

## Regional Secured Transactions Assessment – Belarus

### 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 lending. The Explanatory Notes describe the methodological approach to the survey.

<b>A</b>	<b>Account Receivables</b>	<b>Grading</b>
1.	Can the security be established over future and/or fluctuating accounts?	<b>3</b>
2.	Can a third party establish if account receivable has been charged?	<b>0</b>
3.	Can security be created without the obligor's acceptance or notification?	<b>3</b>
4.	Can the security be enforced by private sale of receivables or direct collection of payments?	<b>3</b>

<b>B</b>	<b>Bank Account</b>	<b>Grading</b>
1.	Can effective security be created without the account bank's contractual involvement?	<b>1</b>
2.	Can a third party establish if the account has been charged?	<b>0</b>
3.	Can the chargor draw and receive funds while the charge exists?	<b>3</b>

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

<b>D</b>	<b>Business Shares</b>	<b>Grading</b>
1.	Can a third party establish the existence of charge over business participation?	<b>0</b>
2.	Are the parties free to agree on the collection of dividends, usage of voting rights and transferability of participations?	<b>3</b>

<b>E</b>	<b>Equity Securities</b>	<b>Grading</b>
1.	Can a third party establish the existence of charge over listed shares?	<b>3</b>

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2.	Are the parties free to agree on the collection of dividends, usage of voting rights and transferability of shares?	2
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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?	2

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)?	3
2.	Has the parallel debt or other security management structure used in practice been recognised by known court decision?	?
3.	Does the security manager have the right to start enforcement?	3
4.	Are security and parallel debt insulated from the insolvency estate of the security manager?	2

## Remarks

B1	Since bank accounts are not considered to be property, pledge over bank accounts is not provided in the Belarusian legislation. Different structured financial instruments may be used for creating securities over bank accounts of the debtor but these usually need contractual bank involvement.
E2	Certain restrictions in respect of collection of dividends, usage of voting rights and transferability can be agreed in the pledge agreement. However, such restrictions would be limited in terms of enforceability due to imperative corporate regulations applicable to capital markets.
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G4	Belarusian legislation envisages syndicated lending and usage of security agent, however it does not provide for detailed regulation in this respect. In the absence of detailed regulation on syndicated lending the general insolvency regulations would apply and in theory the security should be regarded as insulated from the insolvency estate of the agent.