



# THE MOVABLE PROPERTY SECURITY INTEREST (MPSI) BILL

YAP WENG SEONG  
COMPANIES COMMISSION OF MALAYSIA  
5 October 2022

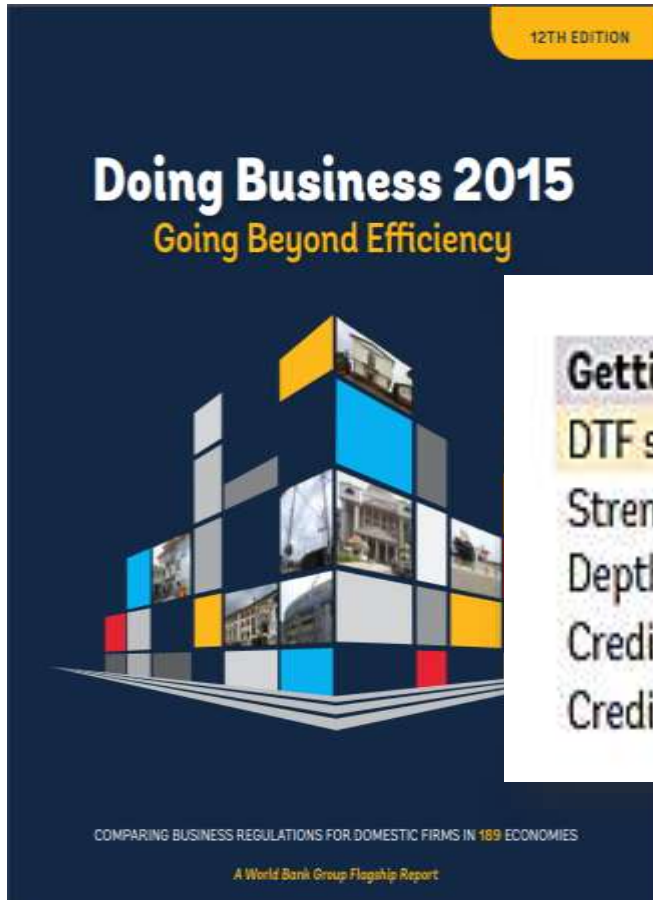
# Measurements in the World Bank Doing Business Report



FIGURE 1.1 What is measured in *Doing Business*?



# BACKGROUND: RANKING FOR GETTING CREDIT



Getting credit (rank)	23
DTF score for getting credit (0-100)	70.00
Strength of legal rights index (0-12)	7
Depth of credit information index (0-8)	7
Credit bureau coverage (% of adults)	78.6
Credit registry coverage (% of adults)	56.2

