL Provisions contemplate two categories of “Sustainability Amendment Event”, reflecting the amendment triggers generally accepted in the market:

- changes to the size or perimeter of the borrower group; and
- proposed changes to any KPI, or to the calculation methodology, baseline or SPTs in relation to any KPI.

The categories of Sustainability Amendment Event are not intended to be exhaustive. Parties are free to agree additional triggers to address more specific circumstances. Examples include a change in the borrower’s sustainability strategy (including the adoption of more ambitious public targets than those in the SLL), or changes in applicable law or regulation that materially impact the sustainability metrics.

This amendment mechanism provides a lever for renegotiation of the SLL metrics where that has become essential, which is why the triggers include a materiality threshold. As drafted, the triggers are engaged only where there is a reasonable expectation that the relevant event will materially affect a KPI and/or SPT, or where a KPI is to be replaced entirely. In practice, the materiality threshold is sometimes further defined by reference to a financial metric, e.g. a percentage of turnover. This reflects that the amendments mechanism deals with amendments required to ensure the SLL can continue as such, rather than allowing the parties to reopen the SLL metrics at their discretion.

"Sustainability Amendment Event"

(i) acquisition/disposal/merger which could reasonably be expected to materially affect a KPI/SPT,

(ii) notification of replacement KPI or change in Calculation Methodology/Baseline/SPT which could reasonably be expected to materially affect a KPI/SPT or

(iii) any other event agreed between the parties.

Triggers negotiation period

- Negotiations between parties for not less than agreed period to agree amendments.
- Failure to reach agreement triggers **Declassification Event.**

The SLL Provisions also include an optional mechanism (added in the recent update) for agreeing SPTs where they have not been set for the full tenor of the loan at the outset. This is similar to, although distinct from, the sustainability amendments clause. SPT-setting may be deferred, for example, where the borrower’s sustainability strategy does not extend out for the full tenor of the loan at signing. The new clause provides for outstanding SPTs to be proposed by the borrower post-signing and then negotiated and agreed by a specified longstop date.

"Declassification Events" – is the SLL label still appropriate?

The declassification provisions provide a route to stripping an SLL of its label, meaning the facility may no longer be described as "sustainability-linked" and the Sustainability Provisions and SLL Margin Adjustment will cease to apply. In effect, the loan reverts to a conventional loan. Given these consequences, declassification is the ultimate step in the cascade of guardrails. The process caters for circumstances that threaten the integrity of the SLL product and, importantly, which cannot be addressed by amendments the terms.

The SLL Provisions originally provided that declassification would be triggered only if the parties were unable to agree amendments following a Sustainability Amendment Event, with a placeholder for further triggers. The recent updates add some new trigger events that are often adopted in practice by amending the terms.

These Declassification Events cover situations which have fallen to be addressed by the sustainability breach and amendment mechanisms in the first instance, but which have remained unresolved or become increasingly prolonged or severe necessitating a more drastic response. The list of events does not include triggers which bypass the amendment and breach mechanisms completely i.e. where the underlying issue is sufficiently serious to warrant immediate recourse to declassification. This may, however, be relevant in some situations, particularly where the borrower is in a sector viewed as "higher risk".

For example, some SLLs may provide that a material ESG-related incident (often defined as an "**ESG Controversy**") triggers a declassification discussion, sometimes preceded by a requirement for an amendment discussion – practice varies. The SLL Provisions are not intended to be exhaustive, and the definition of Declassification Event includes a placeholder for additional triggers considered appropriate.

Declassification Events

The triggers in the updated SLL Provisions include:

- where the parties are unable to agree amendments following the occurrence of a Sustainability Amendment Event,
- repeated failures by the borrower to deliver a sustainability compliance certificate (the extent of this failure is left to be agreed between the parties),
- where a Sustainability Breach continues for a prolonged period (the relevant period is left to be agreed between the parties), or
- any other events agreed between the parties.

The definition in the SLL Provisions caters, optionally, for a Declassification Event where SPTs have not been set for the full tenor and either (i) the borrower fails to propose targets by an agreed longstop date, or (ii) the parties are unable to agree one or more of those targets. This option was added as part of the recent package of updates.

Declassification – voting and consequences

The occurrence of a “Declassification Event” triggers a lender vote on whether the facility should be declassified. While automatic declassification may be desirable for certain triggers, the SLL Provisions, in providing for a vote in all instances, ensure that control over the continuation or removal of the SLL label rests with the lenders collectively. The decision is at the option of the Majority Lenders or all lenders, depending on the applicable voting threshold (a matter for commercial agreement).

Questions may arise as to whether the borrower should be entitled to trigger declassification. The mechanism is not drafted with this in mind. If the borrower wishes to withdraw from the SLL label earlier than the next refinancing, this is most appropriately addressed through the standard amendment process.

The consequence of declassification is the loss of the SLL label and the disapplication of the Sustainability Provisions and SLL Margin Adjustment. Declassification also engages publicity restrictions, preventing the borrower from referring to the facility as “sustainability-linked” thereafter. Importantly, this restriction is not classified as a “Sustainability Provision”, meaning that breach of the publicity restriction will be an Event of Default.

"Declassification Event"

Triggers lender vote on declassification

Lenders determine whether to exercise option to declassify facility as SLL

Declassification decision

SLL Margin Adjustment and Sustainability Provisions cease to apply and Borrower becomes subject to publicity restriction (breach of which is an **Event of Default**)

An integrated framework

The sustainability breach regime, the sustainability amendment mechanism and declassification each serve a distinct purpose but are designed to operate together. As the SLL Provisions are adapted in practice, the overarching consideration is to ensure that these mechanisms function as an integrated framework, enabling an appropriate and proportionate response as issues evolve in significance or duration. A clear understanding of each provision’s role and of how the guardrails interrelate is therefore critical to ensuring they operate as a coherent whole.

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The SLL Provisions, available to LMA Members via the LMA Documentation Hub[3], are intended as a starting point for EMEA-originated SLLs. The approach to drafting may vary in other markets (for example, "Declassification", as discussed in this article, is primarily an EMEA market construct). The SLL Provisions must be used with reference to the Sustainability-Linked Loan Principles[4] and accompanying Guidance[5], both published jointly by the LMA, LSTA and APLMA.

[3] https://www.lma.eu.com/documents-guidelines/documents

[4] https://www.lma.eu.com/application/files/2317/4481/8026/Sustainability-Linked_Loan_Principles_-_26_March_2025_.pdf

[5] https://www.lma.eu.com/application/files/3517/4298/0872/Guidance_on_Sustainability-Linked_Loan_Principles_-_26_March_2025.pdf

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