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## **Draft UNCITRAL Guide on the Implementation of a Security Rights Registry: Annex I. Terminology and recommendations**

**Note by the Secretariat**

**Addendum**

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## Annex I

### Terminology and recommendations

#### Terminology\*

(a) “Address” means: (i) a physical address, including a street address and number, city, postal code and State; (ii) a post office box number, city, postal code and State; (iii) an electronic address; or (iv) an address that would be effective for communicating information;

(b) “Amendment” means a modification with respect to information contained in a previously registered notice to which the amendment relates;

*[Note to the Commission: The Commission may wish to note that the term “amendment” is explained by reference to a modification “with respect to” information in the sense that there is no modification of the information itself and that recommendation 19, subparagraph (b), clarifies further that an amendment does not result in the deletion or modification “of” information in registered notices to which the amendment notice relates.]*

(c) “Cancellation” means the removal of all information contained in a previously registered notice to which the cancellation relates from the public registry record;

(d) “Designated field” means the space on the prescribed registry notice form designated for entering the specified type of information;

(e) “Grantor” means the person identified in the notice as the grantor;

(f) “Law” means the law of the enacting State governing security rights in movable assets;

(g) “Notice” means a communication in writing (paper or electronic) to the registry of information with respect to a security right; a notice may be an initial notice, an amendment notice or a cancellation notice;

(h) “Registrant” means the person who completes the prescribed registry notice form and submits it to the registry;

*[Note to the Commission: The Commission may wish to consider whether the words “who completes” should be deleted as the registry has no means of knowing who completed a notice form, and, in any event, it is the identity of the person who actually submits the form to the registry that is relevant. If this approach is adopted, paragraph (h) would need to be modified to read as follows: “Registrant means the person who submits the prescribed registry notice form to the registry”.]*

(i) “Registrar” means the person appointed pursuant to the law and the regulation to supervise and administer the operation of the registry;

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\* Section B of the Introduction to the *Secured Transactions Guide* on terminology and interpretation applies also to the draft Registry Guide, except to the extent modified by section B of the Introduction to the draft Registry Guide on terminology and interpretation.

(j) “Registration” means the entry of information contained in a notice into the registry record;

(k) “Registration number” means a unique number allocated to an initial notice by the registry and permanently associated with that notice and any related notice;

(l) “Registry” means the enacting State’s system for receiving, storing and making accessible to the public information about security rights in movable assets;

(m) “Registry record” means the information in all registered notices that is stored by the registry, and consists of the record that is publicly accessible (public registry record) and the record that has been removed from the public registry record (registry archives);

(n) “Regulation” means the body of rules implemented by the enacting State with respect to the registry, whether these rules are found in administrative guidelines or the substantive secured transactions law; and

(o) “Secured creditor” means the person identified in the notice as the secured creditor.

## **Recommendations**

### **I. Establishment and functions of the security rights registry**

#### **Recommendation 1. Establishment of the registry**

The regulation should provide that the registry is established for the purposes of receiving, storing and making accessible to the public information in registered notices with respect to security rights in movable assets.

#### **Recommendation 2. Appointment of the registrar**

The regulation should provide that [the person authorized by the enacting State or by the law of the enacting State] appoints the registrar, determines the registrar’s duties and monitors the registrar’s performance.

#### **Recommendation 3. Functions of the registry**

The regulation should provide that the functions of the registry include:

(a) Providing access to the services of the registry and the reason for refusing access in accordance with recommendations 4, 6, 7 and 9;

(b) Publicizing the means of access to the services of the registry, and the opening days and hours of any office of the registry in accordance with recommendation 5;

(c) Providing the reason for the rejection of the registration of a notice or a search request in accordance with recommendations 8 and 10;

(d) Entering the information contained in a notice submitted to the registry into the registry record, and recording the date and time of each registration, in

accordance with recommendation 11, and assigning a registration number to the initial notice in accordance with recommendation 12;

(e) Indexing or otherwise organizing the information in the registry record so as to make it searchable in accordance with recommendation 16;

(f) Protecting the integrity of the information in the registry record in accordance with recommendation 17;

(g) Providing secured creditors with a copy of the registered notice in accordance with recommendation 18;

(h) Entering the information contained in an amendment notice into the registry record in accordance with recommendation 19;

(i) Removing the information contained in a registered notice from the public registry record upon the expiry of its period of effectiveness or registration of a cancellation notice in accordance with recommendation 20; and

(j) Archiving information removed from the public registry record in accordance with recommendation 21.

