



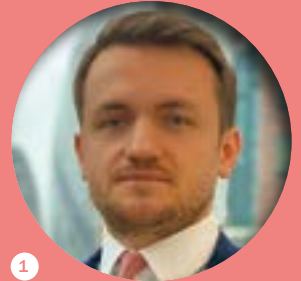
# **FACTORING SURVEY: TRANSFORMING ACCESS TO FINANCE ACROSS THE EBRD REGIONS**

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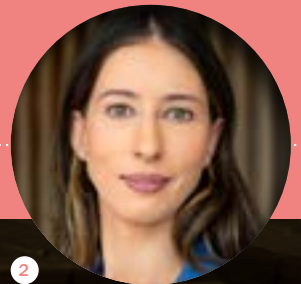


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The fourth edition of the EBRD Factoring Survey (2023) gives an overview of the current legal and regulatory landscape for factoring and a snapshot of market practices in 10 selected EBRD jurisdictions.”



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For over a decade, the EBRD has helped develop the legal and regulatory frameworks that enable factoring and supply-chain finance. With transaction volumes of these products at an all-time high,<sup>1</sup> now is a good time to look at recent legal and market developments in the EBRD regions to ensure they can support the resilience and sustainability of the sector.



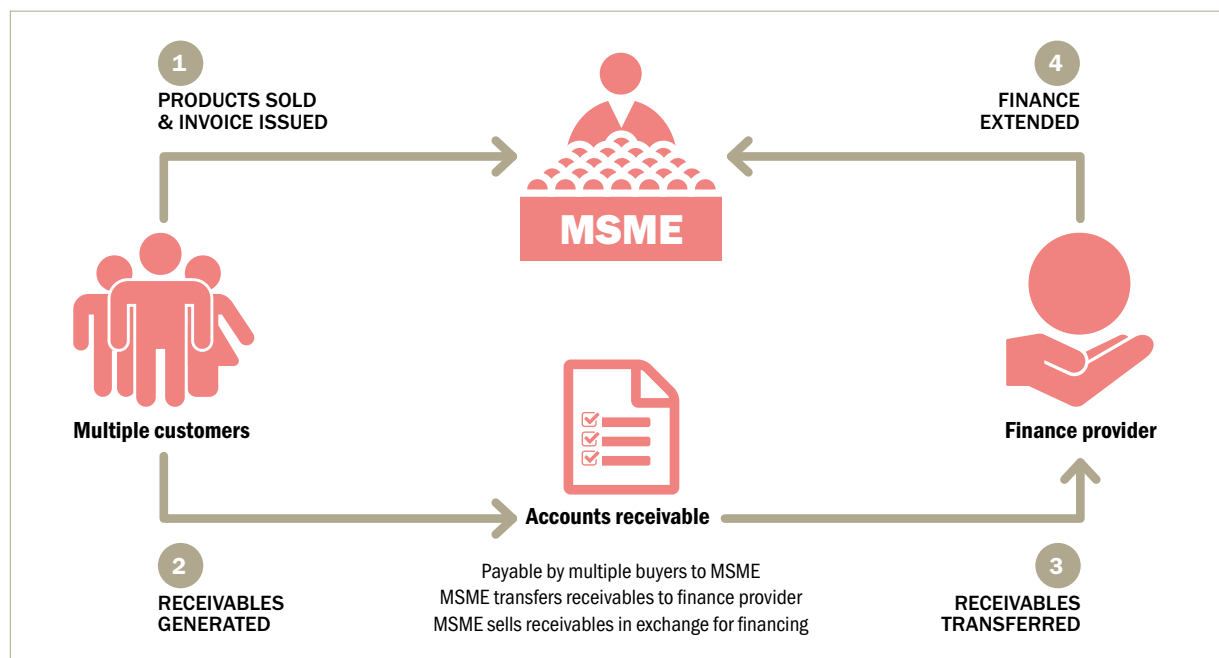
### FACTORING AS A FINANCING ALTERNATIVE

Most companies in the EBRD regions typically possess limited immovable assets that traditionally serve as a collateral for banking loans, which remain a predominant form of financing. At the same time, businesses of any size often own receivables that are eligible to be factored. Factoring is a financial service based on the sale of accounts receivables (short-term assets) that unlocks access to working capital.

Given the inclusivity and flexibility of the service, the factoring and receivables finance industry has been growing exponentially. However, legislative, institutional, capacity, market and technological bottlenecks often limit its growth.

