

# G20 Action Plan on SME Financing: Credit Infrastructure Country Self-Assessment Consolidated Progress Report 2019



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# ACRONYMS

CRS	Credit Reporting Systems
CRSPs	Credit Reporting Service Providers
FSAP	Financial Sector Assessment Program
GPFI	Global Partnership for Financial Inclusion
ICCR	International Committee for Credit Reporting
IMF	International Monetary Fund
IR	Insolvency Regimes
NPL	Non-performing loan
ROSCs	Observance of Standards and Codes
SME	Small and medium enterprise
STCR	Secured Transactions and Collateral Registries
UNCITRAL	The United Nations Commission on International Trade Law
WBG	World Bank Group

# ACKNOWLEDGEMENT



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# SUMMARY



Small and medium enterprises (SMEs) account for most businesses worldwide and are important contributors to job creation and global economic development. Yet access to finance remains one of the key obstacles to SME growth and development and has been the focus of policy reforms around the world.

Recognizing the importance of credit infrastructure in improving SME finance, the G20 countries endorsed the G20 Action Plan on SME Financing under the Global Partnership for Financial Inclusion (GPMI) in 2015. This represented a commitment of the G20 countries to fully develop credit infrastructure for SMEs in three priority areas: (i) Credit Reporting Systems (CRS), (ii) Secured Transactions and Collateral Registries (STCR), and (iii) Insolvency Regimes (IR). In 2016, the G20 GPMI endorsed an implementation framework to enable countries to conduct a self-assessment of their legal frameworks of the three priority reform areas of the G20 Action Plan on SME Financing.

The self-assessment aimed to capture the strengths and areas for improvement in each of the credit infrastructure areas. The baseline report,<sup>1</sup> issued in 2017, presented the consolidated results and benchmarked G20 countries against international standards.

This report represents the comparison of the 2019 self-reported responses against those provided by the G20 countries in 2017.

The consolidated 2017 baseline report illustrated uneven results. Collectively, the G20 showed strengths in certain areas such as Data Quality, Sufficiency and Timeliness in CRS, Enforcement in STCR and Reorganization Plan in Insolvency. There was room for improvement in areas like Cross-Border Credit Data Flows in CRS, Registration elements in STCR, the Automatic Stay component of Insolvency. The data pointed to variance within and between groups. High-income countries<sup>2</sup> performed well in certain areas such as Pre-Insolvency Procedures in Insolvency and Scope and Creation in STCR but not in others such as Registration and Priority of Liens in STCR and Cross-Border Data Flows in CRS. The same could be said for non-high-income countries that performed well in areas such as Data Quality, Sufficiency and Timeliness in CRS and Reorganization Plan in Insolvency. Overall, the data pointed towards opportunities to improve credit infrastructure frameworks by targeting, in a specific manner, areas that illustrated lower

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<sup>1</sup> G20 Action Plan on SME Financing: Credit Infrastructure Country Self-Assessment Consolidated Report, 2017

<sup>2</sup> The classification of “high-income/non-high-income” follows the World Bank Group’s classification of countries by income level updated on July 1, 2018. The level of income is determined by each country’s gross national income (GNI) per capita for the previous year: high-income economies are those with a GNI per capita of \$12,056 or more. (Refer to Annex 2)

responses such as Cross-Border Data Flows in CRS and Registration and Priority of Liens in STCR.

The comparative analysis of the initial 2017 baseline and the surveyed results conducted in 2019 in CRS revealed that the overall consolidated results improved by 3.25%, from the 2017 benchmark score of 7.69 to the 2019 score of 7.94 (both out of a maximum score of 10.00), with eleven countries reporting no change in their responses. Nevertheless, the results did show limited examples of progress over the two years in four countries in the areas of Existing CRS and Role of Authorities and Cross-Border Data Flows. The areas of greatest need for improvement to the countries' CRS are in Governance and Risk Management, and Cross-Border Data Flows.

The analysis showed that little progress has been achieved in Secured Transactions and Collateral Registries. Only four countries reported some progress with legislative reforms and only two have managed to substantially improve their institutional platforms. Overall, the majority of the G20 jurisdictions still require substantial reform of their secured lending legal and institutional frameworks and need to align their regimes in line with the elements identified in the G20 Action Plan Implementation Framework to promote movable asset-based lending.

Overall improvement in the consolidated results for STCR was recorded at 9.85% from the 2017 benchmark score of 6.7 to the 2019 score of 7.36 (out of a maximum score of 10.00). It is evident, however, that greater progress is taking place in the non-high-income countries than in high-income ones. The reason may be that it is easier to implement legal and, especially, institutional reforms in non-high-income markets compared to high-income markets where secured lending laws and regulations and document-based collateral registries have longer history and are more difficult to reform. Specifically, non-high-income countries witnessed some improvement on all dimensions, whereas high-income countries reported improvements in Registration and Priority of Liens (60.7% improvement), Enforcement (2.6% improvement) and Registration and Registry (4.7% improvement) but worsened their positions on the remaining dimensions.

Analysis of the data collected under the 2019 survey shows improvement in the Insolvency index. Similar to the 2017 results, the Insolvency section presents the highest overall score (8.26 out of 10) of any of the priority areas analyzed in this report. As of 2019, all countries under review have implemented at least 60% of the best practices measured in the survey. The overall Insolvency index results obtained in 2019 are similar to those of 2017, with the average score advancing by 3.25%.

The improvements have been largely driven by changes introduced by non-high-income countries, signaling a determination to align their insolvency systems to best international practices. However, there is still significant room for improvement for countries, especially in the Automatic Stay dimension and in the introduction of special procedures for SME insolvency. In addition, some countries still have outdated insolvency systems, which lag significantly behind their peers and require modernization.

Since reforms in these three areas require regulatory changes, which take time, it is proposed to measure progress over a three-year period instead of the current two.

# INTRODUCTION



The G20's commitment to expanding financial services for individuals and SMEs has underpinned internationally recognized efforts to advance financial inclusion. This undertaking is embodied in the Global Partnership for Financial Inclusion (GPFI). Created by the G20 in 2010 at the Seoul G20 Summit, the GPFI is an inclusive platform for all G20 countries, interested non-G20 countries and relevant stakeholders to carry forward work on financial inclusion, including implementation of the G20 Financial Inclusion Action Plan.

Considering the important role SMEs play as a backbone of global economy and the fact that they remain significantly underserved by financial institutions around the world, SME finance represents one of the key focus areas of GPFI. Solid credit infrastructure that enables efficient and effective access to finance for SMEs and promotes stability and sustainable economic growth is viewed as a key element in advancing SME finance.

The G20 endorsed the G20 Action Plan on SME Financing in 2015, which outlined actions on financial market infrastructure reforms in its member countries. The plan also encouraged non-G20 countries to fully develop credit infrastructure for SMEs, improve SMEs financial capability and promote competition through an enabling regulatory environment.

The subsequent G20 Action Plan on SME Financing Implementation Framework in the form of the Credit Infrastructure Country Self-Assessment, endorsed in 2016, was designed to further help accelerate and replicate successful credit infrastructure policy reforms. Recognizing the importance of a diagnostic assessment as a first step in informing the selection and sequencing of credit infrastructure policy reforms, the implementation framework outlined a questionnaire covering the three credit infrastructure priority areas: (i) Credit Reporting Systems (CRS), (ii) Secured Transactions and Collateral Registries (STCR), and (iii) Insolvency Regimes (IR). The questionnaire was developed to enable countries to assess their legal frameworks against international best practices and report progress every two years.

The baseline report, issued in 2017, presented the consolidated results of the G20 countries' responses<sup>3</sup> and was used as the initial baseline benchmarking against progress made in the areas of Credit Reporting Systems, Secured Transactions and Collateral Registries, and Insolvency Regimes. This 2019 report<sup>4</sup> measures progress in implementing reform since then.

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<sup>3</sup> A total of 19 G20 countries (excluding the European Union) were requested to complete the self-assessment, of which 16 provided full responses (across the three credit infrastructure areas) in 2017. Responses were not received from India, Russia (STCR and Insolvency) and South Korea.

<sup>4</sup> A total of 19 G20 countries (excluding the European Union) were asked to complete the self-assessment, of which 16 provided full responses (across the three credit infrastructure areas) in 2019. Responses were not received from the



The analysis presented is based on responses that were reported by the G20 countries and consolidated by the World Bank Group (WBG).<sup>5</sup>

This report follows the same structure by providing two types of consolidated results: the consolidated indicator scores of the surveyed countries and the counts of yes/no responses in each dimension. By adding up the average indicator scores for each question of each dimension a total score is produced that reveals the overall assessment results of the 19 countries by dimension. Apart from the overall score produced, group scores were calculated for high-income and non-high-income countries.<sup>6</sup>

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Republic of Korea, Japan (CRS) and Russia (STCR and Insolvency). The European Union provided responses only on insolvency, since there are no EU-wide policy frameworks for CRS and STCR.

<sup>5</sup> Since the purpose of this exercise is to enable countries to conduct self-assessments of their respective legal frameworks, the World Bank Group did not independently verify the accuracy or correctness of the responses.

<sup>6</sup> The classification of "high-income/non-high-income" follows the World Bank Group's classification of countries by income level (Refer to Annex 2). Notably, Argentina has been reclassified as a high-income country for the World Bank's 2019 fiscal year. Since the benchmark report in 2017 included Argentina as a non-high-income country, the re-classification may have affected the 2019 analysis.

# CREDIT REPORTING SYSTEMS



There has been a growing recognition of the value that credit reporting can bring to micro, small and medium enterprises, with a growing trend to search for alternative data sources that can enhance the ability of lenders to serve borrowers that do not have formal credit histories.

In 2009, the General Principles for Credit Reporting, the first universal set of standards for credit reporting, was developed by a task force led by the World Bank and the Bank for International Settlements. Since the development of the principles, the task force, subsequently called the International Committee for Credit Reporting (ICCR), has developed assessment methodologies that provide policymakers, authorities, supervisors and regulators the necessary tools to assess credit reporting systems in their jurisdictions against the guidance provided by the General Principles.

The G20 Action Plan on SME Financing identified credit infrastructure for SMEs, including improvements of the credit reporting framework for SMEs, as a key priority. In this context, a simplified diagnostic assessment against international standards has been developed so that countries can conduct a self-assessment against the General Principles for Credit Reporting. The questions are grouped into six major categories:

1. Existing CRS and Role of Authorities
2. Data Quality, Sufficiency and Timeliness
3. Data Processing; Security and Efficiency
4. Governance and Risk Management
5. Legal and Regulatory Environment
6. Cross-Border Data Flows

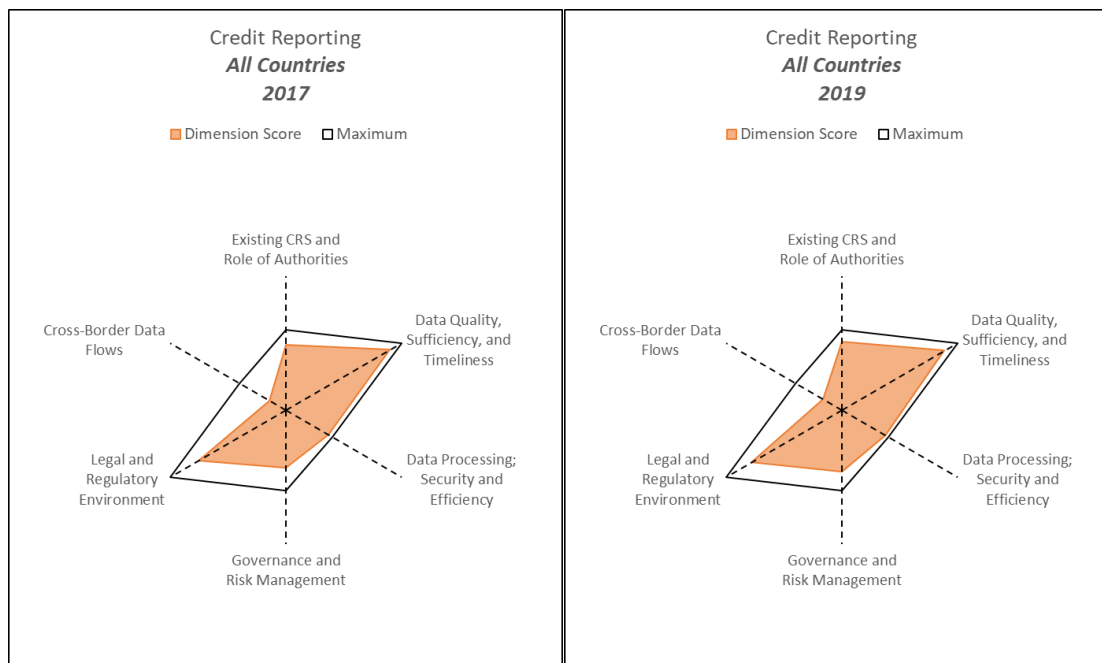
The ICCR assessment methodology provides guidance to assessors for evaluating observance of the five principles, six roles for participants and five recommendations for oversight set forth in the General Principles for Credit Reporting. The simplified framework allows self-assessments at the country level for G20 members, which were conducted in 2017 and used as a benchmark.

This report provides a comparison between the initial 2017 baseline and the surveyed results conducted in 2019. The objective is to show the progress, if any, in reforms implemented.