## **II. Access to the services of the registry**

### **Recommendation 4. Public access**

The regulation should provide that any person may submit a notice or a search request to the registry in accordance with recommendations 6 and 9.

### **Recommendation 5. Operating days and hours**

The regulation should provide that:

(a) If access to the services of the registry is provided through a physical office:

(i) Each office of the registry is open to the public during [the days and hours to be specified by the enacting State]; and

(ii) Information about any registry office locations and their opening days and hours is publicized on the registry's website, if any, or otherwise widely publicized, and the opening days and hours of registry offices are posted at each office;

(b) If access to the services of the registry is provided through electronic means of communication, electronic access is available at all times; and

(c) Notwithstanding subparagraphs (a) and (b) of this recommendation:

(i) The registry may suspend access to the services of the registry in whole or in part for a period of time that is as short as practicable; and

(ii) Notification of the suspension and its expected duration is published on the registry's website, if any, or otherwise widely publicized, in advance when feasible and, if not feasible, as soon thereafter as reasonably practicable, and,

if the registry provides access to its services through physical offices, the notification is posted at each office.

#### **Recommendation 6. Access to registration services**

The regulation should provide that:

- (a) Any person may submit a notice for registration if that person:
  - (i) Uses the form prescribed by the registry;
  - (ii) Identifies itself in the manner prescribed by the registry; and
  - (iii) Has paid, or made arrangements to pay to the satisfaction of the registry, any fee prescribed by the registry;
- (b) If access to registration services is refused, the registry provides the reason as soon as practicable.

#### **Recommendation 7. Verification of identity, evidence of authorization or scrutiny of the contents of the notice not required**

The regulation should provide that:

- (a) The registry maintains information about the identity of the registrant but does not require verification of the information;
- (b) The registry does not require evidence of the existence of authorization for registration of a notice; and
- (c) The registry does not conduct other scrutiny of the content of the notice, and in particular, it is not the responsibility of the registry to ensure that information entered in a designated field is complete, accurate and legally sufficient.

*[Note to the Commission: The Commission may wish to note that subparagraph (c) provides that no "other" scrutiny is conducted by the registry. To explain that the only scrutiny conducted by the registry (automatically in an electronic registry), in accordance with recommendations 8 and 10, is to ensure that some legible information (even incomplete) is entered into a notice, the Commission may wish to consider adding the following words at the beginning of subparagraph (c): "Except as provided in recommendations 8, subparagraph (a), and 10, subparagraph (a)".]*

#### **Recommendation 8. Rejection of the registration of a notice**

The regulation should provide that:

- (a) The registry rejects the registration of a notice if the information is not entered in all the required designated fields or if the information entered is not legible; and
- (b) The registry provides the reason for the rejection as soon as practicable.

**Recommendation 9. Access to searching services**

The regulation should provide that:

- (a) Any person may submit a search request if that person:
  - (i) Uses the form prescribed by the registry; and
  - (ii) Has paid, or made arrangements to pay to the satisfaction of the registry, any fee prescribed by the registry;
- (b) If access to searching services is refused, the registry provides the reason as soon as practicable.

**Recommendation 10. Rejection of a search request**

The regulation should provide that:

- (a) The registry rejects a search request if it does not provide a search criterion in a legible manner; and
- (b) The registry provides the reason for the rejection as soon as practicable.

