

Regional Secured Transactions Assessment – Croatia

Specific types of security / syndicated lending

The following table relates to specific types of security such as charge over accounts receivable, bank account, insurance claims, equities, debt securities as well as the issues in relation to syndicated landing. The Explanatory Notes describe the methodological approach to the survey.

A	Account Receivables	Grading
1.	Can the security be established over future and/or fluctuating accounts?	3
2.	Can a third party establish if account receivable has been charged?	2
3.	Can security be created without the obligor's acceptance or notification?	3
4.	Can the security be enforced by private sale of receivables or direct collection of payments?	3

B	Bank Account	Grading
1.	Can effective security be created without the account bank's contractual involvement?	2
2.	Can a third party establish if the account has been charged?	2
3.	Can the chargor draw and receive funds while the charge exists?	2

C	Insurance claim	Grading
1.	Does the security cover insurance claim in case of destruction of secured property?	3
2.	Can the charge creditor takeover the payment of premiums?	2

D	Business Shares	Grading
1.	Can a third party establish the existence of charge over business participation?	3
2.	Are the parties free to agree on the collection of dividends, usage of voting rights and transferability of participations?	1

E	Equity Securities	Grading
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1.	Can a third party establish the existence of charge over listed shares?	3
2.	Are the parties free to agree on the collection of dividends, usage of voting rights and transferability of shares?	3

F	Debt Securities	Grading
1.	Can a third party establish the existence of charge over debt securities?	3
2.	Are the parties free to agree on the collection of instalments and transferability of debt securities?	3

Syndicated Lending

G	Syndicated Lending	Grading
1.	Is there a possibility to create a security for a person who is not the creditor but representing all members of the bank syndicate (security manager)?	2
2.	Has the parallel debt or other security management structure used in practice been recognised by known court decision?	0
3.	Does the security manager have the right to start enforcement?	2
4.	Are security and parallel debt insulated from the insolvency estate of the security manager?	?

A2	A third party can establish it by checking in the movables collateral register. However, the search of the register does not necessarily give bulletproof results, since the description of the assets is required for search, and this type of security does not have a clearly defined description.
B1	Theoretically, yes. It is however unclear whether and to what extent the charge would be effective.
B2	A third party can establish it by checking in the movable collateral register. However, the search of the register does not necessarily give bulletproof results, since the description of the assets is required for search, and this type of security does not have a clearly defined description.
B3	It is used in practice. It is however unclear how effective a charge over fluctuating accounts is.
C2	This is not clearly set in the law. It would be possible based on the agreement with the Insurer.
D2	Law is unclear in this respect. In practice, this is sometimes regulated by security agreements. However, the scholars seem to disagree whether this is effective.
G1	This is in practice done, but it is unclear whether such a construction would survive challenges in the enforcement proceedings, given that Croatian law does not recognise the concept of trust on the basis of which the security manager concept was developed.
G3	Given that the security manager acts as a creditor, it would be entitled to initiate enforcement. Having said that, the debtor could oppose enforcement arguing that the security manager, not being the debtor, does not hold any right and hence that the enforcement should be dismissed.