The EBRD Legal Transition Programme has been monitoring the evolution of factoring frameworks since 2015. The fourth edition of the EBRD Factoring Survey (2023)<sup>2</sup> gives an overview of the current legal and regulatory landscape for factoring and

**Figure 1.** Factoring structure



Source: EBRD (2023b).

Note: The company (supplier) sells products to its customers (buyers or creditors) and issues invoices (Step 1). These transactions generate receivables payable 60-90 days after delivery of goods (Step 2). The finance provider (a bank or a non-banking factoring company) purchases receivables (Step 3) and provides the company with immediate payment at a discounted rate, typically 80 per cent of the face value of the invoice (Step 4). The finance provider may choose to notify the company's customers and instruct them to pay into a designated bank account under the control of the finance provider.

<sup>1</sup> The 2023 FCI Annual Review indicates that the factoring and receivables finance industry volume witnessed a significant increase of 18.3 per cent in 2022 after a double digit increase of 12.3 per cent in 2021. Compared with the previous year's €3.07 billion, the 2022 estimated volume of €3.66 billion represents back-to-back double-digit increases.

<sup>2</sup> See EBRD (2023a).

a snapshot of market practices in 10 selected EBRD jurisdictions (Armenia, Egypt, Georgia, Greece, Kyrgyz Republic, Morocco, Romania, Türkiye, Ukraine and Uzbekistan). It captures changes that have taken place in national laws or practices since the 2018 edition of the Factoring Survey and seeks to assess whether these create an enabling environment for market participants to reap the benefits of factoring.

In comparison with earlier editions of the survey, the fourth edition recognises important trends in digitalisation of the sector and buyer-led, supply-chain financing, places greater emphasis on data protection and examines them in detail. The main findings of the survey are summarised below and can be useful both for policymakers looking for a roadmap to enhance companies' access to finance in their jurisdictions and market players that are considering establishing a presence in a new market.

Stringent regulations tend to concentrate services in the banking sector, limiting smaller market players. The complete lack of regulation, on the other hand, fails to provide the necessary market credibility for the product.

## REGULATORY ASPECTS OF ENTITIES OFFERING FACTORING SERVICES

Table 1. **Regulation of factoring services**

Jurisdiction	Licence needed to operate	No capital adequacy requirements	Factoring companies supervised
Armenia	✓	✗	✓
Egypt	✓	✗	✓
Georgia	✗	✓	✗
Greece	✓	✓	✓
Kyrgyz Republic	✓	✗	✓
Morocco	✓	✗	✓
Romania	✓	✓	✓
Türkiye	✓	✓	✓
Ukraine	✓	✓	✓
Uzbekistan	✓	✗	✓

Source: EBRD Factoring Survey (2024).

Key: ✓ Yes ✗ No

The first aspect reviewed in the survey relates to the level of regulation applicable to the factoring industry. Stringent regulations tend to concentrate services in the banking sector, limiting smaller market players. The complete lack of regulation, on the other hand, fails to provide the necessary market credibility for the product. Among the surveyed jurisdictions, most lean towards regulating factoring, with Georgia being the exception due to the absence of dedicated regulations.

Seven jurisdictions (Armenia, Egypt, Greece, Kyrgyz Republic, Morocco, Türkiye and Ukraine) require a specific licence for non-banking financial institutions (NBFIs) to start providing factoring services. NBFIs in Romania must register with the National Bank and those in Uzbekistan need authorisation from the regulator. At the other end of the spectrum, Georgian NBFIs are not required to obtain any licences, certifications or authorisations.

## PRIVATE AND COMMERCIAL LAW ASPECTS OF FACTORING TRANSACTIONS

Table 2. **Private and commercial law aspects**

Jurisdiction	Specific legal provisions	Eligible receivables	Possibility to assign future receivables	Anti-assignment clause invalid	Electronic execution of agreements	Registration of assignments
Armenia	✓	✓	✓	⚠	✓	⚠
Egypt	✓	✓	✓	✗	✗	⚠
Georgia	✗	✗	✓	✗	✓	⚠
Greece	✓	✓	✓	✓	✓	⚠
Kyrgyz Republic	✗	✓	✓	✓	✓	⚠
Morocco	✓	✓	✓	✗	✓	⚠
Romania	✗	✗	✓	⚠	✓	✓
Türkiye	✓	✓	✓	✗	✓	⚠
Ukraine	✓	✗	✓	⚠	✓	⚠
Uzbekistan	✗	✓	✓	✓	✓	⚠

Source: EBRD Factoring Survey (2024).