### **III. Registration**

**Recommendation 11. Time of effectiveness of the registration of a notice**

The regulation should provide that:

- (a) The registration of an initial or amendment notice is effective from the date and time when the information in the notice is entered into the registry record so as to be accessible to searchers of the public registry record;
- (b) The registry maintains a record of the date and time when the information in an initial or amendment notice is entered into the registry record so as to be accessible to searchers of the public registry record;
- (c) The registry enters into the registry record and indexes or otherwise organizes information in an initial or amendment notice so as to make it accessible to searchers of the public registry record as soon as practicable and in the order in which the initial or amendment notice was submitted to the registry;
- (d) The registration of a cancellation notice is effective from the date and time when the previously registered notice to which it relates is no longer accessible to searchers of the public registry record; and
- (e) The registry maintains a record of the date and time when the previously registered notice to which a cancellation notice relates is no longer accessible to searchers of the public registry record.

**Recommendation 12. Registration number**

The regulation should provide that the registry assigns a unique registration number to an initial notice and associates all notices that contain that number with the initial notice.

*[Note to the Commission: The Commission may wish to consider whether this recommendation should be moved closer to, or made part of, recommendation 16 (dealing with indexing of information) because the assignment of a registration number by the registry relates to the indexing of information in the registry record.]*

### **Recommendation 13. Period of effectiveness of the registration of a notice**

The regulation should provide that:

#### **Option A**

(a) The registration of an initial notice is effective for [the period of time specified in the law of the enacting State];

(b) The period of effectiveness may be extended at any time before it expires for [an additional period of time specified in the law of the enacting State] by the registration of an amendment notice that expressly extends the period of effectiveness; and

(c) The new period starts when the current period expires.

#### **Option B**

(a) The registration of an initial notice is effective for the period of time indicated in the designated field in the notice;

(b) The period of effectiveness may be extended or reduced at any time before it expires by the registration of an amendment notice that indicates in the designated field a new period of effectiveness; and

(c). In the case of an extension, the new period starts when the current period expires.

#### **Option C**

(a) The registration of an initial notice is effective for the period of time indicated in the designated field in the notice, not exceeding [a long period of time, such as, for example, twenty years, to be specified in the law of the enacting State];

(b) The period of effectiveness may be extended or reduced at any time before it expires by the registration of an amendment notice that indicates in the designated field a new period of effectiveness not exceeding [a long period of time, such as, for example, twenty years, to be specified in the law of the enacting State]; and

(c) In the case of an extension, the new period starts when the current period expires.

*[Note to the Commission: The Commission may wish to note that option C allows the parties to choose the period of effectiveness, yet with a maximum limit. At present, the maximum limit under option C seems to apply to each amendment notice. As a result, if the new period starts when the current period expires (as provided in subparagraph (c)), in particular where there is more than one amendment extending the period of effectiveness, there is actually no difference between options B and C. In order to achieve the aim of option C to set a maximum*

*time limit, the new period could start: (a) when the amendment notice was registered with the maximum limit applicable to that amendment notice; or (b) when the current period expired as long as all the notices together would not exceed the maximum limit.]*

**Recommendation 14. Time when a notice may be registered**

The regulation should provide that a notice may be registered before or after the creation of the security right or the conclusion of the security agreement.

**Recommendation 15. Sufficiency of a single notice**

The regulation should provide that the registration of a single notice is sufficient to achieve the third-party effectiveness of one or more than one security right created by the grantor in favour of the same secured creditor in the encumbered asset described in the notice, whether they exist at the time of registration or are created thereafter, and whether they arise from one or more than one security agreement between the same parties.

**Recommendation 16. Indexing or other organization of information in the registry record**

The regulation should provide that:

(a) The registry indexes or otherwise organizes information in an initial or amendment notice in the public registry record so as to make the information accessible to a searcher in accordance with recommendation 34 together with all notices that contain the same registration number; and

(b) The registry indexes or otherwise organizes information in a cancellation notice in the registry archives so as to make the information retrievable by the registry in accordance with recommendation 21 together with all notices that contain the same registration number.