## Progress of the CRS Consolidated Results

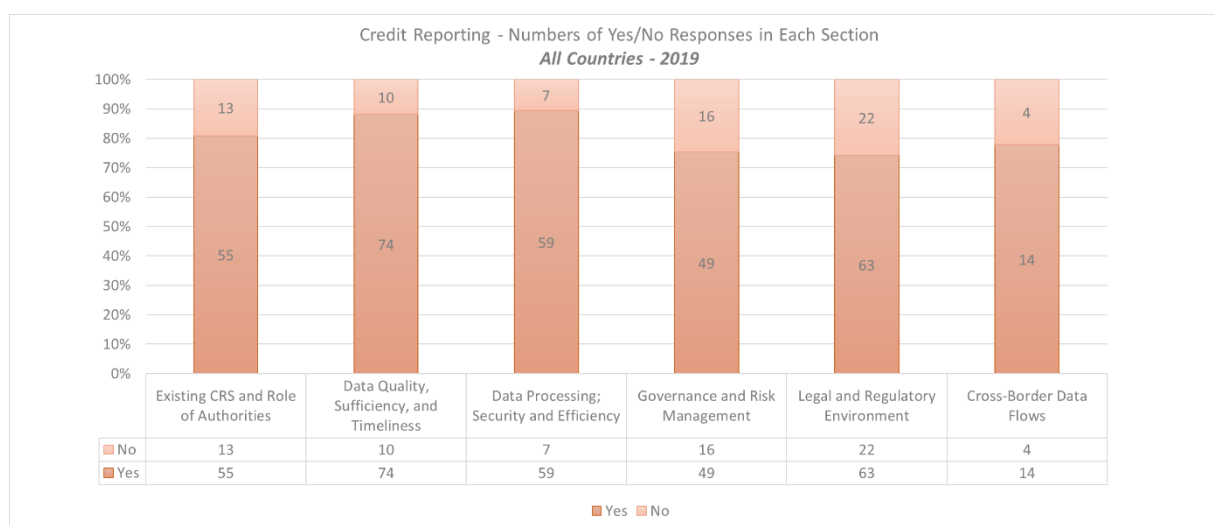
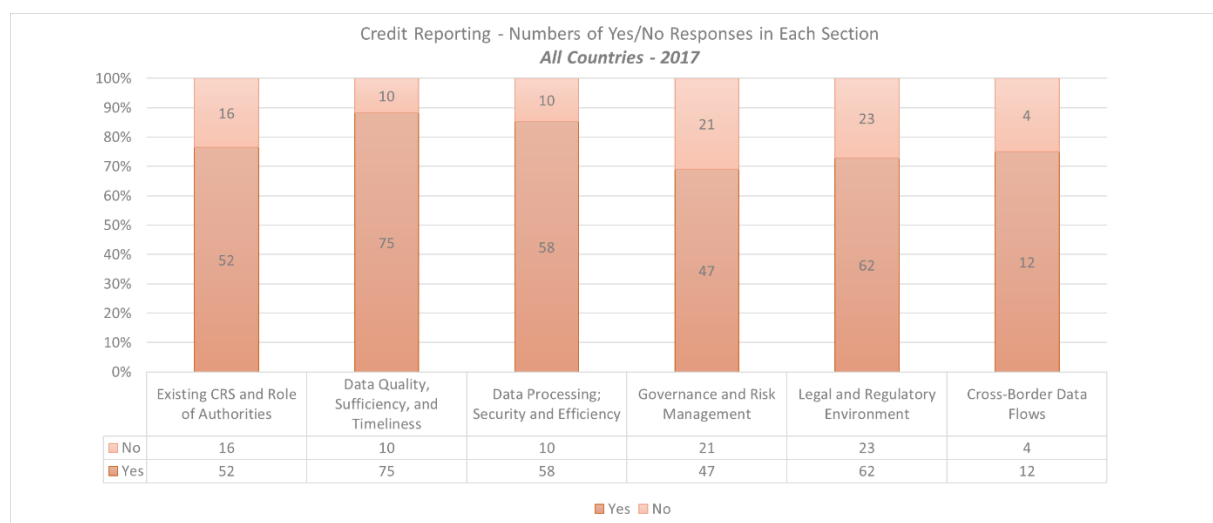
The 2017 and 2019 CRS radar and bar charts reveal the differences in the level of observance of the General Principles for Credit Reporting. The analysis shows that the overall consolidated results improved by 3.25%, from the 2017 benchmark score of 7.69 to the 2019 score of 7.94 (both out of a maximum score of 10.00), with eleven countries reporting no change in their responses. The results showed that marginal progress has been made over the two years in four countries in the areas of Existing CRS and Role of Authorities, and Cross-Border Data Flows. This is due

to the introduction of a mechanism to allow the exchange of data between different credit reporting service providers (CRSPs) in the same country and bilateral agreements for exchange of credit information between jurisdictions.



Most of the countries reported that data was of good quality, sufficient and timely, leaving just 12% of the responses indicating that further improvement was needed. Improvements such as broader and more efficient access to alternative data sources to enable comprehensive credit reports and scoring products tailored to SMEs would be beneficial. A further 11% of the responses indicated that the security measures and efficiency could be improved.

As far as the governance and risk management aspects are concerned, 25% of the responses regarding the adequacy of these policies and procedures were “no.” Certainly, there is room for further improvements in adopting policies and procedures to manage conflicts of interest, having the CRS audited by independent and certified auditors, as well as the roles and responsibilities of the CRSP’s board to be made clear and transparent to the public.

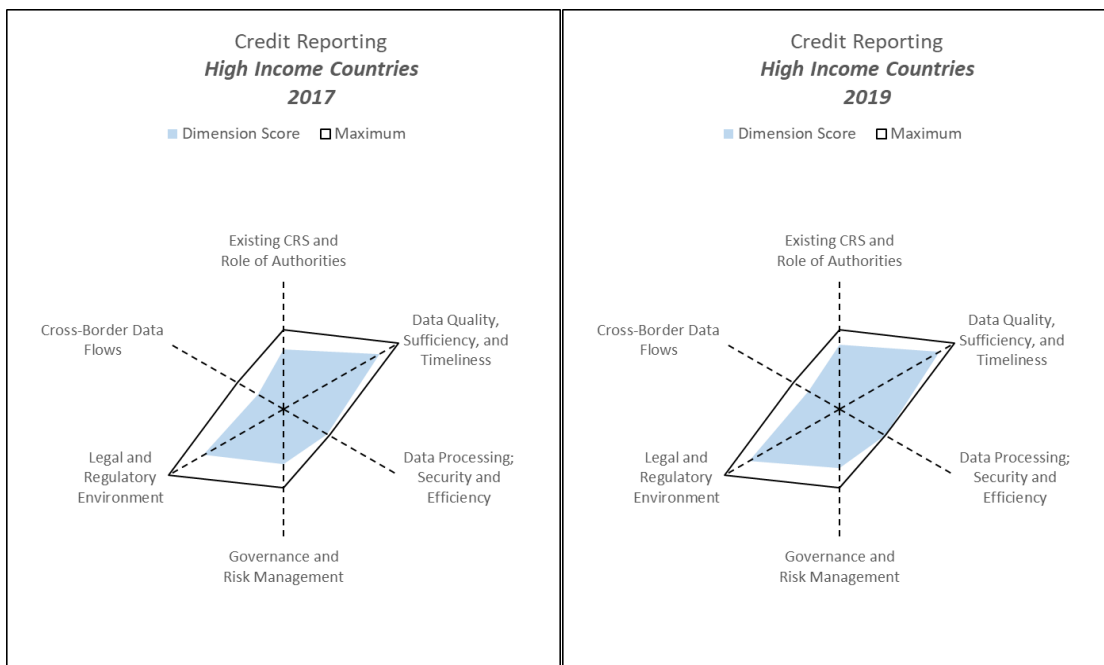


## Progress by Income Level Groups

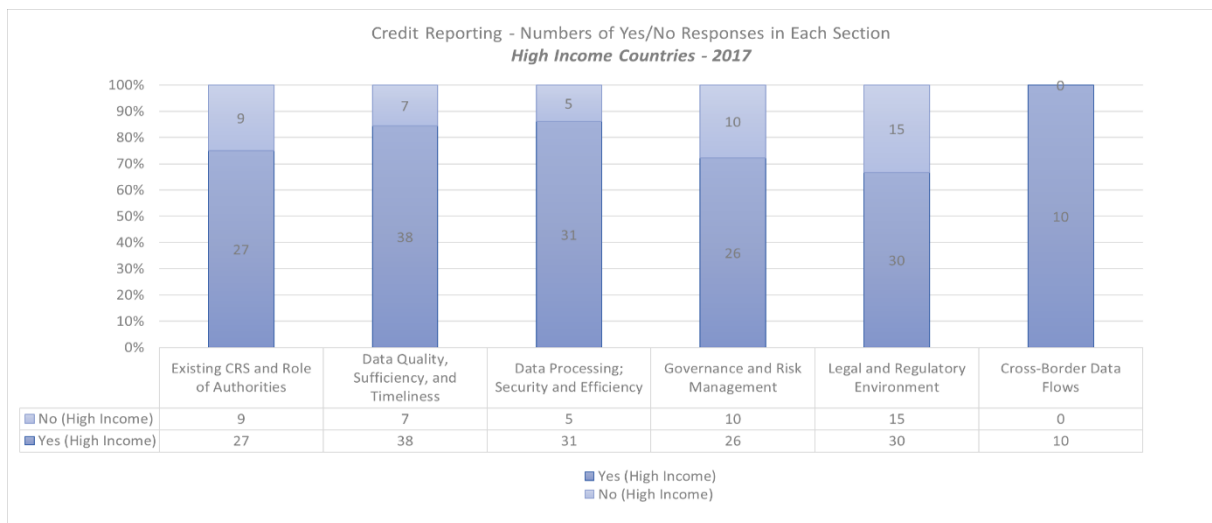
### High-Income Countries

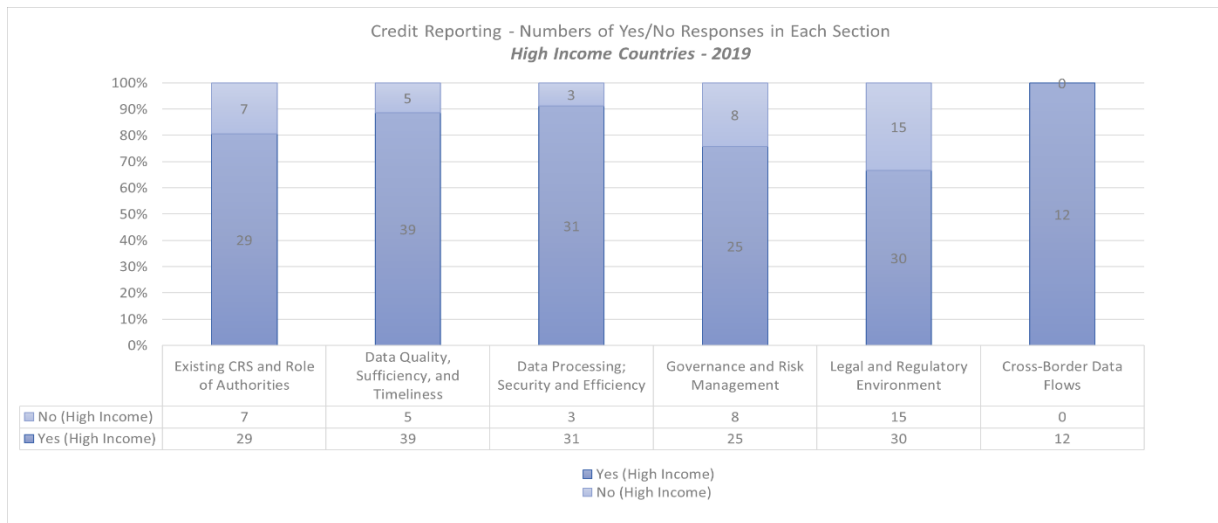
An overall improvement of 8% in the total score over the 2017 benchmark has been noted in high-income countries. Greater improvements of 14% and 20% were achieved in the two dimensions of Legal and Regulatory Environment, and Cross-Border Data Flows, respectively.

These are primarily due to the removal of conflicts in law or legal vacuums in relation to the CRS; and new bilateral agreements being reached for exchange of credit information in high-income jurisdictions.



As can be seen in the comparison bar charts below, there were fewer “no” responses than in the previous survey. Although cross-border credit data is shared more broadly in the high-income countries when compared to non-high-income countries, 40% of high-income countries (four countries) responded that they have not adopted measures to enable cross-border data flows. There is opportunity for growth in sharing credit information across borders of SMEs and individuals.



