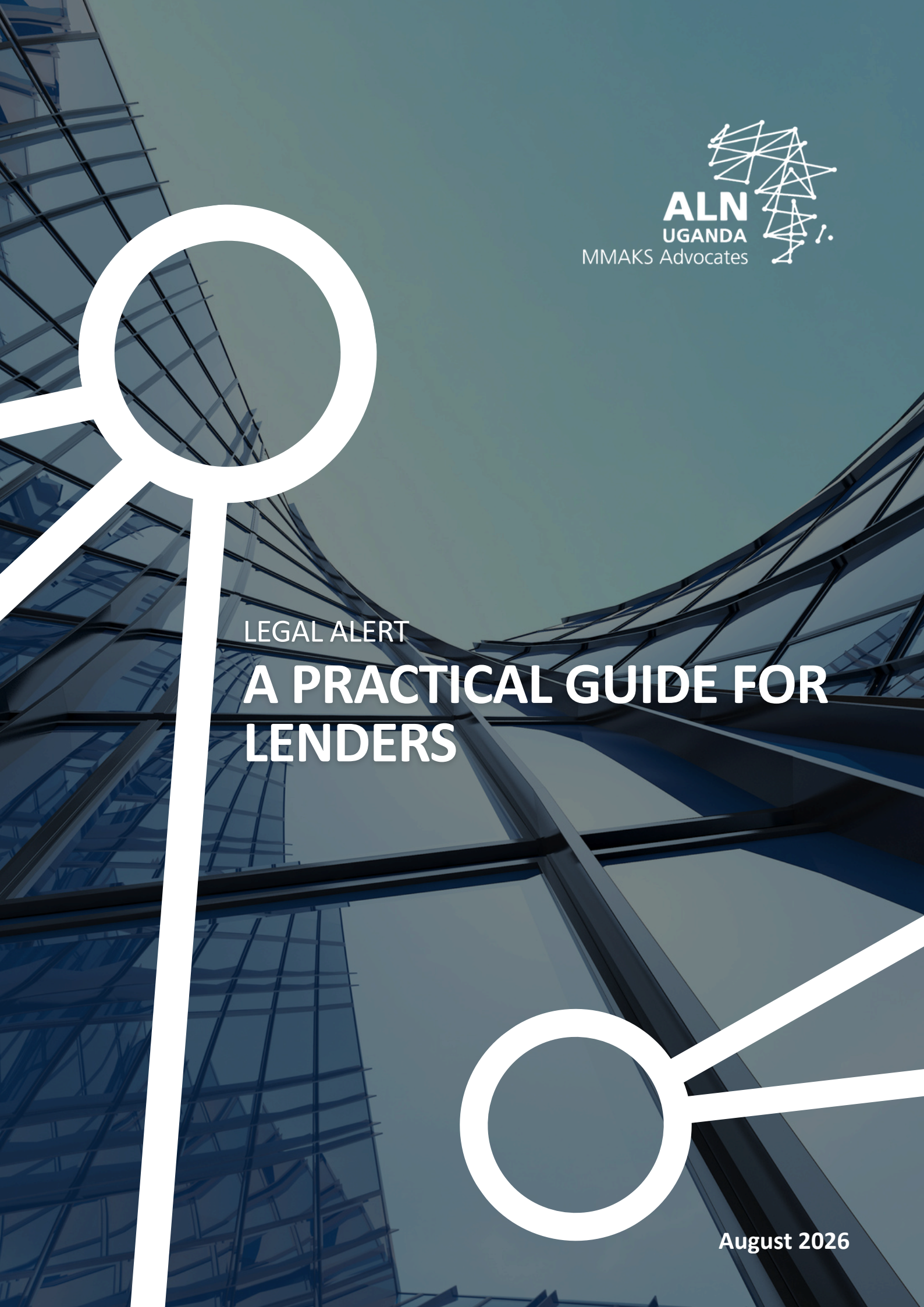

ALN UGANDA
MMAKS Advocates

LEGAL ALERT

A PRACTICAL GUIDE FOR LENDERS

August 2026

PERFECTION AND ENFORCEMENT OF SECURITY OVER SHARES IN UGANDA: A PRACTICAL GUIDE FOR LENDERS

Shares are a common form of collateral for loans obtained from various lenders such as banks, private equity funds, development finance institutions, among others. They are particularly beneficial where the company in which the shares are held generates sufficient value for the shares to amount to good security.

As with any other form of security, it is important to ensure that the security interest created in shares is perfected so as to notify third parties of its existence and to give the lender priority over subsequent claims in case of insolvency.

The legal framework governing security over shares in Uganda has undergone significant reform following the enactment of the Security Interest in Movable Property Act (SIMP Act), Cap. 293 in 2019 and the digitisation of the Companies Registry in 2023. These reforms have fundamentally changed how lenders perfect and enforce security over shares. While easing the perfection process, they have narrowed the enforcement mechanisms previously applicable to share charges.

This article considers three issues: the position before the SIMP Act; the key changes introduced by the SIMP Act and the digitization of the Companies Registry; and the practical drafting steps lenders can take to mitigate existing risks.

Security over Shares in the Previous Regime

Previously, taking security over shares required: (i) the execution of a share charge deed by the lender and the owner of the shares (the **"Chargor"**); (ii) the execution by the Chargor of a share transfer form, left blank with respect to the transferee's name, date of transfer and consideration paid; and (iii) an irrevocable proxy and power of attorney granted in favour of the lender. The irrevocable power of attorney enabled the lender to transfer the shares to a purchaser in the event of default, without notice or involvement of the Chargor.

