



## **A New Tool for Risk Assessment**

*The International Property Markets Scorecard*

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## Abstract

The global financial crisis clearly shows that the growth of property markets has exceeded the skills of the professionals necessary to assess investment risk and mitigate the impact of boom and bust cycles. Market risks became amplified by liberalization and the global expansion of complex securitized lending. Markets in both developed and emerging countries still face a critical shortage of the support professionals necessary for transparent markets including independent and well trained brokers, valuers, attorneys, judges, regulators and insolvency experts.

Sophisticated risk assessment is critical in the search for higher yields. Institutional investors have long used historic market trends, regulatory environment monitoring, financial statement analysis and other tools to assess portfolio risks. As property assumes a larger place in balanced portfolios, the need for robust, tested and consistent tools for understanding and evaluating international property market risk has grown. This paper introduces the International Property Markets Scorecard as a valuable tool to assist in this area. Case studies will be featured to show how the Scorecard can be used to highlight the various backward and forward linkages between the core elements of a property market.

The Scorecard provides a clear, visual representation of the effectiveness of a country's property market support institutions and their veracity as critical measures of system soundness. The paper discusses how the Scorecard can be integrated into existing risk models as a catalyst for the evolution of a credible, competent, impartial and informed property market risk evaluation profession.

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## Background

Investment in real estate is critical to both national economies and to the global economy. Corporations are increasingly moving to multi-national business operations that require on-site facilities, and individual and corporate investors regularly pursue opportunities in foreign markets for improved returns. Furthermore, many national governments are eager to attract foreign investments to grow their economies. An analytical framework to assist prospective investors in making informed decisions in the real estate markets around the globe is critical.

Further, the framework must be portable, or transparent, from country to country. At this time, a universal evaluation process is not in place. Further, there are no generally accepted 'rules' upon which to build this framework to allow appropriate comparisons between real estate markets in countries around the world. The World Trade Organization has established rules for the conduct of business between trading nations, however, real estate is not one of the categories of commerce addressed in these rules.

The need for this framework became even more apparent during the recent world-wide recession. A leading contributor to the global financial crisis was the insufficient regulation of real estate and financial markets.

“Real estate bubbles were allowed to inflate, mortgage lending was inadequately supervised, the financial markets were allowed to develop complex financial instruments that few understood, credit risk was inadequately modeled and credit rating agencies failed to carry out their fundamental role. Investors also failed to properly understand the instruments they were buying and consumers failed to evaluate the risks they were undertaking when buying inflated property.”<sup>1</sup>

Strategies developed in the aftermath of this crisis were centered on the need to establish rules and principles to guide real estate markets throughout the world. Further, transparency in the reporting process was underscored – information must be timely and relevant for all countries. Simply, evaluating the benefits of an investment in China versus an investment in the Ukraine must be based on identical criteria in real time.

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<sup>1</sup> UNECE Policy Framework for Sustainable Real Estate Markets, <http://www.unece.org/hlm/documents/Publications/policy.framework.e.pdf>

## **The International Property Markets Scorecard (Scorecard)**

The Scorecard methodology was developed by the Center for International Private Enterprise (CIPE) and the International Real Property Foundation (IRPF) as a tool for analyzing property markets in developing countries. The methodology is based on the work to measure the effectiveness of property rights institutions done by noted economist Hernando de Soto and an academic panel led by Dr. Richard K. Green, Director of the USC Lusk Center for Real Estate. The Scorecard defines strategies for countries to move from property rights to efficient and transparent property markets.

The Scorecard provides a common platform where faculty, students and partners can make “apples-to-apples” comparisons for multiple countries that are consistent over time. As the project evolves, global investors and economic development organizations can acquire current, understandable and actionable quality assessments. This data and the resulting policy recommendations can be used to improve the functioning of global property markets so that all citizens can have a stake in the system and use their assets to generate wealth.

The International Property Markets Scorecard measures six Core Elements that are common to markets in all countries:

- Property Rights
- Access to Credit
- Effective Governance
- Rational Dispute Resolution
- Financial Transparency
- Appropriate Regulation

Each core element is measured by indicators derived from the work of prominent international development groups, including the World Bank and the World Economic Forum as well as on-the-ground assessments from professionals working in the property sector. The core elements are designed to promote effective and transparent internal markets and to facilitate comparisons by global investors. For example, the Indicators used to measure Property Rights are (1) Legal Protection, (2) Registries, and (3) Formal Ownership. Each of these Indicators is measured by sub indicators. In the case of Registries, ratings are assigned for the status of a Mortgage Registry, a Title Registry, and Cadastral Information in the country. Core questions have been structured for each element to provide a basis for assessment. The core question for Registries is: Does a reliable property registry exist including cadastral, title and mortgage lien information? Ratings range from Unknown to Very Strong.

## Target Population

The primary users of the Scorecard are:

1. **Local, National, Regional and International Change Agents** – especially as an education and objective measurement tool for civil society organizations, universities, government agencies and other advocates for property rights as a means for broader civil liberties
2. **National, Regional and International Economic Development Organizations** – particularly to bring focus to the need for property market development as a critical part of overall economic development
3. **Corporate Investors, Major Banks and Other International Market Participants** – principally as a risk assessment and decision making tool for market entry and diversification

## Scorecard Objectives

The core objectives of the use of the Scorecard are to improve the functioning of international property markets and promote sustainable markets as defined by the United Nations Economic Commission for Europe. These efforts will help to mitigate pro-cyclical shocks caused by future market deregulation and credit expansion.

In addition, the Center for International Real Estate (CIRE) at the Georgetown University School of Continuing Studies will use the Scorecard to work with interested partners and universities to:

- Develop and maintain a robust framework for objectively measuring and comparing the effectiveness of property markets around the world
- Provide a central reference point for the growth and development of international property and financial market professionals and common best practices
- Enable civil society and development organizations to better understand the interconnectedness of international property and financial markets
- Be a catalyst for capacity building and intervention programs that help to mitigate between economic cycles of boom and bust

## Case Studies (see Addenda)

A series of research activities has been carried out in several developing markets:

1. Data was collected for the Core Elements of the scorecard in selected countries. Local partners in each country assisted with the data collection. The initial step was to acquaint these partners with the Scorecard framework including the project *Guidebook*, online interface and existing Scorecards.

Partners provided feedback on the determination of the key focus areas for their countries and on the best approaches for data collection. To ensure the consistency of the project's scope among participating countries, data collection concentrated primarily on commercial sector in two urban areas: the capital and another major city.

Including another city in addition to the capital will help to gain a fuller picture of the urban commercial property markets, since conditions in the capital are often different from the rest of the country.

Simultaneously desk research was conducted including the existing country data from international economic development indices. Scorecard Partners will then work to verify that these indicators are reflected in actual market condition and identify research gaps that can only be addressed through more in-depth field research.

Local partners will gather both quantitative and qualitative data to refine the draft country scorecards, make them as complete as possible, and identify implementation gaps. Quantitative data will be gathered from governmental and other reports, real estate databases, publications on property rights and issues, etc.

Where the important data may not be readily available, partners will conduct additional research in local languages to gather relevant materials in libraries, newspapers, etc. They will also reach out to local experts on property markets issues: lawyers, real estate professionals, government officials, think tank researchers, university professors, business association professionals. Information may be gathered from existing publications provided through those sources or, where necessary, interviews.

2. Core Element strength and institutional support for the efficient functioning of property markets will be mapped and suggestions provided for policy reforms for continuous improvements

Scorecard Partners will assemble the collected information and incorporate it into a well-annotated Scorecard. Local partners will be asked to confirm that the key information has been captured. Key areas and specific issues where reform is most needed and where it could have the largest impact will be identified.

Scorecard Partners will summarize the findings of the Scorecard in a brief report that will: feature data analysis, identify areas that are key to reform (justifying why), and look at the implementation gaps in those key areas (i.e., property market laws and regulations vs. what happens on the ground).

**Future Activities Include:**

3. Collect market data on cross-border property transactions and develop proxy models for markets without transparent data leading to broader market participation
4. Work with major multinational real estate firms, investors and development agencies to provide internship opportunities for students to gain practical market knowledge and contribute to a standardized global market
5. Present conferences, executive training workshops and publish articles on the status of global property markets, the current gaps in market development, support and information, and develop new methodologies for risk analysis
6. Collect and disseminate successful affordable housing development and finance information around the world in collaboration with the Global Housing Foundation
7. Capture and analyze data on major infrastructure projects in both the developed and the developing world including energy, transportation and telecommunications infrastructure, clean water access and wastewater treatment, and other environmental and resource concerns necessary for market development
8. Work to develop policy recommendations to reduce infrastructure and real estate development costs, increase efficiencies and minimize environmental impact
9. Enhance the understanding of the connections between real property and other property markets including intangible property such as intellectual property, financial instruments and derivatives

The Center for International Real Estate will communicate the project findings and its implications for property markets reform to international organizations and donors to identify potential synergies with their programs.

Local partners will distribute the Scorecard and the accompanying report to interested stakeholders in their countries, including government officials, chambers of commerce and business organizations, associations of real estate lawyers and professionals, representatives of international organizations, NGOs and think tanks, universities, etc.

In addition, they will provide methods of collecting feedback and will follow up with each stakeholder. This marketing effort will raise awareness about the need for specific property market reforms and is meant to spur coordinated, multi-stakeholder action on those issues.



Local partners will write at least two articles for local media and recruit at least two students to research and report on problems and potential solutions as part of awareness-raising in the country. Based on the gathered data and analysis, CIRE will evaluate the feasibility of additional advocacy efforts and create an advocacy plan in cooperation with local stakeholders identified through this project to be considered for additional implementation stages.

## **Expected Results**

The benefits of implementing and sustaining the Scorecard project extend beyond real estate markets and fixed assets to include moveable assets, intangible assets and general micro- and macroeconomic stability.

