

International Property Markets Scorecard

Nigeria Market Conditions – Desktop Survey July 2013



Contents

Scorecard Background & Information	3
1. Property Rights	4
1.1 Legal Protection	5
1.2 Registries	5
1.3 Formal Ownership.....	7
In-Country Assessment Information.....	8
2. Access to Credit	11
2.1 Banks	12
2.2 Other Sources.....	13
2.3 Credit Bureau	13
In-Country Assessment Information.....	14
3. Effective Governance	17
3.1 Democratic Representation	18
3.2 Lack of Corruption	19
3.3 Efficient Administration.....	19
In-Country Assessment Information.....	20
4. Rational Dispute Resolution	22
4.1 Rule of Law.....	23
4.3 Commercial Dispute Resolution.....	24
In-Country Assessment.....	25
5. Financial Transparency	27
5.1 Market Stability	28
5.2 Independent Asset Valuers	28
5.3 Data Standards	29
In-Country Assessment.....	30
6. Appropriate Regulation	35
6.1 Fair Tax Regime.....	36
6.2 Professional Services.....	36
6.3 Capital Markets.....	37
In-Country Assessment.....	38

Scorecard Background & Information

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. Yuanqi Wang, a master student, majoring in Real Estate, at Johns Hopkins University, updated this Scorecard as a summer internship at CIPE.

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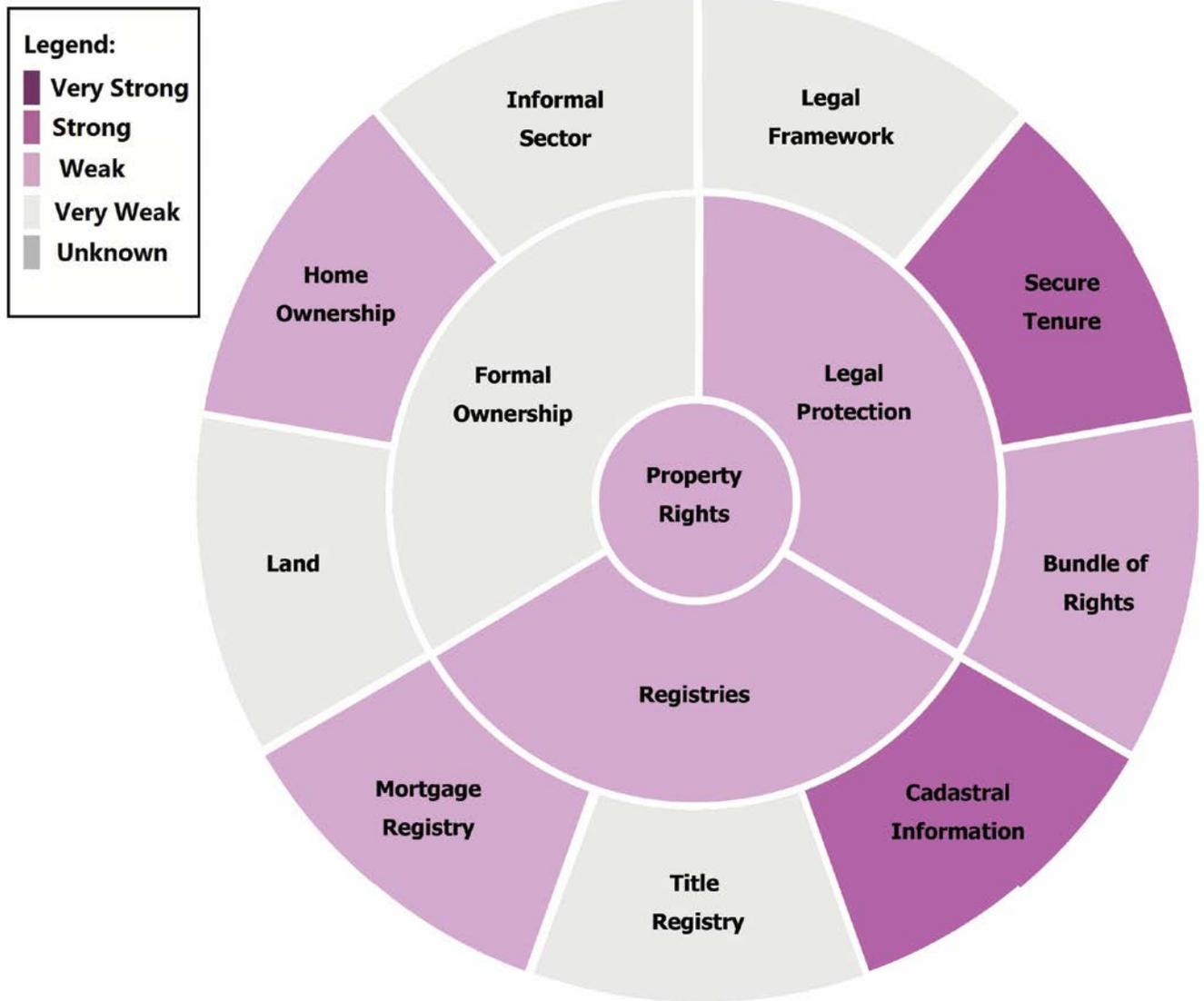
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1. Property Rights



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? **No – Weak, although citizens can challenge the legality of government taking, property rights are not clearly defined and protected by law, and the insistence on the state governor’s consent before validly assigning or mortgaging property has been a great impediment to secure development of the land market.**

