

International Property Markets Scorecard

Vietnam Market Conditions – Complete Survey July 2009



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Scorecard Information & Background

The Scorecard reflects the status of the six Core Elements necessary for transparent and efficient property market development. Each Core Element includes three Lead Indicators that are further divided into Sub-Indicators. Colors signify the strength of institutions that support market development – very strong, strong and weak. No color indicates that institutions are very weak. Gray indicates more information is needed for an objective determination.

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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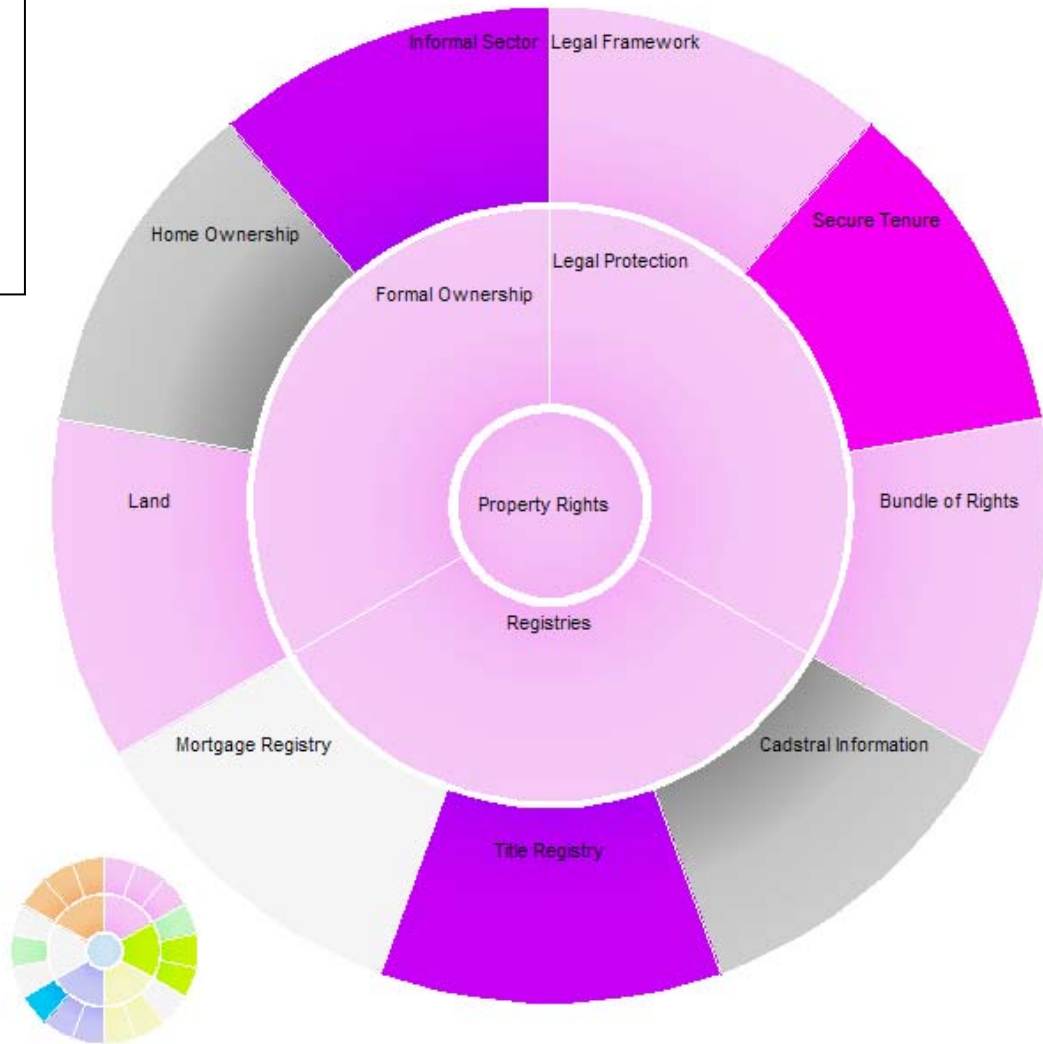
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Property Rights



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? **No – Weak – all land is owned by the government.**

Legal Framework

- 1.1.1 Are property rights clearly defined and protected by law?
No – Weak – Ranking 75th out of 134; Score 4.4 out of 7

Security of Tenure

- 1.1.2 Can citizens challenge the legality of government takings? **Yes – Strong – Ranking 56th out of 134; Score 3.8 out of 7**

Source: *Global Competitiveness Report 2008* – World Economic Forum
www.weforum.org/documents/gcr0809/index.html

Bundle of Rights

Survey Question (SQ)

- SQ 1 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 – Residential – the right to sell, give, lease or inherit; Commercial - leasehold**

1.2 Registries

Core Question:	Does a reliable property registry exist including cadastral, title and mortgage lien information? No – Weak – More information is needed regarding access and reliability.
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1.2.1 Cadastral Information

Status – Unknown

Survey Questions

- SQ 2 Is cadastral information (information about the dimensions and location of land parcels) registry accessible to the public? **Unknown**
- SQ 3 Is zoning/permitted use information included and are use regulations respected and enforced? **Yes, a Master Plan is in place.**
- SQ 4 Are Geographic Information Systems (GIS) including Global Positioning Satellite (GPS) information used to create and update the registry? **Unknown**

Civil Society Resource: The Vietnam Association of Geodesy, Cartography and Remote Sensing www.vgcr.org.vn/

1.2.2 Title Registry

Very Strong – Ranking – 37th out of 181 Trend ↑

- 1.2.2.1 What is the number of procedures required to register the transfer of a property from one owner to another? **4**
- 1.2.2.2 What is the duration of time in calendar days that it would take to complete the transfer? **57**
- 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?
5.2% (4% land tariff, 1.2% transfer fees)

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

Source – *Doing Business* – Registering Property, World Bank
www.doingbusiness.org/ExploreEconomies/?economyid=202

1.2.3 Mortgage Registry

Status – Very Weak – Few Transactions

Survey Questions

- 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?
Mixed – Government officials can certify sales agreements.
- 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 – Weak – Less than half the transactions are recorded.
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Survey Questions

Land

SQ 8 What is the status of land ownership? **Weak – Residential properties are converting to perpetual use; commercial is still owned by the government.**

Home Ownership

SQ 9 What is the percentage of formal home ownership? **Unknown**

Informal Sector

SQ 10 What is the size of the informal economy as a percentage of GDP? **15.6% (2000)**
Regional Average 26% - Very Strong Formal Sector

Source: World Bank http://rru.worldbank.org/Documents/PapersLinks/informal_economy.pdf

In-Country Assessment Information

Field Question (FQ) 1. What is the actual status of property rights and ownership for citizens and foreigners?