The initial results from the first stage of the project – implementation of the methodology in 10 to 15 countries – are:

- Completion of Scorecards for 15 countries that describe information about the Core Elements necessary in all countries to promote effective and transparent internal markets and to facilitate comparison for global investors
- Maps of the Core Element strength and institutional support for the efficient functioning of property markets and suggestions for policy reforms for continuous improvements
- Updates of Scorecard to see how the Core Elements change over time
- Educate the target populations on the importance of property markets and supporting institutions to overall economic development
- Development of new methodologies for property market risk analysis

## **Conclusion**

Property rights as human rights received a great deal of attention when Hernando de Soto's work first became widely accepted. Property rights are only the first step. Microfinance has been the next step as it became clear without access to credit, property titles were not much more than pieces of paper.

The Scorecard takes the next steps to create transparent property markets so people can use their property to not only climb out of poverty, but to participate in the political process and start to demand wider reforms. Research has shown direct links between property rights and human rights. The goal is to quantify and measure the effectiveness of the entire range of institutions that support market transactions.

The market risk assessments developed using the Scorecard Methodology can be used by educators, governments, civil society and business to build capacity in these critical institutions. Recent events have brought attention back to the functioning of property markets not only in developing countries but in the entire global investment market.

The Scorecard is the culmination of many years of work in the field of property rights by the Center for International Private Enterprise and the International Real Property Foundation. The methodology was developed by a panel of subject matter experts that included members from the World Bank, USAID, the U.S. Dept of State, Georgetown University and the University of Denver. The methodology is being tested in Armenia, China, Kenya and the Philippines where field work is currently underway.

Many countries still have a critical shortage of financial intermediation support professionals including informed regulators, attorneys and judges, ethical brokers and valuers, insolvency experts and other analysts and advisors. The Scorecard can be used to highlight how important it is for a country to develop these professionals. As markets mature and these professionals are nurtured, they must be continuously developed as market risks become more complex and amplified by liberalization and expansion through securitization.

## Addenda

- *The International Property Markets Scorecard Guidebook*, Chapter 1
- Kenya Desktop Scorecard, Core Element Map and Scores for Property Rights
- Armenia Desktop Scorecard, Core Element Map and Scores for Access to Credit
- Philippines Desktop Scorecard, Core Element Map and Scores for Effective Governance
- China Desktop Scorecard, Core Element Map and Scores for Rational Dispute Resolution

For complete *Guidebook* and country Scorecards visit:

[www.worldcitizenconsulting.net/scorecardproject.html](http://www.worldcitizenconsulting.net/scorecardproject.html)

# International Property Markets Scorecard Guidebook

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## Acknowledgement:

The International Property Markets Scorecard Project is the latest development in the continued cooperative work between the Center for International Private Enterprise (CIPE) and the International Real Property Foundation (IRPF). The work began in September 2002 and includes the booklet *Real Property Markets: The 'Real' Solution for Economic Development* jointly published by the Appraisal Institute, CIPE and IRPF. The Scorecard derives from the work of an academic panel led by Richard Green, PhD., Director of the University of California's Lusk Center for Real Estate and the University of Denver, Burns School of Real Estate and Construction Management's Global Real Estate Project under the direction of Dr. Mark Lee Levine.

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We focus on the developing countries of the world where our expert practitioners and property professionals collaborate with emerging real estate groups, governments and private firms. We address and remove institutional impediments to the efficient transfer of property and we facilitate the ability of potential buyers to buy and rent, owners to sell and developers to develop. Contact: 430 N Michigan Ave, 6<sup>th</sup> Floor, Chicago, IL 60611, 312-329-8692 [www.irpf.org](http://www.irpf.org)

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# Introduction

The International Property Markets Scorecard (Scorecard) is a tool to assist civil society and development organizations in objectively measuring the effectiveness of property markets. Balanced scorecards help everyone better understand the interconnectedness of international property markets and the critical connections between property market development and overall economic development. Scorecards can be used by investors to assess property market risks and by local reformers to strengthen the institutions that support property markets.

Civil society is the protection between the appetite of business and the restraint of regulations – especially organizations that support and advise individuals and businesses in completing property transactions. Over the last several decades property markets have accelerated faster than the ability of analysts, advisors and regulators to intermediate between inevitable cycles. The World Trade Organization leads the way in the trade of goods across borders. The United Nations provides a means by which governments can consider and resolve international disputes. Property markets need a common set of rules and regulations to promote standards, measure performance, protect the public and drive innovation.

**Core Elements of Property Markets**

1. Property Rights
2. Access to Credit
3. Effective Governance
4. Rational Dispute Resolution
5. Financial Transparency
6. Appropriate Regulation

Financial intermediation is critical in a sound economy. The recent worldwide economic downturn clearly shows that the growth of property markets has exceeded the skills of the intermediary professionals necessary to mitigate between cycles of boom and bust.

“During a credit boom that accompanies financial liberalization, the pressures to lend create credit compromises. In environments that lack an adequate base of skills, financial intermediaries do not have the capacity to introduce a sophisticated credit culture and are unable to scrutinize and evaluate the finances of corporations or the value of real estate collateral. In situations that lack reliable financial analysis regarding the viability of loans to corporations or projects, banks lend to projects about which they do not have sufficient financial knowledge. Instead, they rely too heavily on collateral and personal (and implicit government) guarantees. In short, in countries that suffer bubbles, the skills in the financial system are inadequate to measure and assess risk in a deregulated and competitive environment.”<sup>1</sup>

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<sup>1</sup> Michael Pomerleano, “Back to Basics: Critical Financial Sector Professionals Required in the Aftermath of an Asset Bubble,” presented at a conference cosponsored by the Federal Reserve Bank of Chicago and the World Bank Group, October 4 – 6, 2001.

Many countries still have a critical shortage of financial intermediation support professionals including informed regulators, attorneys and judges, ethical brokers and valuers, insolvency experts and other analysts and advisors. The Scorecard can be used to highlight how important it is for a country to develop these professionals. As markets mature and these professionals are nurtured, they must be continuously developed as market risks become more complex and amplified by liberalization and expansion through securitization.

Groups can use the Scorecard to highlight the various backward and forward linkages between the Core Elements necessary for property market development. They can provide a clear, visual representation of the effectiveness of the financial intermediary institutions critical to system soundness. The Scorecard can be used as a catalyst for reforms and the continued development of property institutions as the foundation of democratic empowerment and economic equality.

# Scorecard Terminology

## Core Element

The six Core Elements of the Scorecard are the fundamental mechanism of financial intermediation in property markets. Without strong institutions that support these mechanisms, rational and sustained economic growth cannot occur.

## Core Element Map

The Core Element Map is a visual representation of the strength of the institutions that support financial intermediation in property markets. The circle represents the interconnection between the Core Elements, both around and across the circle. Crystal Mapping software is used to create the maps. [www.crystalmapping.co.uk/](http://www.crystalmapping.co.uk/)

## Color Indicator

Color is used to indicate strength. Gray indicates insufficient data to assess institutional strength. No color indicates very weak institutions. Three color gradients – from light to dark – indicate weak, strong and very strong institutional support.

## Lead Indicator

Each Core Element has three Lead Indicators. These indicators assess the essential functions contributing to the success of the Core Element and are likewise crucial to the transparent functioning of the entire property market system.

## Sub-Indicator

Each Lead Indicator has three measurable Sub-Indicators. Using data from respected and widely available resources or direct surveys using similar methodology, these indicators report either a quantitative or qualitative aspect of the strength of the institutions that support the corresponding Core Element.

## Core Question

Core Questions sum up the status of institutional support for the Lead Indicator based on the Sub-Indicators. Simple yes or no questions with brief explanations provide users with a starting point for property market risk assessment.

## Survey Questions

Survey Questions are the primary research questions for the Scorecard and participating Partner Institutes. The purpose of these questions is to obtain the crucial data necessary for a complete property market risk assessment.

## **Field Questions**

Field Questions are designed to capture information regarding actual transactions taking place within a market from direct observation. While laws, regulations and institutions may be in place, paramount is how the market actually functions.

## Core Element 1 – Property Rights

*“A good legal property system is a medium that allows us to understand each other, make connections, and synthesize knowledge about our assets to enhance our productivity.”*

- Hernando de Soto, *Mystery of Capital*, p. 218

The Scorecard presents the complicated concepts of property markets in an understandable way. It helps countries identify the elements necessary to move from property rights, through financial intermediation and to arrive at efficient and transparent property markets. The Scorecard highlights the backwards and forwards linkages between the various microeconomic factors necessary for rational property market development.

The first Core Element is Property Rights. Property rights include more than ownership. The laws that form the foundation of property rights organize and drive the market. Effective property systems represent assets in standardized ways. Institutions that support property markets allow owners to verify and transfer the value of their assets.

### Core Element Goal

Property rights that are legally protected, secure, recorded in a single, accurate, widely accessible electronic registry and that lead to high levels of formal ownership for all citizens

## Lead Indicator 1.1 – Legal Protection

Core Question:	Does an effective and sufficient legal framework exist to protect property rights for all citizens?
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### Sub-Indicator 1.1.1 – Legal Framework

#### Are property rights clearly defined and protected by law?

This indicator begins with legal protection. Property rights must be codified into law at the national, state and local levels. The Scorecard uses the World Economic Forum's *Global Competitiveness Report* as the primary source for the score for this indicator as well as for several other indicators throughout. The numeric score is based on an Executive Opinion Survey of top management business leaders. Countries are then ranked from highest (clearly defined and protected by law) to the lowest (poorly defined and not protected by law.)