Legal Framework

1.1.1 Are property rights clearly defined and protected by law? **No – Very Weak – Ranking 119th out of 144, Trend ↓; Score 3.37 out of 7**

Security of Tenure

1.1.2 Can citizens challenge the legality of government takings? **Yes – Strong – Ranking 65th out of 144, Trend ↑; Score 3.72 out of 7**

Source: *Global Competitiveness Index 2012-2013* – World Economic Forum
<http://www.weforum.org/issues/competitiveness-0/gci2012-data-platform/>

Bundle of Rights

1.1.3 Survey Question

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? **Very Weak – right of occupancy only on land, absolute possession of improvements and the right to transfer, assign or mortgage improvements**

Source: Land Use Act - www.nigeria-law.org/Land%20Use%20Act.htm

1.2 Registries

Core Question: Does a reliable property registry exist including cadastral, title and mortgage lien information? **No – Weak, apart from the absence of standard cadastral base maps at the appropriate scale, poor recording, archiving and retrieval of land record information is still a problem.**

1.2.1 Cadastral Information

Status – Strong –every Nigerian can receive basic geospatial information online

Survey Questions

- SQ 2 Is cadastral information (information about the dimensions and location of land parcels) accessible to the public? **Yes**
- 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? **Yes, GIS system launched in February 2005.**
-

Source: Federal Lands Information System www.felis.gov.ng

Civil Society Resource: Nigerian Institution of Surveyors

1.2.2 Title Registry

Very Weak – Ranking – 182nd out of 185, Trend =

- 1.2.2.1 What is the number of procedures required to register the transfer of a property from one owner to another? **13**
- 1.2.2.2 What is the duration of time in calendar days that it would take to complete the transfer? **86**
- 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? **20.8%**
-

Source – *2013 Doing Business* – Registering Property, World Bank

<http://www.doingbusiness.org/data/exploreconomies/nigeria#registering-property>

1.2.3 Mortgage Registry

Status – Weak – extreme weakness in land title registry inhibits 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? **No**
- 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
<http://www.cipe.org/sites/default/files/publication-docs/Financing%20Homes%202008.pdf>

1.3 Formal Ownership

Core Question:	Do citizens understand and trust property rights institutions and avoid the informal sector? No – Very Weak – conflict continues to exist between the customary land tenure system (communal rights) and the implementation of the Land Use Act.
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Survey Questions

1.3.1 Land

SQ 8 What is the status of land ownership? **Very Weak – the Land Use Decree Act of 1978 vests all land in the state through the office of the military governor of each state. The land is held in trust and administered through the government’s authority for the use and benefit of all Nigerians.**

Source: Land Use Act - www.nigeria-law.org/Land%20Use%20Act.htm

Civil Society Resource: Nigerian Institution of Surveyors

1.3.2 Home Ownership

SQ 9 What is the percentage of formal home ownership? **34.2% –Weak, 65.8% of housing stocks do not meet the minimum quality requirement**

Source: U.N. Habitat, www.unhabitat.org/stats/Default.aspx

1.3.3 Informal Sector

What is the percentage of services firms that report competing with unregistered or informal firms? **60.1% – Very Weak Formal Sector (2007)**

Source: Enterprise Surveys Nigeria 2007

<http://www.enterprisesurveys.org/Data/ExploreEconomies/2007/nigeria#informality--sector>

In-Country Assessment Information

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

The housing problem basically relates to quantitative and qualitative inadequacies. On the supply side, various government policies in the past have been formulated towards overcoming the huge shortage through several housing reform programs. Despite these past efforts, housing continues to be a mirage to ordinary Nigerians. Currently, there are various mass housing delivery programs such as the affordable housing scheme that utilize the Public Private Partnership effort and several Private Finance Initiative models could only provide for about 3% of the required stock.

A recent study of the housing situation in Nigeria put existing housing stock at 23 per 1000 inhabitant. The housing deficit is put at 15 million houses (Mabogunje 2007) while N12 trillion will be required to finance the deficit. This is about 4 times the annual national budget of Nigeria. Home prices and rents, on the other hand, have grown ahead of general inflation. Making matters worse, the composition of homes for sale and rent on the market has been inexorably shifting towards very expensive homes.

Current schemes include a "site & service scheme" that provides low-income beneficiaries with serviced plots including tenure security and help to build their own houses and the second approach helped house-owners in existing squatter areas obtain tenure to their land, and to improve their dwellings. In spite of the fact that they may help to improve tenure security, these programs are capital-intensive in nature and the initial target population, low-income, usually does not benefit from them.

Source: *A Review of Housing Delivery Efforts in Nigeria*, Bala Kabir & S. A. Bustani, Ahmadu Bello University, 9/2009 www.gla.ac.uk/media/media_129767_en.pdf

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

The Lagos State Lands Bureau has been at the forefront of improving land registration processes in Nigeria. Since 2005 the Bureau has been engaged in a program aimed at upgrading facilities, modernizing operations and making information more accessible to customers. Prior to the project the Lagos registry was based on a paper process and was extremely cumbersome, time consuming and easily open to malpractice. Their objective was to computerize the land records and simultaneously obtain digital mapping of Lagos State.