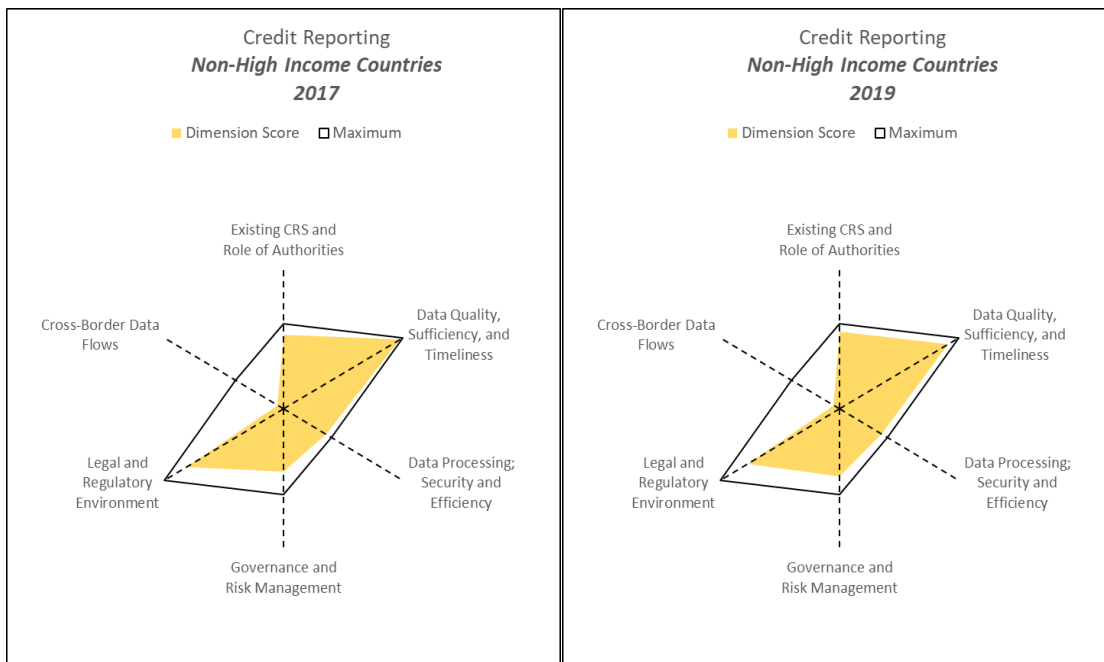


### Non-High-Income Countries

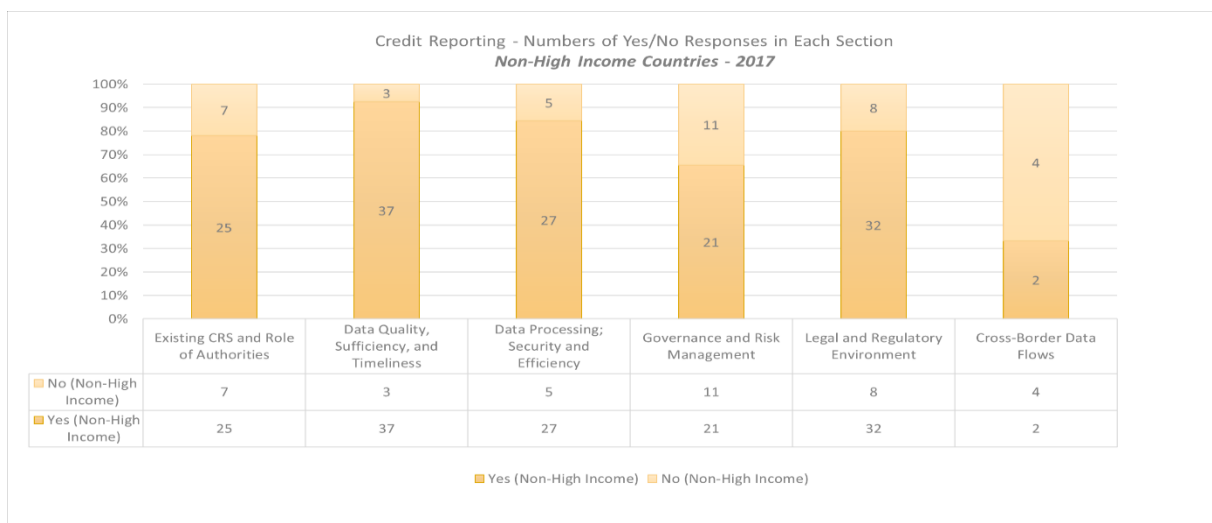
Overall, when comparing the CRS total score for non-high-income countries we see a slight regression of 2% (from 7.89 in 2017 to 7.73 in 2019), with most dimensions either remaining static or regressing. The two dimensions showing regression are Data Quality, Sufficiency and Timeliness, and Legal and Regulatory Environment. However, some progress has been made in non-high-income countries in the area of Existing CRS and the Role of Authorities. This is primarily due to the introduction of mechanisms to allow the exchange of data between different credit reporting service providers in one country.

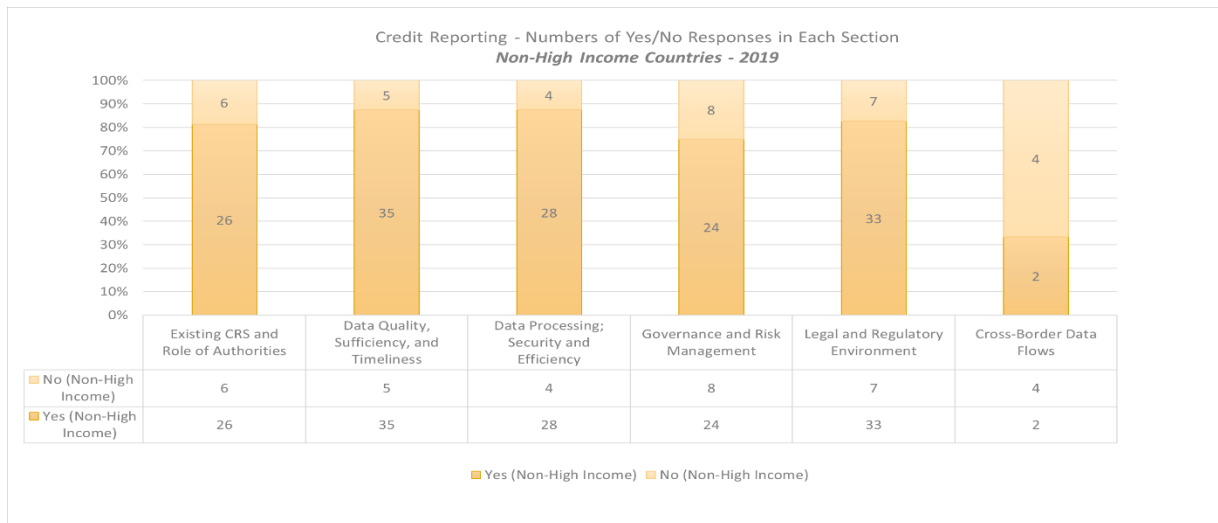
Results of non-high-income countries show that data quality (average dimension score of 2.26) is high, higher than high-income countries (average dimension score of 2.17), and therefore there appears to be little room for improvement. It would however, be useful to conduct a more detailed analysis of the quality, sufficiency, and timeliness of data in the CRS of these non-high-income countries.

The dimension of Governance and Risk Management of CRS requires additional development as it has remained static over the past two years. The governance arrangements in CRS are associated with transparency of the system in management, composition of the board, and services products and prices.



As the bar chart below shows, no progress has been made since benchmarking in 2017 in Cross-Border Data Flows in non-high-income countries. Four out of eight of non-high-income countries, show no need to exchange data with other countries. This might be a result of a lack of economic agreements with other countries or low volumes of migrating SMEs applying for credit in hosting countries.





**In summary**, the overall consolidated results improved by 3.25% since the benchmarking of the CRS in 2017. Most of the improvements have been in the high-income countries. While four of the countries showed improvements, the greater majority, eleven countries, reported negative or no improvement in their observance of the Credit Reporting General Principles. Nevertheless, the results did reveal limited examples of progress over the two years in four countries in the areas of Existing CRS and Role of Authorities and Cross-Border Data Flows. The two areas of greatest need for improvement to the countries’ CRS are in the Governance and Risk Management, as well as in Cross-Border Data Flows.



# SECURED TRANSACTIONS & COLLATERAL REGISTRIES



## Background

Research shows that providing legal and institutional structures through which movable assets can be effectively used as collateral significantly improves access to finance for those firms that need it the most. Well-functioning secured transactions systems enable businesses to use their assets as security to generate capital.

Further economic analysis suggests that SMEs in countries that have strong and secured transactions laws and registries have greater access to credit, better ratings of financial system stability and lower rates of non-performing loans. The result is higher productivity and more growth.

The G20 Action Plan on SME Financing identified the development of credit infrastructure for SMEs, including improvements of secured transactions systems, as a key priority. The disparity among G20 countries' performance remains the greatest in the area of secured transactions. Some G20 jurisdictions still use document registration, which requires delivery and recording of the agreement and possibly other documentation at the registry, instead of a modern notice registration system. Other countries do not have a centralized registry or a single registry where interests in all types of movable assets can be registered.

A country self-assessment diagnostic focusing on SME access to finance was developed against the international standards outlined in the World Bank ICR Principles (2015), the United Nations Commission on International Trade Law (UNCITRAL) Legislative Guide on Secured Transactions (2007) and the UNCITRAL Model Law on Secured Transactions (2016).

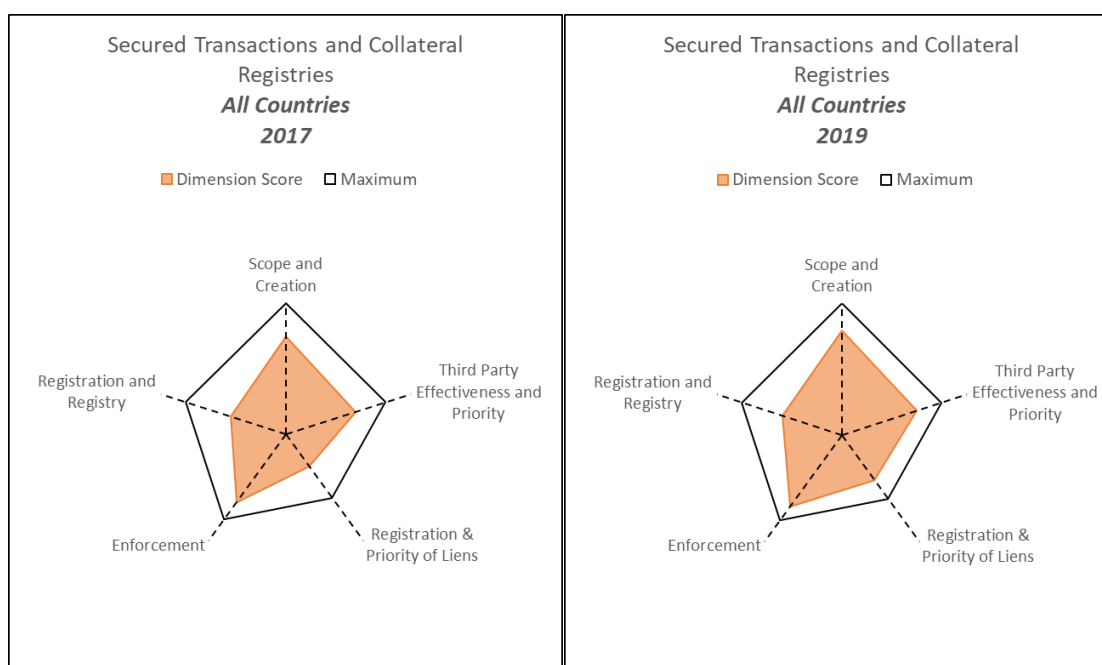
The questionnaire consists of five key pillars critical for understanding the extent to which secured transactions frameworks meet international standards of best practice:

1. Scope and Creation
2. Third-Party Effectiveness and Priority
3. Registration and Priority of Liens
4. Enforcement
5. Registration and Registry

This assessment includes the review of the progress achieved between 2017 and 2019 in secured transactions and collateral registries.

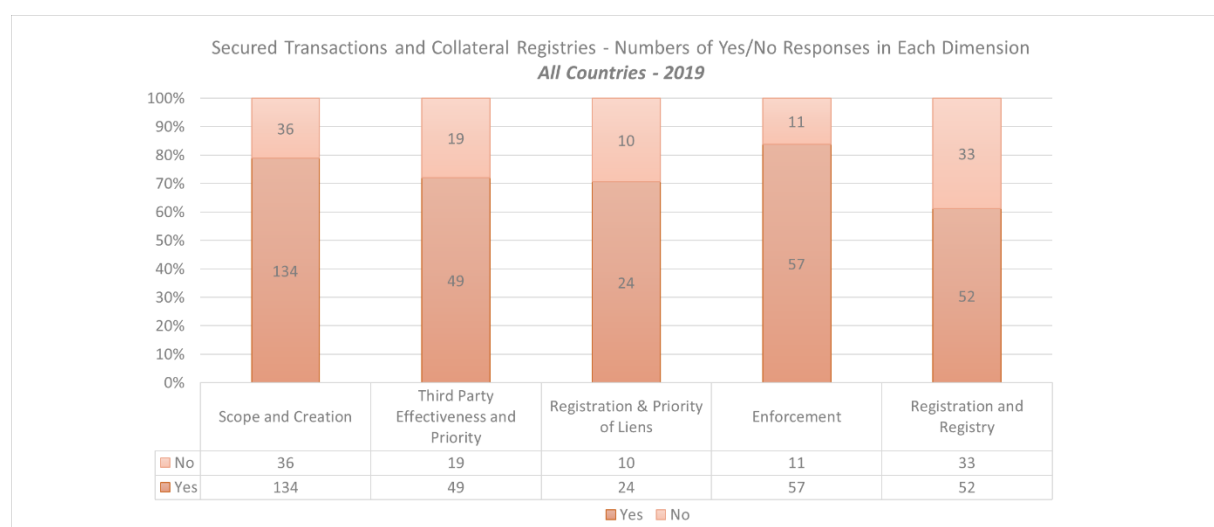
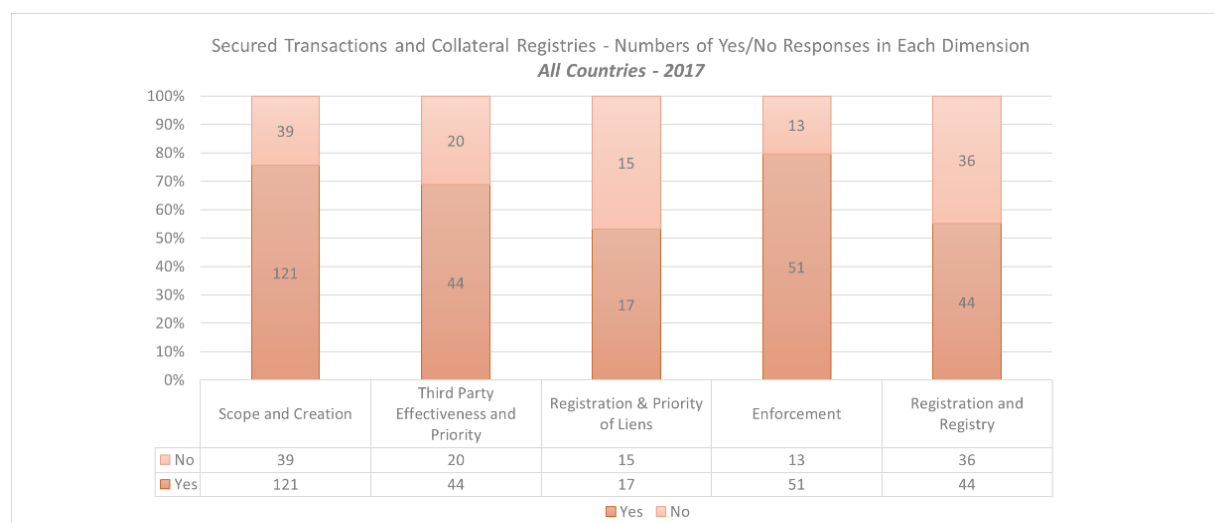
## Progress of the Consolidated Results

Results of the 2019 survey indicate that little progress has been achieved in secured transactions and collateral registries. Only five countries reported some progress with the legislative reforms and only two have managed to substantially improve their institutional platforms. The Scope and Creation, Third-Party Effectiveness and Priority, and Enforcement areas remain relatively strong, whereas Registration and Priority of Liens subsections are less strong, which is consistent with the findings of the 2017 survey. This illustrates that countries, especially high-income ones that have created effective provisions to enforce security rights failed in building effective notice-based registration systems.