Step 1      Visit the *Global Competitiveness Report* (GCR) Web site:  
<http://gcr.weforum.org/gcr2010/>

[Note: This link is for the 2010/2011 report. Use the most recent report available from [www.weforum.org](http://www.weforum.org)]

- Step 2 Click "Rankings."
- Step 3 For Sub-Indicator 1.1.1, Select the "Index" Drop Down
- Step 4 Select the "1.01 Property Rights"
- Step 5 Find your country on the table.
- Step 6 Record the ranking and numeric score from this external source.
- Step 7 Determine the Sub-Indicator score:

Yes	Very Strong	1 <sup>ST</sup> – 34 <sup>RD</sup> countries
	Strong	35 <sup>TH</sup> – 69 <sup>TH</sup> countries
No	Weak	70 <sup>ST</sup> – 104 <sup>TH</sup> countries
	Very Weak	105 <sup>ST</sup> – 139 <sup>TH</sup> countries

Alternate Source: For countries not listed in the *Global Competitiveness Report*

- Step 1 *Index of Economic Freedom*, the Heritage Foundation  
[www.heritage.org/index/](http://www.heritage.org/index/)
- Step 2 Chose "Ranking the Countries" from the top menu.
- Step 3 Find your country and click.
- Step 4 Record your country's score for "Property Rights"
- Step 5 Click "Property Rights" and review the information.
- Step 6 Determine the Scorecard Score:

Very Strong	100-90 – Expropriation is highly unlikely
Strong	60-80 – Private property is guaranteed by the government
Weak	30-50 – Expropriation is possible
Very Weak	0-29 – Private property is rarely protected

### **Sub-Indicator 1.1.2 – Secure Tenure**

**Can citizens challenge the legality of government takings?**

In addition to legal protection, owners must have reasonable security of tenure. In order to use assets as guarantees for long-term loans, banks must be certain the government will not arbitrarily take private property for public use. Clear, efficient and neutral processes must be in place to allow citizens to challenge the government.

- Step 1 From the GCR Index (the same Index accessed in Step 1-2 above) choose 1.11 “Efficiency of legal framework in challenging regulations.”
- Step 2 Find your country on the table.
- Step 3 Record the ranking and numeric score from this external source.
- Step 4 Determine the Sub-Indicator score:

Yes	Very Strong	1 <sup>ST</sup> – 34 <sup>TH</sup> countries
	Strong	35 <sup>TH</sup> – 69 <sup>TH</sup> countries
No	Weak	70 <sup>TH</sup> – 104 <sup>TH</sup> countries
	Very Weak	105 <sup>TH</sup> – 139 <sup>TH</sup> countries

### **Sub-Indicator 1.1.3 – Bundle of Rights**

#### **Survey Question 1                      What is the bundle of rights associated with both residential and commercial property ownership?**

Since the other Sub-Indicators for this Lead Indicator are based on opinion surveys, it is important to collect actual data regarding property laws to provide balance to the Scorecard.

The bundle of rights theory says that ownership of a parcel of real estate includes many rights, such as the right to occupy and use; the right to sell it in whole or in part; the right to bequeath; or the right to lease for specified periods of time.

In the bundle of rights theory, ownership is compared to a bundle of sticks. Each stick represents a distinct and separate right. It is possible to own all of the rights in a parcel of real estate or only a portion of them.

For the Scorecard, record the legal limitations on which of the individual rights in the bundle can be owned by an individual, group or legal entity. Also record whether those rights can be sold, leased or transferred.

- Step 1 Gain a basic understanding of the bundle of rights theory. Visit the Private Land Owner Network Library:  
[www.privatelandownernetnetwork.org/plnlo/bundleofrights.asp](http://www.privatelandownernetnetwork.org/plnlo/bundleofrights.asp)
- Step 2 Visit the Law Library of *Doing Business*  
[www.doingbusiness.org/law-library](http://www.doingbusiness.org/law-library)

- Step 3 Choose your country from the “Choose Economies” drop down
- Step 4 Choose “Land and Building Laws” and “Create Report”
- Step 5 Download laws dealing with land and property
- Step 6 Determine the Sub-Indicator score:
- |             |  |
|-------------|--|
| Very Strong | Fee simple – an estate without limitations or restrictions   |
| Strong      | Both residential and commercial land and buildings can be owned with limited government restrictions |
| Weak        | The government places significant restrictions on ownership  |
| Very Weak   | The government holds most of the rights associated with land and buildings                           |

### **Determine the Lead Indicator Score for Legal Protection**

- Step 1 Review the Sub-Indicator scores.
- Step 2 Determine the Lead Indicator Score based on the aggregate of the Sub-Indicator scores.

### **Lead Indicator 1.2 – Registries**

Core Question: Does a reliable property registry exist including cadastral, title and mortgage lien information?

Once property rights are protected and secure, it is critical that accurate information about properties is recorded in a central registry. Because clear title is important to convey in any property transaction, the registry should be readily available to owners, buyers, lenders and other parties to a transaction. The more offices that must be visited, officials consulted and steps to obtain information, the more time and costs that are added to the transaction.

Ideally one uniform registry would include cadastral information (information regarding the dimensions and location of a land parcel), ownership information and information about any encumbrances on the parcel such as a mortgage lien or limitation on use.

#### **Sub-Indicator 1.2.1 – Cadastral Information**

**Survey Question 2                    Is cadastral information accessible to the public?**



Land transactions begin with a legal description of the land parcel for purchase contracts and other documents. Parties to the transaction need to be sure the legal description in the registry matches the actual land parcel included in the transaction.

- Step 1            The cadastre is usually created and maintained by a government agency in charge of land such as the Land Ministry. Conduct an Internet search to find the agency in charge of the state/local land cadastre.
- Step 2            Visit the agency's Website to see what information is available.
- Step 3            Consult with local real estate attorneys, brokers, developers and/or valuers and ask about the availability of the cadastre. *Note: these same professionals can be used throughout the Scorecard for Survey and Field Questions.*
- Step 4            Determine a yes or no answer.

**Survey Question 3            Is zoning/permitted use information included and are regulations respected and enforced?**

In addition to a description, parties to a transaction need to know any restrictions on use for the parcel. Some parcels are set aside for agricultural uses, residential use or commercial zones. Height restrictions, historical preservation and street or waterfront access are also important factors. Purchasers need to know that the parcel involved in the transaction allows their intended use of the land.

- Step 1            Refer to the information gathered in Steps 1-3 in Question 2 above. Was zoning/permitted use information included in the register?
- Step 2            Research/inquire about any additional sources for land use restrictions.
- Step 3            Determine a yes or no answer and record any additional information.

**Survey Question 4            Are Geographic Information Systems (GIS) including Global Positioning Satellite (GPS) information used to create and update the registry?**

Over the last decades, technology has allowed the profession of land surveying to become very sophisticated. Many tasks that required numerous hours in the field can now be completed using satellite technology. GIS software can now be used to not only collect real time information about property, but to record changes over time.

- Step 1            Refer to the information gathered in Steps 1-3 in Question 2 above. Was information about the use of GIS and GPS obtained in the previous searches?

Step 2 Determine a yes or no answer and record any additional information.

### Determine the Sub-Indicator score for cadastral information

Step 1 Review the yes/no answers for Survey Questions 2-4.

Step 2 Determine the Sub-Indicator Score.

Very Strong 3 yeses

Strong 2 yeses

Weak 1 yes

Very Weak All no's

#### **Civil Society Resource – [www.fig.net](http://www.fig.net) International Federation of Surveyors – FIG**

Founded in 1878 in Paris, FIG is the premier international organization for surveyors. It includes national member associations and covers the whole range of professional fields within the global surveying community. It provides an international forum for discussion and development of professional practices and standards.

FIG is a UN-recognized non-government organization (NGO), representing more than 100 countries throughout the world. Its aim is to ensure that the disciplines of surveying and all who practice them meet the needs of the markets and communities that they serve.

Visit the FIG Website to determine if a member association exists in your country. Contact them and seek cooperation with the Scorecard and cadastral registry reforms and improvements

### Sub-Indicator 1.2.2 – Title Registry

To finalize a property transaction, clear title must be transferred from the seller to the buyer. After determining that the property is properly recorded in the registry, buyers need to know the steps, time and cost to change title from one owner to another. The Scorecard uses the “Registering Property” data from the *Doing Business* project as the primary source for this Sub-Indicator.

Step 1 Visit the *Doing Business* Web site: [www.doingbusiness.org](http://www.doingbusiness.org)

Step 2 From the “select an economy” drop down select your country.

Step 3 Record your country's rank for “Registering Property” for the current and previous year.

- Step 4 Click on “Registering Property”
- Step 5 Record the answers to the following questions:
- 1.2.2.1 What is the number of procedures required to register the transfer of a property from one owner to another?**
- 1.2.2.2 What is the duration of time in calendar days that it would take to complete the transfer?**
- 1.2.2.3 What is the total cost of the transfer including all fees, taxes, etc. expressed as a percentage of the value of the property?**
- Step 6 Click on “Details”
- Step 7 Record the Registration Requirement Details for an appendix to the Scorecard.
- Step 8 Determine the Sub-Indicator Score and Trend.
- Very Strong 1<sup>ST</sup> – 46<sup>TH</sup> countries  
 Strong 47<sup>TH</sup> – 92<sup>ND</sup> countries  
 Weak 93<sup>RD</sup> – 137<sup>TH</sup> countries  
 Very Weak 138<sup>TH</sup> – 183<sup>RD</sup> countries
- Trend either ↑ or ↓ compared to previous year.

### **Sub-Indicator 1.2.3 – Mortgage Registry**

In addition to details about a property’s legal description and owners, registries should also contain information about mortgage liens against a property. For a title to be completely clear and transferred, mortgage liens or deeds of trust must be paid off.

Mortgage financing amounts to less than 1% of GDP in Egypt and more than 85% in New Zealand. One reason for this wide disparity is the difficulty buyers face in registering a mortgage and title transfer. The Scorecard uses the *Financing Homes 2008* report from the World Bank and International Housing Finance Corporation as the primary source for this Sub-Indicator.

