SECURED TRANSACTIONS REFORM: Personal Property Securities Act (PPSA) and Registry (PPSR)

Fiji Institute of Accountants Seminar
T11 Conference Room, RBF
Monday 29 July 2019
OBJECTIVES

• **Update** on the Secured Transactions Reform underway for Fiji
• **Highlight** the financing needs of the MSMEs
• **Raise** awareness on the key aspects of Fiji’s PPSA and the PPSR
CORRELATION BETWEEN CREDIT & ECONOMIC GROWTH

% 

Private Sector Credit

GDP Growth


TC Winston
The collateral mismatch in developing economies ...

Source: World Bank Enterprise Surveys
... but not so in developed economies

Source: ADB-PSDI; World Bank Enterprise Surveys
Secured Transactions Reform

- **Objective: Unlock Collateral & Credit For MSMEs**
  - Significant value is “locked up” if movables can’t be used as collateral

- **Requirements:**
  1. Robust legal framework
  2. Efficient infrastructure – online registry
Secured Transactions Reform

Three phases:

1) Legal framework - Personal Properties Securities Act 2017
2) Infrastructure - Personal Property Securities Registry
3) Improved access to finance - Lending Products and Services
REFORM JOURNEY

2014
- Ministry of Economy requested TA from ADB PSDI
- Establishment of Taskforce – Approved by the Minister (RBF to Chair)

2015
- 6 Taskforce meetings
- Legislation drafted by ADB PSDI

2016
- Extensive consultation with various stakeholders
- Changes to draft legislation

2017
- Inclusion of the sugar industry stakeholders
- Bill introduced in Parliament
- Submissions to Standing Committee on Justice, Law and Human Rights
- Report on Bill in Parliament (12 Sep)
- Act passed by Parliament (15 Sep); Presidential assent & publication (18 Sep)

2018
- ADB Tender Process–vendor for software developer
- Development of software. User Acceptance Testing
- Training the Registrar and major lenders
- Drafting Regulations

2019
- Finalise Regulations
- 31 May – PPSA commences; Registry goes live
- Stakeholder awareness
- Ongoing support
IS PPSA NEW?

Federated States of Micronesia (2006)
Solomon Islands (2008)
Vanuatu (2008)
New Zealand (2009)
Australia (2009)
Tonga (2010)
PNG (2011)
Palau (2012)
Samoa (2013)
PPS Act 2017
Highlights
OVERVIEW OF FIJI LAW
Transactions subject to the Act - Sect. 8

• PPSA applies to any deal, regardless of terminology, if collateral stands good for a debt
  – Conditional sale, pledge, mortgage debenture, etc.
  – Leases for a term of more than one year

• Interests in property obtained by “Execution creditors” are covered by PPSA
  – Includes court judgment winners
  – Tax liens
  – Unpaid FNPF contributions
What types of Assets can be collateralised?

- Motor vehicles
- Livestock
- Crops
- Other tangible properties (Machinery, jewellery, etc.)
- Bank accounts
- Intellectual property
- Inventory
Transactions not covered by the Act - Sect. 9

- The Act does not apply to land or buildings!
- Other exceptions
  - Wages
  - Ships registered under the Fiji Maritime Transport Act 2013 and aircrafts
  - Consumer goods: special rules to protect families
    - Can only finance specific consumer good as part of its purchase, so no blanket charges (Sect. 11)
“Security Interest” created in collateral

• A “security interest” is the right in collateral that secures payment of debt
  – Lender “takes a security interest” in collateral
  – The lender called a “secured party” under the Act

• Security interests are created by the underlying loan documents/contracts
  – Generically called a “Security Agreement” in the Act
  – Attracts stamp duty to that of a mortgage i.e. 1.75%
PPS Registry Highlights

www.ppsr.gov.fj
NATURE OF REGISTRY

Purpose

To enable the registration of a security interest by a creditor, which in turn is publically searchable

To establish priority between secured creditors

Functions

Registration
Continuation
Amendment
Search
Termination/Discharge

www.ppsr.gov.fj
**Example – moveable asset for a loan**

<table>
<thead>
<tr>
<th>Pre-PPSA</th>
<th>PPSA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan application approved</td>
<td>Loan application approved</td>
</tr>
<tr>
<td>Stamp duty paid</td>
<td>Stamp duty paid</td>
</tr>
<tr>
<td><strong>Physically file Bill of Sale, deeds, crop liens with RoT/ RoD or debenture charges with RoC</strong></td>
<td>Lender registers notice on motor vehicle on <a href="http://www.ppsr.gov.fj">www.ppsr.gov.fj</a></td>
</tr>
<tr>
<td>Disbursement of funds</td>
<td>Disbursement of funds</td>
</tr>
<tr>
<td>Financial interest noting at LTA (motor vehicles only)</td>
<td>Financial interest noting at LTA (motor vehicles only)</td>
</tr>
</tbody>
</table>
WHY FILE “NOTICES OF SECURITY INTERESTS”?