The project decided that our practical assistance in Lagos could potentially assist in the achievement of their objectives and raise the Lagos land registry to a model to be adopted or adapted by other states. Their experience will be of direct benefit to other states, for example,

in piloting software and hardware approaches. The staff from Lagos may also be employed as local consultants to assist our work elsewhere. A further issue for consideration in Lagos was the question of advocacy and publicity campaigns to encourage further extension of land registration. There also remain issues concerning the broader legislative environment within which land registration takes place and a consideration of various approaches to the land question. The project itself began in January 2005 with the following objectives:

- To store all available data electronically
- To ensure proper indexing of documents
- To centralize and consolidate file storage
- To make information available in an on-line real time manner
- To set up an on-line Document Search and Retrieval System at the Registry

The Enugu State Land Registry presented the polar opposite picture to that of Lagos. It is extremely underdeveloped and while the state authorities are well aware of the significance of land registration issues, budget constraints mean that it was unlikely that any development work would be undertaken without external impetus. The problems of the registry can be easily enumerated:

- The physical infrastructure is both run-down and inappropriately configured
- The level of basic office equipment is inappropriate for the tasks
- The level of equipment for surveying sights is deficient
- The level of staff training was inadequate
- The registry has no vehicles to undertake site visits
- The system is totally paper based with all the attendant problems
- There are deficiencies in the available maps of the state

As a consequence of the above the project decided to undertake a process of the complete refurbishment of the Enugu registry. To the extent that Enugu is more typical of current Nigerian land registries than Lagos it has acted as a useful pilot of the upgrading process, which the project is now repeating elsewhere.

Key to the success of the overall program has been relationship building with the various stakeholder groups, including senior staff at individual registries, ministers and presidential special advisors, designed to facilitate the necessary consent for reforms to take place. A direct correlation can be drawn between the degree of State Government support and the progress made.

Source: *Reforming the Land Registration Process in Nigeria*, March, 2006, Bob Arnot and John Meadows www.fig.net/pub/accra/papers/ts14/ts14_02_arnot_meadows.pdf

FQ 3. What are the actual conditions for groups who lease property including small business, minorities and other marginalized groups?

Women's land rights are fragile and transient, being dependent upon age and marital status (including type of marriage and the success of that marriage), whether they had children (including the number and sex of those children) and their sexual conduct. In spite of the Nigerian Land Use Act (LUA) of 1978, which restructured the property rights system in the country from a mixed private property rights system into a collectivist framework, concerns about women's land rights persist. Thus, the impact of inequality in land rights has aggravated women's socioeconomic status, increased the number of women engaging in sex work, allowed for sexual harassment and violence against women and contributed towards marital instability, separation and divorce.

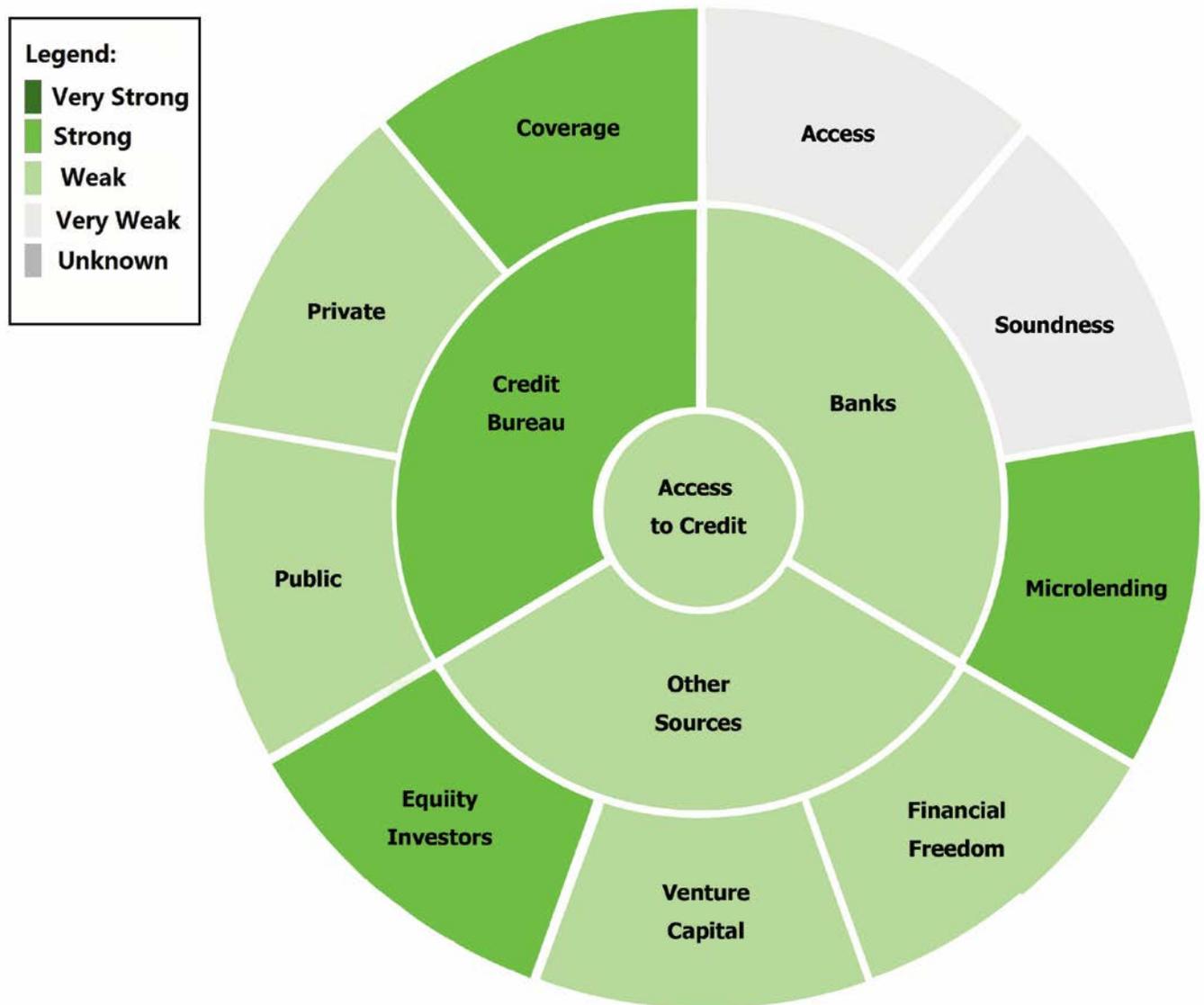
Any attempt to eliminate the traditional authority's input into land management, either through land nationalization or the centralization of land administration under the LUA or by the facilitating the growth of land markets, is to invite the growth of a parallel unofficial land management or land market system, thus creating confusion in land management. The cultural laws and practices of family rather than individual rights, are the basis of Africa's celebrated social security system; a system that is still relatively cost effective and unlikely to be replaced by state social security system for quite some time into the future.

