

International Property Markets Scorecard Guidebook



Acknowledgement:

The International Property Markets Scorecard methodology was developed by the Center for International Private Enterprise (CIPE) and the International Real Property Foundation (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, 6th Floor, Chicago, IL 60611, 312-329-8692 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.”¹

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

¹ 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.

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.

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

[Note: This link is for the 2013/2014 report. Use the most recent report available from www.weforum.org]

- Step 2 Scroll down and Click “Data Platform”
- Step 3 Click “Rankings”
- Step 4 Click the “Select Series” dropdown
- Step 5 Select “1.01 Property Rights”
- Step 6 Find your country on the table.
- Step 7 Record the ranking and numeric score from this external source.
- Step 8 Determine the Sub-Indicator score:

Yes	Very Strong	1 ST – 37 TH countries
	Strong	38 TH – 74 TH countries
No	Weak	75 TH – 111 TH countries
	Very Weak	112 TH – 148 TH countries

Trend either ↑ or ↓ compared to previous year.

[Note: Since the Scorecard uses several indicators from this source, you could also print the Country Scorecard for later reference: from Step 1 above, Step 2 Click “Browse the Report Reader”, Step 3 Click the dropdown arrow, Step 4 Find your country on the dropdown menu, Step 5 Download and print the report.]

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

- Step 1 *Index of Economic Freedom*, the Heritage Foundation
www.heritage.org/index/
- Step 2 Chose “County Rankings” 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 100-80 – Expropriation is highly unlikely
 - Strong 60-79 – Private property is guaranteed by the government

Weak	30-59 – 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 1-4 above or from printed report) 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 ST – 37 TH countries
	Strong	38 TH – 74 TH countries
No	Weak	75 TH – 111 TH countries
	Very Weak	112 TH – 148 TH countries

Trend either ↑ or ↓ compared to previous year.

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.

For Survey Questions basic internet research should be conducted using search terms associated with the indicator. For instance for this indicator search “property rights [country]”.

- Step 1 Gain a basic understanding of the bundle of rights theory. Visit the Private Land Owner Network Library:
www.privatelandownernetwork.org/plnlo/bundleofrights.asp
- Step 2 Visit the Law Library of *Doing Business*
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. For example if two of the sub-indicators are weak and one sub-indicator is strong, the lead indicator is likely weak. If the aggregate is hard to determine, i.e. one sub-indicator is very weak, one weak and one strong; base your determination on all of the research. For example the strong indicator may be at the bottom of the quartile while the very weak indicator is at the top of that quintile – thus the indicator is weak.

Lead Indicator 1.2 – Registries

Core Question:	Does a reliable property registry exist including cadastral, title and mortgage lien information?
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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. [Search term: cadastre (country)]

- 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. [Search terms: zoning (country), land use (country)]

- 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. [Search terms: GIS (country), GPS (country)]

- 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

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

- 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 Determine the Sub-Indicator Score and Trend.

Very Strong	1 ST – 47 TH countries
Strong	48 TH – 95 TH countries
Weak	96 TH – 141 ST countries
Very Weak	142 ND – 189 TH countries

Trend either ↑ or ↓ compared to previous year.

**Civil Society Resource – 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 1.2.3 – 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.

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?**

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?
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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
<http://www.devinfo.info/>
- Step 5 Enter 7.10 [your Country] in the top search bar.
- Step 6 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/
- Step 2 From the “economy” drop down select your country.
- Step 3 Scroll down and select 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 42.

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 example questions and/or additional questions you tailor to the specific characteristics of your market – 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 conditions for groups who lease property including small businesses, minorities and other marginalized groups?

Core Element Map for Property Rights

