



WORLD BANK GROUP
Finance & Markets

Lessons learned in Secured Transactions Reform



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Lessons Learned, practical challenges and Law reform

- **Pre and post reform practice; the need of technical assistance and the need of a “complete” reform that adopt the entire necessary standards**

-The need of a connection between experts that participate in the the preparation of international instruments (The standards) and the people engaged in the reform process in the States.

-The compliance of the international standards, all the elements need to be present in the law reform, if not, the reform won't work properly. It is necessary to assess the goal reform, to increase access to credit using **the revolving line of credit.**

The need of derogation of the prohibition of “Pactum commissorium” to allow extrajudicial enforcement proceedings.

Lessons Learned, practical challenges and Law reform

Once the law is in place, other elements are needed for implementation:

- Banking regulation (credit reserve policy creates an incentive or disincentive for financial institutions to lend and to use ABL products)
- Valuation of assets
- SMEs Reliable accounting and business practices
- Insolvency Law, need of coordination of priority rules and judges understanding of the reform for certainty.
- The practitioners familiarity with the functional approach

Lessons Learned, practical challenges and Law reform

□ **Technology challenges:**

The adoption of electronic credit instruments; electronic invoices as a negotiable instruments, and the need of close coordination with the secured transaction law reforms and the Registry with these new instruments.

The difficulty to have international standards on this topic.

Lessons Learned, practical challenges and Law reform

- **Enforcement:**
- New extrajudicial proceedings, as an incentive for Financial institutions lending and the need of judges training in new non judicial processes.
- ADRs and ODRs as a positive alternative.
- In Colombia at the moment a number of 4.280 proceedings to enforce secured transactions contracts commenced, half extrajudicial and half judicial.

Lessons Learned, practical challenges and Law reform

□ Financial Institutions:

The lack of interest, big profits with less effort, less risk administration and less monitoring.

- The need to create incentives: 2nd loss guarantees from development banks for first movers?
- Training for Financial Institutions