

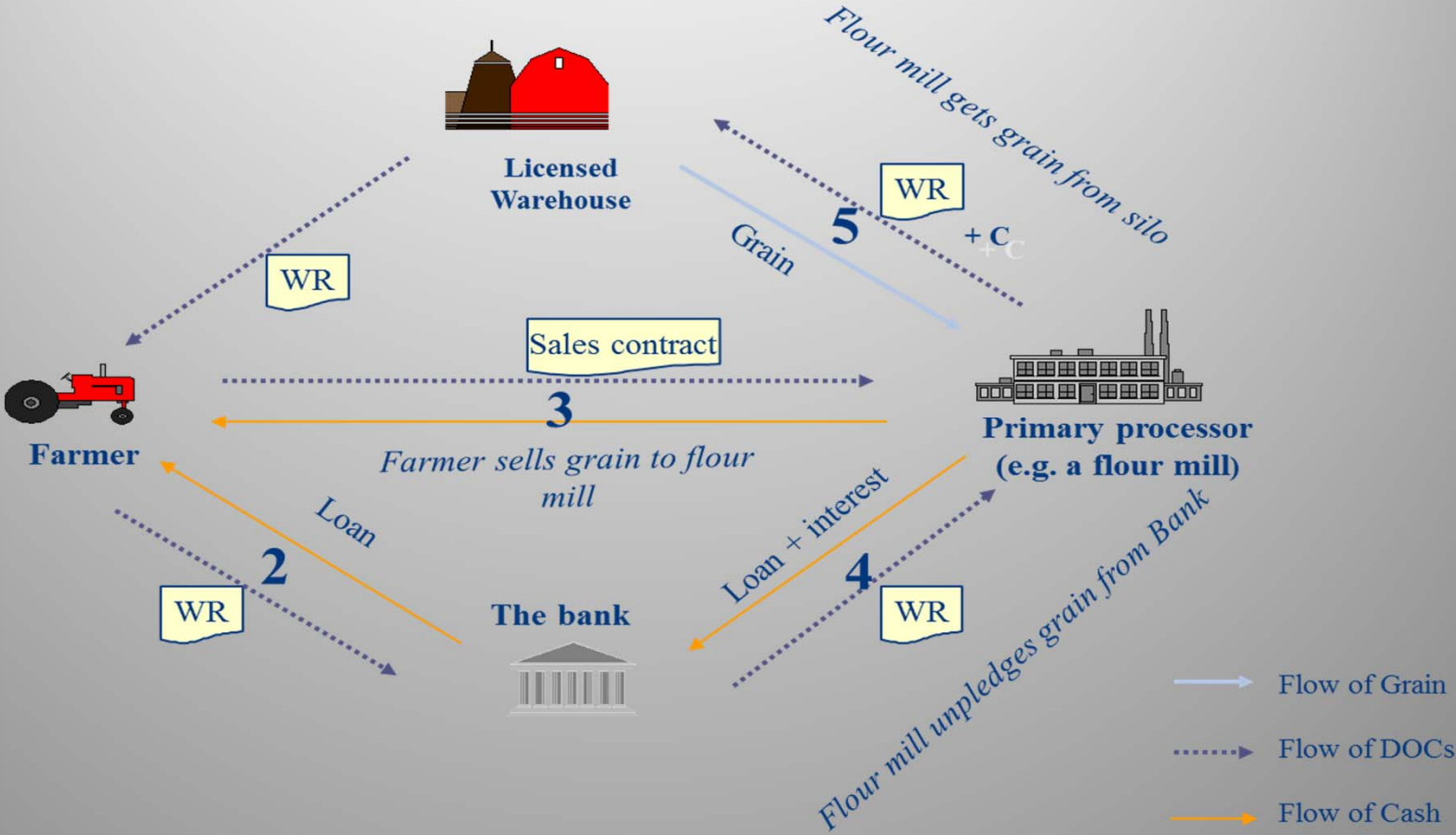
Legal framework for the development of commodity based financing