All land is owned by the government. However the government has never entirely repudiated the concept of private property, particularly agricultural and residential land. Tenancy operates on the basis of land use rights conferred by government authorities. Parcels are leased to developers on the basis of 50 years and sometimes as high as 70 years. If the use is residential, the tenants in the building now have perpetual use rights that they may sell, give, lease, and inherit. For Vietnamese citizens, these residential use rights are the practical equivalent of fee simple title.

These statutory entitlements only apply to Vietnamese citizens; foreigners may not acquire use rights to residential property. Nor does the notion of perpetual use rights extend to commercial, retail, or industrial use. For these uses, the 50-year lease stays in place. At the end of the lease, the land supposedly reverts to the government although most believe that a new lease would be negotiated or the government will change this policy of non-land ownership and allow the then-existing owners to purchase the land under their properties. Substantial questions remain as to whether the building owner is entitled to compensation at the end of the lease period should the lease not be renewed.

Under existing law, a developer is obligated to hold an election where unit owners elect their management at the point when the developer sells 80% of the project. Many developers retain at least 20% of the project to prevent the owners from taking management control. Hence, the government indirectly owns or controls considerable real estate through state-owned developers. This is likely to diminish if the privatization plans envisioned by state-owned developers are realized.

The government has established a master plan to the year 2020 with a vision to 2050. As a consequence, this master plan overlays all existing uses and helps to define parcels where residential and/or commercial/industrial parks and retail might be built. It is then up to the developer to acquire the rights to those parcels, to get permission to build and develop. After the rights are acquired, the developer has to compensate any existing users on the parcel and that exit price is subject to negotiation.

Land use is approved on three separate levels depending on the size of the project. A national approval is required from the Housing and Urban Development Authority for those projects priced over 40 billion VND. Local government approvals are required under that amount.

FQ 2. What is the actual experience of transferring a property?

Many locals (reportedly up to 60%) do not record transfers of ownership by offering to registration officials the “Red Certificate” for re-registration in the buyer’s name. The “Red Certificate” is a document similar to a deed that certifies ownership. The registration officials maintain the title history, tax and tariff history and some sort of plat and survey information on all properties in their jurisdiction. This database is incomplete to the extent that many sales are not registered. However, transfers are occurring; usually registration is belatedly achieved when the buyer wants to sell.

A second sales market does exist. At present, it is considerably smaller than the market in new housing units, but it is growing. In practice there are usually two contracts prepared – one contract for the actual price and another contract at about 25% of the sales price which is delivered to the local office for tariff and taxing reasons.

FQ 3. What are the actual housing conditions for all groups including the poor, minorities and other marginalized groups?

There are approximately 16 million housing units in Vietnam of which 400,000 have not yet been privatized. However, according to the Director of the Bureau of Housing, the remaining 400,000 will be privatized by the end of 2006. That means 97½% of the housing stock is currently in private hands and arguably “owner” occupied.

Because of the “relationship” nature of Vietnamese culture, it is difficult to determine whether or not the people in the housing units are owner-occupied or, in fact, renting to an extended family. It is quite common for more than one family to occupy a housing unit along with relatives and friends. It seems logical to conclude that a very high percentage of the housing units in Vietnam are occupied by at least one person with an ownership interest, although blended with numerous formal and informal rental options.

Source: IRPF Assessment April 2006

1. 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 – Less than 10% of residential transactions involve a mortgage loan.
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Access

2.1.1 How easy is it to obtain a bank loan? **Weak – Ranking 91st out of 134**
Score 2.9 out of 7

Soundness

2.1.2 How sound are the country's banks? **Very Weak – Ranking 113th out of 134**
Score 4.7 out of 7

Source: *Global Competitiveness Report*, World Economic Forum
www.weforum.org/documents/gcr0809/index.html

2.1.3 Microlending

Status – Strong – 70 to 80% of the poor has access.

2.1.3.1 Microfinance allows citizens without traditional creditworthiness to build a credit history. How many microfinance institutions are operating in the country? **6**

Binhminh Community Development Company <http://mfivietnam.ning.com/>

Capital Aid Fund for Employment of the Poor www.cep.org.vn/

The National Microfinance Network (M7) <http://m7group.org/index.php?lang=en>

Thanh Hoa Microfinance Program

TYM Fund

Vietnam Bank for Social Policies www.vbsp.org.vn/en/

2.1.3.2 What is the number of active borrowers per institution?

Binhminh Community Development Company - 4,068 (2007)

Capital Aid Fund for Employment of the Poor – 107,867 (2008)

The National Microfinance Network (M7) – 30,333 (2008)

Thanh Hoa Microfinance Program – 4,691

TYM Fund – 33,935

Vietnam Bank for Social Policies -6,793,443 (2008)

Source: Microfinance Information Exchange 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? Yes – Strong – the state's role in the economy is gradually declining.
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Financial Freedom

2.2.1 How much control does the government exert over financial services? **Extensive government control – Weak for entrepreneurs – Score 30 out of 100**

Source: *Index of Economic Freedom*, Heritage Foundation
www.heritage.org/index/Country/Vietnam

Venture Capital

2.2.2 How easy is it for entrepreneurs to find venture capital?
Strong – Ranking 59th out of 134; Score 3.2 out of 7

Equity Investors

2.2.3 How easy is it to raise money by issuing shares on the stock market?
Very Strong – Ranking 5th out of 134; Score 5.6 out of 7

Source: *Global Competitiveness Report 2008* – World Economic Forum
www.weforum.org/documents/gcr0809/index.html

2.3 Credit Bureau

Core Question:	Is comprehensive credit information available through public and private credit bureaus? Yes – Strong
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Overall Ranking 43rd out of 181 Trend ↑

Coverage

2.3.1 What is the depth of information available in credit bureaus? **Score – 4 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? **13.4%**

Private

2.3.3 What is the extent of private credit registry coverage? **Not available**

Source: *Doing Business* – Getting Credit, World Bank
www.doingbusiness.org/ExploreEconomies/?economyid=202

In-Country Assessment Information

FQ 4. How available are mortgage loans for purchasing property, who is the typical user and what are the prevailing trends?

