

A World Bank Group Flagship Report

Doing Business 2017

Increasing Equality of Opportunity

Getting Credit – Legal Rights

Armenia, Belarus, Kazakhstan, Kyrgyz Republic and Russian Federation



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September 14, 2017

- I. What does it measure – and what does it not?**
- II. Good practices
- III. What are the main findings in DB2017?

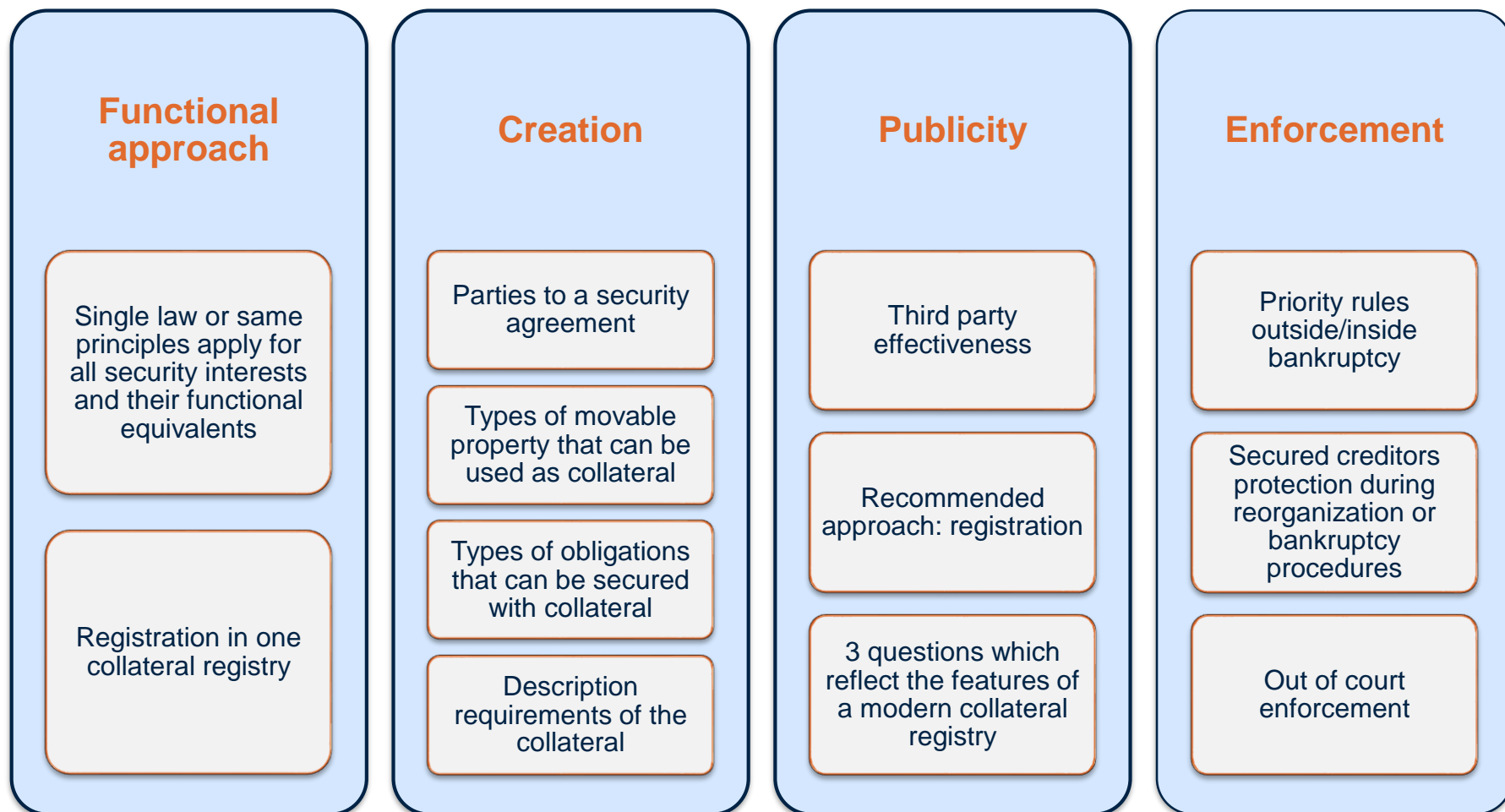


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What is measured by **Getting Credit – Legal Rights?**

Overview: Secured Transactions system & Credit cycle of NPSI



What is covered – and what is not?