What is needed, therefore, is not land nationalization but change in practices that have been identified under customary land tenure system as reducing women's land rights as well as introducing insecurity of tenure. Change must be consciously managed in order to bring about greater gender justice in resources allocation for women. For instance, in countries such as Uganda and Tanzania, this has resulted in cultural advocacy to ensure that the reforms in land tenure address some of the concerns expressed by women. Highly effective lobbying and alliance building strategies by Ugandan women groups and lawyers resulted in a spousal co-ownership clause being included in the draft land legislation, although, despite assurances that this clause would be passed, the final late-night parliamentary sittings passed the new land law without it.

If Nigeria is to achieve meaningful levels of economic development and social progress including gender equality in accessibility to land, then, issues of agriculture and national resource management can no longer be divorced from issues of politics, democracy and good governance. We have to define and redefine democracy so that it means much more than the rhetoric of multi-party politics; so that democracy is related to accountability and responsibility to the urban and rural communities where the majority of African live. This can only be achieved through liberalization or privatization of land management that will guarantee equal access to land for all citizens – women and men alike.

Source: *Women and Land Rights Reforms in Nigeria*, Bioye Tajudeen Aluko and Abdul-Rasheed Amidu, March, 2006 www.fig.net/pub/accra/papers/ts09/ts09_04_aluko_amidu.pdf

2. 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, although there are plenty of microfinance organization in Nigeria, it is difficult to get a bank loan and the country's bank services are far from sound.**

Access

2.1.1 How easy is it to obtain a bank loan? **Very Weak – Ranking 121st out of 144; Score 2.14 out of 7, Trend ↑**

Soundness

2.1.2 How sound are the country's banks? **Very Weak – Ranking 129th out of 144; Score 3.94 out of 7, Trend ↓**

Source: *The Global Competitiveness Report 2012*, World Economic Forum
<http://www.weforum.org/issues/competitiveness-0/gci2012-data-platform/>

2.1.3 Microlending

Status – Strong

2.1.3.1 Microfinance allows citizens without traditional creditworthiness to build a credit history. How many microfinance institutions are operating in the country? **76**

LAPO-NGR	www.lapo-nigeria.org/web/
Fortis MFB	www.fortismfb.com
Integrated Microfinance Bank	www.imfb-bank.com/
Grooming Centre	www.groomingcentre.org/
Self-Reliance Economic Advancement Program	http://www.seapmicrofinance.org/index.php

2.1.3.2 What is the number of active borrowers per institution?

LAPO-NGR	421,126
Fortis MFB	16,965
Integrated Microfinance Bank	23,304
Grooming Centre	193,850
Self-Reliance Economic Advancement Program	266,967

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? No – Weak, although Nigeria’s financial system has undergone rapid transformation and consolidation, limited access to finance hampers entrepreneurial activity.
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Financial Freedom

2.2.1 How much control does the government exert over financial services? **Weak for entrepreneurs – Score 40 out of 100 – Considerable government control, Trend=**

Source: *2013 Index of Economic Freedom*, Heritage Foundation
www.heritage.org/index/Country/Nigeria

Venture Capital

2.2.2 How easy is it for entrepreneurs to find venture capital?
Weak – 72nd out of 144 Trend↑; Score 2.53 out of 7

Equity Investors

2.2.3 How easy is it to raise money by issuing shares on the stock market? **Strong – 51st out of 144 Trend ↓; Score 3.78 out of 7**

Source: *The Global Competitiveness Report 2012*, World Economic Forum
<http://www.weforum.org/issues/competitiveness-0/gci2012-data-platform/>

2.3 Credit Bureau

Core Question:	Is comprehensive credit information available through public and private credit bureaus? Yes – Strong, strength of the Legal Rights Index is very high but implementation just began in 2009 which results in low public and private credit registry coverage.
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Overall Ranking 23rd out of 185, Very Strong, Trend ↑

Coverage

2.3.1 What is the depth of information available in credit bureaus? **Strong – 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? **Very Weak – 0.1% of the adults**

Private

2.3.3 What is the extent of private credit registry coverage? **Weak – 4.1% of adults**

Source: *2013 Doing Business – Getting Credit*, World Bank

www.doingbusiness.org/ExploreEconomies/?economyid=143

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?