Financing is available in the market and though utilized in only 3-5% of residential transactions, it appears to be a growing activity. The lenders rely primarily on the collateral and not on the ability of the borrowers to repay. This is due, in part, because it is difficult to ascertain the actual income of the primary borrower and the extended family households provide a larger pool of individuals to ensure that the mortgage is current.

There also doesn't seem to be an open transparent public record of mortgages or prior liens against the property, however, the banks interviewed all indicated that they were reasonably comfortable with the legal framework in which the mortgages were made.

The number of mortgages in the marketplace is relatively small as only 2% of the population has bank accounts. Private banks making mortgages indicated that only 2% of their entire lending portfolio is in mortgages.

The public is increasingly looking to mortgages to buy real estate where the pricing has been escalating dramatically. Because of the variability of the rates, most borrowers will attempt to pay these mortgages off as quickly as possible, generally in 1-3 years.

Some buyers are able to 'borrow' purchase funds from their villages. These function a bit like credit unions. Funds are loaned for a year on a basis of 1% per month interest. Funds are repaid as quickly as possible and extensions are given if payments have been adequate. The villages hope to have these loans repaid as quickly as possible so they can assist another villager purchasing in the city.

The government has placed a new restriction on pre-sales of new construction, requiring that developer put in foundations, and actually begin construction of the buildings before any monies are made available from the future buyers' down-payments. Some developers have gotten around this by calling for a "capital contribution" in the form of share purchases to the project as opposed to an installment purchase of a housing unit.

FQ 5. What are the interest rates, term and loan-to-value ratios?

The mortgages that are available are on new construction in terms of 10-20 years (mostly 10-15) with interest priced on a 1.1% to 1.4% per month basis. They are mostly variable rate mortgages with semi-annual adjustments; the benchmark is typically 4% above the individual lenders "cost of funds."

The loans will be no higher than 70% loan-to-value ratio. Resale loans are similar to new construction loans, except that amounts will not exceed 50%-60% loan to value.

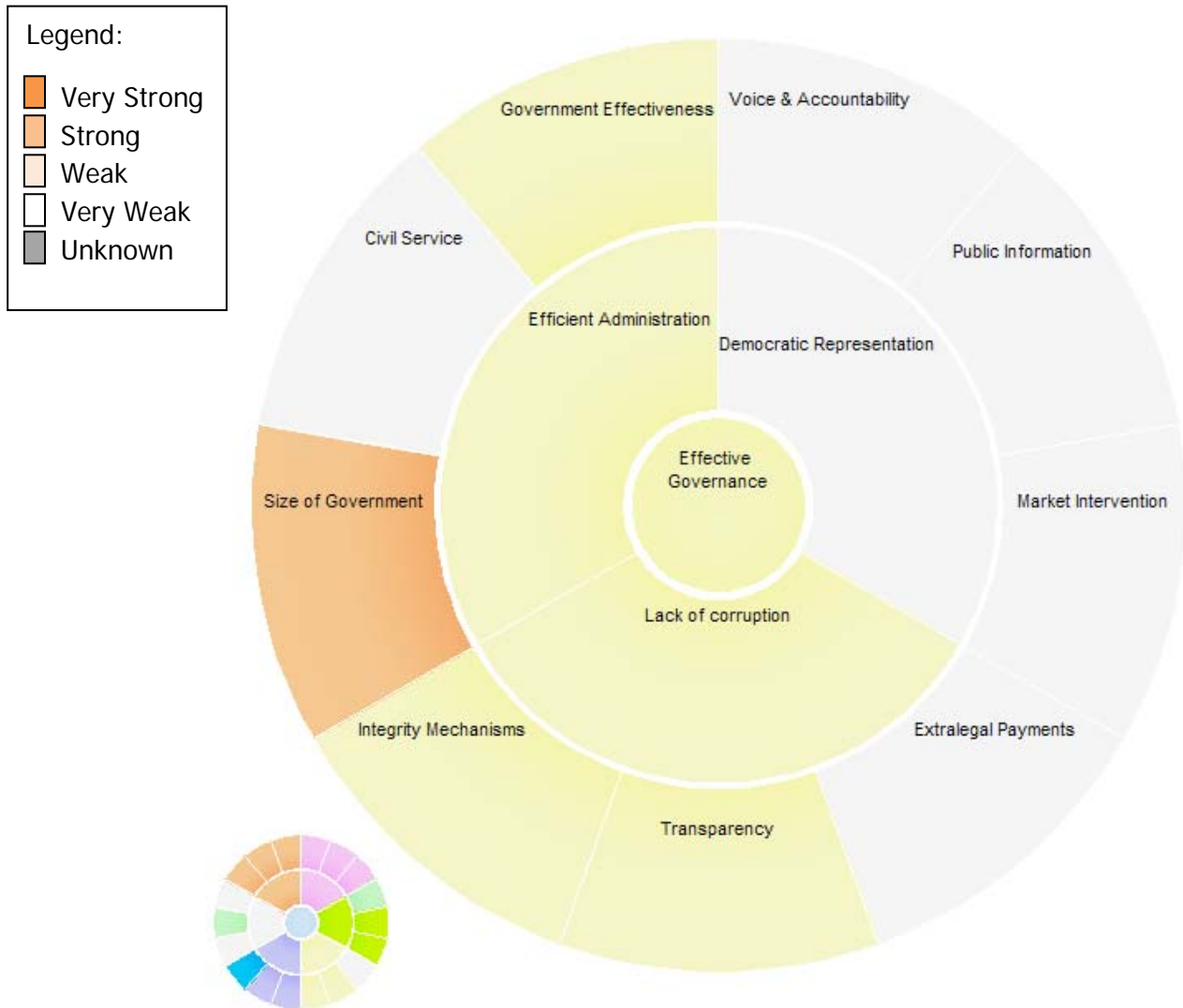
Purchase-money mortgages where the proceeds are paid directly to the seller and mortgages for business purposes are also available but the maximum LTV would be 50%.

FQ 6. Are there any informal barriers to borrowing such as for women or minorities?