*Note: Source covers the following countries:*

<i>Albania</i>	<i>Azerbaijan</i>	<i>Chile</i>
<i>Algeria</i>	<i>Brazil</i>	<i>Colombia</i>
<i>Argentina</i>	<i>Burkina Faso</i>	<i>Croatia</i>
<i>Armenia</i>	<i>Canada</i>	<i>Dominican Republic</i>

Egypt  
El Salvador  
Georgia  
Ghana  
Guatemala  
India  
Japan  
Kazakhstan  
Kenya  
Lebanon

Mali  
Mexico  
New Zealand  
Nicaragua  
Nigeria  
Pakistan  
Panama  
Peru  
Romania

Rwanda  
Russian Federation  
South Africa  
Sri Lanka  
Tunisia  
Turkey  
Uganda  
Uzbekistan  
Vietnam  
Zambia

Step 1 For countries listed above, download the report:  
[www.ifc.org/ifcext/sme.nsf/AttachmentsByTitle/financinghomes/\\$FILE/FinancingHomes.pdf](http://www.ifc.org/ifcext/sme.nsf/AttachmentsByTitle/financinghomes/$FILE/FinancingHomes.pdf)

For countries not listed above, consult with local bankers, real estate attorneys, brokers and valuers.

Step 2 Use the report or interviews with local experts to determine the answers to the following questions, *Note: the complete information gathered in this search can be included in the answer to Field Question 2.*

**Survey Question 5**      **The mandatory use of notaries or similar officials slows down and adds cost to the process. Does a notary need to be involved in the registration process?**

**Survey Question 6**      **Is information in the registry available electronically?**

**Survey Question 7**      **Title insurance is indemnity insurance against financial loss from defects in title and from the invalidity or unenforceability of mortgage liens. Is title insurance available to lenders?**

Step 3 Determine the Sub-Indicator Score.

Very Strong	Question 5, No; Questions 6 & 7, Yes
Strong	Question 5, No; Question 6, Yes, Question 7, No
Weak	Question 5, Yes; Question 6, Yes, Question 7, No
Very Weak	Question 5, Yes; Questions 6 & 7, No

### **Determine the Lead Indicator Score for Registries**

Step 1 Review the Sub-Indicator scores.

Step 2 Determine the Lead Indicator Score based on the aggregate of the Sub-Indicator scores.

## Lead Indicator 1.3 – Formal Ownership

Core Question: Do citizens understand and trust property rights institutions and avoid the informal sector?

### Sub-Indicator 1.3.1 – Land

#### Survey Question 8 What is the status of land ownership?

Property is closely related to power. The use of land is heavily controlled – especially in developing countries. To ensure the responsible use of land, civil society organizations must be in place to demand transparent, sustainable and equitable land use regulation and policy. Countries without sensible land use policies and strong institutions to support individual rights end up with high levels of informal activity in property markets.

- Step 1 Refer to the information gathered in Survey Questions 1 – 3. Write a brief summary of land use regulation regarding private ownership of land for residential and commercial purposes.
- Step 2 Research/inquire about any additional sources for land use regulation and any reforms that may be under way.
- Step 3 Determine the Sub-Indicator Score:
- |             |   |
|-------------|---|
| Very Strong | Private agricultural, residential and commercial uses are permitted with minimal government control.  |
| Strong      | Private agricultural, residential and commercial uses are permitted with moderate government control. |
| Weak        | Some private ownership is allowed, but most uses are heavily controlled by the government.            |
| Very Weak   | All land use is heavily controlled by the government.   |

### Sub-Indicator 1.3.2 – Home Ownership

#### Survey Question 9 What is the percentage of formal home ownership?

Adequate shelter is a basic human need. A functioning housing system is integral to other societal needs such as health and security. Yet more than a billion people live in slums in sub-standard shelter without access to clean water and sanitation. Formal home ownership has many follow-on benefits such as spurring individual economic advancement and accelerating general economic growth.

- Step 1 Conduct an Internet search to find the agency in charge of housing such as the Housing Ministry.
- Step 2 Visit the agency's Website to see what home ownership statistics are available.
- Step 3 Consult with local real estate developers, brokers or valuers and ask about the housing market. *Note: the complete information gathered in this search can be included in the answer to Field Question 3.*
- Step 4 Visit the U.N. Habitat Urban Indicators Website
- Step 5 Choose your country and "Population in slums (% of urban population)," and "Latest Available Year."
- Step 6 Click "Submit" and record the % if available. Subtract the slum population from 100 to get the formal home ownership percentage.
- Step 7 Determine the Sub-Indicator Score:
- |             |               |
|-------------|---------------|
| Very Strong | 70 – 100%     |
| Strong      | 50 – 69%      |
| Weak        | 30 – 49%      |
| Very Weak   | less than 30% |

### **Sub-Indicator 1.3.3 – Informal Sector**

#### **What is the percentage of service firms that report competition with unregistered or informal firms?**

In countries where incomes and assets are not equally distributed and where regulation and taxation is excessive, the informal economy – economic activities that are unrecognized, unrecorded, unprotected and unregulated by public authorities – often predominate. In countries with large informal sectors, business activities go unrecorded, taxes are not paid, opportunities for corruption are rampant and many citizens are not able to participate in public policy making.

- Step 1 Visit the Enterprise Surveys Website: [www.enterprisesurveys.org/](http://www.enterprisesurveys.org/)
- Step 2 From the "economy" drop down select your country.
- Step 3 Scroll down to the "Informality" section and record the percentage of firms that report competing with informal firms.
- Step 4 Consult with local real estate developers, brokers or valuers and ask about the prevalence of informal transactions.

Step 5	Determine the Sub-Indicator Score
	Very Strong Formal Sector 20% of GDP or less
	Strong Formal Sector 21 – 30%
	Weak Formal Sector 31 – 40%
	Very Weak Formal Sector 40% or more

### Determine the Lead Indicator Score for Formal Ownership

- Step 1 Review the Sub-Indicator scores.
- Step 2 Determine the Lead Indicator Score based on the aggregate of the Sub-Indicator scores.

### Determine the Core Element Score for Property Rights

- Step 1 Review the Lead Indicator scores.
- Step 2 Determine the Core Element Score based on the aggregate of the Lead Indicator scores.

### ↻ Core Element Linkages

Property Rights ↔ Rational Dispute Resolution

Institutions that support transparent, efficient and equitable resolution when disputes arise over property rights are crucial. This linkage is represented in the Scorecard by placement and color. The Core Elements Property Rights and Rational Dispute Resolution are located across from each other and have similar colors.

High legal fees, excessive bureaucracy and lengthy waits for contract enforcement restrict property markets. As property markets develop, specialized commercial courts and alternative dispute resolution mechanisms must be developed as well as the capacity of attorneys, judges, insolvency experts and other analysts and advisors.

Please review the information for the Rational Dispute Resolution on page 43.

### Field Assessment

Direct observation is required to get a true picture of how markets operate. Laws and regulations may be in place, but the situation on the ground is often quite different from what is recorded in government records. In addition to Internet research, interviews and survey

questions, a Scorecard is not complete without understanding the characteristics of the actual transactions taking place within the market. Ideally a resident and non-resident expert should be paired to conduct an assessment of typical property transactions.

- Step 1 Partner with an outside expert with property market experience – preferably someone with transactional experience in a formal market outside your region.
- Step 2 Together with the expert, visit local attorneys, brokers, developers and/or valuers and ask them to tell you about recent transactions involving real property. Be sure to include both residential and commercial properties.
- Step 3 Determine the answers to the following questions especially focusing on where actual experience may differ from laws and regulations:

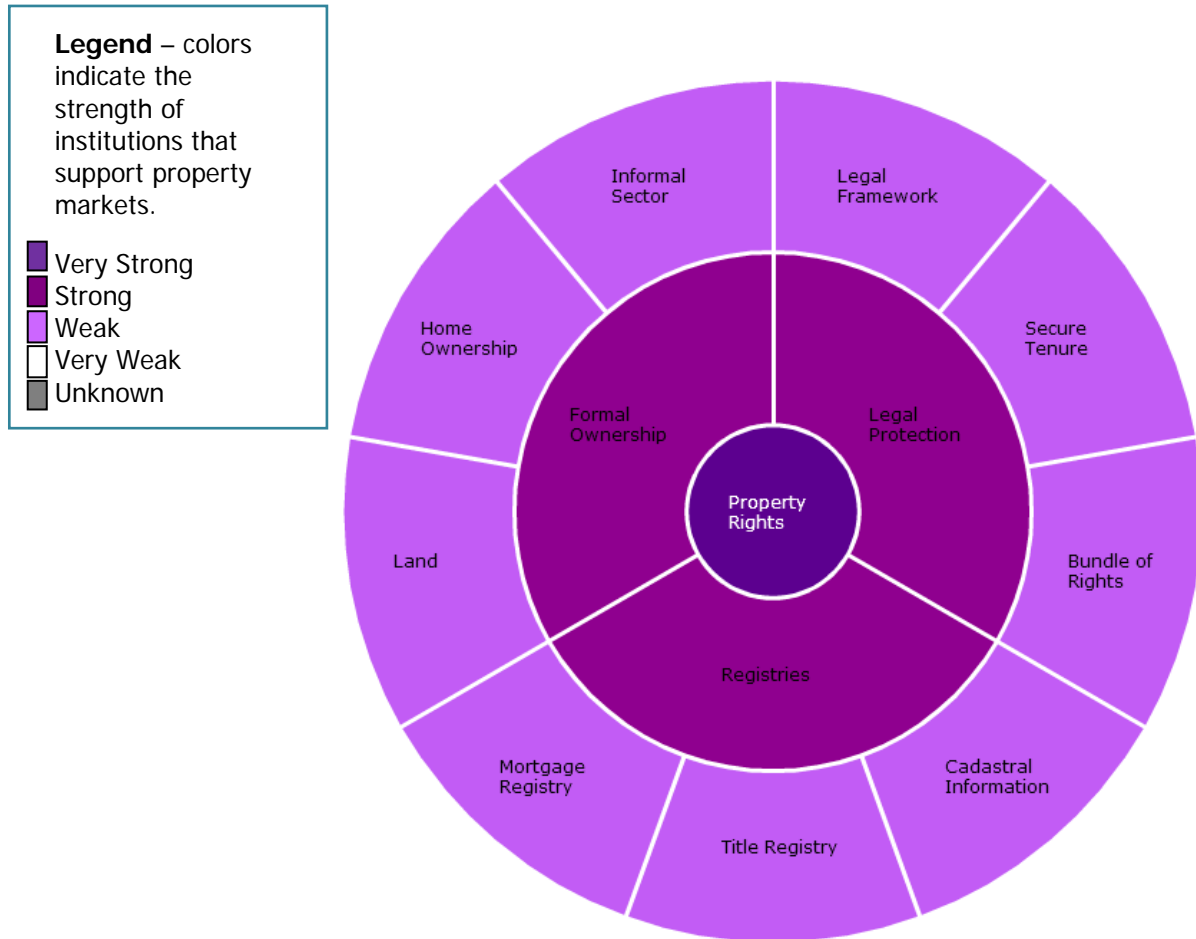
**Field Question 1 What is the actual status of property rights and ownership for citizens?**