**Recommendation 17. Integrity of the registry record**

The regulation should provide that:

(a) Except as provided in recommendations 19 and 20, the registry does not amend information in or remove information from the registry record; and

(b) The registry protects the registry record from loss or damage, and provides for back-up mechanisms to allow reconstruction of the registry record.

**Recommendation 18. Copy of registered notice**

The regulation should provide that:

(a) The registry sends as soon as practicable a copy of a registered notice to each secured creditor at the address set forth in the notice, indicating the date and time when the registration of the notice became effective and the registration number; and

(b) Within [a short period of time, such as ten days, to be specified by the enacting State] after the secured creditor has received a copy of the registered notice in accordance with subparagraph (a) of this recommendation, the secured creditor



must send: (i) a copy of an initial notice to each grantor at the address set forth in the notice; and (ii) a copy of an amendment notice to each grantor at the most recent address set forth in the registry record or, if the secured creditor knows that the grantor's address has changed, at the current address of the grantor known to the secured creditor.

*[Note to the Commission: The Commission may wish to note that, under subparagraph (b) (ii) of this recommendation, the secured creditor must send a copy of any amendment notice to the grantor's "current address" if the secured creditor "knows" it. The Commission may wish to consider supplementing this rule by a rule that would provide that, if the secured creditor does not know the grantor's current address, the secured creditor should be entitled to use the last address "known" to the secured creditor or an address "reasonably available" to the secured creditor (such as an address stated in the public registry record). The same rule might apply where the grantor has multiple addresses or no address in the State in which the registry is located.]*

### **Recommendation 19. Amendment of information in the public registry record**

The regulation should provide that:

(a) Information in a registered notice may be amended by the secured creditor through the registration of an amendment notice in accordance with recommendation 30, 31 or 33; and

(b) The registration of an amendment notice does not result in the deletion or modification of information in registered notices to which the amendment notice relates.

### **Recommendation 20. Removal of information from the public registry record**

The regulation should provide that information in a registered notice is removed from the public registry record upon the expiry of its period of effectiveness in accordance with recommendation 13 or upon registration of a cancellation notice in accordance with recommendation 32 or 33.

### **Recommendation 21. Archival of information removed from the public registry record**

The regulation should provide that information removed from the public registry record in accordance with recommendation 20 is archived for a period of at least [a long period of time, such as, for example, twenty years, to be specified by the enacting State] in a manner that enables the information to be retrieved by the registry in accordance with recommendation 16, subparagraph (b).

### **Recommendation 22. Language of a notice**

The regulation should provide that:

(a) The information in a notice must be expressed in [the language or languages to be specified by the enacting State]; and

(b) The registry determines and publicizes the character set to be used.

## IV. Registration of initial notices

### Recommendation 23. Information required in an initial notice

The regulation should provide that:

(a) An initial notice must contain the following information in the designated field:

(i) The identifier of the grantor determined in accordance with recommendations 24-26, the address of the grantor [and any other information to be specified by the enacting State to assist in uniquely identifying the grantor];

(ii) The identifier of the secured creditor determined in accordance with recommendation 27 and the address of the secured creditor;

(iii) A description of the encumbered assets in accordance with recommendation 28;

[(iv) The period of effectiveness of the registration in accordance with recommendation 13;<sup>1</sup> and

(v) The maximum monetary amount for which the security right may be enforced];<sup>2</sup> and

(b) If there is more than one grantor or secured creditor, the required information must be entered in the designated field separately for each grantor or secured creditor, either in the same notice or in separate notices.

*[Note to the Commission: The Commission may wish to consider whether the words “either in the same notice or in separate notices” in subparagraph (b) of this recommendation could be deleted. A registrant may enter the required information for more than one grantor or secured creditor in the designated field in one or multiple notices anyway. While the commentary may explain this matter, this recommendation may not need to state it.]*

### Recommendation 24. Grantor identifier (natural person)<sup>3</sup>

The regulation should provide that, if the grantor is a natural person:

(a) The grantor identifier is the name of the grantor;

(b) Where the grantor’s name includes a family name and a given name, the name of the grantor consists of the grantor’s family name and the grantor’s given name, and each component of the name must be entered in the designated field for that component;

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<sup>1</sup> If the law of the enacting State allows a registrant to choose the period of effectiveness of a notice (see option B or C of recommendation 11, and *Secured Transactions Guide*, rec. 69).