Krassimir Kiriakov - International WHR Expert

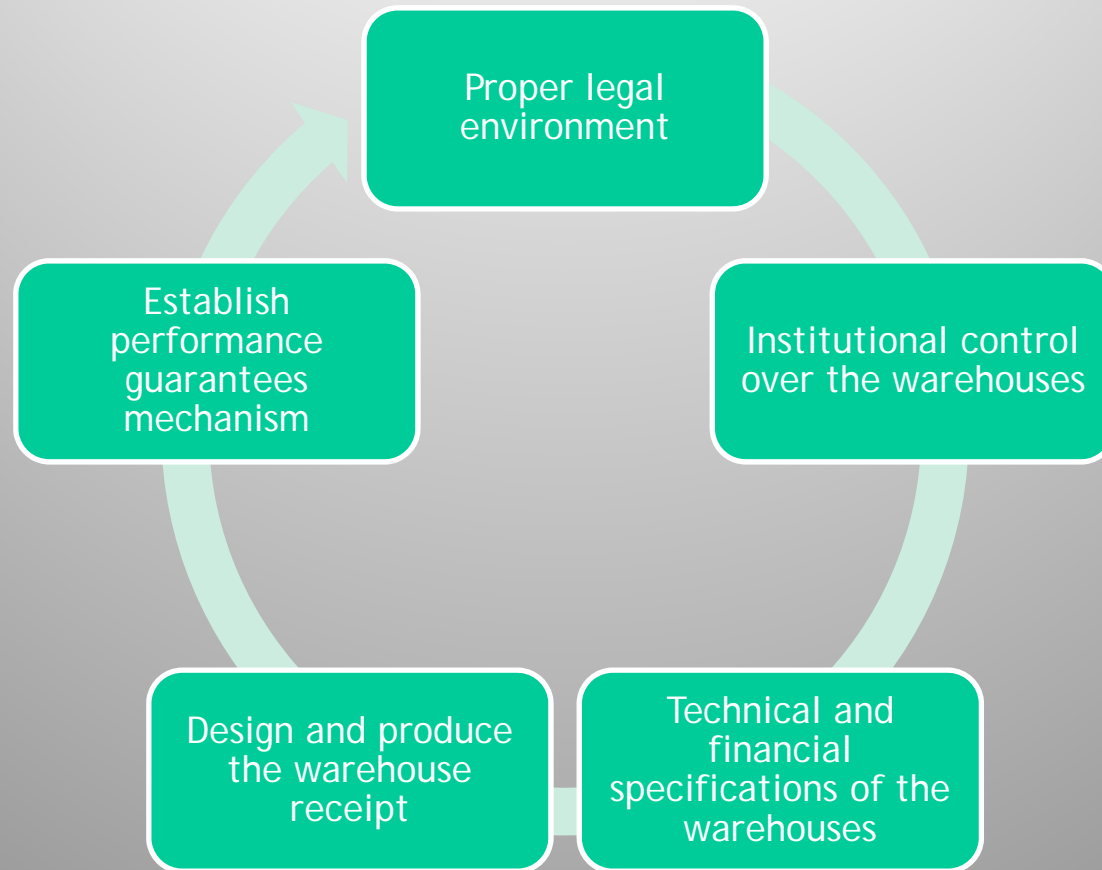
Goal and Objectives of the WHR system

- ❑ **Goal** :To enable cooperation among the government, financial systems, insurance, agricultural production, processing and trade systems through the introduction of new collateralized financial instrument
- ❑ **Objectives** :
 - ❑ Generate larger markets
 - ❑ Identify proper regulatory role for the government
 - ❑ Provide increased access to short-term credit
 - ❑ Develop new financial instruments
 - ❑ Attract additional capital to the commodity markets
 - ❑ Develop insurance services
 - ❑ Reduce participants risk:
 - product quality
 - reliability of transactions
 - reduce loan default