The Federal Mortgage Bank of Nigeria (FMBN) was created to serve as a wholesale and apex housing finance institution in Nigeria. Other institutions created with the responsibilities to serve as housing finance include the Primary Mortgage Institutions (PMI) such as Building Societies, Housing Associations and Credit Unions.

Among the major responsibilities of the FMBN are the provision of long-term credit facilities to mortgage institutions in the country; encouragement and promotion of development of mortgage institutions at state and national levels; supervision and control of the activities of mortgage institutions mobilization of savings particularly through the National Housing Fund; promotion of investment in the manufacturing of building materials and promotion of research on construction and mortgage finance.

The role of the FMBN has also been expanded to back the mortgage finance market with the capital market and develop the viable secondary mortgage market and to mobilize foreign funds into the housing finance sub-sector.

In a field survey, 97.5% of the PMI customers rated national economic climate as one of the most severe problem. Other results showed that 89.38% felt the National Housing Fund policy itself is a problem and 75% the structure of the PMIs. However all the customers (100%) indicated that the high cost of labor and building materials are major obstacles to the activities of the PMIs in housing finance in Lagos.

76.88% indicated that public apathy about PMIs and distrust as problem. 91.88% indicated that difficult access to land is a major problem while 88.75% indicated that the process involved in land documentation is a problem. Those with the view that poor saving habits of the public and the low capacity of the public to saving due to low income constitute 81.88%. Poor collateral and poor security to loan are obstacles from the view of 85% of the respondents.

Source: *Challenges of Housing Finance by Primary Mortgage Institutions in Lagos Nigeria*, University of Lagos, 2008, www.gla.ac.uk/media/media_129719_en.pdf

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

NATIONAL HOUSING FUND LOANS (NHF):

Interest rate is no more than 6%; the maximum repayment period shall be 30 years; loan-to-value ratio is based on the amount of loan

N15, 000,000.00 – 30%

N10, 000,000.00 - 20%

N5, 000,000.00 - 10%

Applicant must be a contributor to the National Housing Fund for a minimum period of six months.

Applicant must have satisfactory evidence of regular flow of income to guarantee loan repayment.

Estate Development Loan (EDL):

Interest rate is 10%; term is 24 months; loan-to-value ratio is based on the type of borrowers

Private developer: up to 70%

Housing Corporations and Government owned development projects: 100%

Membership of the Real Estate Developers Association of Nigeria (REDAN) is part of the conditions for accessing the EDL.

Source: <http://www.fmbn.gov.ng/home/doc.aspx?mCatID=1195>

<http://www.fmbn.gov.ng/home/doc.aspx?mCatID=1194>

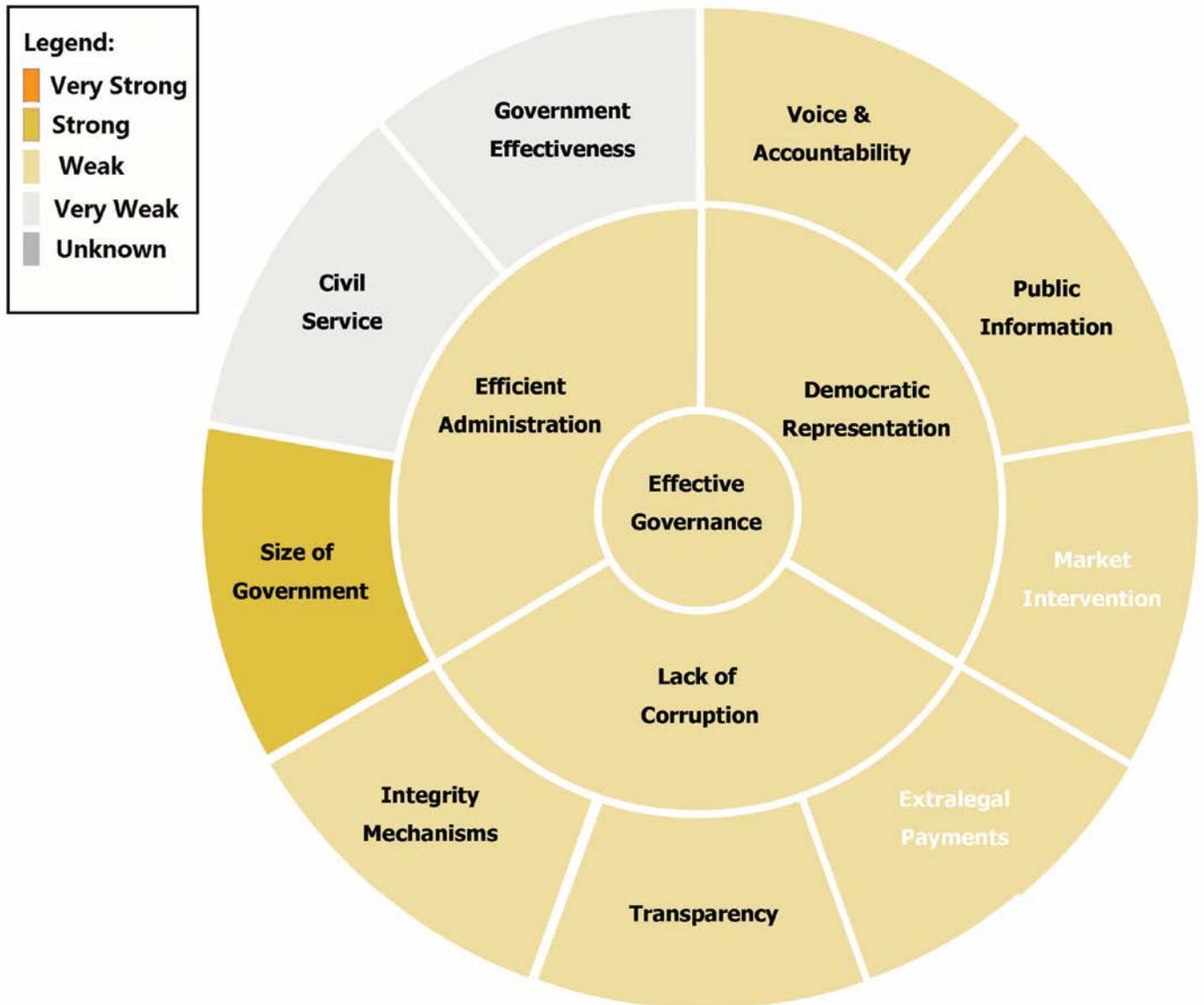
FQ 6. Are there any informal barriers to borrowing such as for women or minorities?