**Field Question 2 What is the actual experience of transferring a property?**

**Field Question 3 What are the actual housing conditions for all groups including the poor, minorities and other marginalized groups?**



## Core Element Map for Property Rights



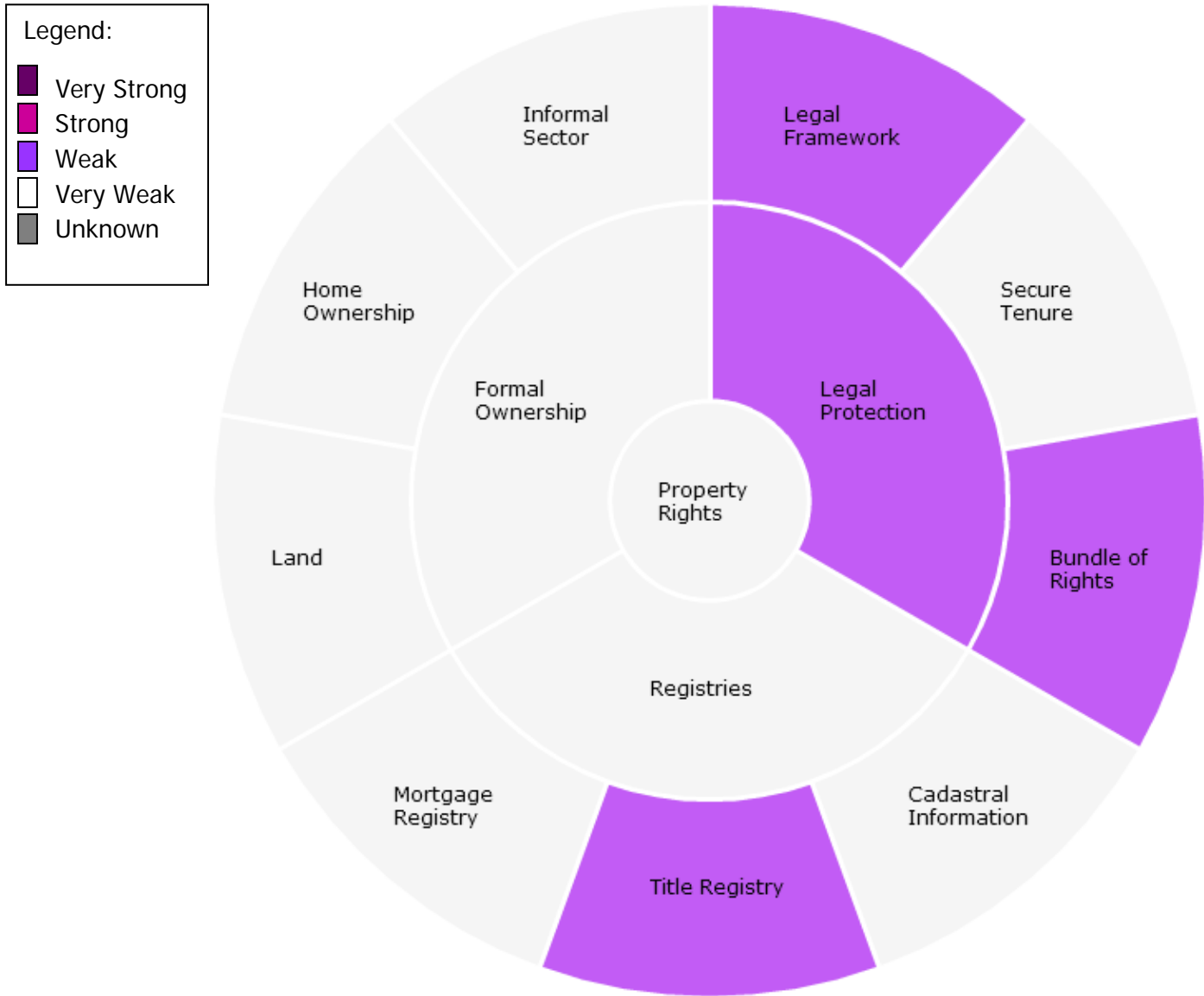
Crystal Mapping software is used to create the Core Element Maps. [www.crystallmapping.co.uk](http://www.crystallmapping.co.uk)  
The free version of the software allows the creation and sharing of online maps. A full desktop version can be purchased to create reports. A key to the color indicators used is located on page 80.

# International Property Markets Scorecard

Kenya Market Conditions – Desktop Survey February 2011



# 1. Property Rights



**Goal – Property rights that are legally protected, secure, recorded in a single, accurate, widely accessible electronic registry and that lead to high levels of formal ownership for all citizens**

## 1.1 Legal Protection

Core Question:	Does an effective and sufficient legal framework exist to protect property rights for all citizens? <b>No – Weak – New Constitution and National Land Policy set out a comprehensive reform agenda.</b>
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## Legal Framework

1.1.1 Are property rights clearly defined and protected by law? **No – Weak – Ranking 103<sup>rd</sup> out of 139; Score 3.7 out of 7 Trend ↓**

## Security of Tenure

1.1.2 Can citizens challenge the legality of government takings? **No – Very Weak – 108<sup>th</sup> out of 139; Score 3 out of 7 Trend ↑**

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Source: *Global Competitiveness Report 2010* – World Economic Forum

<http://www.weforum.org/issues/global-competitiveness>

## Bundle of Rights

### Survey Question

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SQ1 What is the bundle of rights (group of rights such as occupancy, use and the right to sell or lease) associated with both residential and commercial property ownership? **Weak – freehold (absolute proprietorship) and leasehold, government undergoing comprehensive reforms to correct former privatization acts at the expense of indigenous and communal land rights.**

## 1.2 Registries

Core Question:	Does a reliable property registry exist including cadastral, title and mortgage lien information? <b>No – Very Weak, system has resulted in land speculation, corruption, political interference and the abuse of power. In addition poor record keeping has allowed multiple allocations and registrations of single plots of land.</b>
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### 1.2.1 Cadastral Information

**Status – Very Weak – Modernization program called for in National Land Policy adopted December 2009.**

### Survey Questions

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SQ 2 Is cadastral information (information about the dimensions and location of land parcels) accessible to the public? **No**

SQ 3 Is zoning/permitted use information included are use regulations respected and enforced? **No**

SQ 4 Are Geographic Information Systems (GIS) including Global Positioning Satellite (GPS) information used to create and update the registry? **No**

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Source: Ministry of Lands - [www.ardhi.go.ke/](http://www.ardhi.go.ke/)

*Civil Society Resource: Institution of Surveyors of Kenya [www.isk.or.ke](http://www.isk.or.ke)*

### 1.2.2 Title Registry

**Status – Weak – Ranking – 125<sup>th</sup> out of 183 Trend ↓ – currently not central and in non-digital form, new Land Policy aims to digitize the title registry**

1.2.2.1 What is the number of procedures required to register the transfer of a property from one owner to another? **8**

1.2.2.2 What is the duration of time in calendar days that it would take to complete the transfer? **64**

1.2.2.3 What is the total cost of the transfer including all fees, taxes, etc. expressed as a percentage of the value of the property? **4%**

See **Appendix** for complete procedure for registering property

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Source – *Doing Business* – Registering Property, World Bank  
[www.doingbusiness.org/ExploreEconomies/?economyid=101](http://www.doingbusiness.org/ExploreEconomies/?economyid=101)

### 1.2.3 Mortgage Registry, only held by individual commercial banks

**Status –Very Weak**

Survey Questions

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SQ 5 The mandatory use of notaries or similar officials slows down and adds cost to the process. Does a notary need to be involved in the registration process? **Yes**

SQ 6 Is information in the registry available electronically? **No**

SQ 7 Title insurance is indemnity insurance against financial loss from defects in title and from the invalidity or unenforceability of mortgage liens. Is title insurance available to lenders? **No**

---

Source – *Financing Homes 2008*, World Bank and International Housing Finance Corporation  
[www.ifc.org/ifcext/sme.nsf/AttachmentsByTitle/financinghomes/\\$FILE/FinancingHomes.pdf](http://www.ifc.org/ifcext/sme.nsf/AttachmentsByTitle/financinghomes/$FILE/FinancingHomes.pdf)

### 1.3 Formal Ownership

Core Question: Do citizens understand and trust property rights institutions and avoid the informal sector? **No – Very Weak – the ineffectiveness of the current system has led to mass disinheritance of communities and individuals; inequitable distribution of land; and ineffective governmental regulation of private property rights.**

#### Survey Questions

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##### Land

SQ 8 What is the status of land ownership? **Very Weak – Land is either government land, community land (trust land) or private land. Over time there has been a systematic breakdown of land rights and land administration. The new Land Policy seeks to address these issues.**

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Source: Ministry of Lands - [www.ardhi.go.ke/](http://www.ardhi.go.ke/)

##### Home Ownership

SQ 9 What is the percentage of formal home ownership? **Very Weak – 16%**

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Source: National Housing Corporation - [www.nhckenyaco.ke/](http://www.nhckenyaco.ke/)

##### Informal Sector

1.3.3 What is the percentage of service firms that report competition with unregistered or Informal firms? **80% - Very Weak Formal Sector (2007)**

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Source: Enterprise Surveys

[www.enterprisesurveys.org/ExploreEconomies/?economyid=101&year=2007](http://www.enterprisesurveys.org/ExploreEconomies/?economyid=101&year=2007)

#### In-Country Assessment Information

Field Question (FQ) 1 Even if legal provisions exist, what is the actual status of property rights and ownership for small businesses?