Unknown

Source: IRPF Assessment April 2006

2. 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? **No – Very Weak – the democratization process is moving very slowly.**

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? **No – Very Weak – Percentile Rank – 6.7 Trend ↓**

Source: *Governance Matters 2008*, World Bank
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? **No – Very Weak – Score 1.47 out of 10**

Overall Ranking – 149th out of 167

Source: *The Economist* Intelligence Unit Democracy Index
<http://a330.g.akamai.net/7/330/25828/20081021185552/graphics.eiu.com/PDF/Democracy%20Index%202008.pdf>

3.1.2 Public Information

Overall Score – Very Weak 47 out of 100 (2006)

- 3.1.2.1 Are the regulations governing conflicts of interest in the executive and legislative branches of government effective? **No – Executive Score 40 out of 100 – Very Weak; Legislative Score 15 out of 100 – Very Weak (2006)**
- 3.1.2.2 Can citizens access legislative processes and documents?
No – Score 5 out of 100 – Very Weak (2006)

Source: *Global Integrity Report* – <http://report.globalintegrity.org/Vietnam/2006>

3.1.3 Market Intervention

Overall Ranking – Very Weak 145th out of 179 Trend ↑

- 3.1.3.1 To what extent does the government intervene in the private sector including state owned industries?
Score 77.3 out of 100 with a higher score indicating less intervention
- 3.1.3.2 To what extent does the government control prices? **Score 67 out of 100 with a higher score indicating less control Trend ↓**

Source: *2009 Index of Economic Freedom* – Heritage Foundation
www.heritage.org/index/Country/Vietnam

3.2 Lack of Corruption

Core Question: Is the public sector transparent and free of corruption? **No – Weak – first anticorruption law passed in 2005 but implementation has yet to affect day-to-day activities.**

Transparency

3.2.1 What is the perceived level of corruption in the country? **Weak – Ranking – 121st out of 180; Score 2.7 out of 10 with a higher score indicating more transparency**
Trend ↑

Source: Transparency International
www.transparency.org/policy_research/surveys_indices/cpi/2008

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 – Mechanisms are either rudimentary or poorly enforced.**

Source: Transparency International
www.transparency.org/policy_research/nis/nis_reports_by_country

Extralegal Payments

Survey Question

SQ 11 How often do companies report that officials and/or companies expect additional payment to “expedite” services or gain business? **Very Weak – 65-70% of people are willing to pay extra to get things done.**

Source: Global Integrity Reporter’s Notebook
www.globalintegrity.org/reports/2006/vietnam/notebook.cfm

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? **No – Weak, systemic corruption continues to hamper government effectiveness.**

Size of Government

- 3.3.1 What is the size of government relative to GDP? **27.5%**
25 to 30% considered optimum – Strong with moderate spending and modest reforms

Source: *2009 Index of Economic Freedom*, Heritage Foundation
www.heritage.org/index/Country/Vietnam

Civil Service

- 3.3.2 What is the quality of the civil service? **Score – 34 out of 100 – Very Weak**

Source: *Global Integrity Report 2008* – <http://report.globalintegrity.org/Vietnam/2006>

Government Effectiveness

- 3.3.3 What is the overall effectiveness of the government? **Weak - Percentile Ranking – 41.2 Trend ↓**

Source: *Governance Matters 2008*, World Bank
http://info.worldbank.org/governance/wgi/sc_chart.asp

In-Country Assessment Information

FQ 7. What is the actual experience of practitioners in dealing with the government?

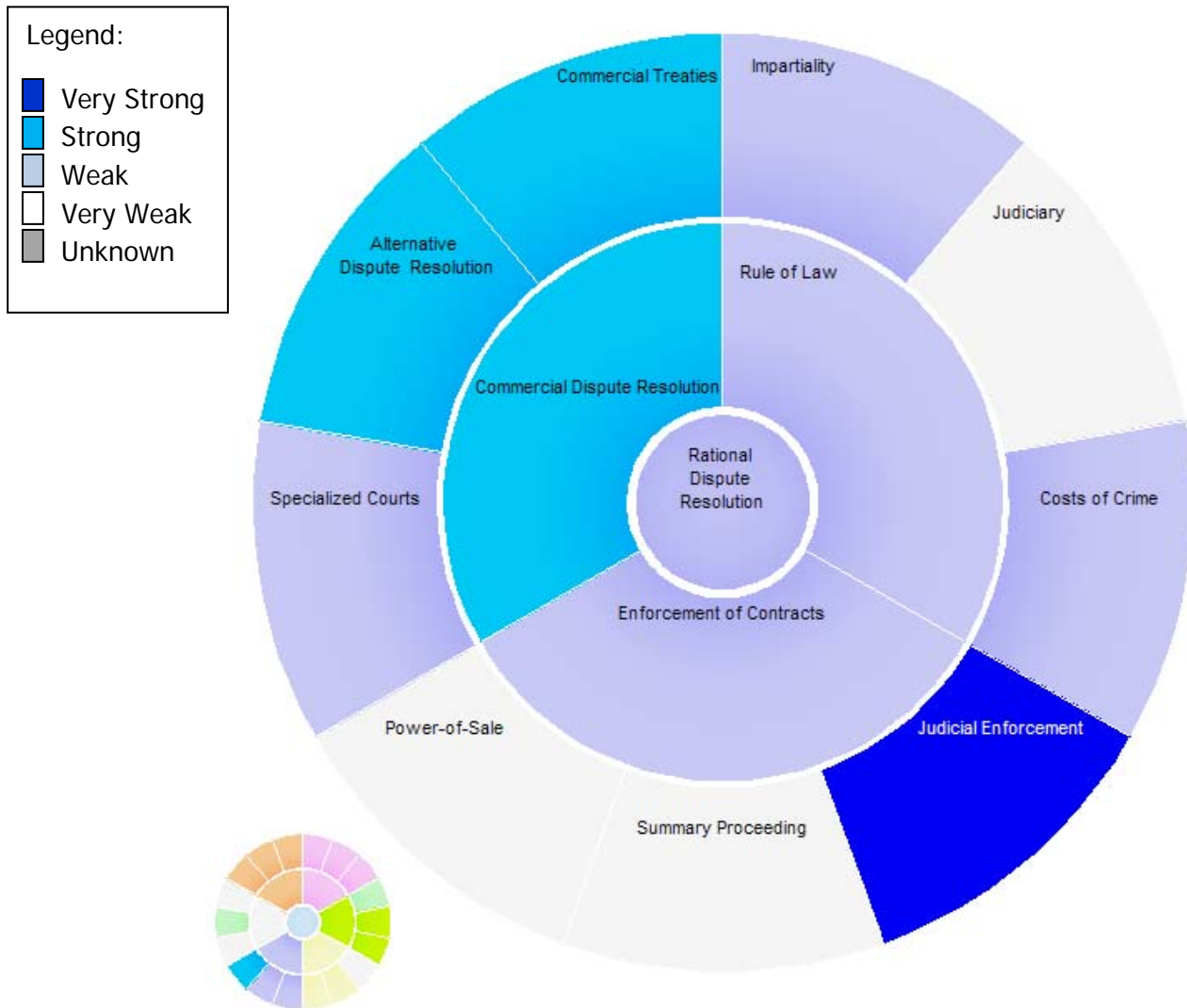
The legal framework required of property transfer is far from transparent and is riddled with complications, delays and high taxes. For these reasons, many locals do not record transfers of ownership or do not report the actual sales price when recording.