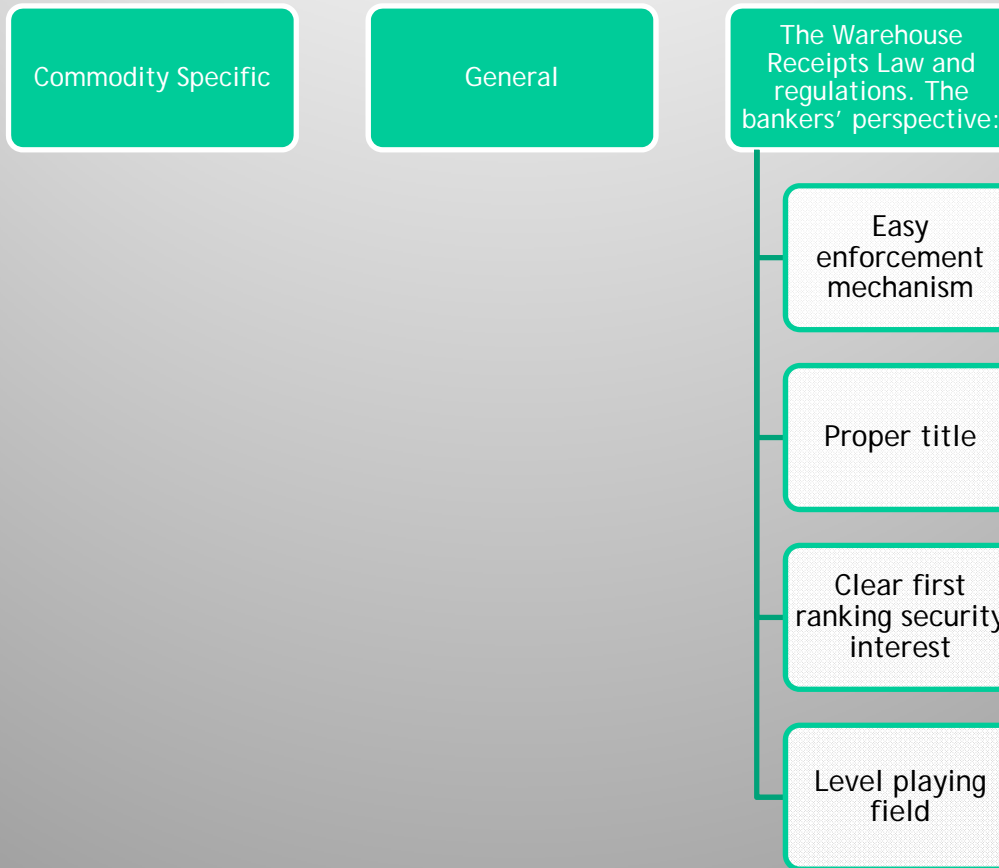
Warehouse Receipt Cycle



Implementation Steps :



Structure of the WHR System: Legislation



Structure of the WHR System- Institutional control

National Regulatory
Body:

Functions

Organization

Public or Private
supervision

Structure of the WHR System - Public Warehouses

Legal definition : entity involved in commodity storage and allowed to issue WHR

Licensing requirements/minimum capacity

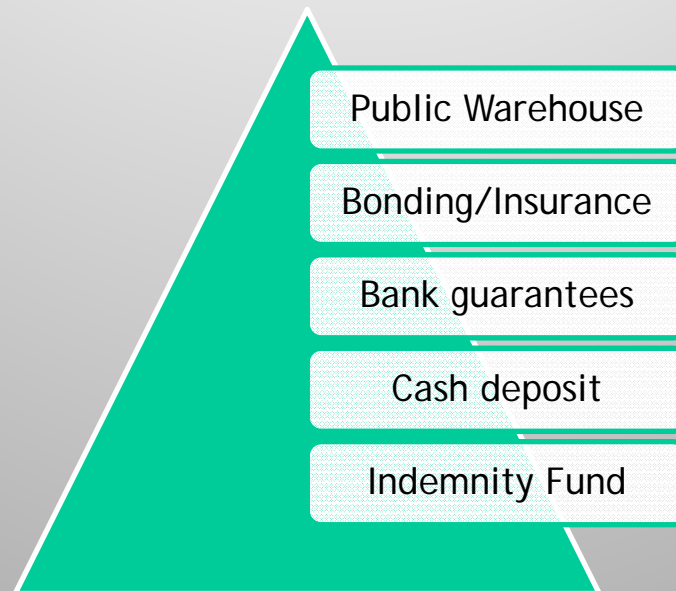
Technical and financial criteria/minimum capital

Major responsibilities


Structure of the WHR System: The Warehouse Receipt

Obligatory information	Registration of receipts	Legal definition	Protection
<ul style="list-style-type: none">• Storage location within the warehouse and type of storage• Year and yield of the commodity• Kind, quantity, quality, and condition of the stored commodity• Insurance• Obligations to the warehouse/ storage fees	<ul style="list-style-type: none">• At the Public Warehouse• Central Depository• Electronic Information System	<ul style="list-style-type: none">• A legal entity involved in commodity storage and allowed to issue WHR/private, state owned, cooperative/	<ul style="list-style-type: none">• Physical - Fraud, Theft• Daily Position Record (DPR)


Structure of the WHR: Performance Guarantees




Benefits for the public warehouses

- 
- attracts more business
 - more income from handling and storage fees
 - opportunity to finance their own operation by issuing WHR to themselves

Benefits for the producers

- 
- obtain the best market price
 - guarantees the quality and the quantity of the stored commodity
 - finance production in a timely manner