The overall improvement in the consolidated results for STCR was recorded at 9.85%, from the 2017 benchmark score of 6.7 to the 2019 score of 7.36. Two countries actually lowered their 2019 position on Scope and Creation, with one of them also regressing on Registration and Registry of Liens. Only one country stands out in terms of the progress that has been reported compared with 2017 across three areas (Scope and Creation, Third-Party Effectiveness/Priority and Enforcement). Other countries across all income categories have not improved their position in a meaningful way. However, some progress was reported in the categories mentioned above. For instance, countries' positions on Scope and Creation dimension improved from 1.86 to 1.94 (out of 2.5) and on Third-Party Effectiveness and Priority dimension increased from 1.40 to 1.49 (out of 2.00).

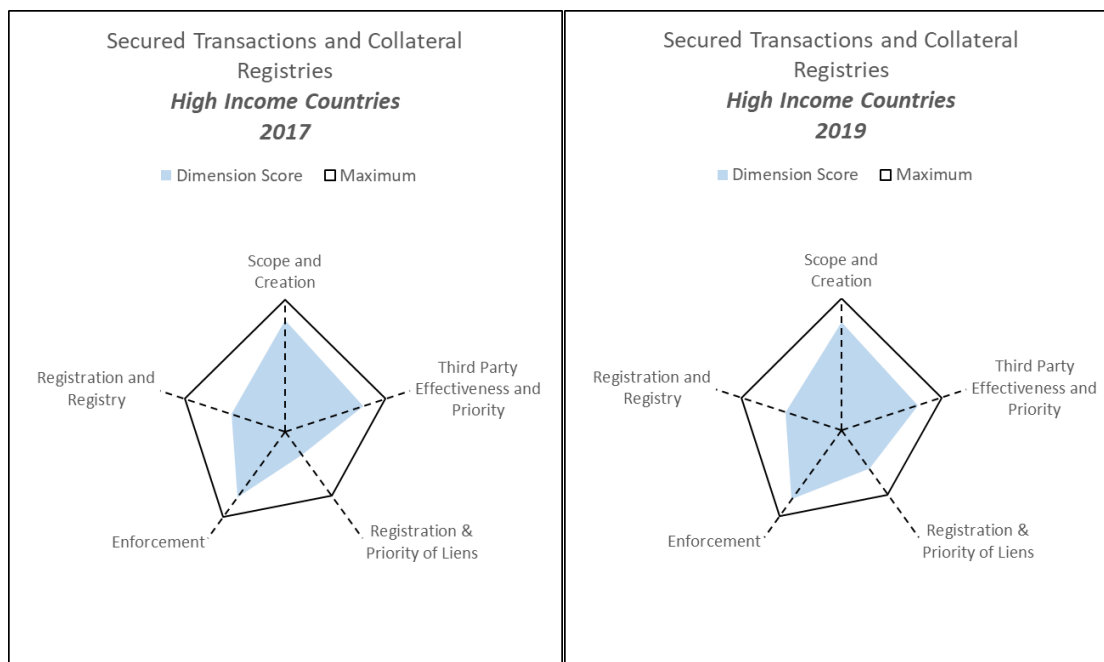
The Registration and Registry subsection has only a 61% “yes” response rate. Registration plays a central role and has an impact on third-party effectiveness, priority, and other factors.



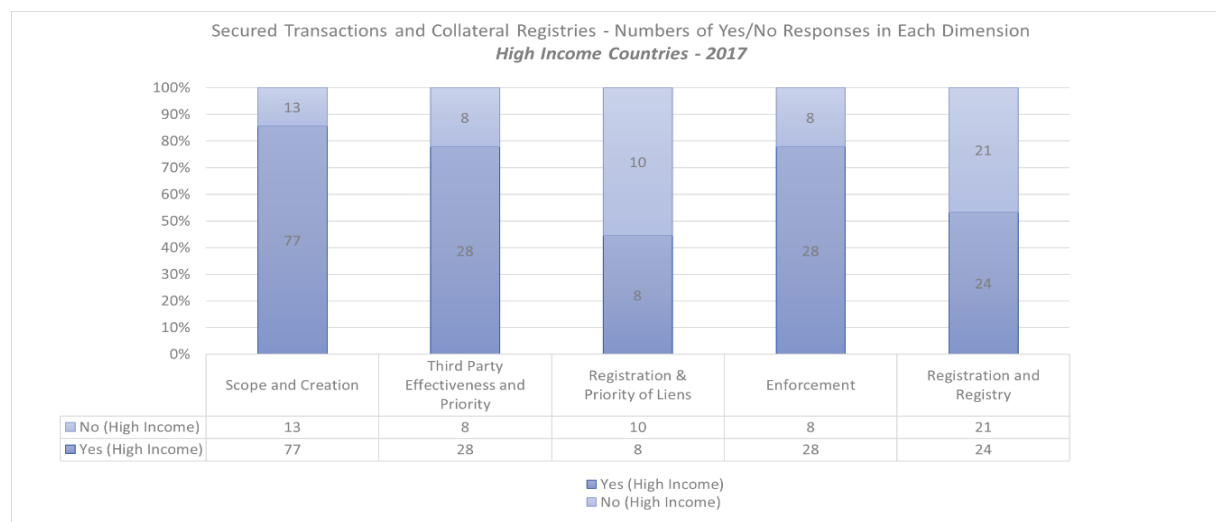
## Progress of the Results by Income Level Groups

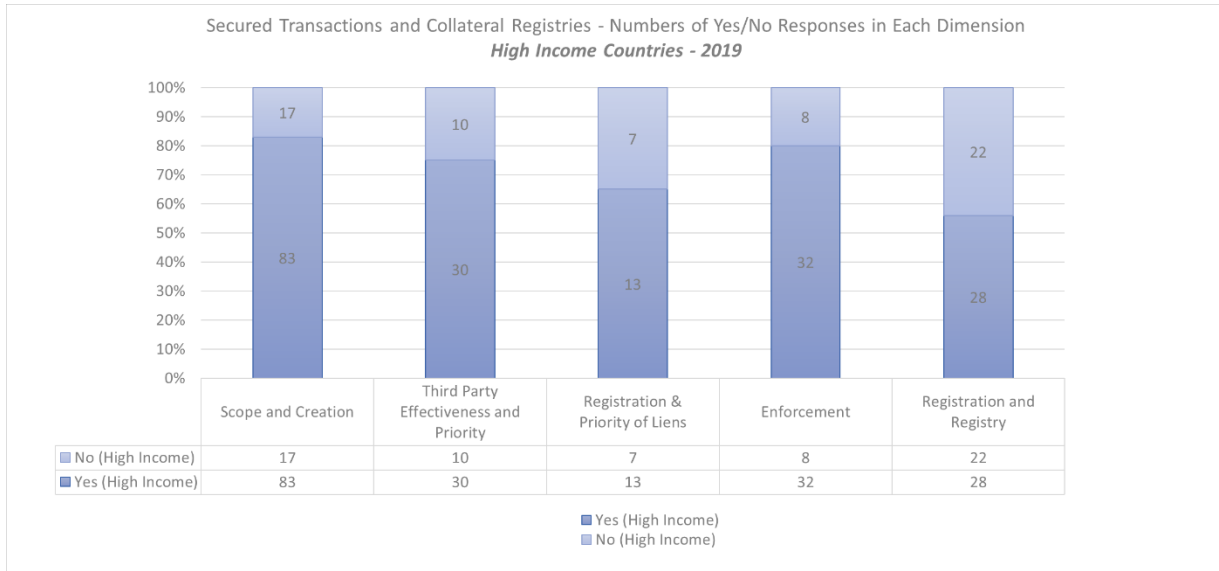
### High-Income Countries

The trend for high-income countries adheres to the overall trend set in the consolidated results above, with areas dealing with registration leaving room for improvement. Six countries from the high-income category should focus on significantly reforming their registries, as was suggested in the 2017 findings. Hence no notable progress can be reported for the high-income category. Only one country made some progress with respect to Registration and Registry (i.e. there is an electronic registry where registrations and searches can be performed online, and all functional equivalents can be registered). The majority of countries in the high-income category did not make significant improvements.



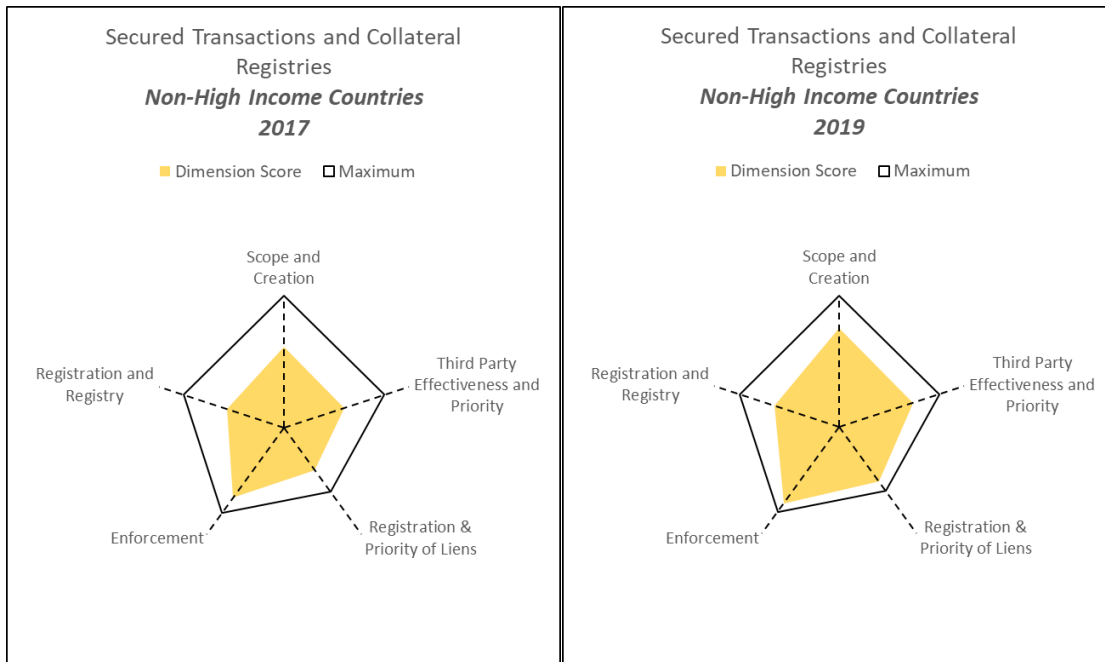
The overall score improved by 5.1%, from 6.84 to 7.19 in 2019. This can be attributable to the fact that in a number of high-income countries, implementing reforms that can have a meaningful impact on various dimensions will require substantial modifications of the legal rules governing security rights, where such rules have been in place for a long time, and changing approach from document-based registry to a notice-based system, for instance, is more challenging. On the other hand, non-high-income countries are now witnessing the uptake of reforms, since their legal systems are still evolving, and making substantial changes is less controversial.



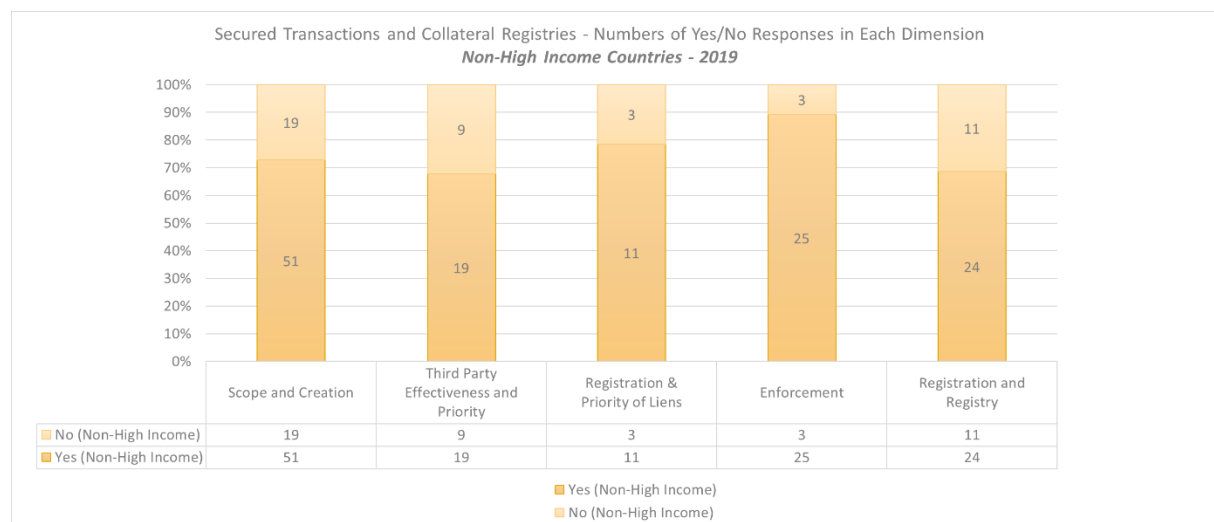
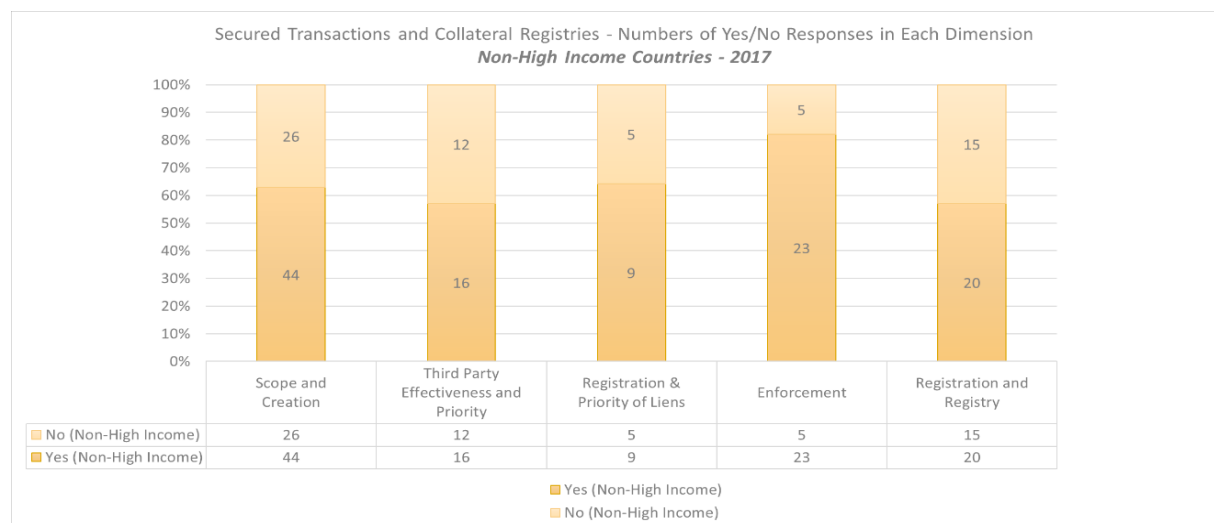


### Non-High-Income Countries

The non-high-income countries generally responded with higher STCR “yes” response rates than their high-income counterparts. Non-high-income countries performed better in almost every other category and especially Scope and Creation and Registration and Registry (improving from 1.53 to 1.79 and 1.14 to 1.37, respectively).