<sup>2</sup> If the law of the enacting State provides that this information must be included in a notice (see *Secured Transactions Guide*, rec. 57, subpara. (d)).

<sup>3</sup> With the exception of subparagraph (a), which reflects essential recommendations of the *Secured Transactions Guide* (recs. 59 and 60), recommendation 24 is illustrative and the enacting State will have to adjust it depending on its naming conventions.

(c) Where the grantor's given name or family name consist of more than one word, the given name and the family name of the grantor consist of those words and they must be entered in the designated fields for the given and the family names;

(d) Where the grantor's name consists of only one word, the name of the grantor consists of that word and it must be entered in the designated field for the family name;

(e) The name of the grantor is determined as follows:

(i) If the grantor was born in the enacting State and the grantor's birth was registered in the enacting State with a government agency responsible for the registration of births, the name of the grantor is the name as stated in the grantor's birth certificate or equivalent document issued by the relevant government agency;

(ii) If the grantor was born in the enacting State but the grantor's birth was not registered in the enacting State, the name of the grantor is the name as stated in a valid passport issued to the grantor by the enacting State or, if no passport has been issued, the name as stated in [a type of official document to be specified by the enacting State, such as an identification card or driver's licence, issued to the grantor by the enacting State, that it considers the most appropriate source of the name to be used];

(iii) If the grantor was not born in the enacting State but the grantor is a citizen of the enacting State, the name of the grantor is the name as stated in the grantor's certificate of citizenship or a valid passport issued to the grantor by the enacting State or, if no certificate of citizenship or passport has been issued, the name of the grantor is the name as stated in [a type of official document to be specified by the enacting State, such as an identification card or driver's licence, issued to the grantor by the enacting State, that it considers the most appropriate source of the name to be used];

(iv) If the grantor was not born in the enacting State and is not a citizen of the enacting State, the name of the grantor is the name as stated in a valid passport issued by the State of which the grantor is a citizen and, if the grantor does not have a valid passport, the name of the grantor is the name as stated in the birth certificate or equivalent official document issued to the grantor by the government agency responsible for the registration of births at the place where the grantor was born;

(v) In a case not falling within subparagraphs (e)(i) to (iv) of this recommendation, the name of the grantor is the name as stated in any two of the following valid official documents [the enacting State to specify documents, such as a social security, health insurance or tax card, issued to the grantor by the enacting State, and their hierarchical order].

*[Note to the Commission: The Commission may wish to consider adding to subparagraph (e) of this recommendation a final rule to cover the scenario where the grantor's name changes in accordance with the applicable change of name law after the issuance of the official document designated as the source of the grantor's name in the various scenarios referred to in the preceding subparagraphs (e)(i)-(v). This final rule could read along the following lines: "Notwithstanding subparagraphs e(i)-(v) of this recommendation, if the name of the grantor changes*

*in accordance with change of name law, the identifier of the grantor is the name of the grantor as changed.” The commentary could explain that “name of change law” means the law applicable by virtue of the private international law rules of the forum.]*

#### **Recommendation 25. Grantor identifier (legal person)**

The regulation should provide that, if the grantor is a legal person, the grantor identifier is the name of the grantor that is specified as its name in a current [document, law or decree, to be specified by the enacting State] constituting the legal person.

#### **[Recommendation 26. Grantor identifier (special cases)]<sup>4</sup>**

The regulation should provide that:

(a) If a security right is created in the assets of a person that is subject to insolvency proceedings, the grantor identifier is the name of that person determined in accordance with recommendation 24, in the case of a natural person, or recommendation 25, in the case of a legal person, with the specification in a separate designated field that that person is subject to insolvency proceedings and the name of the insolvency representative, if any; and

(b) If the grantor is a trustee or a representative of an estate, the grantor identifier is the name of the trustee or the representative of the estate determined in accordance with recommendation 24 or 25, with the specification in a separate designated field that the grantor is a trustee or representative of the estate.]