Where compensation is compelled to be the head or leader of the family or community as enshrined in the Land Use Act (LUA), to be disposed of in accordance with customary law and customs, the women's rights in land is weakened as they have limited participation in customary land management institutions. In most Nigeria societies, chiefly authority is generally

ascribed to patriarchal lineage, and most major decisions are taken by them. This is also true of the administration of the customary right of occupancy under the LUA defined as being administered according to nature, law and customs of the people. Thus, while women have ways of bringing their views to the attention of customary land management institutions, they usually do not participate in decision-making. As a result, community decisions are made without explicit reference to women's knowledge or priorities.

Source: *Women and Land Rights Reforms in Nigeria*, Bioye Tajudeen Aluko and Abdul-Rasheed Amidu, March, 2006 www.fig.net/pub/accra/papers/ts09/ts09_04_aluko_amidu.pdf

3. 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 – Weak, Nigeria continues suffer from poor accountability across all branches of government and civil service.
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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 – Weak – Percentile Rank – 26.8 Trend↓;**

Source: *Governance Matters 2011*; 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 – Weak – Score 3.53 out of 10**

Overall Ranking – 120th out of 167

Source: *The Economist* Intelligence Unit Democracy Index 2012
https://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex12

3.1.2 Public Information

Overall Ranking –Weak; Score 60 out of 100

3.1.2.1 Are there regulations governing conflicts of interest in the executive and legislative branches of government? **No – Executive Score 51 out of 100 – Very Weak; Legislative Score 39 out of 100 – Very Weak**

3.1.2.2 Can citizens access legislative processes and documents? **No – Score 2 out of 100 – Very Weak (2010)**

Source: *Global Integrity Report 2010–*
<http://www.globalintegrity.org/report/Nigeria/2010/scorecard>

3.1.3 Market Intervention

Overall Ranking – Weak 120th out of 177 Trend ↓

3.1.3.1 To what extent does the government intervene in the private sector including state owned industries? **Score 74.6 out of 100 with a higher score indicating less intervention, government spending accounts for 29.1% of GDP.**

3.1.3.2 To what extent does the government control prices? **Score 73.3 out of 100 with a higher score indicating less control**

Source: *2013 Index of Economic Freedom* – Heritage Foundation
www.heritage.org/index/Country/Nigeria

3.2 Lack of Corruption

Core Question:	Is the public sector transparent and free of corruption? No – Weak – Corruption in Nigeria is endemic and pervades every facet of life, as well as every strata of society. The manifestations have become so mutative that it has defied an array of initiatives and strategies aimed at curbing it.
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Transparency

3.2.1 What is the perceived level of corruption in the country? **Weak – Ranking – 139th out of 180; Score 2.7 out of 10 Trend ↓**

Source: Corruption Perceptions Index 2012 Transparency International,
<http://cpi.transparency.org/cpi2012/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, there is an absence of political will to tackle corruption.**

Source: Transparency International
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? **40.9% of firms say they are expected to make unofficial payments – Weak**

Source: *Enterprise Surveys*, World Bank, 2007
www.enterprisesurveys.org/ExploreEconomies/?economyid=143&year=2007

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,
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although government spending is not an overly burdensome percentage of GDP, the quality of civil service is poor and the government far from effective.

Size of Government

3.3.1 What is the size of government relative to GDP? **29.1% - 25 to 30% considered Strong.**

Source: *2013 Index of Economic Freedom*, Heritage Foundation
www.heritage.org/index/Country/Nigeria

Civil Service

3.3.2 What is the quality of the civil service? **Very Weak – Score 40 out of 100**

Source: *2010 Global Integrity Report* –
<http://www.globalintegrity.org/report/Nigeria/2010/scorecard>

Government Effectiveness

3.3.3 What is the overall effectiveness of the government? **Very Weak - Percentile Ranking – 12.8 Trend↑**

Source: *2011 Governance Matters*, 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 Economic and Financial Crimes Commission (EFCC) had been set up by the Obasanjo administration to combat graft and corruption among public officials. Everyone agreed that Nuhu Ribadu, its chair, was the spearhead in the fight against corruption. But the Yar'Adua government instead removed him from office that summer (August 2007) and asked him to take a course at the National Institute for Policy and Strategic Studies. Outcry against this change included the argument that Ribadu, because of his leadership of the anti-graft agency, had no need for any kind of training that would warrant his unceremonious removal. Others argued that the course could have been delayed until the end of his tenure in another three years.