Non-high-income countries outperformed their high-income counterparts in the Scope and Creation subsection of STCR. The overall score increased for non-high-income countries, whereas high-income countries witnessed a minor contraction. This is mainly due to the reforms reported in a number of countries that have improved their position on Scope and Creation and Registration and Registry.



**In summary**, the majority of the G20 jurisdictions still require substantial reforms of their secured lending legal and institutional frameworks. They will need to align their regimes with the elements identified in the G20 Action Plan Implementation Framework to promote movable asset-based lending. There has been greater progress in non-high-income countries because it may be easier to implement legal and especially institutional reforms in those markets compared with high-income countries, where secured lending laws and regulations and document-based collateral registries have longer histories and are more difficult to reform.

# INSOLVENCY



## Background

Effective insolvency systems function as filtering devices. They create an enabling environment to save viable businesses. They also aim to ensure that nonviable ones can quickly exit the market, facilitating the redeployment of assets to more productive uses. Productive resources are, therefore, freed up from unproductive allocations. At the same time, insolvency systems provide an orderly process for the reorganization or liquidation of insolvent entities, helping to maximize creditors' recovery from failed businesses.

Robust empirical literature highlights the importance of well-designed insolvency laws. Countries with sound insolvency regimes tend to reduce the cost of credit<sup>7</sup> and increase the return to creditors.<sup>8</sup> Effective insolvency systems also encourage more lending<sup>9</sup> and are associated with higher job preservation rates, as they facilitate the survival of distressed but viable businesses.<sup>10</sup> These benefits are especially important to SMEs as these firms are often susceptible to failure due to credit constraints.<sup>11</sup> Further, insolvency systems that include more forgiving personal bankruptcy provisions tend to boost entrepreneurship.<sup>12</sup> A systematic approach to debt resolution and insolvency thus strengthens the investment climate and advances economic growth.

The G20 Action Plan on SME Financing identified the development of credit infrastructure (CI) for SMEs, including improvement of insolvency frameworks, as a key priority. In this context, the insolvency part of the self-assessment was designed to benchmark the existing regulatory framework in each country against internationally recognized standards, as set by UNCITRAL's Legislative Guide on Insolvency Law and the World Bank Principles for Effective Insolvency and Creditor/Debtor Regimes.

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<sup>7</sup> See Davydenko, S. A., Franks, J. R., "Do Bankruptcy Codes Matter? A Study of Defaults in France, Germany and the U.K.," *Journal of Finance* (2006).

<sup>8</sup> See Gamboa-Cavazos M and Schneider F, "Bankruptcy as a Legal Process", working paper (2007).

<sup>9</sup> See AP Araujo, RVX Ferreira and B Funchal, "The Brazilian bankruptcy law experience" 18 *Journal of Corporate Finance* 994 (2012).

<sup>10</sup> See Gine X and Love I, "Do Reorganisation Costs Matter for Efficiency? Evidence from a Bankruptcy Reform in Colombia" 53 *J Law & Econ* 833 (2010).

<sup>11</sup> See Dewaelheyns N and van Hulle C, "Legal reform and aggregate small and micro business bankruptcy rates: evidence from the 1997 Belgian bankruptcy code" 31 *Small Bus Econ* 31 (2008); Rodano, G., Serrano-Velarde, N., Tarantino, E., "Bankruptcy Law and the Cost of Banking Finance," Oxford University Centre for Business Taxation (2012).

<sup>12</sup> See Armour, J., "Personal Insolvency and the Demand for Venture Capital", *European Business Organization Law Review* (2004).

The questionnaire focused on important SME-related aspects of such a framework. The questions were grouped into five major categories:

1. Pre-insolvency procedures: The existence of a framework for preventive restructuring;
2. Automatic stay: The efficiency of the rules relating to the moratorium on creditors' enforcement actions following the commencement of proceedings;
3. Insolvency estate: Rules that regulate the management of the debtor's assets in the course of proceedings;
4. Reorganization plan: Provisions governing the content of a reorganization plan as well as the process of voting and approval; and
5. Insolvency practitioners and SME insolvency: The framework for the regulation of insolvency practitioners and the existence of specialized streamlined procedures for SMEs.

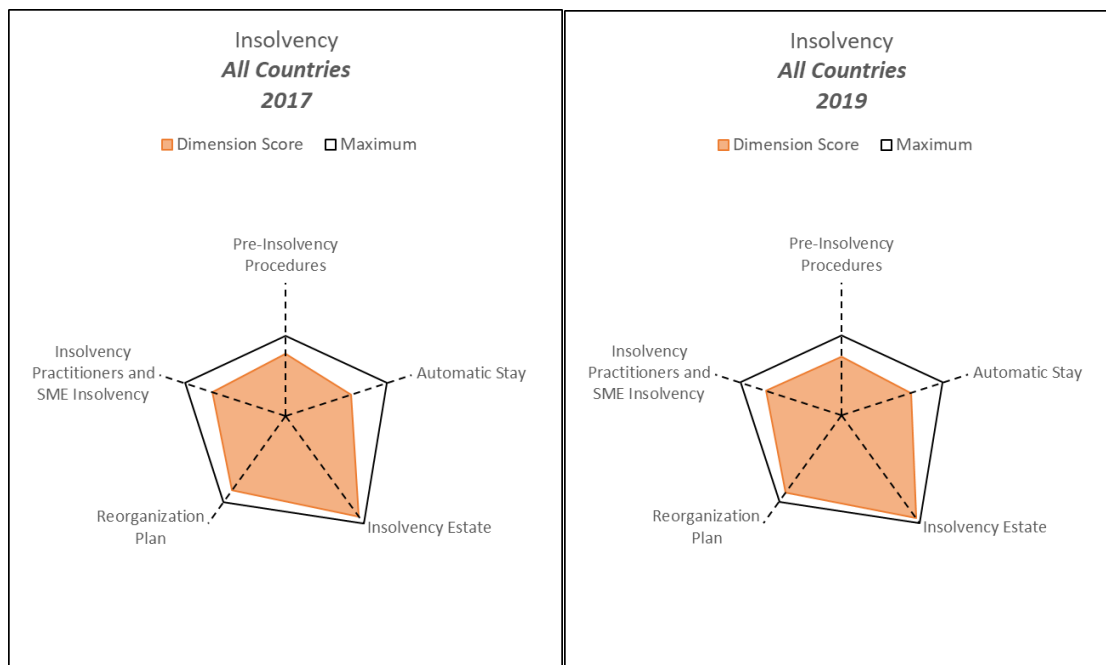
This report describes the results of the 2019 self-assessment and compares them with 2017. Eighteen countries responded to the insolvency section of the self-assessment. Six countries reported variations in their answers to the questionnaire; three of them resulting in a lower score. In addition, one country responded in 2019 but had not done so in 2017.

While the overall results obtained in 2019 are similar to those of 2017, the average score has improved by 3.25%. The improvements have been largely driven by changes introduced by non-high-income countries.

Despite these improvements, significant disparity still exists between G20 countries in terms of the rights afforded by insolvency regimes. Some countries still have ample room to incorporate best international practices. For example, in two G20 countries, early restructuring is not possible. In six countries, secured creditors are not offered adequate protection after being subject to the automatic stay. Moreover, in ten of the eighteen responding countries there isn't a simplified or abbreviated procedure to deal with SME insolvency, subjecting them to unnecessarily burdensome procedures. As a result, viable businesses are sometimes channeled into liquidation, thereby resulting in a significant loss of value for the economy.



## Progress of the Consolidated Results



In line with the results obtained in 2017, the Insolvency section presents the highest overall score (8.26 out of 10) of any of the priority areas analyzed in this report. Unlike the 2017 results, however, the Insolvency section showed the lowest variation between high- and non-high income countries (8.37 and 8.11, respectively) of any of the priority areas in 2019.

As of 2019, all countries analyzed have implemented at least 60% of the best practices measured in the questionnaire.<sup>13</sup> Particularly high levels of implementation are shown in dimensions like the Reorganization Plan and the Protection of the Insolvency Estate (see radar graphs above). Much like in 2017, the dimension containing the lowest level of good practices implemented is the Automatic Stay dimension (discussed below). Finally, only the Pre-Insolvency Procedures dimension showed regression in the average results, diminishing by 5 percentage points in 2019.

Various reasons may explain the high marks countries obtained in the insolvency part of the self-assessment. First, insolvency laws are critical for increasing investor confidence, lowering the cost of credit, and increasing access to finance for SMEs. Aware of this importance, G20 countries have devoted efforts to implement some of these best practices. Second, the recent financial crisis demonstrated the value of strong insolvency regimes. Most G20 countries have recently worked on their insolvency frameworks to curb high non-performing loans (NPLs) levels and encourage

<sup>13</sup> This figure applies to responding countries only and refers to the unweighted percent of “yes” responses obtained through the self-assessment.

restructuring of distressed but viable businesses.<sup>14</sup> Third, the area of insolvency, as measured in the questionnaire, does not refer to specific institutions that need to be in place for a successful implementation of the law. While the secured transactions framework largely relies on a collateral registry to be effective, and credit reporting systems rely on either a credit bureau or a credit registry, the insolvency framework relies mostly on courts for successful implementation. Courts, in turn, are fundamental institutions in modern societies and often have been in operation for several centuries.<sup>15</sup>

Although results are somewhat similar across the five insolvency dimensions under consideration, the Automatic Stay dimension stands out as the one where more reform efforts are needed.<sup>16</sup> The need for improvement extends to both high- and non-high-income country groups. 57% of responses in this dimension in 2019 are “yes.”<sup>17</sup> This low figure contrasts with the “yes” response rate achieved in all other areas (at least 73%). Despite the existence of a comprehensive automatic stay in most of the surveyed countries, some important features of the stay are missing in many of them, explaining the low scores. These features include the requirement that the duration of the stay is limited in time and the possibility that the stay is lifted in certain circumstances, like in the case of perishable goods.

Implementing an automatic stay that is aligned with best international standards is important in reorganization and liquidation scenarios. The application of a stay facilitates the continued operation of the business and allows for breathing space to organize the debtor’s affairs. Further, it provides enabling conditions for the preparation and approval of reorganization plans. In liquidation, it also provides an opportunity to consider actions pending against the debtor and to decide on the best way to realize the assets of the estate. The impact of the stay tends to be much greater in reorganization than in liquidation. Importantly, the availability of an automatic stay provides an important incentive to encourage debtors to timely initiate reorganizations procedures.

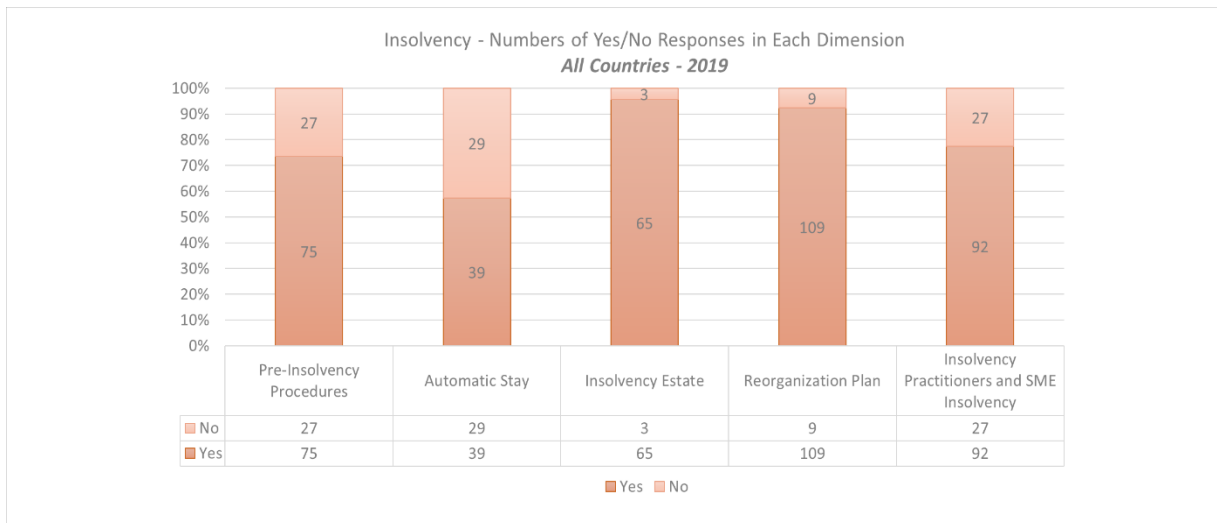
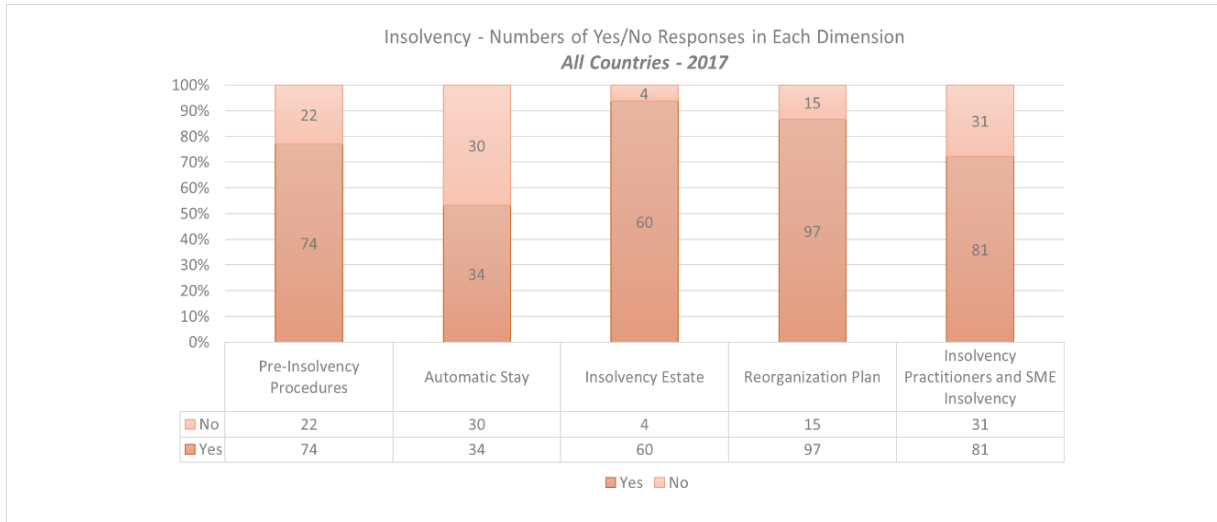
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<sup>14</sup> According to the reform database of Doing Business, 14 of the 20 G-20 countries introduced reforms to improve their insolvency systems since 2008. See <http://www.doingbusiness.org/en/reforms>

<sup>15</sup> Because courts serve many other purposes, they were not evaluated in the self-assessment.