*[Note to the Commission: With respect to subparagraph (a) of this recommendation, the Commission may wish to note that the commentary explains that, in the case of a person that is subject to insolvency proceedings, the grantor (the person entitled to encumber the assets of the insolvency estate) may be the person that is subject to insolvency proceedings or its insolvency representative, depending on the approach taken in the relevant insolvency law. In addition, the Commission may wish to consider making the following changes to subparagraph (b) of this recommendation. First, under the current wording of subparagraph (b), if the grantor is the representative of the estate of a deceased person, a search under the name of the deceased person will not retrieve notices registered against the name of the deceased person prior to his or her death relating to security rights in assets that may at the time of the search form part of the deceased person’s estate. Accordingly, the Commission may wish to consider replacing the current wording of subparagraph (b) with a rule analogous to that applicable in the scenario where the assets of a person that is subject to insolvency proceedings are made the subject of a security right. Such a rule could read along the following lines: “If a security right is created in assets that are part of the estate of a deceased natural person by the representative of the estate of the deceased person, the grantor identifier is the name of the deceased person determined in accordance with recommendation 24, with the specification in a separate designated field that the encumbered assets are part of the estate of the grantor and the name of*

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<sup>4</sup> Recommendations 26 is illustrative and the enacting State may wish to adjust it to its law and add other special cases.

*the representative of the estate.” Second, under the current wording of subparagraph (b), where a security right is created in trust assets, and the trustee is a professional trustee, a search according to the name of the trustee will retrieve notices of security rights relating to the assets of all the trusts for which the professional trustee is acting (that is, not the actual encumbered assets of a specific person). In addition, if the original trustee is replaced, the substitution would constitute a change of grantor identifier with the consequences indicated in recommendation 61 of the Secured Transactions Guide. Accordingly, for the scenario where the assets of a named trust are encumbered, the Commission may wish to consider replacing the rule in current subparagraph (b) with a new subparagraph (c) that would read along the following lines: “If a security right is created in the assets of a trust by the trustee, and the instrument creating the trust designates the name of the trust, the grantor identifier is that name, followed by the word “trust” unless the name of the trust already contains the word “trust”, determined in accordance with recommendation 25.” Third, in the case where the encumbered assets are trust assets but the trust is not named, it would still be necessary as a practical matter to retain a rule along the lines of the wording currently contained in subparagraph (b). To clearly delineate the two scenarios, the Commission may wish to consider that the suggested new subparagraph (c) (replacing current subparagraph (b)) should include a subparagraph (c)(ii) that would read along the following lines: “If a security right is created in the assets of a trust by the trustee, and the instrument creating the trust does not designate the name of the trust, the grantor identifier is the name of at least one of the trustees, determined in accordance with recommendation 24, if the trustee is a natural person, or recommendation 25, if the trustee is a legal person, with the specification in a separate designated field that the grantor is a trustee.” Alternatively, the Commission may wish to consider whether the grantor identifier in the case of an unnamed trust should be the name of at least one of the persons that constituted the trust.]*

#### **Recommendation 27. Secured creditor identifier**

The regulation should provide that:

- (a) If the secured creditor is a natural person, the identifier is the name of the secured creditor determined in accordance with recommendation 24;
- (b) If the secured creditor is a legal person, the identifier is the name of the secured creditor determined in accordance with recommendation 25; and
- (c) If the secured creditor falls within the special cases referred to in recommendation 26, the identifier is the name as determined in accordance with recommendation 26.

#### **Recommendation 28. Description of encumbered assets**

The regulation should provide that:

- (a) The encumbered assets must be described in the designated field of the notice in a manner that reasonably allows their identification;

(b) Unless otherwise provided in the law, a generic description that refers to all assets within a category of movable assets includes all of the grantor's present and future assets within the specified category; and

(c) Unless otherwise provided in the law, a generic description that refers to all of the grantor's movable assets includes all of the grantor's present and future movable assets.