A “Real Estate Business Law” was expected to be adopted by the National Assembly in June, 2006. This law would require that those in the business respect and protect customers’ rights and interests, and take responsibility for the information they provide. Though the law does clarify certain obligations of a broker relative to disclosure, fair dealing, etc., it does not address the agency issues such as representing both sides in a transaction.

For land use there are several layers of approvals including local, provincial and national. Each level of government has a “people’s committee” with broad supervisory authority, including veto power over land use decisions. These committees seem to be responsive to community needs.

Source: IRPF Assessment April 2006

3. 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? **No – Weak, there is insufficient separation between the communist party and the judiciary and law enforcement.**

Impartiality

4.1.1 What is the confidence level of the strength and impartiality of the police, courts and contract enforcement? **Weak – Percentile Ranking – 41.6 Trend ↑**

Source: *Governance Matters 2008*, World Bank

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 – Very Weak
Score 23 out of 100**

Source: Global Integrity Report – <http://report.globalintegrity.org/Vietnam/2006>

Costs of Crime

4.1.3 What are the business costs of crime and violence? **Significant costs – Ranking 72nd
out of 133; Score 4.7 out of 10 - Weak**

Source: *Global Competitiveness Report 2009* – World Economic Forum

www.weforum.org/documents/gcr09/index.html

4.2 Enforcement of Contracts

Core Question: Are systems in place for timely and efficient enforcement of contracts?
Commercial – Yes – Very Strong
Residential – Very Weak – Power-of-sale available but not in use

4.2.1 Judicial Enforcement

Commercial – Very Strong – Ranking 32nd out of 181

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? **295 days**

4.2.1.3 What is the cost of judicial enforcements as a percentage of debt value? **28.5%**

Source: *Doing Business* – www.doingbusiness.org/ExploreEconomies/?economyid=202

Residential – Very Weak

Survey Questions

SQ 12 What is the time between notice of intent to foreclose and loan collection in judicial enforcements? **Very Weak – 485 days; Ranking 37th out of 40**

SQ 13 What is the cost of judicial enforcements as a percentage of property value? **10.18%; Weak – Ranking 23rd out of 38**

4.2.2 Summary Proceedings

SQ 14 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? **Very Weak – Not available**

SQ 15 What is the cost of summary proceeding if available to lenders as a percentage of property value? **Very Weak – Not available**

4.2.3 Power-of-Sale

SQ 16 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? **Very Weak – Permitted by law, but not used by lenders.**

SQ 17 What is the cost of power-of-sale agreements if available to lenders as a percentage of property value? **Very Weak – Permitted by law, but not used by lenders.**

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)

4.3 Commercial Dispute Resolution

Core Question:	Can commercial disputes be resolved fairly and efficiently without exorbitant expense and delay? Yes – Strong, Foreign investors tend to refer to foreign arbitration due to lack of confidence in Vietnamese courts.
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Commercial Courts

Survey Questions

SQ 18 Do specialized commercial courts exist for the handling of property disputes and foreclosures? **Yes – Weak - Civil & Economic Courts exist but are not independent**

Source: Hauser Global Law School Program, NYU School of Law
www.nyulawglobal.org/globalex/vietnam.htm#_Judicial_System

Alternative Dispute Resolution

SQ 19 Are alternative dispute resolution mechanisms in place including commercial arbitration, private mediation and community based processes? **Yes – Strong**

Source: Vietnam International Arbitration Centre www.viac.org.vn/en-US/Home/default.aspx

Commercial Treaties

SQ 20 What bilateral, regional and international commercial treaties exist concerning business between countries? **Strong – U.S., a member of ASEAN – Korea, EU, Japan, China and India; Chile; Israel**

Source: Bilaterals.org www.bilaterals.org/rubrique.php?id_rubrique=171

In-Country Assessment

FQ 8. To what extent do practitioners report contracts as enforceable?

Real estate contracts are theoretically enforceable in court, though the remedy for breach is damages; specific performance is probably not available. Moreover, the judicial process is uncertain, unpredictable, expensive and extremely slow. Important judicial reforms will be necessary before a truly effective market can be said to exist.

Source: IRPF Assessment April 2006

4. Financial Transparency



Goal – A well developed and transparent financial system that includes strong supporting institutions and trained and ethical professionals that contribute to effective financial intermediation and deep and broad access to capital and financial services

5.1 Market Stability

Core Question: Are market risks sufficiently transparent and diversified so that efficient capital allocation can occur? **No – Very Weak, government has committed to financial market liberalization, reforms underway.**

Financial Reporting

- 5.1.1 What is the strength of the country's auditing and reporting standards?
Very Weak – Ranking – 106th out of 134; Score 3.8 out of 7

Government Resource: Ministry of Finance
<http://www.mof.gov.vn/DefaultE.aspx?tabid=197>

Market Sophistication

- 5.1.2 What is the overall level of financial market sophistication in the country?
Very Weak – Ranking – 106th out of 134; Score 3.1 out of 7

Source: *Global Competitiveness Report 2008* – World Economic Forum
www.weforum.org/documents/gcr0809/index.html

Insolvency Process

Weak – Ranking – 124th out of 181 Trend =

- 5.1.3 What is the average time to complete bankruptcy proceedings? **5 Years**
- 5.1.4 What is the cost of bankruptcy proceedings as a percentage of the estate? **15%**
- 5.1.5 What is the recovery rate of bankruptcy proceedings? **18 cents on the dollar**

Source: *Doing Business* – Closing a Business
www.doingbusiness.org/ExploreEconomies/?economyid=202

5.2 Independent Asset Valuers

Core Question:	Do highly trained, independent and ethical valuers exist for real property, natural resources, machinery and equipment and intangible assets? Weak – an independent profession is evolving.
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Survey Questions

Standards

- SQ 21 How easy is it to find a valuer who implements International Valuation Standards?
Weak – valuers are still largely government officials.