Key: ✓ Yes ✗ No ⚠ Yes with limitations

The second section of the survey examines private and commercial law considerations that pertain to factoring transactions. While many of the EBRD's jurisdictions have started working on, or already introduced, **specialised laws on factoring**, there are still jurisdictions that have no special provisions on factoring contracts or established and published court practice that would compensate for this lack of clarity. It appears that Egypt, Greece and Türkiye have adopted a specific law on factoring. Other jurisdictions covered by the survey either have specific provisions on factoring in their civil codes (Armenia and Ukraine) or rely on the general provisions for assignment of claims in their legal frameworks (Georgia, Romania, Kyrgyz Republic and Uzbekistan).

The **definition of receivables** that are eligible for factoring should be commensurate with the level of understanding and development of factoring in that market. Markets where factoring is still a nascent product are better off with a narrower definition of receivables (for example, receivables arising from the sale of goods or services with a predefined maturity). This ensures that the market is given a chance to develop a basic understanding of the product before deploying more complex structures. In seven jurisdictions surveyed, factoring is confined to receivables arising from the sale of goods or services, in line with international standards.

However, in three jurisdictions (Georgia, Romania and Ukraine), eligibility extends beyond trade receivables.

The **ability to assign future accounts** receivable within factoring relationships is important for establishing a priority over future accounts receivable for factors. The assignment of future receivables (of certain receivables, a group of receivables or all of them) is generally allowed in every surveyed jurisdiction.

**Anti-assignment clauses** prevent suppliers from assigning their claims to third parties (without the consent of the buyer). In four surveyed jurisdictions (Egypt, Georgia, Morocco and Türkiye) the anti-assignment clauses in commercial agreements are effective against suppliers. The other six jurisdictions (Armenia, Greece, Kyrgyz Republic, Romania, Ukraine and Uzbekistan) render "anti-assignment clauses" as ineffective, but they fail to provide a complete override of such clauses. As such, the buyers/debtors may still claim for damages for breach of contract. International standards, including the UNIDROIT Model Law on Factoring, promote the inclusion of legal provisions that completely override and invalidate any anti-assignment clauses for the purposes of factoring transactions.

The survey also investigates whether surveyed jurisdictions allow for **electronic execution** of factoring contracts, which have a lower overall transaction cost and are more accessible and time-efficient. Egypt is the only jurisdiction where a factoring contract must be executed with a wet-ink signature. In all other nine jurisdictions, electronic execution is possible.

**Registration of assignments** is desirable for providing notice against third parties and determining priority among competing assignments. It also helps prevent fraud stemming from double factoring. In the surveyed jurisdictions, registries tend to be available only where receivables subject to factoring are not sold outright, but rather assigned by way of security. By contrast, where receivables subject to factoring are fully sold, there is typically not a registry that supports their registration, and they are often left unregistered.

Among the surveyed jurisdictions, only Romania mandates registration for both security and outright transfers to be effective against third parties and establish priority ranking. In Türkiye, there is a registry of factoring transactions where all the receivables used for factoring need to be registered. While such

registry creates transparency over the receivables and prevents double-financing of invoices, it is not used to ascertain creditor priority. International standards, including the UNIDROIT Model Law on Factoring, promote the establishment of registries that cover all assignments of receivables, including assignments by way of security as well as outright assignments (sales of receivables).

“ The definition of receivables that are eligible for factoring should be commensurate with the level of understanding and development of factoring in that market.”



## OTHER LEGAL CONSIDERATIONS AFFECTING THE UPTAKE OF FACTORING

Table 3. **Miscellaneous issues affecting factoring**

Jurisdiction	Non-restrictive forex regulations	Same tax treatment for bank/non-bank factoring	Late payment penalties	Data-sharing provisions	E-invoicing infrastructure
Armenia	✓	✓	✓	✓	✓
Egypt	✓	✓	✓	✗	✓
Georgia	✓	✓	✓	✓	⚠
Greece	✓	✗	✓	✓	✗
Kyrgyz Republic	✓	✓	✓	✓	✓
Morocco	✗	✓	✓	✗	✗
Romania	✓	✓	✓	✓	⚠
Türkiye	✗	✓	✓	✓	✓
Ukraine	✗	✓	✓	✓	⚠
Uzbekistan	✗	✓	✓	✓	⚠

Source: EBRD Factoring Survey (2024).

