

Regional Secured Transactions Assessment – Azerbaijan

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?	0
2.	Can a third party establish if account receivable has been charged?	0
3.	Can security be created without the obligor's acceptance or notification?	?
4.	Can the security be enforced by private sale of receivables or direct collection of payments?	1

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

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?	3

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

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E	Equity Securities	Grading
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?	?

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.	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?	?
4.	Are security and parallel debt insulated from the insolvency estate of the security manager?	?

Remarks

A4	In theory this would be possible but there is no available practice. There is also a fear of local practitioners that such action might be invalidated by a court if considered private realisation of collateral.
D2	The parties may agree only on transferability of shares unless a limitation on transferability is imposed by the constitutive deed of the relevant limited liability company.