

Regional Secured Transactions Assessment – Serbia

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.

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?	3
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?	3
2.	Can a third party establish if the account has been charged?	3
3.	Can the chargor draw and receive funds while the charge exists?	0

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

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?	3

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

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2.	Are the parties free to agree on the collection of dividends, usage of voting rights and transferability of shares?	1
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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?	1

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?	2

Remarks

C1	Not clear from the law. A separate pledge is advised.
C2	If contracted with the insurance company.
E2	Commercial Companies Act provides that the voting right belongs to security provider. No option to agree otherwise is provided. Transfer of shares is generally not allowed. The law is not clear in respect of other rights.
F2	Commercial Companies Act provides that the voting right belongs to security provider. No option to agree otherwise is provided. Transfer of shares is generally not allowed. The law is not clear in respect of other rights.
G1	The Charge Law allows secured creditor to appoint a third party to take legal action, protect and enforce secured claims. For mortgages the structure of joint and several creditors is used (meaning that the agent has to be a creditor as well).
G3	The security manager could have the right to enforce security over assets registered in the Charge Registry, however, the position with respect to other property (real property) is unclear.
G4	No express provisions on this issue can be found. With respect to third party designated to protect the rights of the secured creditor(s) under the Movable Charge Law it would be the case.