After execution of the relevant documentation, a lender would perfect their security interest by registering the share charge deed at the Companies Registry if the Chargor was a company. Where the Chargor was an individual, there was no dedicated registry for registering the lender's security interest. As a mitigation strategy some lenders incorrectly registered these charges against the company in which the shares were held. The power of attorney was also registered at the Documents Registry.

When default occurred, to enforce the charge, a lender relied on the registered power of attorney to transfer the shares to a purchaser using the blank transfer form that had been earlier signed by the Chargor. The lender then proceeded to physically file the transfer forms with the Companies Registry and to notify the company secretary.

The SIMP Act Reforms

In 2019, the SIMP Act was enacted to facilitate the use of movable assets as collateral and to increase the pool of security providers to include individuals that did not own land. A lack of access to land for use as collateral prevented many individuals and SMEs from accessing finance, which issue the SIMP Act sought to address.

The SIMP Act established an electronic register of security interests in movable property. The electronic register enables the registration of lender interests over movable assets, both tangible and intangible, therefore including shares and their related rights. At the SIMP registry collateral granted by either a company or an individual can be registered. Registration serves as notice to third parties of a lender's interests and determines the priority of registered security interests.

In addition to introducing an electronic register, the SIMP Act declared the use of blank transfer forms illegal. Under section 5(6) of the SIMP Act, if a grantor of collateral signs a transfer form in favour of a lender as a condition for the grant of a security interest under the Act, the transfer is void. This provision nullifies arrangements involving the use of blank share transfer forms when taking security over shares.

Digitisation of the Companies Registry

In parallel, the Companies Registry was digitized through the creation of the Online Business Registration System (OBRS). The OBRS introduced electronic company accounts which enable a company to electronically file their corporate documents such as annual returns, company resolutions, and charges, among others. This system places control of filings primarily in the hands of the company and limits third-party involvement unless authorised by the company.

The creation of company-controlled accounts at the Companies Registry changed the enforcement of charges over shares. Whereas lenders could previously rely on pre-signed transfer forms to transfer shares following default, today, the relevant transfer documents must be generated at the point of enforcement and submitted electronically through the company's account. Consequently, lenders are no longer able to act independently in enforcing security over shares and depend heavily on the cooperation of the company and its company secretary to enforce their security interests.

The introduction of the OBRS therefore rendered the irrevocable power of attorney redundant.

Implications for Lenders

The establishment of the SIMP registry closed an important gap by allowing security interests over shares owned by individuals to be perfected. Previously, lenders lacked a clear registration mechanism for such security, which exposed them to the risk of remaining unsecured against competing claims. However, while it created a comprehensive registration system, the SIMP Act simultaneously removed a long-standing enforcement mechanism by prohibiting the use of blank share transfer forms.

Lenders must therefore adopt alternative contractual protections and enforcement strategies in share charge deeds.

The introduction of the OBRS also created enforcement risks for lenders. Procedures under the OBRS increase the likelihood of delays because a lender must notify the company secretary of the default and enforcement, and request that a share transfer form is generated in favour of a lender nominated purchaser of the shares. The transfer form must then be signed by the Chargor, whose cooperation might be difficult to obtain if there is hostility around the default. The company secretary could also collude with the Chargor to frustrate the transfer of the shares, particularly in small private companies or family-owned businesses where proper corporate governance is not maintained. This all increases the lender's enforcement burden.

Drafting Considerations to Mitigate Risk

Various strategies can be adopted to mitigate the risks brought by the SIMP Act and the digitization of the Companies Registry. Firstly, to the extent that the company is involved in the financing being secured by the charged shares, either as a principal borrower, a guarantor or as a subsidiary of a borrowing parent company, then it should be added as a party to the share charge. This does away with the need for separate notice of the charge to the company secretary and creates binding obligations on the company to ensure that the lender can enforce its security.

To the extent that the company cannot be added as a party, a signed undertaking in favour of the lender should be obtained from the company secretary. In the letter of undertaking the company secretary commits to register the lender's charge over the shares in the member's register, refrains from transferring the charged shares to any person without the lender's consent, and undertakes to cooperate with the lender in promptly generating and filing the share transfer forms in case of enforcement.

Lenders should also pay attention to the company's corporate governance structure as the value of shares is tied not only to the financial value but the way the company is governed. Governance and good faith of the company is required in addressing the risks of pre-emption and the powers of directors to veto a transfer of the shares.

Additionally, whereas a lender may request the physical deposit of original share certificates, it is important to note that this is only prima facie evidence of title and is not essential to the validity of the share charge, nor does it facilitate enforcement. Given that shares in Uganda are registered rather than certificated assets, a share certificate is not collateral in the way that a bearer instrument, such as a bearer cheque or bond is. Accordingly, enforcement may be effected through the OBRS without the share certificate.

Conclusion

The SIMP Act and the digitisation of the Companies Registry have modified the perfection and enforcement of security over shares in Uganda. These reforms improve transparency and efficiency in the registration of share charges. However, they also require lenders to reconsider traditional enforcement practices and to address the increased operational role of the company

and its officers in the enforcement process. Unless share charge documents are adapted to these changes, lenders will face avoidable delays, cooperation risks and recourse to court, which security perfection aims to avoid.

Should you have any questions regarding the information in this legal alert, please do not hesitate to contact:



Laura Taaka
Legal Associate
taaka@ug.aln.africa

Disclaimer: The content of this alert is intended to be of general use only and should not be relied upon without seeking specific legal advice on any matter.