*[Note to the Commission: The Commission may wish to consider that the words "unless otherwise provided in the law" in subparagraphs (b) and (c) should be deleted. According to the Secured Transactions Guide (recs. 14, subpara. (d), and 63), the description of encumbered assets is sufficient if it reasonably allows their identification. This rule is reflected in subparagraph (a) of this recommendation, and the words "unless otherwise provided in the law" in subparagraphs (b) and (c) would inadvertently give the impression that there is an intention to deviate from it. The Commission may also wish to consider whether reference should be made instead in subparagraphs (b) and (c) to another indication in the notice that may exclude certain assets that are part of a category of assets ("unless otherwise indicated in the notice"). This wording would be sufficient to provide for situations in which, in accordance with the security agreement, the registrant may need to include in the notice a specific description of the encumbered assets.]*

#### **Recommendation 29. Incorrect or insufficient information**

The regulation should provide that:

(a) The registration of an initial notice, or an amendment notice that amends the grantor's identifier or adds a grantor, is effective only if the notice provides the grantor's correct identifier as set forth in recommendations 24-26 or, in the case of an incorrect identifier, if the notice would be retrieved by a search of the public registry record using the grantor's correct identifier;

(b) Except as provided in subparagraph (c) of this recommendation, an incorrect or insufficient statement of the information required in a notice other than the grantor's identifier does not render the registration of a notice ineffective, unless the incorrect or insufficient statement would seriously mislead a reasonable searcher;

[(c) An incorrect statement in a notice with respect to the period of effectiveness of the registration of a notice<sup>5</sup> and the maximum amount for which the security right may be enforced<sup>6</sup> does not render the registration of the notice ineffective, except to the extent that it seriously misled third parties that relied on the registered notice;]

(d) An insufficient identifier of a grantor in a notice in accordance with subparagraph (a) of this recommendation does not render the registration of a notice ineffective with respect to other grantors sufficiently identified in the notice;

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<sup>5</sup> If the law of the enacting State allows a registrant to choose the period of effectiveness of a notice (see option B or C of recommendation 11, and *Secured Transactions Guide*, rec. 69).

<sup>6</sup> If the law of the enacting State provides that this information must be included in a notice (see *Secured Transactions Guide*, rec. 57, subpara. (d)).

(e) An insufficient description of encumbered assets in a notice does not render the registration of a notice ineffective with respect to other encumbered assets sufficiently described in the notice.

## V. Registration of amendment and cancellation notices

### **Recommendation 30. Information required in an amendment notice**

The regulation should provide that:

(a) An amendment notice must contain the following information in the designated field:

(i) The registration number of the initial notice to which the amendment relates; and

(ii) If information is to be added, deleted or changed, the information to be added, deleted or changed in the manner for entering the relevant kind of information in an initial notice in accordance with recommendation 23; and

(b) An amendment notice may relate to one or multiple items of information in a notice.

### **Recommendation 31. Global amendment of secured creditor information in multiple notices**

#### **Option A**

The regulation should provide that a secured creditor named in multiple registered notices may amend the secured creditor information in all these notices with a single global amendment.

#### **Option B**

The regulation should provide that a secured creditor named in multiple registered notices may request the registry to amend the secured creditor information in all these notices with a single global amendment.

*[Note to the Commission; The Commission may wish to consider whether this recommendation should be revised to ensure that, in the case of multiple secured creditors, a secured creditor should be able to amend only its own information, unless otherwise agreed among the secured creditors. If this approach is adopted options A and B of this recommendation should be revised to provide respectively that a secured creditor may amend or request the registry to amend “its information”.]*

### **Recommendation 32. Information required in a cancellation notice**

The regulation should provide that a cancellation notice must contain in the designated field the registration number of the notice to which the cancellation relates.