DB 2014: 1

DB 2015: 23

DB 2016: 28

DB 2017: 20

DB 2018: 20

DB 2019: 32

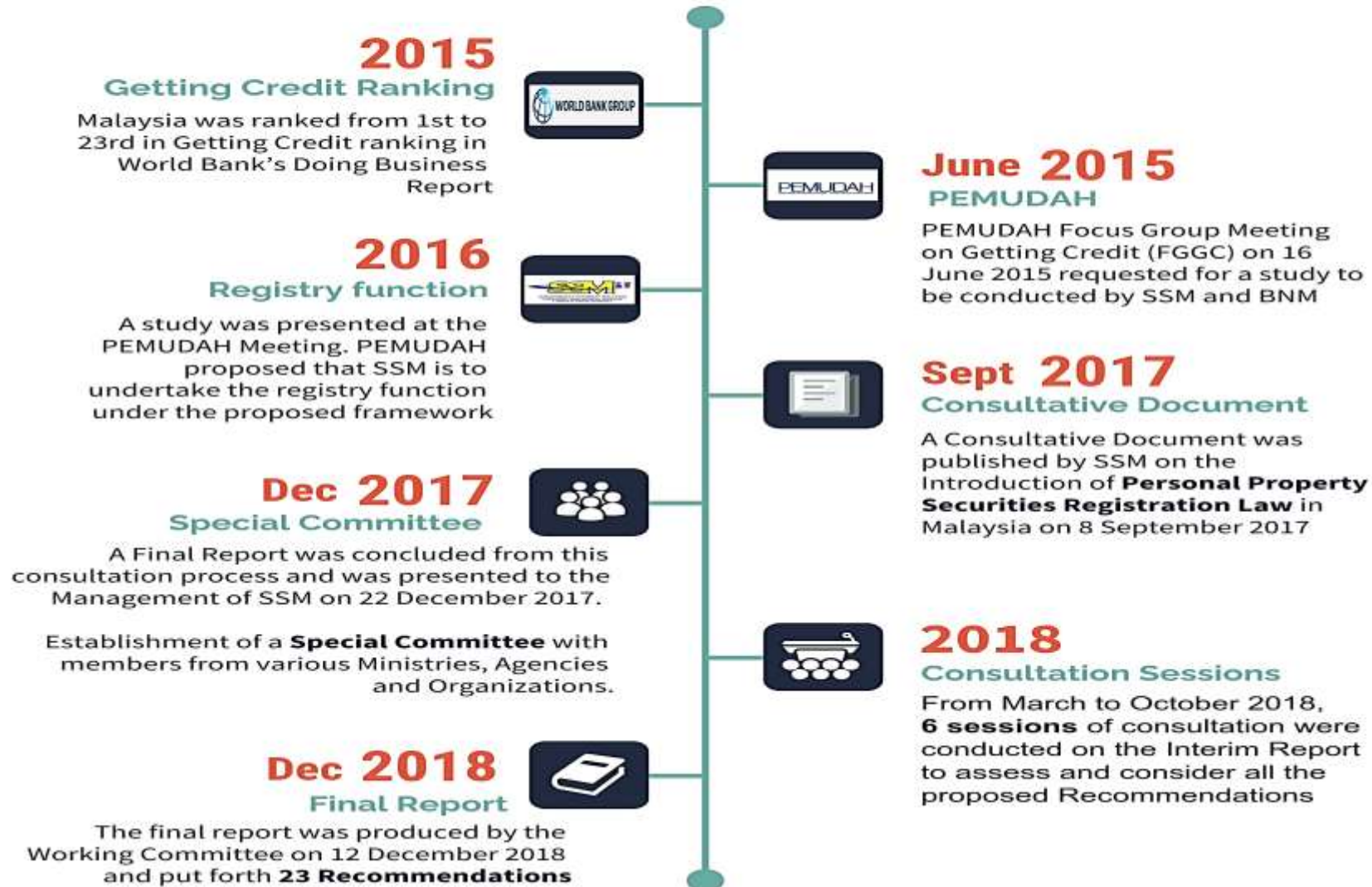
DB 2020: 37



# TIMELINE



## Movable Property Security Interest (MPSI) Bill



1

Whether there is an integrated or unified legal framework for secured transactions?

1. In Malaysia, there is **no legal framework** that governs the creation and enforcement of assets of **movable assets** as security interests created by **unincorporated entities/individuals**.
2. For incorporated entities, section 353 of the Companies Act 2016 currently regulates the creation, publicity and enforcement of assets for both movable and immovable assets.

## Present Legal Framework (cont)



2

Whether there is a collateral registry in operation for both incorporated and unincorporated entities, which is unified by the type of assets with an electronic database indexed by debtor's name?

1. In Malaysia, there is **no single collateral registry in operation for both incorporated and unincorporated entities** which is unified by the type of assets with an electronic database indexed by debtors' name.
2. In addition to the collateral registry existing under the Companies Act 2016, there are other collateral registries that register different types of assets.
  - MOT
  - JPJ

# Addressing Practical Issues



Two (2) main practical issues that the RUU will address are as follows: -

1. Credit information gaps
2. Using movable property/asset as collateral

# Credit information gaps



01

## Creditworthiness

Creditors assess the creditworthiness of credit/loan based on 2 criteria: -

- (i) financial capacity to repay loan;
- (ii) willingness to repay loan.