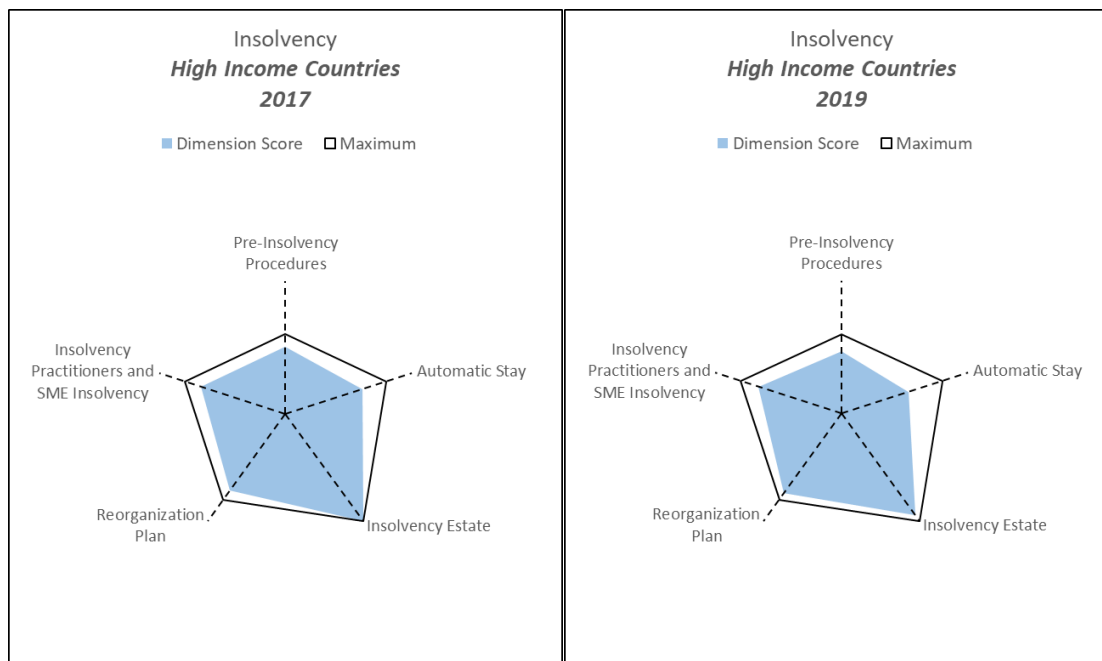
<sup>16</sup> By automatic stay it is meant “...a mechanism to protect the value of the insolvency estate that not only prevents creditors from commencing actions to enforce their rights through legal remedies during some or all of the period of the liquidation or reorganization proceedings, but also suspends actions already under way against the debtor.” See UNCITRAL Legislative Guide on Insolvency Law (2005), p. 83.

<sup>17</sup> These figures refer to the unweighted percent of “yes” responses obtained through the self-assessment.



## Progress of the Results by Income Level Groups

### High-Income Countries



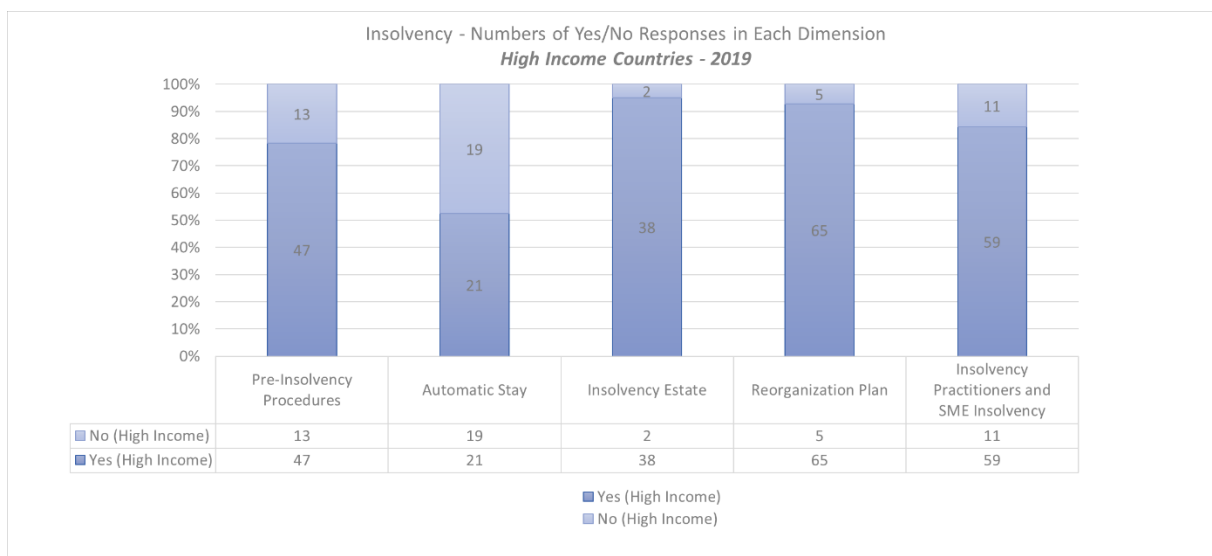
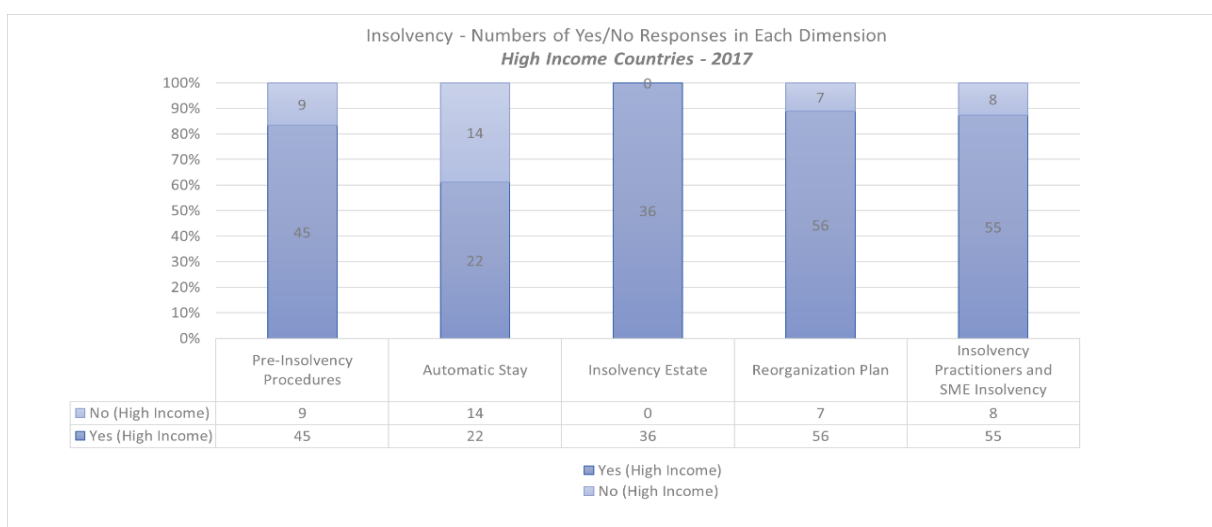
High-income countries have incorporated the highest number of the best practices in insolvency measured by the questionnaire. Compared to the results obtained in 2017, however, these economies show a small decline, with the average score decreasing from 8.76 to 8.37 out of 10. This represents a 4.4% regression in two years. Furthermore, average score deterioration appears in all but one dimension, i.e. the Reorganization Plan. There are two main drivers of this downward trend. First, two countries reported lower scores in their self-assessment to better reflect their current insolvency systems. Second, one non-high-income country has been recently reassessed by the World Bank as a high-income country, bringing its relatively lower insolvency score to the high-income group.

Among the economies in this income group, one country has achieved the highest possible score in 2019. Four others have an overall “yes” response rate of at least 85%, having implemented practically all the best practices under consideration. Such a high score likely results from well-established insolvency systems, with several decades of experience dealing with insolvency cases. Other countries included in this income group also present high scores, even if a couple of them show slightly lower scores in 2019.

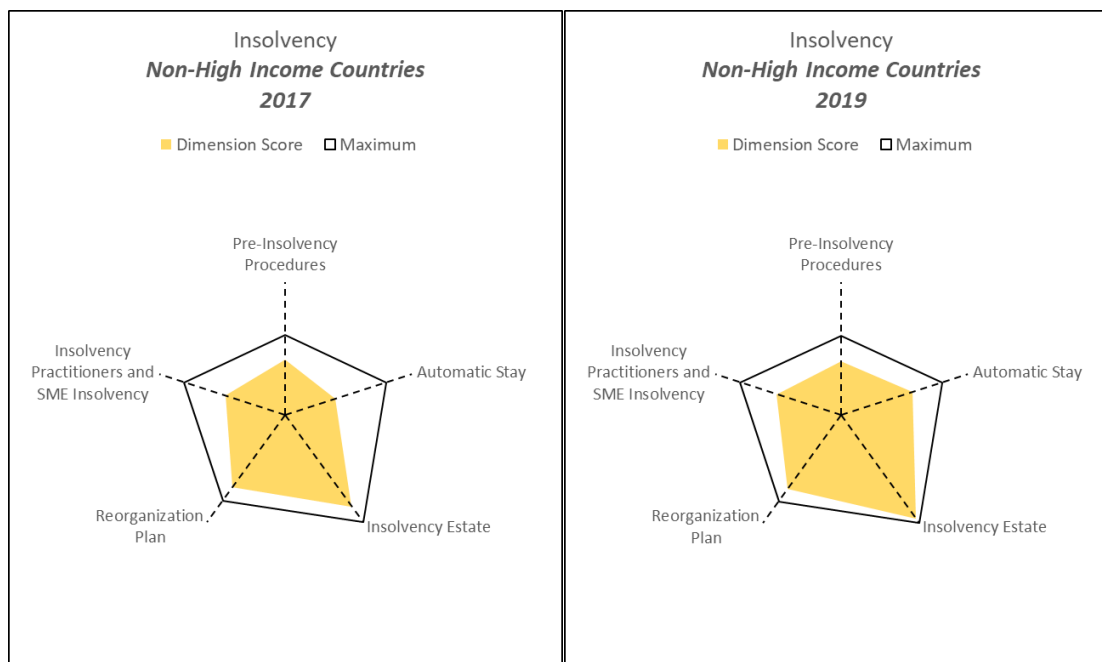
As described in the previous section, insolvency results for high-income countries are strong in all areas evaluated, except for the Automatic Stay. While the average result for high-income countries in this dimension is lower but somewhat similar to that of non-high-income ones, the average score in 2019 has gone down considerably (13%). Factors explaining weak performance under this sub-

indicator have already been discussed above. The answers to the questions in this dimension show that, in addition to the automatic stay often not being lifted under exceptional circumstances (such as when the stay poses great risk to the existence of the collateral), secured creditors do not always receive adequate protection in all high-income countries.

The Pre-Insolvency Procedures dimension also shows a significant decline in the average scores for high-income countries. In 2019, high-income countries have seen their scores reduced by 7% relative to the 2017 self-assessment. Some of the problematic issues relate to the lack of director’s duty to file for insolvency when they know or should have known that the insolvency is imminent or unavoidable. This absence may lead to delayed initiations of bankruptcy cases, thereby preventing otherwise viable businesses from restructuring.