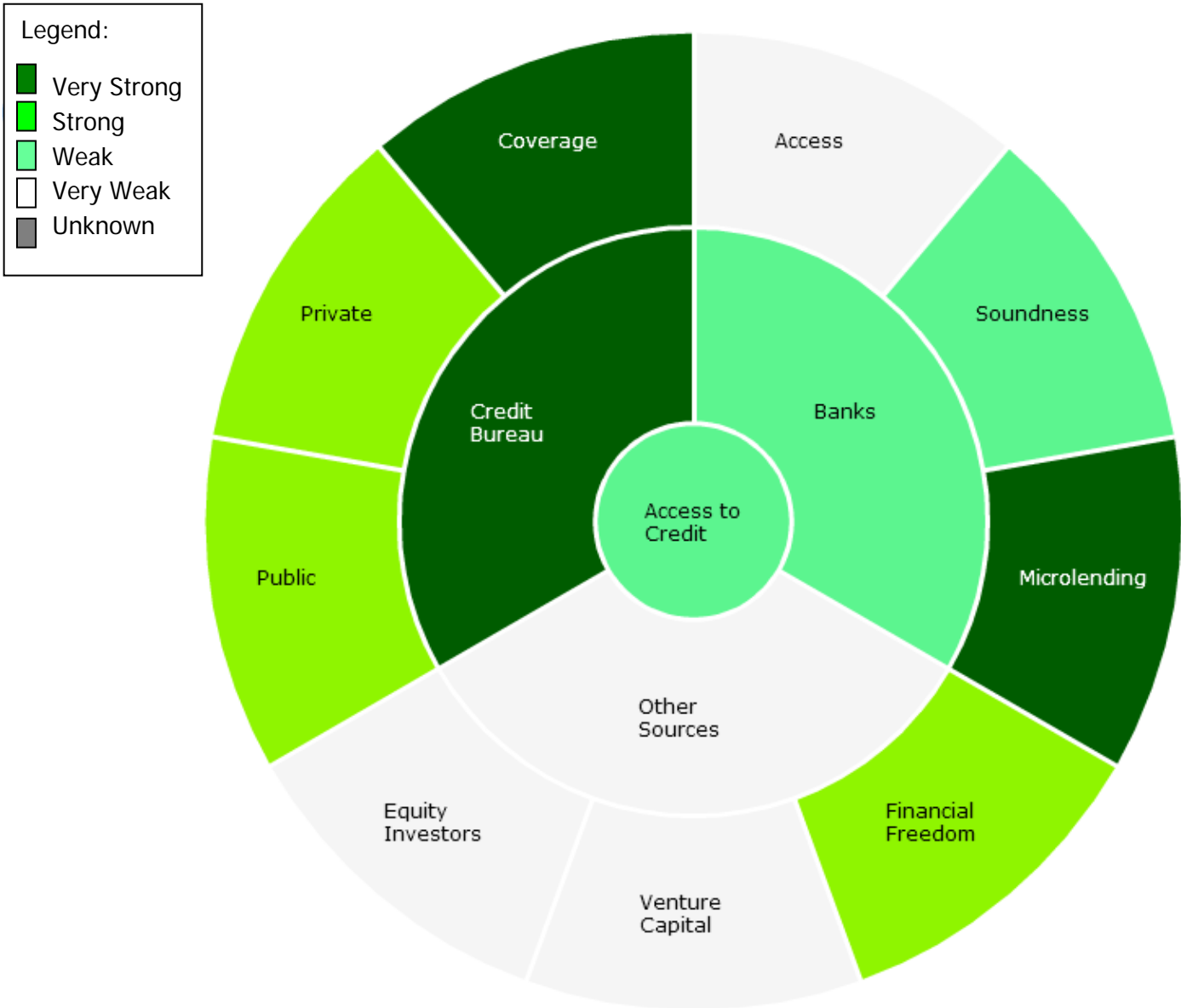
FQ 2 Are standard purchase contracts used for commercial properties? If not, how are property purchases usually completed?

# International Property Markets Scorecard

Armenia Market Conditions – Desktop Survey December 2010



## 2. Armenia Access to Credit



**Goal – An efficient, transparent financial sector that provides a broad range of citizens with access to multiple forms of competitive credit so that they can start businesses, build wealth, and purchase property**



## 2.1 Banks

Core Question: Are traditional banking services robust and extensive enough to serve the needs of the population to help them build wealth and purchase property? **No – Weak , the banking sector still suffers from insufficient long-term funding and market segmentation.**

### Access

2.1.1 How easy is it to obtain a bank loan? **Very Weak – Ranking 119<sup>th</sup> out of 133; Score 2.2 out of 7**

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Source: *The Global Competitiveness Report 2009*, World Economic Forum

2.1.1.1 What percentage of firms use banks to finance investments (fixed assets?)  
**31.9% - Strong**

2.1.1.2 What is the value of the collateral needed for a loan as a percentage of the loan?  
**95.6% - Strong**

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Source: Enterprise Surveys

<http://www.enterprisesurveys.org/ExploreEconomies/?economyid=10&year=2009>

### Soundness

2.1.2 How sound are the country's banks? **Weak – Ranking 81<sup>st</sup> out of 133; Score 5.1 out of 7**

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Source: *The Global Competitiveness Report 2009*, World Economic Forum

### 2.1.3 Microlending

**Status – Very Strong, the majority of MFIs have achieved operational and financial self-sufficiency.**

2.1.3.1 Microfinance allows citizens without traditional creditworthiness to build a credit history. How many microfinance institutions are operating in the country? **10**

**ACBA – Credit Agricole Bank** [www.acba.am/](http://www.acba.am/)

**AREGAG – Universal Credit Org** [www.aregak.am/](http://www.aregak.am/)

**FINCA Armenia**

**INECO Bank** [www.inecobank.am/](http://www.inecobank.am/)

**Microenterprise Dev Fund** [www.mdf-kamurj.am/](http://www.mdf-kamurj.am/)

2.1.3.2 What is the number of active borrowers per institution?

ACBA – Credit Agricole Bank	96,106
AREGAG – Universal Credit Org	30,180
FINCA Armenia	30,190
INECO Bank	40,774
Microenterprise Dev Fund	12,493

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Source: Microfinance Information Exchange [www.mixmarket.org/mfi](http://www.mixmarket.org/mfi)

## 2.2 Other Sources

Core Question: Are entrepreneurs free to raise capital outside the banking system including venture capital and/or by issuing stock in a well-regulated stock exchange? **No –Very Weak, the banking sector accounts for over 90% of financial sector assets.**

### Financial Freedom

2.2.1 How much control does the government exert over financial services? **Strong for entrepreneurs – Score 70 out of 100 – Limited government control**

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Source: *Index of Economic Freedom*, Heritage Foundation  
[www.heritage.org/index/Country/Armenia](http://www.heritage.org/index/Country/Armenia)

### Venture Capital

2.2.2 How easy is it for entrepreneurs to find venture capital?  
**Very Weak – 129<sup>th</sup> out of 133; Score 1.9 out of 7**

### Equity Investors

2.2.3 How easy is it to raise money by issuing shares on the stock market? **Very Weak – 112<sup>th</sup> out of 133; Score 2.7 out of 7**

---

Source: *The Global Competitiveness Report 2009*, World Economic Forum

## 2.3 Credit Bureau

Core Question: Is comprehensive credit information available through public and private credit bureaus? **Yes – Very Strong, private credit bureau operation since 2004.**

**Overall Ranking 46<sup>th</sup> out of 183**

### Coverage

2.3.1 What is the depth of information available in credit bureaus? **Very Strong – Score – 5 out of 6 with a higher number indicating more information is available**

**Public**

2.3.2 What is the extent of public credit registry coverage? **16.9% Strong**

**Private**

2.3.3 What is the extent of private credit registry coverage? **38.3% Strong**

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Source: *Doing Business – Getting Credit*, World Bank

[www.doingbusiness.org/data/exploreeconomies/armenia](http://www.doingbusiness.org/data/exploreeconomies/armenia)

Armenia Credit Reporting Agency: [www.acra.am/](http://www.acra.am/)

**In-Country Assessment Information**

**FQ 13** How available are mortgage loans for purchasing commercial property (office, retail, industrial and logistics), who is the typical user and what are the prevailing trends?

**FQ 14** What are the interest rates, term and loan-to-value ratios?

**FQ15** In addition to microloans, to what extent are microenterprises (5 or fewer employees) active in the country? Approximately what percentage are formally registered firms?

**FQ16** What services other than loans such as insurance, funds transfers, and business development training are available from microfinance organizations for formal businesses?