Training

SQ 22 What is the level of training of valuers? **Weak -there is a 9-month training program administered by the Economic University, the Marketing University or the Agriculture and Forestry University.**

Civil Society Resource: Appraisal Institute www.appraisalinstitute.org

Ethics

SQ 23 Are opinions offered by valuers free of influence from parties to the transaction? **Very Weak – independent data and regulation is still under development.**

5.3 Data Standards

Core Question: Is accurate property information available electronically in formats that are consistent with international standards? **No – Very Weak, international cooperation increasing**

Survey Questions

Sales & Operating Data

SQ 24 A multiple listing service is an electronic exchange system where brokers and agents can widely share contracted real estate listings of properties that are for sale. Do multiple listing type services exist? **No – Very Weak, the cost-less depreciation data on housing units used during privatization exists.**

*Civil Society Resource: International Consortium of Real Estate Associations
www.worldproperties.com*

SQ 25 Do resources exist for obtaining building income and expense estimates? **No – Very Weak**

Civil Society Resource: Institute for Real Estate Management – www.irem.org

Interchange Formats

SQ 26 Do electronic data interchange formats conform to international standards (ebXML – electronic business using extensible markup language)? **No – Very Weak**

*Civil Society Resource: Open Standards Consortium for Real Estate International
www.oscre.org*

Technical Standards

SQ 27 Do building codes and office building measurement standards (ANSI/BOMA Z65.1) conform to international standards?

No – Weak, the Ministry of Construction is opening up to international cooperation.

Civil Society Resource: Building Owners and Managers Association – www.boma.org

In-Country Assessment

Market Stability

FQ 9. How stable has the property market been over the last several years?

Vietnam has had an extended period of growth created by massive capital inflows. This growth has moderated somewhat with the global financial crisis as investors have become more conservation and risk averse. The expected slow growth in the coming years puts additional pressures on the banking system. The government has pledged to continue financial sector reforms and the privatization of state-owned-enterprises.

Source: IMF, *Public Information Notice, Consultation with Vietnam*, March 2009

Valuation Profession

FQ 10. How many independent valuers exist in the market?

It appears there are between 450 and 500 appraisers in all of Vietnam of which 300 are “public” appraisers. The public appraisers emanate out of five centers with 32 offices and deal primarily in valuing public lands.

FQ 11. How many companies exist and what is the average size of valuation companies?

The private sector has very few offices and only one larger company (formed in 2005) has branches. The largest company has 55 appraisers in four offices and the remaining companies have between 20-30 appraisers each.

FQ 12. What are the valuation standards and do they conform to international and regional standards?

There are no standards for valuation in Vietnam although the Ministry of Finance has mandated a licensing and training program to achieve licensing.

FQ 13. What valuation methods and techniques are used in the market?

The market is deficient in size, experience, training and quality to meet the needs of the lenders and the government in privatization efforts. Even though there is an attempt to provide a consistent training program through a university structure and more experience for appraisals in the field, this system appears to both limit the number of people entering the profession and also proliferates existing lower standards.

Customers for appraisals are the Government Pricing Committee, the Compensation Board, and various banks to help determine the value of collateral. By and large, bankers are relying on their own internal loan review and valuation determination. They look at a data base of properties advertised, anecdotal information, and their own personal experience.

There appears to be no anticipated legislation calling for independent bank appraisal review of collateral or ongoing evaluation of corporate assets which would drive demand to the appraisal community. As a consequence, the industry has been slow to develop.

FQ 14. Are there valuer associations in the market? What number and percentage of practitioners belong?

The Government Land Pricing Committee has been evolving into an “association”.

FQ 15. What training programs are available to upgrade the quality of valuers?

There is a 9-month training program administered by the Economic University, the Marketing University or the Agriculture and Forestry University. The course meets five times per week in the evening. It appears in discussions with those that have taken the courses, that there is an attempt to cover the basics of both residential and commercial appraisal, the laws effecting valuation, equipment and plant, and some commercial land analysis work. There appears to be no courses on intellectual property, art or rare objects and other complex appraisal problems.

FQ 16. Are peer review mechanisms in place to assist in enforcing ethical behavior?

Aside from the Ministry of Finance that gives the certification, there appears to be no institution that is monitoring either the quality or the content of appraisals. As a consequence, only the end users currently judge the quality.

FQ 17. What is the quality of valuation reports?

An appraisal report from a top firm cost \$5,000 – a very high cost of services. It encompassed 12 pages including photographs, a comparable sales and economic return analysis for a parcel of land in an industrial zone. A similar appraisal drafted by an international firm would be comparable in approach but much more thorough and deeper in its analysis.

Data Availability

FQ 18. What is the status of proprietary data bases that include property information?

During the privatization of housing the state authorities utilized a relatively primitive cost-less depreciation approach to value housing units that it offered to tenants in possession. The data that this process yielded has been preserved in connection with ownership registration records, but is not in a readily accessible data base. There is no other data base available other than the information garnered by practitioner and from other anecdotal sources.

FQ 19. What is the status of existing data sharing mechanisms for properties that are for sale or that have sold?