Getting Credit – Legal Rights

- ✓ Functional equivalents to traditional type of **security interests**
 - Incorporated & non incorporated entities
- ✓ 1 legal mechanism: NPSI → **Focus on LLCs (SMEs)**
 - **Scenario A** (security rights in a single category of **movable** assets)
 - **Scenario B** (security rights in a combined category of **movable** assets)

The Legal Rights index has a limited scope

- ✓ **No immovable property or specialized assets** (aircrafts, ships, bonds, shares, IP rights)
- ✓ **Does not measure practice:** contractual liberty is considered a given by *Doing Business*. The law is the standard that dictates the scores

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- II. **Good practices**
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Top performers in 2015/16

Getting Credit – Legal Rights

Good common practices



1. Colombia



2. Montenegro



3. New Zealand



4. Brunei Darussalam



5. Cambodia



6. Micronesia Fed.Sts



7. Australia



8. United States



9. Vanuatu



10. Costa Rica

- Establishing a functional approach to secured transactions
- Allowing a general description of collateral
- Maintaining a unified registry
- Protecting secured creditors' rights during an automatic stay when a debtor enters a court-supervised reorganization procedure
- Allowing out-of-court-enforcement

- I. What does it measure – and what does it not?
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12 components: Armenia, Belarus and Kazakhstan

Strength of legal rights index (0-12)	Armenia	Belarus	Kazakhstan
Does an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of functional equivalents to security interests in movable assets exist in the economy?	No	No	No
Does the law allow businesses to grant a non possessory security right in a single category of movable assets, without requiring a specific description of collateral?	No	No	No
Does the law allow businesses to grant a non possessory security right in substantially all of its assets, without requiring a specific description of collateral?	No	Yes	Yes
May a security right extend to future or after-acquired assets, and may it extend automatically to the products, proceeds or replacements of the original assets?	No	No	No
Is a general description of debts and obligations permitted in collateral agreements; can all types of debts and obligations be secured between parties; and can the collateral agreement include a maximum amount for which the assets are encumbered?	Yes	No	No
Is a collateral registry in operation for both incorporated and non-incorporated entities, that is unified geographically and by asset type, with an electronic database indexed by debtor's name?	Yes	No	Yes
Does a notice-based collateral registry exist in which all functional equivalents can be registered?	No	No	No
Does a modern collateral registry exist in which registrations, amendments, cancellations and searches can be performed online by any interested third party?	Yes	No	No
Are secured creditors paid first (i.e. before tax claims and employee claims) when a debtor defaults outside an insolvency procedure?	Yes	No	No
Are secured creditors paid first (i.e. before tax claims and employee claims) when a business is liquidated?	Yes	No	No
Are secured creditors subject to an automatic stay on enforcement when a debtor enters a court-supervised reorganization procedure? Does the law protect secured creditors' rights by providing clear grounds for relief from the stay and/or sets a time limit for it?	Yes	No	Yes
Does the law allow parties to agree on out of court enforcement at the time a security interest is created? Does the law allow the secured creditor to sell the collateral through public auction and private tender, as well as, for the secured creditor to keep the asset in satisfaction of the debt?	Yes	Yes	Yes
Score (number of "yes" responses)	7	2	4

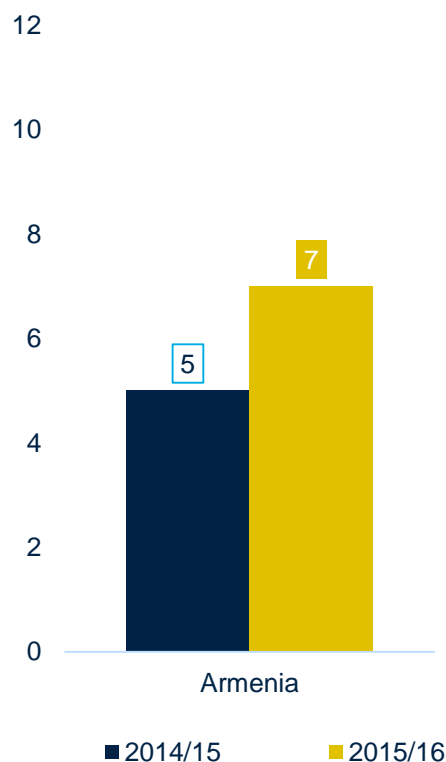
12 components: Kyrgyz Republic and Russian Federation

Strength of legal rights index (0-12)	Kyrgyz Rep.	Russian Fed.
Does an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of functional equivalents to security interests in movable assets exist in the economy?	No	No
Does the law allow businesses to grant a non possessory security right in a single category of movable assets, without requiring a specific description of collateral?	Yes	No
Does the law allow businesses to grant a non possessory security right in substantially all of its assets, without requiring a specific description of collateral?	Yes	Yes
May a security right extend to future or after-acquired assets, and may it extend automatically to the products, proceeds or replacements of the original assets?	Yes	No
Is a general description of debts and obligations permitted in collateral agreements; can all types of debts and obligations be secured between parties; and can the collateral agreement include a maximum amount for which the assets are encumbered?	Yes	Yes
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Does the law allow parties to agree on out of court enforcement at the time a security interest is created? Does the law allow the secured creditor to sell the collateral through public auction and private tender, as well as, for the secured creditor to keep the asset in satisfaction of the debt?	Yes	Yes
Score (number of "yes" responses)	8	6

Reforms on the strength of legal rights index in 2015/16

Getting Credit – Legal Rights

Reforms in strength of legal rights (0-12), 2015/16



- A new law on “Registration of secured transactions over movable property” amending chapter 14.1 of the Civil Code has been adopted by the Armenian Parliament on December 17, 2014, published in Official Gazette of the Republic of Armenia 2014.12.30/76 (1089) and entered into force on October 15, 2015.
- The law establishes a modern and unified collateral registry (<https://www.registration.am/>) that is fully operational since October 2015.

THANK YOU!

Questions

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