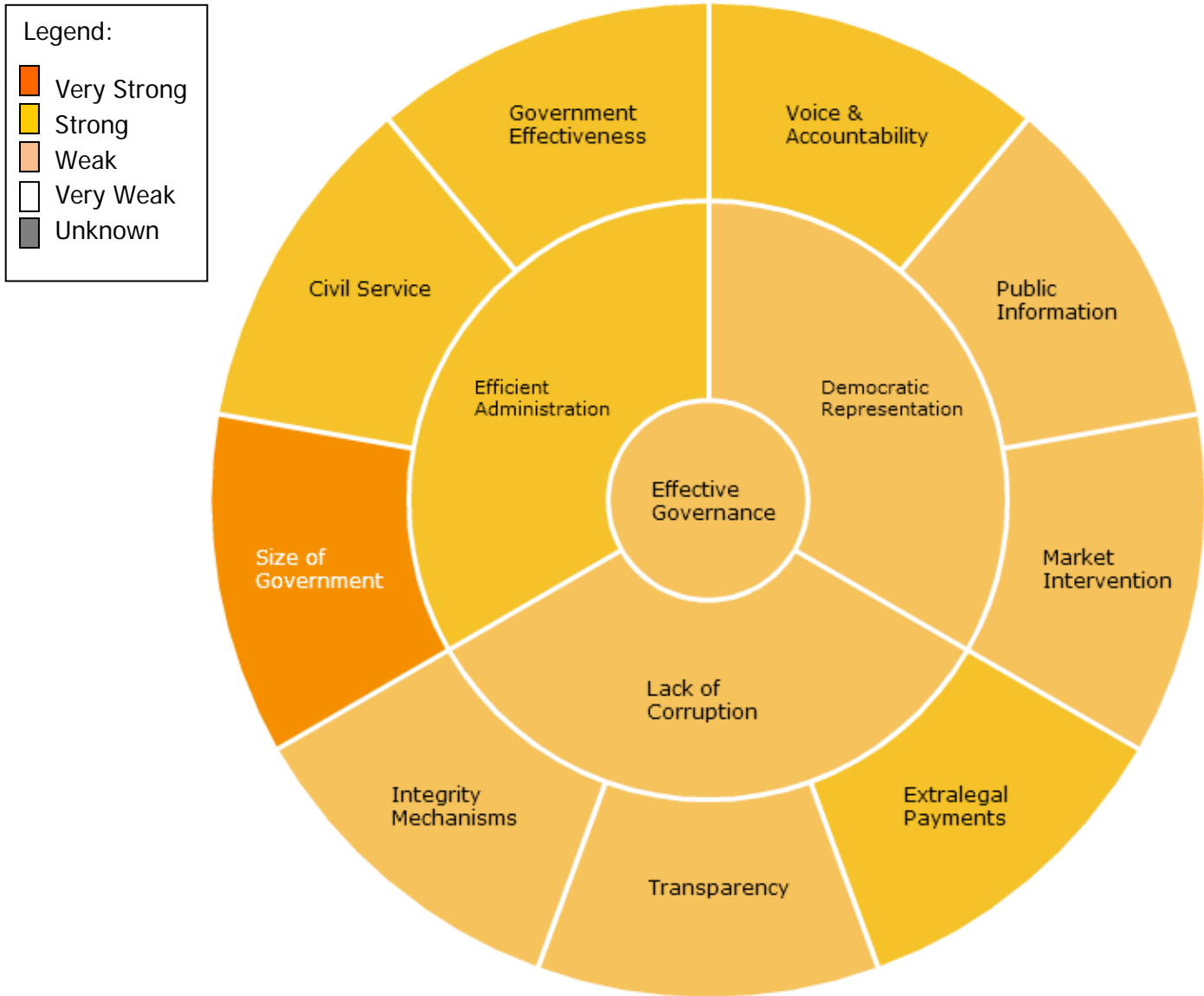
**FQ17** What professional financial services are available outside state owned banks including insurance, credit cards and investment management?

# International Property Markets Scorecard

Philippine Market Conditions – Complete Survey December 2010



### 3. Philippine Effective Governance



**Goal – A popularly elected government free of corruption and functioning efficiently and transparently enough to guarantee economic freedom to individuals and support equitable property markets**

### 3.1 Democratic Representation

Core Question: Does the country have free and open elections for the leadership and can citizens engage in free enterprise? **Yes – Weak, the government's failure to do anything substantial to liberalize the economy has set back efforts to attract much-needed foreign investment.**

#### 3.1.1 Voice & Accountability

3.1.1.1 Are citizens able to elect their government and do they enjoy freedom of expression, association and a free media? **Yes – Weak – Percentile Rank – 45.5 Trend ↓**

---

Source: *Governance Matters*, World Bank  
[http://info.worldbank.org/governance/wgi/sc\\_chart.asp](http://info.worldbank.org/governance/wgi/sc_chart.asp)

3.1.1.2 Are citizens free to form political and civic organizations free of state interference and surveillance? **Yes – Strong – Score 9.12 out of 10**

**Overall Ranking – 77<sup>th</sup> out of 167**

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Source: *The Economist* Intelligence Unit Democracy Index  
<http://graphics.eiu.com/PDF/Democracy%20Index%202008.pdf>

#### 3.1.2 Public Information

**Overall Ranking – Weak; Score 71 out of 100 (2008)**

3.1.2.1 Are there regulations governing conflicts of interest in the executive and legislative branches of government? **Yes – Executive Score 70 out of 100 – Strong; Legislative Score 81 out of 100 – Strong**

3.1.2.2 Can citizens access legislative processes and documents? **No – Score 54 out of 100 – Very Weak**

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Source: *Global Integrity Report* – <http://report.globalintegrity.org/Philippines/2008>

#### 3.1.3 Market Intervention

**Overall Ranking – Weak 109<sup>th</sup> out of 179 Trend =**

3.1.3.1 To what extent does the government intervene in the private sector including state owned industries? **Little Intervention in most sectors – Score 91.2 out of 100 with a higher score indicating less intervention**

- 3.1.3.2 To what extent does the government control prices? **Moderate Intervention in utilities, telecommunication and transportation, Score 72.7 out of 100 with a higher score indicating less control**

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Source: *Index of Economic Freedom* – Heritage Foundation

[www.heritage.org/index/Country/Philippines](http://www.heritage.org/index/Country/Philippines)

## 3.2 Lack of Corruption

Core Question:	Is the public sector transparent and free of corruption? <b>No – Weak, endemic and institutionalized corruption have compromised prevention efforts.</b>
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### Transparency

- 3.2.1 What is the perceived level of corruption in the country? **Weak – Ranking – 134<sup>th</sup> out of 178; Score 2.4 out of 10 Trend =**

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Source: *Corruption Perception Index*, Transparency International

[www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results)

### Integrity Mechanisms

- 3.2.2 A National Integrity System is a framework where the principle institutions that contribute to integrity, transparency and accountability in a society can address corruption in a systematic way. Does a National Integrity System exist? **Yes – Weak, although a system is in place, it has difficulty functioning effectively.**

---

Source: *National Integrity System Assessment*, Transparency International

[www.transparency.org/policy\\_research/nis/nis\\_reports\\_by\\_country](http://www.transparency.org/policy_research/nis/nis_reports_by_country)

### Extralegal Payments

- 3.2.3 How often do companies report that officials and/or companies expect additional payments to “expedite” services or gain business? **18.6% of firms say they are expected to make unofficial payments – Strong, lower instances than in the Region.**

---

Source: *Enterprise Surveys*, World Bank

[www.enterprisesurveys.org/ExploreEconomies/?economyid=153&year=2009](http://www.enterprisesurveys.org/ExploreEconomies/?economyid=153&year=2009)

### 3.3 Efficient Administration

Core Question: Are quality services and qualified civil servants available to the public through the efficient use of public money free of corruption? **Yes – Strong, overall progress has been mixed, but some fiscal reforms have been accomplished.**

#### Size of Government

3.3.1 What is the size of government relative to GDP? **17.1% - 25 to 30% considered optimum – Very Strong**

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Source: *Index of Economic Freedom*, Heritage Foundation  
[www.heritage.org/index/Country/Philippines](http://www.heritage.org/index/Country/Philippines)

#### Civil Service

3.3.2 What is the quality of the civil service? **Strong – Score 82 out of 100**

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Source: *Global Integrity Report* – <http://report.globalintegrity.org/Philippines/2008>

#### Government Effectiveness

3.3.3 What is the overall effectiveness of the government? **Strong - Percentile Ranking – 50 Trend =**

---

Source: *Governance Matters*, World Bank  
[http://info.worldbank.org/governance/wgi/sc\\_chart.asp](http://info.worldbank.org/governance/wgi/sc_chart.asp)

#### In-Country Assessment Information

**FQ 6. What is the actual experience of practitioners in dealing with the government?**

Overall, the Philippine National Integrity System has difficulty functioning effectively. The reason for this is that in a country with endemic and institutionalized corruption, the NIS pillars themselves have become compromised. The principle of separation of power and the check-and-balance mechanism – crucial elements in the prevention of collusion within oversight departments – have been ignored. Horse-trading occurs between individual legislators and the executive to place their people into positions in the bureaucracy, military or the police. Systematic state capture of government by both political and business elites is also a concern. Accountability agencies imbued with constitutional independence and fiscal autonomy lack true independence due to inadequate financial resources and budget shortfalls. The OMB and other enforcement agencies have problems building the capacity of their organizations as part of their



investigative and prosecutorial roles. Government anti-corruption agencies' efforts have tended to be diffused and dispersed, leading to a dilution of resources due to the lack of a focal point. The bifurcated system in which the rich are allowed to get away but the poor are punished remains a major problem in the criminal justice system. Finally, although Philippine anti-corruption laws are comprehensive, and tight regulatory frameworks exist, laws are not formulated through a consultative process to ensure that stakeholders have given their inputs and consensus building is ensured.

The informal sector, although vibrant and lively, lacks a degree of self-regulation to ensure that integrity mechanisms, such as codes of conduct and rules on conflict of interest and gifts and hospitality, are enforced. The public-private interface, and even the private-private interface, has always been an area where corruption flourishes. Skepticism has not been eradicated among civil society organizations concerning the business sector's motivation to engage in anti-corruption efforts. The decentralization push by the government and international donors to strengthen local government and bring communities closer to decision-making processes, although commendable, also has the potential of decentralizing corruption. International donors who preach the anticorruption agenda also suffer from corruption within their own governments. Institutions like the OMB, CSC and the executive have mechanisms in place for whistleblowers, but these systems would be inadequate for protection against reprisals and an increase in disclosures.