The administration's next moves dealt the deathblow to any government engaged in the fight against corruption. Ribadu's assistant, Ibrahim Lamorde, was initially asked to act as chair of

the anti-graft agency while Ribadu was taking the course, but Lamorde was soon replaced with Farida Waziri, a retired police officer who allegedly had links with one of the governors whom the agency was prosecuting for corruption.

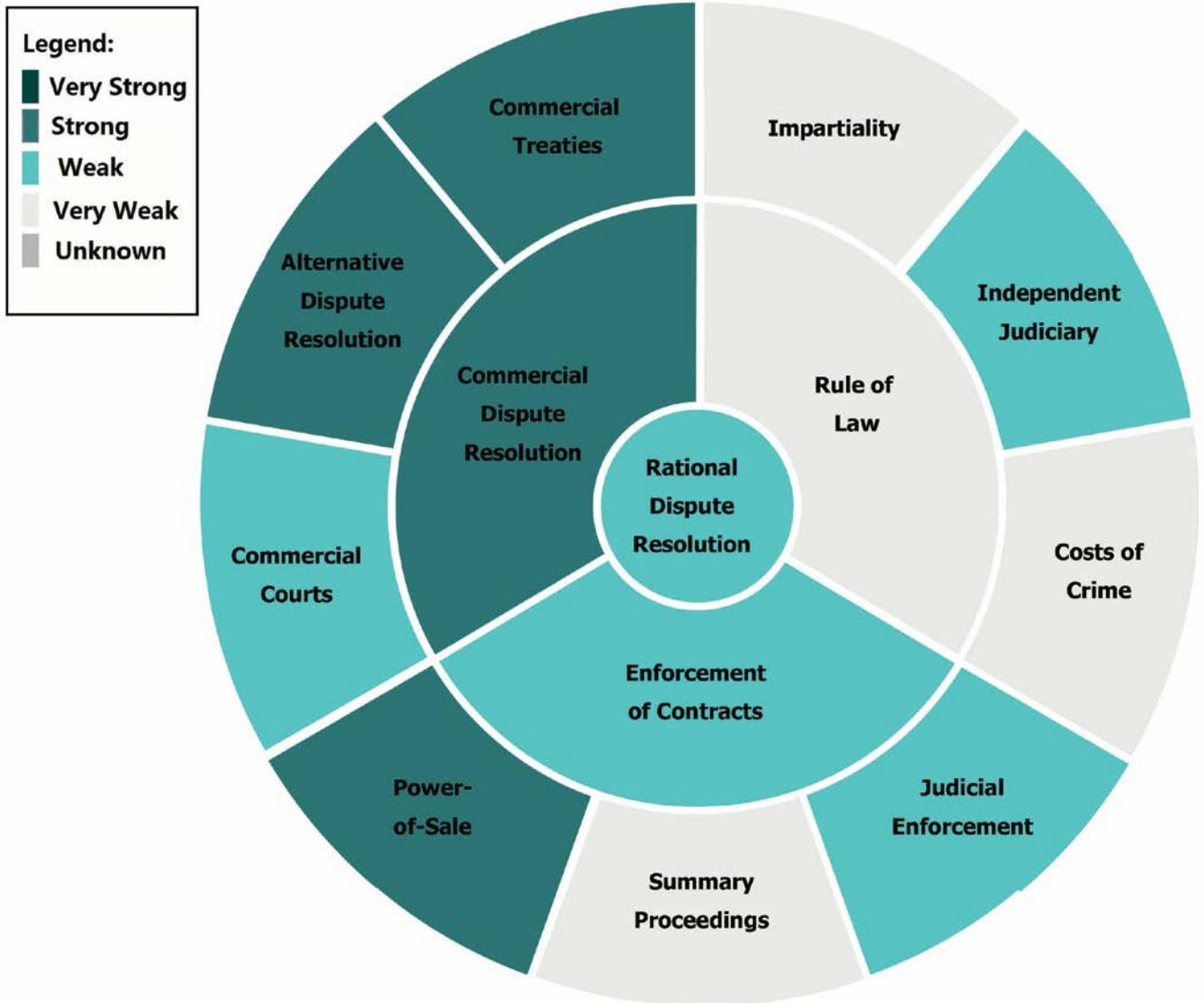
A few months later, the government compounded Ribadu's problems by demoting him and his colleagues from assistant inspector generals of police to deputy commissioners. Many saw the policy change as directed against Ribadu.

Among those riled by the action was Gani Fawehinmi, chair of the National Conscience Party, who is also a senior advocate of Nigeria and a human rights activist. He described the actions against Ribadu as "absolutely bizarre." In condemning the government's decisions, he added, "I want President Umaru Yar'Adua to realize that any government that punishes honesty sows the seed of its own destruction by corruption. The 'offenses' that brought these atrocious and oppressive actions of the federal government down on Ribadu's head are his honest character and his unprecedented arrest, arraignment and trial of some powerful big men for corruption." Fawehinmi added that the demotion was "ridiculous, vindictive, a dangerous signal, and a serious contradiction on the part of government."