Rule:

• First lender to file has first rights in collateral against third parties
• Priority over other creditors
• Priority over “buyers”

• Filing puts all others on notice that this debtor has pledged this collateral

• Existing transactions need to be filed on the Registry – 180 day transition period ending
Bula Vinaka & Welcome
To the Fiji Personal Property Securities Registry, Fiji's online site for searching and filing notices of security interest in movable property

Who can search?
Anyone can search the registry to verify whether there are any security interests on movable property. Public searches are free of charge. To access, click Public Search.

How can I file a notice?
If you wish to file a notice of security interest on movable property, you must have an account. If you would like to apply for an Account, click Create an Account.

We can help you!
If you have any queries regarding the use of the registry or encounter technical problems connecting to or while using this site, please contact Fiji PPSR Support Team.
# PPSR Statistics as at 29 July 2019

## Notices

<table>
<thead>
<tr>
<th>Filing of Security Interests</th>
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</tr>
</thead>
<tbody>
<tr>
<td>No. of filings</td>
<td>21,306</td>
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<tr>
<td>Prior transactions</td>
<td>17,251</td>
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<tr>
<td>Security interest</td>
<td>4,055</td>
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</table>

## Searches

<table>
<thead>
<tr>
<th>No. of searches</th>
<th>3,587</th>
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</thead>
<tbody>
<tr>
<td>Client</td>
<td>1,583</td>
</tr>
<tr>
<td>Public</td>
<td>1,903</td>
</tr>
<tr>
<td>Administration</td>
<td>101</td>
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</tbody>
</table>

## Users

### Accounts in the Registry

<table>
<thead>
<tr>
<th>Client accounts</th>
<th>50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banks and Credit Institutions</td>
<td>10</td>
</tr>
<tr>
<td>NBFIs</td>
<td>7</td>
</tr>
<tr>
<td>Car dealers</td>
<td>4</td>
</tr>
<tr>
<td>Hire Purchase Companies</td>
<td>2</td>
</tr>
<tr>
<td>Law firms</td>
<td>24</td>
</tr>
<tr>
<td>Others</td>
<td>3</td>
</tr>
</tbody>
</table>
Advantages of the online Registry

• File from the comfort of your desk
• Increases efficiency in finalizing settlements
• No lag in confirming registrations – done instantaneously
• Ability to search and verify filing
• All for free in the first two years
• Search results provides more information to make better decisions
Secured Transactions Reform

Phase III: Products & Services

- Work in progress
- ADB PSDI working with two lending institutions
- Impact Evaluation
WHAT ARE THE BENEFITS?

• Increase access to credit
  – Unlock the value of movable property
  – Powerful tool for MSMEs or people that do not have land holding

• Reduces cost of credit
  – Cost savings for businesses – reduced legal fees
  – Better interest rate

• Credit risk diversification
  – Immovable and moveable

• Increase market competition
  – Development of industries (factoring and leasing)
  – Banks and NBFIs

• Increase access to credit which will increase overall economic activity
Also...

<table>
<thead>
<tr>
<th></th>
<th>PNG</th>
<th></th>
<th>Fiji</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ranking</strong></td>
<td></td>
<td></td>
<td>2016: 88</td>
<td>2017: 97</td>
</tr>
<tr>
<td><strong>Credit</strong></td>
<td></td>
<td></td>
<td>2016: 79</td>
<td>2017: 157</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2018: 159</td>
<td>2019: 161</td>
</tr>
</tbody>
</table>
The Secured Transactions Reform assists in unlocking the value of moveable assets as loan collateral and improves credit flow to MSMEs.

PPSA commenced 31 May – 180 day transition period.

Filing notices via the online Registry replaces physically filing documents at Registrar of Titles and Registrar of Companies.

Filing notices and searches on the Registry are free for first 2 years.

Opportunities for new credit products.

Positive impact on developing MSMEs, economic growth and Ease of Doing Business ranking.
Thank you

For more information please visit: www.ppsr.gov.fj