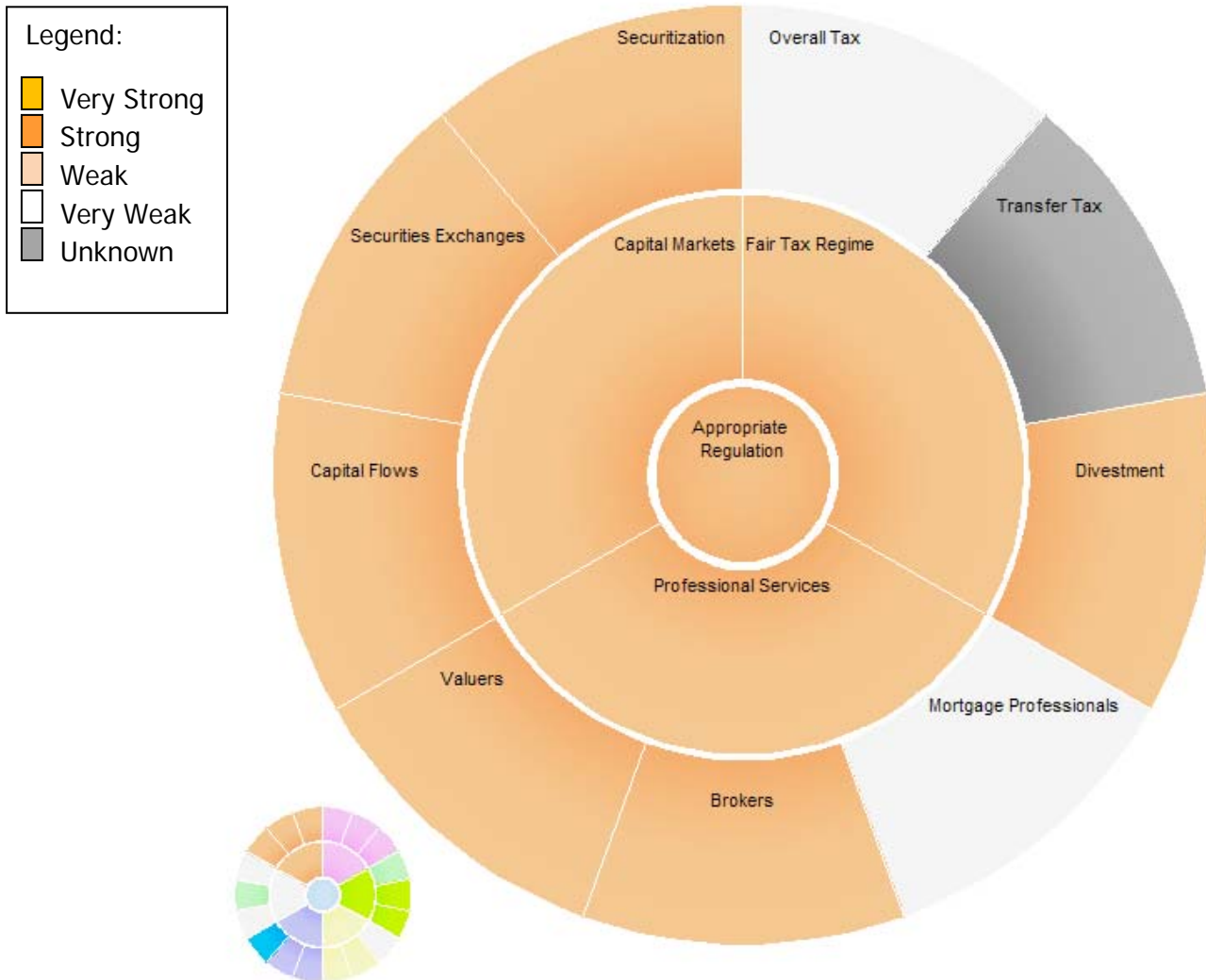
There are no external data bases available although banks and brokers do keep a data base of their own real estate activity.

FQ 20. Do valuers have an established data sharing mechanisms?

There appears to be no sharing between and among the appraisers in Vietnam.

Source: IRPF Assessments April 2006

5. Appropriate Regulation



Goal – A comprehensive regulatory regime that is transparent, efficient, simple in its implementation and that leads accurate reporting of property values and prudent protection from market risks

6.1 Fair Tax Regime

Core Question: Do market participants feel the overall tax rate is fair and participate in formal transactions? **Weak, conflicting reports and separate contracts exist to hide value.**

Transfer Tax

- 6.1.1 What is the total property transfer tax including all duties and payments? **Unknown
Conflicting information – 5% (4% on land value; 1% on total transaction)
reported on the ground; 1.2% from *Doing Business***

Overall Tax

- 6.1.2 What is the overall tax rate on entrepreneurs?
40.1% - Very Weak – Ranking – 147th out of 181

Source: *Doing Business* – Paying Taxes & Registering Property, World Bank
www.doingbusiness.org/ExploreEconomies/?economyid=202

Divestment

Survey Question

- SQ 28 What is the tax on profits for foreign investors when divesting property? **Weak – 25%
capital gains + 3 -7% depending on original stake in enterprise**

Source: Embassy of Vietnam, UK, *Law on Foreign Investments*
www.vietnamembassy.org.uk/amanded.html

6.2 Professional Services

Core Question:	Are the professional services necessary for efficient and transparent property markets available and appropriately regulated and supervised? No – Weak, independent property professionals just starting to emerge.
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Asset Valuers

Survey Questions

- SQ 29 Are asset valuers licensed and/or certified by the government? **Yes- Weak, valuers
largely are government officials.**

Civil Society Resource: The Appraisal Foundation www.appraisalfoundation.org

- SQ 30 How effective are mechanisms in place to discipline valuers who engage in misconduct?
Very Weak – no know code of ethics for valuers

See pages 25 – 26 for in-country assessment information on valuers.

Civil Society Resource: International Real Property Foundation www.irpf.org

Brokers & Agents

Survey Questions

SQ 31 Are real estate brokers and agents licensed and/or certified by the government? **Yes, Weak – there are a large number of unregistered agents.**

SQ 32 How effective are mechanisms in place to discipline brokers or agents who engage in misconduct? **Very Weak – no known code of ethics for brokers**

Civil Society Resource: International Real Property Foundation www.irpf.org

Mortgage Professionals

Survey Questions

SQ 33 Are mortgage professionals licensed and/or certified by the government? **No – Very Weak**

SQ 34 How effective are mechanisms in place to discipline mortgage professionals who engage in misconduct? **Very Weak**

6.3 Capital Markets

Core Question:	Are capital markets well-regulated and diversified enough to provide financial resources to private-sector entrepreneurs and innovators? No – Weak, capital markets are small and most transactions require government approval.
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6.3.1 How restricted is the flow of capital into and out of the country? **Weak – Ranking – 84th out of 134; Score 4.3 out of 7**

6.3.2 Is the regulation of securities exchanges transparent, effective and free of influence from government and industry? **No – Weak – Ranking – 81ST out of 134; Score 4.2 out of 7**

Source: *Global Competitiveness Report 2008* – World Economic Forum
www.weforum.org/documents/gcr0809/index.html

6.3.3 What is the depth of asset-backed securities, mortgage-backed securities, high-yield bonds and highly leveraged loans? **Weak – Ranking – 32nd out of 52**

Source: *Financial Development Report 2008* – World Economic Forum
www.weforum.org/pdf/FinancialDevelopmentReport/2008.pdf

In-Country Assessment

Taxation

FQ 21. What is the overall taxation system in regards to property?

The high transfer tax (4% tax on the value of the land and a 1% tax on the full purchase price) leads to a "second contract" which is delivered to the registration authorities reporting only 25% of the actual sales price.

Brokerage

FQ 22. What is the number of practitioners in the country including full-time brokers/agents with formal training and part-time, informal brokers?