However, it is not all bleak news. First, the Philippines is ahead of most countries given that it has provisions in constitutional law, a comprehensive legal framework and a tight regulatory regime in place to support the NIS. These are further supported by other measures, such as executive orders, presidential proclamations and decrees, administrative orders and official memoranda that serve to underpin anti-corruption efforts.

Source: National Integrity System Evaluation 2006

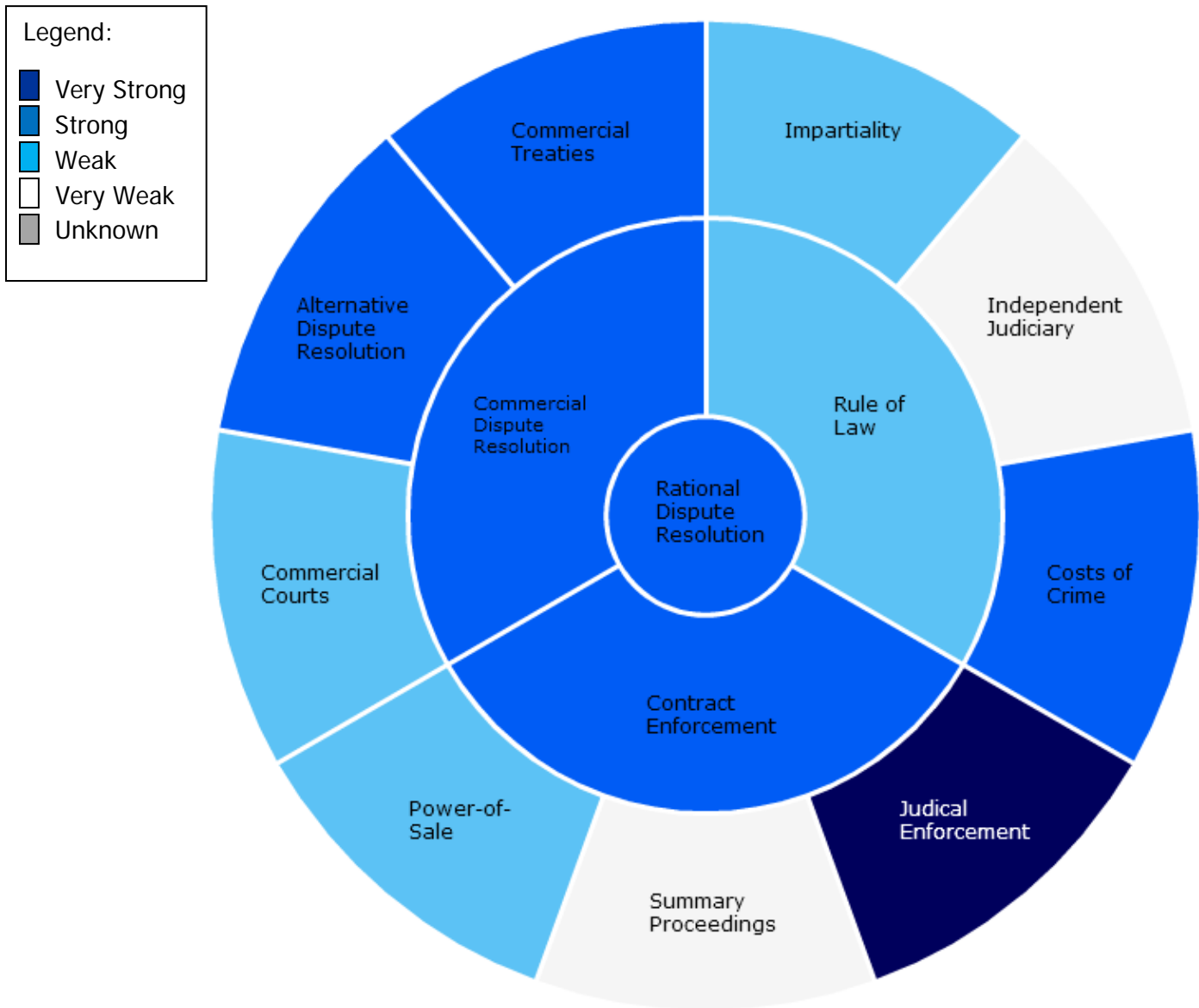
[www.transparency.org/policy\\_research/nis/nis\\_reports\\_by\\_country](http://www.transparency.org/policy_research/nis/nis_reports_by_country)

# International Property Markets Scorecard

China Market Conditions – Desktop Survey December 2010



## 4. China Rational Dispute Resolution



**Goal – An efficient institutional framework that balances the rights of the public, owners, lenders and borrowers in the event of a dispute or loan default**

## 4.1 Rule of Law

Core Question:	Do all market participants abide by the rule of law and have confidence in the courts and the ability of police to control crime? <b>No – Weak, relevant regulations are not strong enough. Some judges have various kinds of connections with law firms or other private businesses.</b>
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### Impartiality

4.1.1 What is the confidence level of the strength and impartiality of the police, courts and contract enforcement? **Weak – Percentile Ranking – 45.3 Trend ↑**

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Source: *Governance Matters*, World Bank  
[http://info.worldbank.org/governance/wgi/sc\\_chart.asp](http://info.worldbank.org/governance/wgi/sc_chart.asp)

### Judiciary

4.1.2 Can members of the judiciary be held accountable for their actions? **No– Score 46 out of 100 – Very Weak, there is strong party control and interference from the local administration.**

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Source: *Global Integrity Report* – <http://report.globalintegrity.org/China/2009>

### Costs of Crime

4.1.3 What are the business costs of crime and violence? **Moderate Costs – Ranking 43<sup>rd</sup> out of 133 – Score 5.4 out of 7, Strong**

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Source: *The Global Competitiveness Report 2009*, World Economic Forum

## 4.2 Enforcement of Contracts

Core Question:	Are systems in place for timely and efficient enforcement of contracts? <b>Commercial – Yes – Strong, contract enforcement has improved dramatically in urban areas. However, there is strong local protectionism in the judicial branch in Chinese regions. Local and foreign firms are protected.</b>
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### 4.2.1 – Judicial Enforcement

**Commercial – Very Strong – Ranking 15<sup>th</sup> out of 183 Trend =**

4.2.1.1 What is the number of procedures involved in resolving a commercial dispute?  
**34**

- 4.2.1.2 What is the time between the filing of a lawsuit and resolution in judicial enforcements? **406 days**
- 4.2.1.3 What is the cost of judicial enforcements as a percentage of debt value? **11.1%**

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Source: *Doing Business* – [www.doingbusiness.org/data/exploreeconomies/china](http://www.doingbusiness.org/data/exploreeconomies/china)

#### 4.2.2 – Summary Proceedings

- SQ 10 Summary proceedings are alternative dispute resolution processes where creditors can apply for a direct court order in property disputes. What is the time between notice of intent to foreclose and loan collection in summary proceedings if available to lenders? **Not Available – Very Weak**
- SQ 11 What is the cost of summary proceeding if available to lenders as a percentage of property value? **Not Available – Very Weak**

#### 4.2.3 – Power-of-Sale

- SQ 12 Power-of-sale agreements give creditors to power to sell properties after notice to the borrower without court intervention. What is the time between notice of intent to sell and loan collection for power-of-sale agreements if available to lenders? **Weak – provided for in the Property Law (Chapter XVI, Article 191), but little used due to low volume of transactions. Also creditor must find alternate living space for owners.**
- SQ 13 What is the cost of power-of-sale agreements if available to lenders as a percentage of property value? **Unknown**

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Source – Source: Property Rights Law of the People's Republic of China  
[www.lehmanlaw.com/fileadmin/lehmanlaw\\_com/laws\\_regulations/Propoerty\\_Rights\\_Law\\_of\\_the\\_PRC\\_LLX\\_03162007.pdf](http://www.lehmanlaw.com/fileadmin/lehmanlaw_com/laws_regulations/Propoerty_Rights_Law_of_the_PRC_LLX_03162007.pdf)

### 4.3 Commercial Dispute Resolution

Core Question:	Can commercial disputes be resolved efficiently and fairly without exorbitant expense and delay? <b>Yes – Strong, but extensive due diligence and contract negotiation is required.</b>
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Survey Questions

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#### Commercial Courts

SQ 14 Do specialized commercial courts exist for the handling of property disputes and foreclosures? **No – Weak, commercial cases are handled in the Basic Level People’s Court.**

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Source: [www.olemiss.edu/courses/pol324/chnjudic.htm](http://www.olemiss.edu/courses/pol324/chnjudic.htm)

### **Alternative Dispute Resolution**

SQ 15 Are alternative dispute resolution mechanisms in place including commercial arbitration, private mediation and community based processes? **Yes – Strong, arbitration is the preferred method of dispute resolution in China.**

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Source: U.S. Dept of Commerce

[www.export.gov/china/exporting\\_to\\_china/disputeavoidanceandresolution.pdf](http://www.export.gov/china/exporting_to_china/disputeavoidanceandresolution.pdf)

### **Commercial Treaties**

SQ 16 What bilateral, regional and international commercial treaties exist concerning business between countries? **ASEAN, Thailand, Niger, Chile, Pakistan, New Zealand, Peru, Singapore, Costa Rica; Double taxation treaties exist with more than 80 countries - Strong**

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Source: China FTA Network, Ministry of Finance <http://fta.mofcom.gov.cn/english/index.shtml>

### **In-Country Assessment**

**FQ23 To what extent do small businesses trust public institutions to support contract enforcement?**

**FQ24 To what extent are alternative dispute resolution procedures used and trusted by small businesses?**