### **Recommendation 33. Compulsory amendment or cancellation**

The regulation should provide that:

(a) The secured creditor must register an amendment or cancellation notice, as the case may be, if:

(i) The registration of an initial or amendment notice has not been authorized by the grantor at all or to the extent described in the notice;

(ii) The registration of an initial or amendment notice has been authorized by the grantor but the authorization has been withdrawn and no security agreement has been concluded;

(iii) The security agreement has been revised in a way that makes the information contained in the notice incorrect or insufficient; or

(iv) The security right to which the notice relates has been extinguished by payment or other performance of the secured obligation or otherwise and there is no further commitment by the secured creditor to extend credit;

(b) In the case of subparagraphs (a)(ii) to (a)(iv) of this recommendation, the secured creditor may charge any fee agreed upon with the grantor;

(c) Not later than [a short period of time, such as fifteen days, to be specified by the enacting State] after receipt of a written request from the grantor, the secured creditor is obliged to comply with its obligation under subparagraph (a) of this recommendation;

(d) Notwithstanding subparagraph (b) of this recommendation, no further fee or expense may be charged or accepted by the secured creditor if it complies with the written request from the grantor in accordance with subparagraph (c) of this recommendation;

(e) If the secured creditor does not comply within the time period provided in subparagraph (c) of this recommendation, the grantor is entitled to seek the registration of an amendment or cancellation notice, as the case may be, through a summary judicial or administrative procedure;

(f) The grantor is entitled to seek the registration of an amendment or cancellation notice, as the case may be, through a summary judicial or administrative procedure even before expiry of the period stated in subparagraph (c) of this recommendation, provided that there are appropriate mechanisms to protect the secured creditor; and

(g) The amendment or cancellation notice in accordance with subparagraphs (e) and (f) of this recommendation is registered by

#### **Option A**

the registry as soon as practicable upon receipt of the notice with a copy of the relevant judicial or administrative order attached.

#### **Option B**

a judicial or administrative officer as soon as practicable upon issuance of the relevant judicial or administrative order with a copy thereof attached.



*[Note to the Commission: The Commission may wish to consider whether the commentary should explain that the words “must register” in the chapeau of this recommendation mean that, a secured creditor cannot be considered as having discharged its obligation by merely submitting a notice without ensuring that the notice will be actually registered and not rejected for any of the reasons set forth in recommendation 8. The commentary may also explain that, while use of the word “submits” may be appropriate in the case of a paper notice, use of the word “registers” may be more appropriate in the case of an electronic notice in the sense that, unless access is refused or the registration is rejected, the registrant enters the information into the registry record.]*

## **VI. Search criteria and search results**

### **Recommendation 34. Search criteria**

The regulation should provide that the criterion by which a search of the public registry record may be conducted is:

- (a) The grantor identifier; or
- (b) The registration number.

### **Recommendation 35. Search results**

The regulation should provide that:

- (a) The registry provides a search result that indicates the date and time when the search was performed and either sets forth all information in each registered notice that matches the specified search criterion or indicates that no registered notice matched the search criterion;
- (b) A search result reflects information in the public registry record that matches exactly the search criterion except [in cases, in which a search result may reflect information in the public registry record that closely matches the search criterion and the rules (or search logic) used by the registry to determine what constitutes a close match, to be specified by the enacting State];
- (c) Upon request made by searcher, the registry issues an official search certificate indicating the search result.

## **VII. Registration and search fees**

### **Recommendation 36. Fees for the services of the registry**

The regulation should provide that:

#### **Option A**

- (a) The following fees are payable for the services of the registry:
  - (i) Registration of a notice:
    - a. Paper [...];

- b. Electronic [...];
- (ii) Searches:
  - a. Paper [...];
  - b. Electronic [...];
- (iii) Certificates:
  - a. Paper [...];
  - b. Electronic;

(b) The registry may enter into an agreement with a person that satisfies all registry terms and conditions and establish a registry user account to facilitate the payment of fees.

#### **Option B**

The [administrative authority to be specified by the enacting State] may determine the fees and methods of payment for the services of the registry by decree.

#### **Option C**

The following services of the registry are free of charge [registration services, searching services or electronic searching services to be specified by the enacting State.]

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