Key: ✓ Yes ✗ No ⚠ Yes with limitations

**Foreign exchange** plays an essential role in the development of the factoring industry. To mitigate foreign-exchange risks in international factoring, factors should be permitted to purchase cross-border receivables from domestic clients in the (usually foreign) currency of the receivable. Our survey found that four jurisdictions (Morocco, Türkiye for non-recourse factoring, Ukraine and Uzbekistan) have varying forex restrictions, often limiting acceptance of payments in foreign currency.

Financial institutions require robust information technology (IT) infrastructure to manage factoring operations efficiently. Subscribing to cloud-based IT solutions tailored to factoring often entails transferring data to the provider's jurisdiction, although in-country storage options are available at a premium. National frameworks should facilitate **cross-border data transfers** to other jurisdictions, provided they ensure adequate protection thereof. The survey reveals that 8 of the 10 jurisdictions permit such transfers to "safe" jurisdictions or with data subject consent. In Egypt and Morocco, while this is still technically possible, additional approvals must be obtained from the authorities.

“Electronic invoicing (e-invoicing) infrastructure is vital for the growth of factoring.”

**Electronic invoicing** (e-invoicing) infrastructure is vital for the growth of factoring. In jurisdictions where such infrastructure exists, electronic invoicing is mandated for all or most business-to-business (B2B) and/or business-to-government (B2G) commercial relationships. This prompts all suppliers to issue invoices in a defined technical standard through the e-invoicing infrastructure. Armenia, Egypt, Kyrgyz Republic and Türkiye have centralised e-invoicing frameworks mandatory for both B2G and B2B transactions, while Romania mandates it for B2G only. Georgia, Ukraine and Uzbekistan have less developed, decentralised systems, whereas Greece and Morocco lack e-invoicing infrastructure entirely.



## COMBINING LEGAL REFORM WITH INVESTMENT AND PARTNERSHIP TO STRENGTHEN IMPACT

Over the last decade, the EBRD Legal Transition Programme has supported several jurisdictions in improving their legal and regulatory environments for factoring, namely: Croatia, Georgia, Jordan, Kosovo, Montenegro, North Macedonia, Serbia, Ukraine, Uzbekistan and the West Bank and Gaza.

The Bank's legal reform efforts were traditionally doubled down by investment facilities to support cross-border trade (through cash advances and guarantees). Recently, however, the EBRD launched the Supply Chain Finance Framework, which is essentially a reverse factoring facility that aims to give suppliers in the EBRD economies access to affordable working capital finance. In addition to working capital finance for SME suppliers, such financing structures incentivise the adoption of environmentally friendly operations and practices within supply chains.

The National Bank of Ukraine requested expert support from the EBRD, which has a proven track record in supporting factoring frameworks in the EBRD regions, to align the legislative framework pertaining to factoring with international standards and best practices, including the new UNIDROIT Model Law on Factoring.



### Box 1. Using the legal framework to level up the factoring market in Ukraine

In Ukraine, the legislative hurdles and court practice that have developed as a result of the existing legislation are seen as the main challenges to the healthy development of the factoring market. For instance, there is a widespread issue of a lack of a clear differentiation between trade factoring and purchase of consumer non-performing loans under the factoring licence due to the loose definition of factoring, and there is no uniform method of achieving third-party effectiveness/perfection (by registration). The secured transactions framework only provides for priority rules that apply to assignees with security rights in receivables registered in accordance with the Movable Pledge Law, not those purchased outright.

The National Bank of Ukraine requested expert support from the EBRD, which has a proven track record in supporting factoring frameworks in the EBRD regions, to align the legislative framework pertaining to factoring with international standards and best practices, including the new UNIDROIT Model Law on Factoring.

We are now finalising the draft law on factoring with international experts and the EBRD team. I am sure that factoring can be one of the main tools to support the development of small and medium-sized enterprises (SMEs), which, following the example of developed countries, should become a cornerstone of the economy and will contribute greatly to post-war recovery.

**Serhiy Savchuk,**  
Director of the Department of Methodology  
for Regulating the Activities of Non-bank Financial  
Institutions, National Bank of Ukraine







### Box 2. Greening the supply chains through reverse factoring

The EBRD launched a €150 million Supply Chain Finance Framework in 2022. Under this framework, the Bank participates in buyer-led supply-chain financing (SCF) programmes in its economies. The framework's primary aim is to allow suppliers in these economies to access affordable working capital.