02

## Difficult to assess

Difficult for creditors to assess creditworthiness due to information gaps. This frustrates external financing as it is often too costly to collect information to assess applicant's creditworthiness.

03

## Denial of loans

Information gaps is exacerbated for MSMEs and are often the cause of denial of loans and other forms of external financing.

04

## Legal Framework

The existence of a legal framework provides assurance and certainty which translates to greater access to finance for MSMEs and the financing gap between small and large companies decreases.

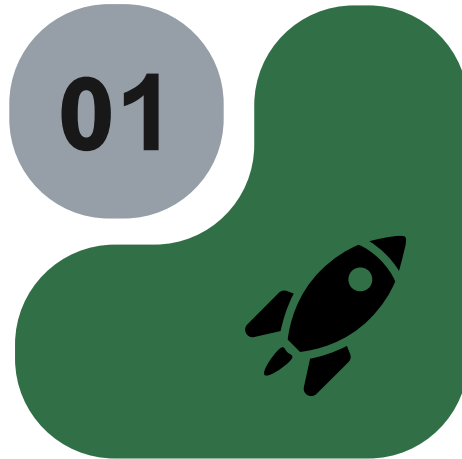


# Movable property as collateral



## Movable asset

MSMEs rarely own immovable assets, instead movable assets are usually the main types of asset that can be offered as collateral.

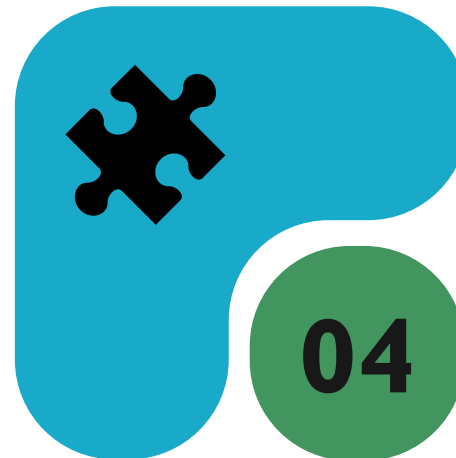


## Without legal framework

Without proper legal framework to allow movable assets to be used as collateral, it is difficult for MSMEs to obtain credit for longer period or to obtain credit at all. As such, it is crucial that this legal framework establishes a Registry which would record the existence of security interest in a movable asset used as collateral.

## Priority

The establishment of a Registry also establishes a platform to acknowledge priority among the security interests registered.



## Economic impact

Studies have also shown that the introduction of a Registry can result in a significant economic impact in bank financing i.e. apart from accessed to credit, interest rates may drop by as much as 3% points and repayment periods can be extended by six months

# Proposed legal framework



- The framework will introduce a unified legal framework to govern the registration of movable property used as collateral to secure a payment or performance of an obligation
- The legal framework will be made available to any person, whether legal or natural persons, both incorporated or unincorporated
- Registration is on voluntary basis.
- Legal framework will apply to all movable property (tangible or intangible) except for aircraft, ships etc.
- The registration system will be fully electronic and notice filling

# REGISTRATION STEPS: BEFORE & AFTER



## Initial

Borrower applies for loan from Bank A to be secured by the Borrower's delivery truck (collateral).

## Initial

Bank A conducts due diligence via the proposed MPSI Register for any prior competing interests related to the collateral.

## Mid-process

With no competing interests on the collateral, Bank A approves the loan to the Borrower and an Agreement is executed between both parties.

## End process

A notification will be sent to the Borrower that a security interest has been registered by Bank A on the collateral.

## End process

Once registration is completed, a notice is publicised on the Registry that Bank A has security interest on the collateral.

## Mid-process

Bank A will register security interest on the collateral in the proposed MPSI Register.



**THANK YOU**