## Non-High-Income Countries

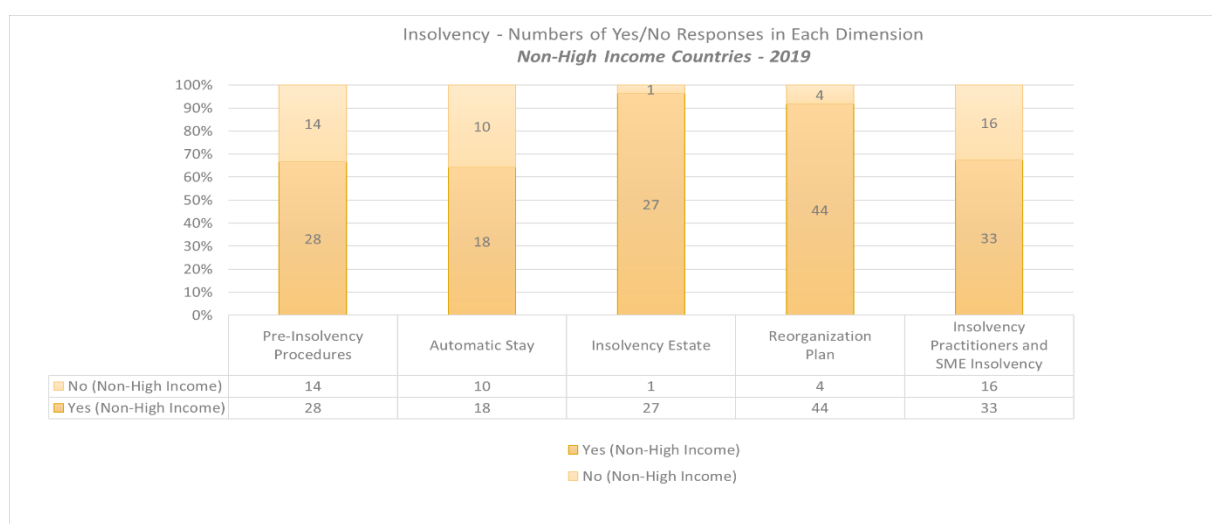
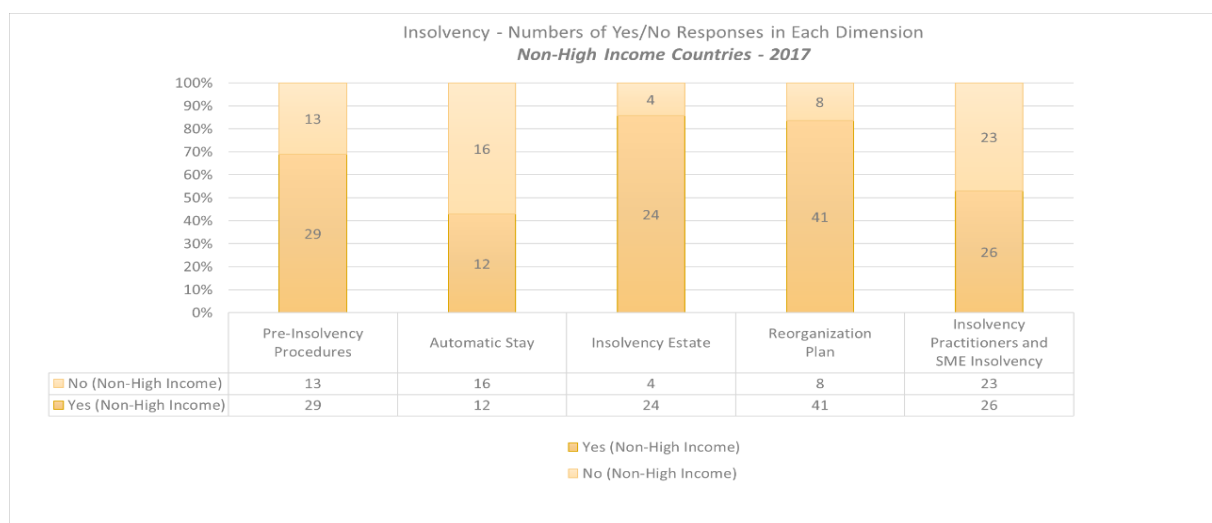


Non-high-income countries show significant improvement in the 2019 self-assessment. Compared to the 2017 results, non-high-income countries report improvement in all but the Pre-Insolvency Procedures dimension, in which there was a 15.4% increase in the average insolvency score. Various factors help to explain this increase. First, the insolvency frameworks of two non-high-income countries were recently significantly improved.<sup>18</sup> This is important, as the 2017 self-assessment described that the laws of non-high-income countries were, on average, more dated than those of non-high-income jurisdictions. Second, one of the low-performing non-high-income countries was added to the high-income cluster. The recent reforms put this group of countries more in line with international best practices.

Two dimensions of the insolvency index stand out in terms of improvement. First, the average Insolvency Estate score for non-high-income countries increased 12.7% in 2019. As a result, it currently is slightly higher than that of high-income countries. Second, the Automatic Stay dimension showed notable progress, improving by 42.4% relative to 2017. Nevertheless, the Automatic Stay area remains one of the dimensions with the lowest average score, at just 70.5% of the total possible points in the dimension.<sup>19</sup> In contrast to the progress showed in the insolvency index, the Pre-Insolvency Procedures dimension average for non-high-income countries in 2019 suffered a 2.9% decrease from the 2017 average.

<sup>18</sup> One of those frameworks was improved after the 2017 self-assessment. The other country responded to the self-assessment for the first time in 2019.

<sup>19</sup> The other dimensions with the lowest scoring average for non-high-income countries are the Pre-Insolvency Procedures dimension (67.3%) and the Insolvency Practitioners and SME Insolvency (71.5%).



**In summary**, analysis of the data collected under the survey shows that some progress has been made in the Insolvency index. Almost all the progress was achieved by non-high-income countries, signaling a determination to align their insolvency systems to best international practices. However, countries still have significant room for improvement, especially in the Automatic Stay dimension and in the Introduction of Special Procedures for SME insolvency. In addition, some countries still have outdated insolvency systems, which lag significantly behind their peers and require modernization.

The results of this analysis can be a useful tool for governments seeking to reform their insolvency laws because they help to identify specific areas where insolvency frameworks can be improved. The results suggest that, in addition to reforming the Automatic Stay, there is opportunity in many economies to improve Pre-Insolvency Procedures as well as the regime applicable to insolvency practitioners.

# CONCLUSION & NEXT STEPS



This report compared the 2019 self-reported responses against those provided by the G20 countries in 2017, using a methodology aimed at capturing strengths and improvements in credit infrastructure areas in the G20 countries. Overall, little progress has been achieved since 2017, according to a comparative analysis of the initial 2017 baseline and the surveyed results conducted in 2019. Overall scores improved by 3.25% in CRS, 9.85% in STCR and 3.25% in Insolvency. This indicates that there is room for more improvement across all three areas of credit infrastructure.

The results obtained under this analysis highlight key areas for improvement and can be a useful tool for governments seeking to reform the three credit infrastructure areas. Specifically, the greatest need for improvement to the countries' credit reporting systems are in the Governance and Risk Management dimensions, as well as in Cross-Border Data Flows. The report also showed that the majority of the G20 jurisdictions still require substantial reform of their secured lending legal and institutional frameworks, particularly in the areas of Registration and Priority of Liens. Regarding the insolvency frameworks, the results suggested that, in addition to reforming the Automatic Stay, there was opportunity in many economies to improve pre-insolvency procedures as well as the regime applicable to insolvency practitioners.

By endorsing the G20 Action Plan on SME Financing, the G20 countries have committed to implementing credit infrastructure reforms, using the results of the self-assessment to monitor progress every two years. The report revealed, however, that the reforms in these three areas have not been significant since regulatory changes are required, which take time. It is, thus, proposed to measure progress over a three-year period.



# ANNEX 1 METHODOLOGY



The self-assessment framework is composed of a questionnaire covering three sections – 1) Credit reporting, 2) Secured Transactions & Collateral Registries, and 3) Insolvency. Each question is assigned a score in the overall matrix, the sum of which adds up to 10 for each of the three sections (**Total score =  $\Sigma$  1 (Yes) x weight of question**).

The questionnaire is designed to enable countries to conduct a self-assessment of their respective legal frameworks on the three priority reform areas of the G20 Action Plan. It is a simplified and independent framework that can allow specialized self-assessments of the legal framework for SMEs in G20 countries. It is not a substitute for full country assessments or diagnostics. Full assessment methodologies exist for all three areas and are used by external assessors (e.g. FSB, the International Monetary Fund, World Bank through the Observance of Standards and Codes (ROSCs), and Financial Sector Assessment Programs (FSAPs)).

Due to the significant disparity among countries regarding the definition of SMEs, the term is not strictly defined in this document. Respondents should use their own “national” definition of an SME in completing this questionnaire.

Respondents should carefully read the questions below and answer “yes” or “no” based on their understanding of the legal framework in question. The answers should reflect the legal environment and system in the country and consider all available measures and procedures, regardless of differences in terminology.

This effort might require collaboration between different actors from the public sector to complete the questionnaire.

One primary authority should be identified in each country to coordinate these efforts and consolidate the responses obtained from the different actors. In addition, respondents need to be familiar with relevant policy, regulatory and oversight aspects.

The questionnaire, for simplicity, has a list of yes/no questions, which will potentially require qualitative explanation. Therefore, careful selection of expert respondents is required and opportunity to provide qualitative comments will be provided in the assessment tool itself.

## Credit Reporting

A rating system has been developed based on key aspects that should be observed in any G20 country, taking into consideration the diversity of credit reporting systems with these countries. The rating scale presented here has been built on the basis of identified key criteria for an efficient CRS that would enable the flow of the necessary credit information to assess creditworthiness of SMEs. The rating system would not be used to rank countries in connection with their national credit reporting systems or market.

Context and Oversight	1.5
General Principle 1	2.5
General Principle 2	1
General Principle 3	1.5
General Principle 4	2.5
General Principle 5	1

### **Context and Oversight (SCORE - 1.5)**

This section evaluates the existence of CRS offering products relevant for the evaluation of the creditworthiness of SMEs as well as the existence of a primary authority overseeing the CRS activities. The respondent should respond “yes” if all the elements in the question are met in the given jurisdiction. Otherwise, the respondent should mark “no.”

### **Based on General Principle 1 (SCORE - 2.5)**

This group of questions addresses aspects of data accuracy, sufficiency and timeliness. One key issue that impacts data accuracy refers to the possibility of uniquely identifying the debtor in the database. Other relevant elements include data collections from different sources (not limited to the financial sector) and automation and standardization of rules and processes. The respondent should write “yes” only if all the elements included in each question are present in the given jurisdiction. For example, if there is a unique identification number in the country but it is not widely used in the CRS, the respondent should mark “no.” Consequently, if there are critical datasets or data providers not currently included in the CRS, the response to sufficient data collection should be “no.”

### **Based on General Principle 2 (SCORE - 1)**

The questions below require access to specific detailed information from each CRS operating in the country. Particular aspects regarding governance and policies and procedures might not be available in the public domain. It is necessary though that the respondent has access to this information from all relevant sources. (These apply for questions 2.1 to 3.4)

**Based on General Principle 3 (SCORE - 1.5)**

The questions related to this section should reflect the situation of all existing CRS in the country. If there is one CRS that does not comply with the requirements included in the question, the respondent should mark “no.”

**Based on General Principle 4 (SCORE - 2.5)**

Information needed to complete this section is typically available but might require reading each law and/or regulation that relates to CRS (e.g. banking laws, credit bureau laws). and they might also require to have access to contractual arrangements between the parties.

**Based on General Principle 5 (SCORE - 1)**

Questions related to this section might not be applicable to all existing jurisdictions and therefore the initial question relates to the conditions that call for the exchange of information between two or more jurisdictions. Even if conditions are not in place, mechanisms to enable the exchange would serve to identify correcting measures. Respondents will need to be knowledgeable of existing international agreements between countries and technical arrangements in each of the existing CRS. If there is at least one critical condition (e.g. EU membership) that calls for the exchange of data across borders, then the respondent should mark “yes.”

	<b>International Best Practices Issue/Subject Matter</b>	<b>Yes</b>	<b>No</b>	<b>Score</b>
<b>1.</b>	<b>Existing CRS and Role of Authorities</b>			<b>1.5</b>
1.1	Are there commercial credit reporting companies, credit registries and consumer credit bureaus in the country?			0.5
1.2	Have service providers developed reliable credit scoring models tailored to SMEs that are used by lenders and investors?			0.25
1.3	Are there mechanisms in place that allow the exchange of data between different CRSPs?			0.5
1.4	Is there any authority that coordinates and oversees the actions of the various credit reporting systems participants, and provides guidance and leadership inducing changes and reforms when necessary?			0.25
<b>2.</b>	<b>Data Quality, Sufficiency, and Timeliness</b>			<b>2.5</b>
2.1	Is there a unique identification number for legal entities and for individuals (e.g. National Identification Number, LEI, Tax identification number) broadly used in the CRS			0.75

2.2	Do CRSPs collect sufficient relevant data on a systematic basis from different sources (e.g. peer to peer, trade credit, government-held data, and creditors) to effectively develop value added products tailored to SMEs?			0.5
2.3	Is information from relevant public records easily accessible (e.g. via electronic means) and updated on a timely and systematic basis (e.g. records on key financial and legal aspects of companies, property, shareholders, status)?			0.75
2.4	Does information on the credit history include a detailed compilation of past and current payment behavior of individuals and all types of legal entities and is kept for more than three years?			0.25
2.5	Are processes such as normalization, validation and verification in place for each data load in every CRS?			0.25
<b>3.</b>	<b>Data Processing; Security and Efficiency</b>			<b>1.0</b>
3.1	Is data governance a critical part of the CRS and network, do data and infrastructure comply with ISO security standards (e.g. 27001, PCI-DSS or other equivalent)?			0.1
3.2	Does the CRSP promote and/or facilitate the use of standardized formats/templates for data provisioning and in general terms greater levels of automation?			0.25
3.3	Do all existing CRS have a BCP in place where RTO, secondary site and data loss recovery are also included in the BCP?			0.15
3.4	Are all types of users' needs regarding data, services and products taken into consideration by CRSPs when designing their products?			0.5
<b>4.</b>	<b>Governance and Risk Management</b>			<b>1.5</b>
4.1	Are there clear policies and procedures in place to manage conflicts of interest arising from shareholders or managers?			0.25
4.2	Are all existing CRS in the country audited by an independent and certified auditor?			0.75
4.3	Have business, operational, reputational and legal risks related to CRS been identified and are policies in place to address and mitigate such risks?			0.25
4.4	Are board composition and their roles and responsibilities clear and publicly disclosed in all CRS?			0.25

<b>5.</b>	<b>Legal and Regulatory Environment</b>			<b>2.5</b>
5.1	Is the legal framework covering credit reporting systems clear, non-discriminatory and supportive of SMEs' rights?			1.0
5.2	Are there any conflicts of law or legal vacuums in aspects related to the CRS that impede the implementation of efficient, safe and reliable CRS?			0.25 (if answer No, then score 0.25)
5.3	Does the legal and regulatory framework underpinning the permissible uses of the government-held data allow CRSPs to collect and exploit information (e.g. property registrar, companies' registrar, judicial courts)?			0.25
5.4	Are sole proprietors and shareholders treated as data subjects in the respective data protection/privacy laws in the country?			0.5 (if answer No, then score 0.25)
5.5	Are data subject's rights recognized by law and exercised in practice by CRSPs, including (i) the right to object to their information being collected for certain purposes and/or used for certain purposes, (ii) the right to be informed on the conditions of collection, processing and distribution of data held about them, (iii) the right to access data held about them periodically at little or no cost, and (iv) the right to challenge accuracy of information about them?			0.5
<b>6.</b>	<b>Cross-Border Data Flows</b>			<b>1.0</b>
6.1	Are there market conditions, economic and financial integration requirements and/or any legal and regulatory requirements that call for the exchange of credit information across borders? If yes, move on to 6.2 and 6.3; if no, respond N/A to 6.2 and 6.3 <sup>20</sup> .			0.0
6.2	Are there mechanisms in place to facilitate exchange of credit information between two or more jurisdictions for the evaluation of the creditworthiness of debtors (e.g. law, regulation, bilateral agreements)?			0.5

<sup>20</sup> If no, no credit will be given for section 6, and the weight will be redistributed among the previous indicators according to their relative weights such that the maximum total score remains 10.