The EBRD is partnering with reputable international banks that have an established supply-chain financing business. It participates in such international banks' SCF programmes either by funding the purchase of receivables or by providing a guarantee covering the payment obligations of the receivables' debtors.

But the Bank is also working with local banks that have experience with the SCF product to scale up their offering. Ultimately, the EBRD wishes to bring local banks into the SCF market. As highlighted above, this may require the legal framework to be improved in some countries.

The EBRD is engaging with large corporate buyers with a strong credit profile and which have an extensive supplier base. Such buyers value the SCF product, as it strengthens the resilience of their supply chains.

Furthermore, the Bank can help buyers enhance their procurement policies and tools, especially with respect to environmental, social and governance (ESG). Indeed, given regulatory pressure in this area, it has become crucial for buyers to assess and monitor ESG and human rights risks in their supply chains. Buyers also need to be able to understand and measure Scope 3 greenhouse gas emissions in their downstream activities to meet their own greenhouse gas reduction targets. Inclusion and diversity within the supply chain are also a focus of the EBRD's engagement.

In addition to providing suppliers with working capital on better terms, the EBRD can mobilise donor funds that can be used to assist suppliers in tackling ESG gaps in their business. The Bank can offer financial incentives for reaching certain pre-agreed ESG targets or can fund advisory services.

In many EBRD economies, receivable financing levels are well below those in developed countries. The development of the SCF product combined with a sustainability aspect is a good tool to help those countries achieve growth and transition to a green economy.

**Markus Renfert, Senior Counsel, EBRD**

The EBRD also leverages external partnerships to amplify the messages and lessons learned from experience. One such example is the Bank's long-standing partnership with Factors Chain International (FCI), the largest factoring association in the world.



### Box 3. Partnering for larger impact: the EBRD Legal Transition Programme and Factors Chain International

Over its 56 years, FCI has been a leader in the establishment, development and growth of factoring in markets around the world. During those six decades, FCI's membership has grown from just three countries to more than 90.

FCI always partners with institutions to boost its voice and impact on a given market. The successful collaboration between FCI and the EBRD is significant in supporting the factoring industry within the EBRD regions, strengthening the factoring and SCF sector and fostering economic development and financial inclusion.


A robust legal and regulatory framework is the bedrock of factoring, providing the necessary structure and guidelines for the sector's operation. This framework is a shield that safeguards the rights and interests of all stakeholders, including factoring companies, clients and debtors. Establishing clear rules and standards enhances transparency, promotes trust and mitigates risk in factoring transactions. This underscores the importance of the partnership's focus on legal transition and regulatory compliance.

Through workshops, training programmes and knowledge-sharing initiatives, FCI and the EBRD facilitate the exchange of expertise between legal professionals and practitioners in the factoring sector. By combining the EBRD's expertise in legal transition with FCI's practical knowledge of the required legal and regulatory framework, the partnership provides regulators, central banks and financial institutions with the tools required to turn the framework into a cohesive financial infrastructure. FCI and the EBRD provide access to vital financial resources and opportunities, especially for SMEs. Thus, their joint efforts strengthen the factoring sector and play a crucial role in advancing broader worldwide goals for socioeconomic development.

**Neal Harm, Secretary General, FCI**

## CONCLUSIONS

The EBRD uses the information in its factoring survey primarily to understand the depth of reform required in each surveyed jurisdiction. As such, the surveys have traditionally formed a good basis for dialogue with regulatory authorities about the need for reform. As one of the only publicly available tools of this kind, the factoring survey has been used as a point of reference by other actors operating in this field.

Within the EBRD, the factoring survey is used to understand potential pitfalls in the legal frameworks as the Bank delivers on its promise to expand financing facilities in as many of the EBRD regions as possible. The survey draws heavily on the provisions and principles introduced in the main international standard for factoring legislation, particularly the UNIDROIT Model Law on Factoring, adopted in 2023.<sup>3</sup> As an institutional observer in the Working Group that led the drafting of the UNIDROIT Model Law on Factoring, the EBRD uses the Model Law as a benchmark in its legal reform work. The survey is a fluid document, which the Bank aims to update and revise as the jurisdictions covered therein introduce any relevant changes. Additional jurisdictions may also be added in the future. 

As one of the only publicly available tools of this kind, the factoring survey has been used as a point of reference by other actors operating in this field.

<sup>3</sup> See UNIDROIT (2023).



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