Estimates vary from 5,000 to 10,000. There are actually 8,000 "registered" to practice. It appears that a high concentration of brokers is in Ho Chi Minh City where the estimate of 2,000 practitioners seems consistent. There is a loose definition of "broker." Some are actually companies, the smallest of which might be 5-6 people and others are "collaborators" which are like referral agents who are not really active in the business but take compensation for bringing prospects to the brokerage community.

A fair number of practitioners are neither fully registered nor active full-time. They are "collaborator" or a "shadow" brokerage community. There are 3 or 4,000 active full-time, registered practitioners with approximately 1,000 working in the larger, more respected companies. Real estate business licenses are issued not only to those companies selling real estate – brokerage firms - but also to developers and construction companies.

FQ 23. What is the number and average size of brokerage companies?

There are between 2,000 and 4,000 companies. Some estimates indicated there were nearly 2,000 companies in Ho Chi Minh City alone. There appeared to be only 10 companies that are considered "legitimate" and of higher quality in Hanoi with an average of 10 sales people per company. In Ho Chi Minh City, there are 15-20 companies that are considered legitimate and of higher quality averaging between 20-30 agents per company. Therefore, higher-quality, producing agents appear to number no more than 1,000 in these two cities.

FQ 24. Are there brokers associations active in the market? What number and what percentage of practitioners belong?

The Vietnam Real Estate Association was founded in 2002. The members include development companies, brokerage companies, construction companies, and other entities. There is also a provincial association in Ho Chi Minh City. There are reputedly 3-4 additional provinces and/or cities forming associations.

FQ 25. What training programs are available to enhance productivity?

There are limited amounts of training available. Even the larger companies do not have a well-defined, refined training program. Smaller companies rely on “on-the-job” training coupling new recruits with more experienced agents. The associations offer little training but recognize the need to provide training.

FQ 26. Is there a Code of Ethics or standards that practitioners follow? Is the Code enforced?

There is no established code of ethics either in the real estate law or within the associations.

FQ 27. Do civil society organizations exist to support the developments of mortgage professionals?

No, the market is not large enough to support an association.

Source: IRPF Assessment April 2006

Appendix – Procedures for Registering a Property

Source – *Doing Business* – Registering Property, World Bank - International Finance Corporation

1. Build a dossier on land-use right transfer

Time to complete: 1 day Cost to complete: VND 4,000

Comment:

Parties buy a land use right transfer contract (standard form). The dossier includes: Land-use right (LUR) certificate, Decision or Resolution of the highest decision-making body of the company regarding the LUR transfer, and company's legal status documents.

2. The transferor and transferee will sign the contract which will be witnessed and certified by a notary located in the same area as the property

Time to complete: 2-12 days Cost to complete: Notary fees VND10,000 - VND2,000,000

Comment:

The land use right transfer contract shall be made in duplicate, one for the seller and another for the buyer. This contract must be notarized by the public notary where the land is located (based on Decree 181/2004/ND-CP Guiding the Implementation of the Land Law Government, October 29, 2004, as amended on January 27, 2006, Art. 119.1.b)

The dossier for the public notary office includes: (i) Request for notarization of the contract or transaction on the standard form; (ii) Final draft of the contract or transaction; (iii) Copy of the applicant's personal papers; (iv) Copies of other documents relevant to the contract or transaction which the law stipulates must be available (Article 35 of Law No. 82-2006-QH11 on Notarization, effective as of 1 July 2007)

The time to complete the notarization procedure depends on each specific case. The time-limit for notarization shall not exceed 2 working days in the case of a complex contract or transaction, this time-limit may be extended but not beyond 10 working days. (Decree 75/2000/ND-CP on Public Notary was replaced by Law No. 82/2006/QH11 on Notarization.) If a lawyer prepares the contract, this can usually be done in one day.

Notary fees shall be calculated on the value of the land to be transferred, however, it shall not be lower than VND 10,000 and shall not exceed VND 2,000,000. (Interministerial Circular No. 93/2001/TTLT/BTC_BTP Guiding the Regime on Collection, Payment and Management of Fees and Charges from Confirmation and Public Notary, Ministry of Finance and Ministry of Justice, November 21, 2001).

3. The parties pay income tax on assignment of the land-use right and the registration fee at the relevant District Department of Taxation

Time to complete: 25-30 days Cost to complete: Income tax + Registration fee

Income tax: the income tax from the assignment of the land-use right is at the rate of 28% of taxable income (which is equal to the total income used to calculate taxable income, less reasonable expenses of the assignment of land-use rights). After calculation of income tax at the rate of 28%, the additional income tax shall be calculated on the residual income pursuant to the statutory progressive tariff method as follows:

Level Rate of Residual Income over Expenses Tax Rate

1. Up to 15% 0%
2. From 15% up to 30% 10%
3. From 30% up to 45% 15%
4. From 45% up to 60% 20%
5. From 60% 25%

Registration fee: 1% of property value.

Comment:

The tax rate is paid by the transferor. The taxation authority shall request the transferor to declare its payable tax and lodge it with the relevant tax office within a time-limit of ten (10) days from the date of receipt of such request. Then such tax office shall issue a tax notice specifying the amount of tax and time-limit for payment. The time-limit shall be no later than fifteen (15) days from the date of issuance of the tax notice. (Decree No. 24/2007/ND-CP on Corporate Income Tax, Government, 14 February 2007, Art. 14 and Art. 17)

The registration fee paid is by the transferee (Circular 95/2005/TT-BTC dated 26 October 2005 providing guidelines on registration fees). The registration fee declaration shall be made in duplicate, the transferee keeps one.

4. The land-use right transferee shall register the right to use land at the City Registration Office for land-use rights

Time to complete: 15-30 days Cost to complete: VND 20,000

Comment:

The Land Use Right Registration Office is the prescribed authority but it has not been established in Ho Chi Minh City. Its functions are currently being performed by the Housing and Land Information and Registration Center.

The dossier consists of the following documents:

1. The land use right contract (original certified by the State notary public)
2. The certificate of land use right (original and one copy)
3. The voucher of payment of land use fee or land rental (original and one copy)
4. The certificate of business registration of the transferee (certified true copy)

5. The actual state drawing of the land lot (released by the District Urban Control Office)
6. An explanation on intended land use by the transferee
7. The registration fee receipt.

After fulfilling all financial obligations, land use right certificate grantees shall receive the amended land use right certificates.