6.3	Does the exchange of information between two different jurisdictions take place through any of the following: (i) direct exchange, (ii) portability model or (iii) right to access model?			0.5
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## Secured Transactions & Collateral Registries

The purpose of the exercise is to enable countries to conduct a self-assessment of their legal and institutional frameworks supporting secured transactions. The questionnaire consists of five key pillars which are critical for understanding the extent to which secured transactions frameworks meet international standards of best practice.

Each pillar or category contains several questions which raise the most important aspects related to creation, third-party effectiveness, priority, publicity and enforcement of security interests. The objective behind the questionnaire is to reflect key principles of modern secured transactions systems; however, not all aspects were included considering that the goal of the exercise is to conduct a high-level assessment with a simplified framework.

Respondents should carefully read the questions below and answer “yes” or “no” based on their understanding of the framework in question. It will be critical to review closely the glossary of terms provided to ensure the responses are based on the accurate interpretation of the terms and phrases used in the questionnaire. Responses to the questions will primarily require knowledge of jurisprudence, however in some cases the responses may have to be vetted with entities responsible for registration of security interests.

	<b>International Best Practices Issues/Subject Matter</b>	<b>Yes</b>	<b>No</b>	<b>Score</b>
<b>1.</b>	<b>Scope and Creation</b>			<b>2.5</b>
1.1	Does an integrated or unified legal framework for secured transactions exist and extend to the creation, publicity, priority and enforcement of at least three functional equivalents to security interests in movable assets?			0.3
1.2	Does the legal framework allow for security agreement to become effective and enforceable between the secured party and the grantor upon attachment without the need for registration of the agreement?			0.2
1.3	Does the law allow businesses to grant a non-possessory security interest in a single category of movable assets, without requiring a specific description of encumbered asset?			0.3

1.4	Does the law allow businesses to grant a non-possessory security interest in substantially all of its assets, without requiring a specific description of encumbered asset?			0.3
1.5	May a security interest extend to future or after-acquired assets?			0.3
1.6	May a security interest extend automatically to the products, or replacements of the original encumbered assets?			0.3
1.7	May a security interest attach to and continue in movable assets that becomes affixed to immovable property?			0.2
1.8	Is a general description of debts and obligations permitted in security agreements?			0.2
1.9	Can all types of debts and obligations (e.g. monetary or non-monetary, pre-existing, present or future, conditional or unconditional) be secured between parties?			0.2
1.10	Can the security agreement include a maximum amount for which the assets are encumbered (e.g. a line of credit)?			0.2
<b>2.</b>	<b>Third-Party Effectiveness and Priority</b>			<b>2.0</b>
2.1	Does the law permit the following methods for achieving third-party effectiveness: (1) registering a notice of the security interest in the registry; (2) secured party taking possession of the asset; (3) secured party taking control of the asset (e.g. a deposit account)?			0.6
2.2	Does the law permit the secured party to pre-file a notice of security interest in the registry before such interest is created with the priority dating back to the time of registration?			0.6
2.3	Does the law uphold the “first in time–first in right” principle to determine the order of priority in case of competing security interests (subject to established exceptions from this principle)?			0.6
2.4	Do third parties take free of a security interest that was made effective against third parties when the asset subject to a security interest is sold, leased, licensed or otherwise disposed if such sale, lease, license or disposition was conducted in the ordinary course of grantor’s business?			0.2
<b>3.</b>	<b>Registration &amp; Priority of Liens</b>			<b>1.5</b>

3.1	Does the law permit registration of notices in the Security Interest Registry of various liens created by operation of law such as tax liens, labor liens and judgement liens?			1.0
3.2	Does the “first in time–first in right” rule of priority also apply to the rights of lienholders such as tax authorities, judgement creditors, etc.?			0.5
<b>4.</b>	<b>Enforcement</b>			<b>2.0</b>
4.1	Does the law allow parties to agree on out-of-court enforcement at the time a security interest is created or by a separate agreement before occurrence of an event of default?			0.5
4.2	Does the law allow the secured party to enforce its rights through expedited judicial or other official enforcement proceedings?			0.5
4.3	Does the law allow the secured party to sell the encumbered asset through public auction, private tender or any commercially reasonable means?			0.5
4.4	Does the law allow a secured party to proceed with taking possession and disposition of encumbered assets despite the debtor or grantor filing objection or a lawsuit against such action by the secured parties?			0.5
<b>5.</b>	<b>Registration and Registry</b>			<b>2.0</b>
5.1	Is there a unified, electronic registry for security interests in all types of movable assets for both individual and legal entity grantors?			0.4
5.2	Does the law permit registration of security interests, their functional equivalents and interests of lienholders in a Security Interests Registry?			0.4
5.3	Does a Security Interest Registry exist in which only a notice of existence or potential existence of a security interest is registered with no requirement to provide or attach documentary evidence of existence of a security interest?			0.4
5.4	Does a Security Interest Registry exist in which registrations, amendments and cancellations can be made by secured parties online?			0.4
5.5	Does a Security Interest Registry exist in which searches can be performed on-line by any interested third-party using grantor’s identifier?			0.4



## Insolvency

The questionnaire focuses on the most important SME-related aspects of such a framework and its questions are grouped into five major categories: 1) Pre-insolvency procedures: the existence of a framework for preventive restructuring, 2) Automatic stay: The efficiency of the rules relating to the moratorium on creditors' enforcement actions following the commencement of proceedings, 3) Insolvency estate: The rules that regulate the management of the debtor's assets in the course of proceedings, 4) Reorganization plan: provisions governing the content of a reorganization plan as well as the process of voting and approval and 5) Insolvency Practitioners and SME Insolvency: the framework for the regulation of insolvency practitioners and the existence of specialized streamlined procedures for SMEs.

The purpose of this questionnaire is to enable participants to conduct a self-assessment of their respective legal frameworks on the particular issue of SME insolvency. The questionnaire focuses on the most important aspects of such a framework and its questions are grouped into five major categories that are critical for understanding the extent to which insolvency frameworks meet international standards of best practice.

Due to the significant disparity among countries regarding the definition of the term, SMEs are not strictly defined in this document and respondents should use their own "national" definition of an SME in completing this questionnaire. Respondents should carefully read the questions below and answer "yes" or "no," based on their understanding of the legal framework in question. The answers should reflect the legal environment of their country and take into account all available measures and procedures, regardless of differences in terminology. Each question is assigned a particular score in the overall matrix, the sum of which adds up to a score of 10.

The present document, however, is strictly limited to the purpose of providing G20 countries with a framework and a methodology to measure the ability of their legal framework to deal with the specific issue of SME insolvency. As such, it should under no circumstances be viewed as a substitute, an accessory or in any way fully representative of the international standards or assessment methodologies in the field of insolvency law, namely the World Bank Principles on Insolvency and Creditor Rights (the ICR standard) and the Reports on the Observance of Standards and Codes (ROSC). Therefore, more in-depth assessments are encouraged.

	<b>International Best Practices Issues/Subject Matter</b>	<b>Yes</b>	<b>No</b>	<b>Score</b>
<b>1.</b>	<b>Pre-Insolvency Procedures</b>			<b>1.5</b>
1.1	In addition to formal, fully court-supervised insolvency procedures, does the insolvency framework provide debtors, both SMEs and larger corporates, with access to a separate procedure that allows them to restructure their business with the objective of preventing insolvency, containing the following elements:			0.8

	a) Is the debtor able to access such procedure at an early stage, as soon as it is apparent that there is a likelihood of insolvency but before defaulting on a particular payment?			0.3/0.8
	b) Does the debtor keep control over the day-to-day operation of its business?			0.2/0.8
	c) Is a restructuring plan adopted by a majority of creditors binding on all creditors, provided that the plan is confirmed by a court?			0.3/0.8
1.2	Does the law require that when directors of the debtor know, or should have reasonably known, that insolvency is imminent or unavoidable, they should take reasonable steps either to avoid insolvency, or where insolvency is unavoidable, to minimize its extent and file for a pre-insolvency or insolvency procedure?			0.3
1.3	In case such an obligation exists, does the obligation include any person formally appointed as a director AS WELL AS any other person exercising factual control and performing the functions of a director?			0.2
1.4	In case of breach of the obligation mentioned in the 2 questions above, does the insolvency law impose liability on the directors of the debtor that may amount up to the loss or damage suffered by creditors as a result of the breach?			0.2
<b>2.</b>	<b>Automatic Stay</b>			<b>2.0</b>
2.1	Are enforcement actions by ALL creditors subject to an automatic stay (or an automatic suspension or moratorium) upon commencement of insolvency proceedings?			1.0
2.2	Is there a time limit prescribed by law on the automatic stay imposed on the secured claims? If yes, what is the time limit? If yes, does the law stipulate that secured creditors may request that the stay is lifted (relief) when the collateral is not needed for the reorganization or sale of the business as a going concern OR when the stay poses a great risk to the existence of the collateral (e.g. perishable goods)?			0.5
2.3	Does the law allow insolvency representatives to provide additional or substitute assets to compensate for the diminution of value of the encumbered assets due to the stay?			0.3

2.4	Does the law require payment of interest during the period of stay?			0.2
<b>3.</b>	<b>Insolvency Estate</b>			<b>2.5</b>
3.1	Does the insolvency framework allow the continuation of contracts supplying essential goods and services to the debtor (goods and services necessary for the survival of the business), even where the debtor is in breach?			0.5
3.2	Does the insolvency framework allow the rejection by the debtor (or by the insolvency representative or by the court on the debtor's behalf) of overly burdensome contracts (the cost of performance is greater than the benefit to be received), where both parties have not fully performed their obligations?			0.7
3.3	Does the insolvency framework provide for the possibility of the debtor obtaining credit after commencement of insolvency proceedings (post-commencement credit) to finance its on-going needs during the proceedings?			1.0
3.4	Does the insolvency framework assign priority to post-commencement credit?			0.3
<b>4.</b>	<b>Reorganization Plan</b>			<b>2.0</b>
4.1	Does the law allow for the submission of restructuring plans and mandate that such plans contain:			1.0
	a) A clear and complete identification of the creditors who would be affected by the plan, potentially dividing them in classes?			0.3/1.0
	b) The effects of the proposed restructuring on individual debts or categories of debts or classes?			0.3/1.0
	c) Identification of the role of the debtor in the implementation of the plan?			0.2/1.0
	d) Description of the viability of the business and the likelihood that the plan will succeed, once implemented?			0.2/1.0
4.2	Does the insolvency law specify that a creditor whose rights are modified or affected by the plan should not be bound to the plan unless that creditor has been the given the opportunity to vote on the plan?			0.2

4.3	Does the insolvency law specify that creditors entitled to vote on the plan should be separately classified according to their respective rights and that each class should vote separately?			0.5
4.4	Does the insolvency law specify that all creditors in identical circumstances must be offered the same treatment?			0.3
<b>5.</b>	<b>Insolvency Practitioners and SME Insolvency</b>			<b>2.0</b>
5.1	Does the insolvency framework provide the following?			1.0
	a) The qualifications and qualities required for the appointment of the insolvency representative?			0.4/1.0
	b) That the insolvency representative has an obligation to protect and preserve the assets of the estate?			0.3/1.0
	c) The consequences of the insolvency representative's failure to perform its duties and functions under the law?			0.3/1.0
5.2	Where natural persons are eligible as debtors under the insolvency law, does the law allow a discharge of those debtors from liability for pre-commencement debts?			0.2
5.3	If the insolvency law allows a discharge of natural persons, is that discharge subject to any conditions, like not acting fraudulently and cooperating with the insolvency representative during the insolvency case?			0.2
5.4	Does the law specify that the discharge does not apply until after the expiration of a specified period of time following commencement, during which period the debtor is expected to cooperate with the insolvency representative?			0.2
5.5	Does the insolvency framework specify abbreviated procedures for small cases or SMEs, where certain stages of the insolvency procedure can be streamlined or merged into other phases (e.g. verification of claims, report by the insolvency practitioner, simpler voting mechanisms, etc.)?			0.4

## ANNEX 2 REFERENCE OF INCOME LEVEL GROUPS



In this report, the reference of “high-income” and “non-high-income” country is based on World Bank Group’s Country Classification method briefly explained as below.

Economies are currently divided into four income groupings: low, lower-middle, upper-middle, and high. Income is measured using gross national income (GNI) per capita, in U.S. dollars, converted from local currency using the World Bank Atlas method. Estimates of GNI are obtained from economists in World Bank country units; and the size of the population is estimated by World Bank demographers from a variety of sources, including the UN’s biennial World Population Prospects.

Countries are immediately reassigned on July 1 each year, based on the estimate of their GNI per capita for the previous calendar year. Income groupings remain fixed for the entire fiscal year (i.e., until July 1 of the following year), even if GNI per capita estimates are revised in the meantime.<sup>21</sup>

For the current 2019 fiscal year, low-income economies are defined as those with a GNI per capita, calculated using the World Bank Atlas method, of \$995 or less in 2017; lower middle-income economies are those with a GNI per capita between \$996 and \$3,895; upper middle-income economies are those with a GNI per capita between \$3,896 and \$12,055; high-income economies are those with a GNI per capita of \$12,056 or more.<sup>22</sup>

Following this standard, in this report, the high-income countries group includes Argentina, Australia, Canada, France, Germany, Italy, Japan, Republic of Korea, Saudi Arabia, United Kingdom and the United States. The non-high-income countries group includes Brazil, China, India, Indonesia, Mexico, Russia, South Africa and Turkey.

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<sup>21</sup> World Bank Group Data Helpdesk, “How does the World Bank Classify Countries”:  
<https://datahelpdesk.worldbank.org/knowledgebase/articles/378834-how-does-the-world-bank-classify-countries>

<sup>22</sup> World Bank Group Data Helpdesk, “World Bank Country and Lending Groups”:  
<https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>