Benefits for the banks

- 
- higher protection for the collateral
 - more income from credit activities
 - expanding credit portfolios in rural areas
 - profit from the warehouses performance guarantees
 - higher liquidity of the collateral

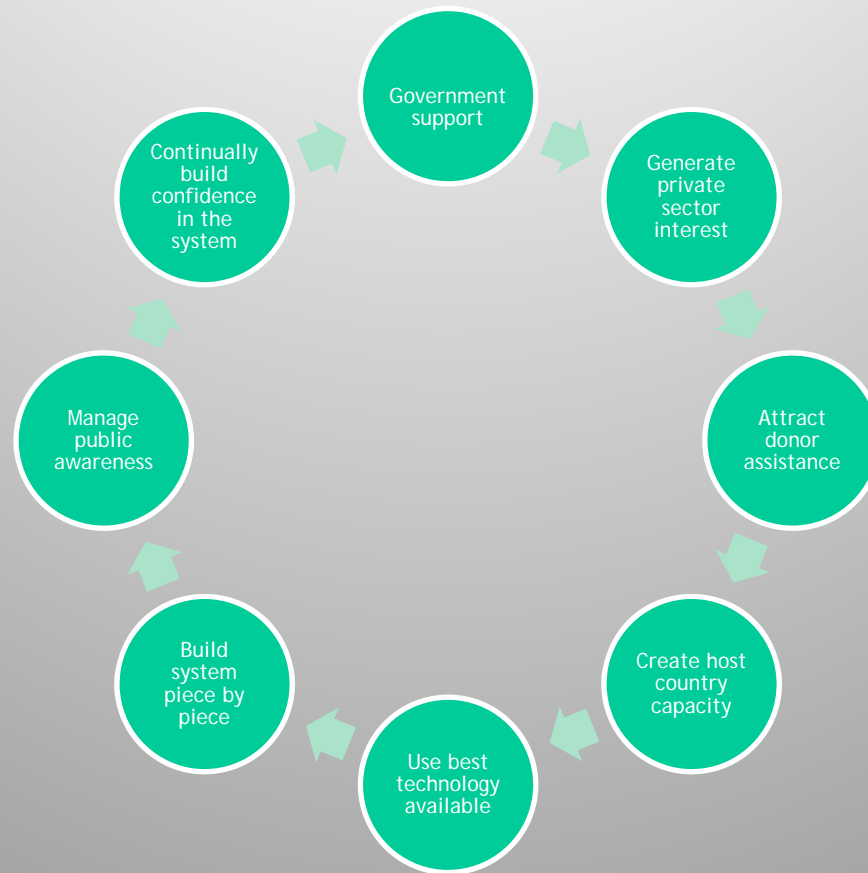
Benefits for the processors

- 
- Improved access to quality raw material
 - Reduced storage costs
 - Opportunity to plan year supplies
 - Finance their stock

Benefits for the traders

- 
- Secured quality and volumes
 - Consistent supplies
 - Opportunity for revolving trade finance
 - Improved logistics

Necessary Conditions



Russia GWR draft law-key findings

Russian Grain Warehouse Receipts Draft Law

- Commodity specific law
- Detailed descriptive approach
- The concept of licensing not accepted in line of overall legal system (registration)
- Establishment of Self Regulating Organizations (SRO)
- Multiple Indemnity Funds

**THANK YOU FOR
YOUR ATTENTION !**

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Russian experience of introducing a WHR law

- **White & Case role: comments, but not the actual drafting**
- **W&C approached in July 2011, the Law still not in Duma**
- **General observations on the process**
 - Timeline not easily predicted
 - Composition of working group
 - Process highly affected by various interested parties
 - Responsiveness to comments

Russian experience of introducing a WHR law (cont'd)

- **Intention**

- Make WHR more trusted and better placed for usage in agricultural financing
- WHR to be issued by a credible warehouse - member of SRO

- **Framework set by the Civil Code and Pledge Law –**

- **Sample legal challenges**

- Any warehouse may issue WHR under the Civil Code
 - Question – how to form a special class of WHRs?
- Civil Code sets forth the regime for enforcement of pledges
 - Question – any specific issues to be considered for enforcement under WHRs?
- Civil Code right to unilaterally redeem grain by evidence of debt discharge
 - Question – if not overridden, anyway to mitigate the risks for market participants?
- Other challenges:
 - Composition of SROs
 - SRO fees
 - Federal reserve