

FREQUENTLY ASKED QUESTIONS

1. What is the Collateral Registry?

The Collateral Registry is a central database that records all registrations of charges or collaterals created by borrowers to secure credits provided by lenders.

2. What is the object of the Collateral Registry?

The main object of the Registry is to register charges and collateral(s) created by borrowers on both movable and immovable properties to secure credit facilities provided by lenders.

3. What is a collateral

A Collateral is defined as assets/properties pledged by a borrower to secure a loan or other credit.

4. What are the functions of the Collateral Registry?

- The Registry registers charges and collateral(s) created by borrowers on both movable and immovable properties to secure credit facilities provided by lenders.
- The Registry provides information on the existence of relationships between lenders and borrowers as they relate particularly to movable and immovable collateral(s) as well as other ancillary functions.
- An avenue has also been created to enable searches to be conducted on the database of the Registry to ascertain if there are prior security interests in the properties pledged by the borrowers for credit
- The establishment of the Collateral Registry is also to improve significantly the mechanism for enforcing credit agreements.

5. What is the legal basis for the establishment of the Collateral Registry

The Parliament of Ghana in December 2008 enacted the **BORROWERS AND LENDERS ACT 2008 [ACT 773]** to address the deficiencies in the current legal environment for effective credit delivery by making provision for the following:

- Providing a legal framework for credit

- Improving standards of disclosure of information by borrowers and lenders.
- Prohibiting certain credit practices
- Promoting a consistent credit enforcement framework and related matters in the credit market.

The passage of the BORROWERS AND LENDERS ACT 2008 [ACT 773] ushered Ghana into a new secured lending regime and section 21 of the Act mandates the Bank of Ghana to operationalise the establishment of the Collateral Registry

6. What is a secured Transaction?

The term 'secured transactions' refers to credit transactions where a creditor holds an interest in a debtor's movable/immovable property [collateral] to secure a loan or a debt obligation. The secured transactions regime introduced by the Borrowers and Lenders Act 2008 [Act 773] improves standards of disclosure of information by borrowers and lenders and prohibits certain credit practices in addition to promoting a consistent credit enforcement framework and related matters.

7. Who are the users of the Collateral Registry

The users of the Collateral Registry system include all Universal Banks, Rural Banks, Finance Houses, Savings and Loans Companies, Licensed Money Lenders, borrowers and other third parties i.e legal firms on behalf of their clients.

8. What are the main operations of the Collateral Registry

- Registration of Charges and Collateral(s)
- Processing of Discharges
- Honouring of Search Requests
- Processing of Realization Requests

9. What constitutes Registration of charges/collateral(s) ?

A registration of a charge is deemed to have taken effect upon the receipt by the Registrar the completed prescribed form/template, the payment of the prescribed fees, and the receipt of Acknowledgement of Registration by the lender/borrower within twenty-eight days [28] after the date of creation of a

charge. All universal banks and non-bank financial institutions shall register charges electronically. All others shall register manually.

10. How can I obtain the Registration forms to register manually?

The forms and any of the Registry's documents can be obtained from the Registry and on the Bank of Ghana website: www.bog.gov.gh

11. Where do I send my completed registration form?

The form could be submitted at the offices of the Collateral Registry located on the 11th floor of the Cedi House, Bank of Ghana between the hours of 08.30 hrs and 17.00 hrs GMT each day.

12. How long does it take for the Registration form to be processed?

The details on the Registration form submitted are imputed into the Register and as soon as processing is complete acknowledgements are sent within 24 hours.

13. Does a registration expire in your system?

Yes, a registration with the Collateral Registry will lapse upon the expiry of the selected time for the registration which is usually the time of the repayment period of the facility. Expired registrations may be renewed before the expiry date upon payment of the prescribed fee.

14. How do I conduct a search on the database of the Registry?

- Searches on a charge or registered collateral(s) shall be made electronically or manually to the Registrar upon the payment of the prescribed fee and the results shall be communicated to the searcher.
- In addition to the borrowers details the searcher must provide details of collateral(s) in respect of which a search is being conducted. [The Registrar may not respond to searches that are done with only the borrowers details].
- Lenders are encouraged to search the Registry's data base to ascertain any encumbrances on collateral(s) presented to secure a credit to enable prudent business decisions to be made.

- The burden for ensuring the correctness of a borrower's name and other relevant information about the collateral(s) shall be placed on the filing and searching parties.

15. What constitutes Discharge of charges/collateral?

- On the payment of a debt the borrower/lender shall submit an application to the Registrar in the prescribed form/template for discharge of the borrower's obligations on proof of payment in whole or in part for the debt for which the charge was created.
- The Registrar shall enter a Memorandum of Release of Debt in the Register specifying whether the charge is released in whole or in part.
- The Registrar shall furnish a copy of the Memorandum of Release to the borrower/lender.

16. What constitutes Processing of Realization Requests?

- A Lender who intends to realize a security charged and registered by the Registrar without a court order shall notify the Registrar of that intention thirty [30] days after the date of receipt of the notice of default by the borrower.
- A lender has the option to either appoint a Receiver/Manager or do a Self Help.
- The Registrar shall certify the realization process by issuing a certificate to that effect.
- All realization of collateral(s) by sale shall be by public auction or any other means permitted by law.
- Where a lender faces resistance or is unable to realize Collateral(s) in a peaceable manner, the services of the Police may be engaged upon a warrant issued by a court to take possession of the property.
- Where it becomes necessary the Registrar shall provide information to the Police to facilitate the realization process.

17. What happens to the sale or proceeds from the Realization Requests?

- In realizing collateral(s) charged and registered, a priority holder shall only take as much as he is reasonably entitled to and preserve the interest of any other party as the case may be.
- Where upon the default by a borrower, any other party interested in the collateral(s) is unwilling, unable, incapable, unavailable etc. to share in the proceeds of the collateral(s) sold (according to the priority rankings) the person(s)/compan(ies)/institution(s) entitled to realize the said

collateral(s) shall take so much as they are entitled to and deposit the remainder of the said proceeds in a bank account directed by the Registrar

18. Do I have to file registrations on all charges I have created at the Registry?

No, only charges created on collaterals from February 1, 2010 can be registered at the Registry.

19. What is the minimum charge creation amount that can be registered?

A Secured Credit Agreement covering an amount of GH¢500.00 [Five Hundred Ghana Cedis] and above is eligible and shall be registered with the Registry.

20. What are the prescribed fees for the Registry's services?

Registrations- GHs 7.00, Searches – GHs 5.00, Renewals – GHs 2.00

21. What are the benefits of patronizing the services of the Collateral Registry?

- The new secured lending regime gives SME's the opportunity to use their movable assets as collateral to access finance for growth. From the farmer, pledging his cows as collateral for a tractor loan, to the seller of goods or services pledging his stock of inventory or expected receivables as collateral and not only land property.
- The establishment of the Ghana Collateral Registry will improve significantly the mechanism for enforcing credit agreements, where one need not avail oneself to the court to realize collateral(s) in cases of default.
- An avenue has also been created to enable searches to be conducted to ascertain if there are prior security interests in the properties pledged by the borrowers for credit.
- There is also clarity and precision in the application of priority rules; where it operates on first come first served basis.
- Once lending becomes less risky, interest rates on lending will decline.
- The establishment of the Collateral Registry is expected to aid easy access to credit by SMEs and greatly improve the act of doing business in Ghana.

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