Source: 2008 Transparency International <http://report.globalintegrity.org/Nigeria/2008/notebook>

Economic and Financial Crimes Commission www.efccnigeria.org/

4. 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 – Very Weak, while there have been some recent improvements, rule of force still predominates in much of the country.
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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? **Very Weak – Percentile Ranking – 9.9Trend↓**

Source: *2011 Governance Matters*, 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? **Yes– Score 74 out of 100 – Moderate**

Source: *2010 Global Integrity Report –*
<http://www.globalintegrity.org/report/Nigeria/2010/scorecard>

Costs of Crime

4.1.3 What are the business costs of crime and violence? **High costs – Ranking 128th out of 144 – Score 3.3 out of 7, Very Weak**

Source: *The Global Competitiveness Report 2012-2013*, World Economic Forum
<http://reports.weforum.org/global-competitiveness-report-2012-2013/#>

4.2 Enforcement of Contracts

Core Question:	Are systems in place for timely and efficient enforcement of contracts? Commercial – No – Weak Residential – Yes – Strong
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4.2.1 – Judicial Enforcement

Commercial – Weak – Ranking 98th out of 185 Trend ↓

4.2.1.1 What is the number of procedures involved in resolving a commercial dispute?
40

4.2.1.2 What is the time between the filing of a lawsuit and resolution in judicial enforcements? **457 days**

4.2.1.3 What is the cost of judicial enforcements as a percentage of claim value? **32%**

Source: *Doing Business 2013*

<http://www.doingbusiness.org/data/exploreeconomies/nigeria#enforcing-contracts>

Survey Questions

SQ 10 What is the time between notice of intent to foreclose and loan collection in judicial enforcements? **See below for power-of-sale**

SQ 11 What is the cost of judicial enforcements as a percentage of property value? **See below for power-of-sale**

4.2.2 – Summary Proceedings

SQ 12 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? **See below for power-of-sale**

SQ 13 What is the cost of summary proceeding if available to lenders as a percentage of property value? **See below for power-of-sale**

4.2.3 – Power-of-Sale

SQ 14 What is the time between notice of intent to sell and loan collection for power-of-sale agreements if available to lenders? **112 days – Very Strong**

SQ 15 What is the cost of power-of-sale agreements if available to lenders as a percentage of property value? **6.19% - Strong**

Source – *Financing Homes 2008*, World Bank and International Housing Finance Corporation
<http://www.cipec.org/sites/default/files/publication-docs/Financing%20Homes%202008.pdf>

4.3 Commercial Dispute Resolution

Core Question:	Can commercial disputes be resolved efficiently and fairly without exorbitant expense and delay? Yes – Strong, there is growing consensus that foreign investment is essential to realizing Nigeria’s vast potential.
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Survey Questions

4.3.1 Commercial Courts

SQ 16 Do specialized commercial courts exist for the handling of property disputes and foreclosures? **Yes – Weak, Commercial Division of the High Court of Lagos began in 2002; reforms are underway in court procedures and handling of cases.**

Source: High Court of the State of Lagos www.nigeria-law.org/High%20Courts.htm

4.3.2 Alternative Dispute Resolution

SQ 17 Are alternative dispute resolution mechanisms in place including commercial arbitration, private mediation and community based processes? **Yes - Strong – a member of the New York Convention, National ADR Law passed in 2007, Lagos law passed in 2009 and there is growing support**

Source: The Lagos Multidoor Courthouse,
<http://www.lagosmultidoor.org/component/content/article/37-frontpageslide/64-adrinnigeria> **4.3.3 Commercial Treaties**

SQ 18 What bilateral, regional and international commercial treaties exist concerning business between countries? **Strong – a member of WTO, OPEC, the Economic Community of West African States (ECOWAS) with a Trade Investment Framework with the U.S. and the U.K., Bilateral Economic Cooperation with China**

Source: U.S. State Department Background Notes: www.state.gov/r/pa/ei/bgn/2836.htm

Federal Republic of Nigeria: <http://www.nigeria.gov.ng/2012-10-29-11-05-46/foreign-relations>

In-Country Assessment

FQ 8. To what extent do practitioners report the use of formal contracts and trust institutions to support contract enforcement?

Two major factors account for the state of affairs in Commercial Dispute Resolution in Nigeria today namely:

1. Obsolete laws (particularly with regard to the rules of procedure) and
2. Judicial attitude (particularly with the lack of specialization of judicial personnel).

The civil resolution of Commercial Disputes is one of the many functions of the High Courts in the various states of Nigeria. The Lagos High Court for instance is constituted to deal with all manner of cases ranging from the trade Union/Labor Relations matters to commercial, environmental, Professional Practice and Arbitration awards etc. It is commendable that a commercial division of the court has been established to deal exclusively with resolution of commercial disputes. It has long been realized that in commercial matters time is of the

essence as time is money, more so in the context of a fast growing economic environment such as Nigeria's.

Only a speedy and effective system of resolution of business disputes will ensure that redress is not sought in unlawful extra-judicial means, as sometimes is the case or that business executives do not choose the other option of licking their wounds in the event of botched transactions to the detriment of the common good. The current practice in the Lagos high Courts follows the English practice.

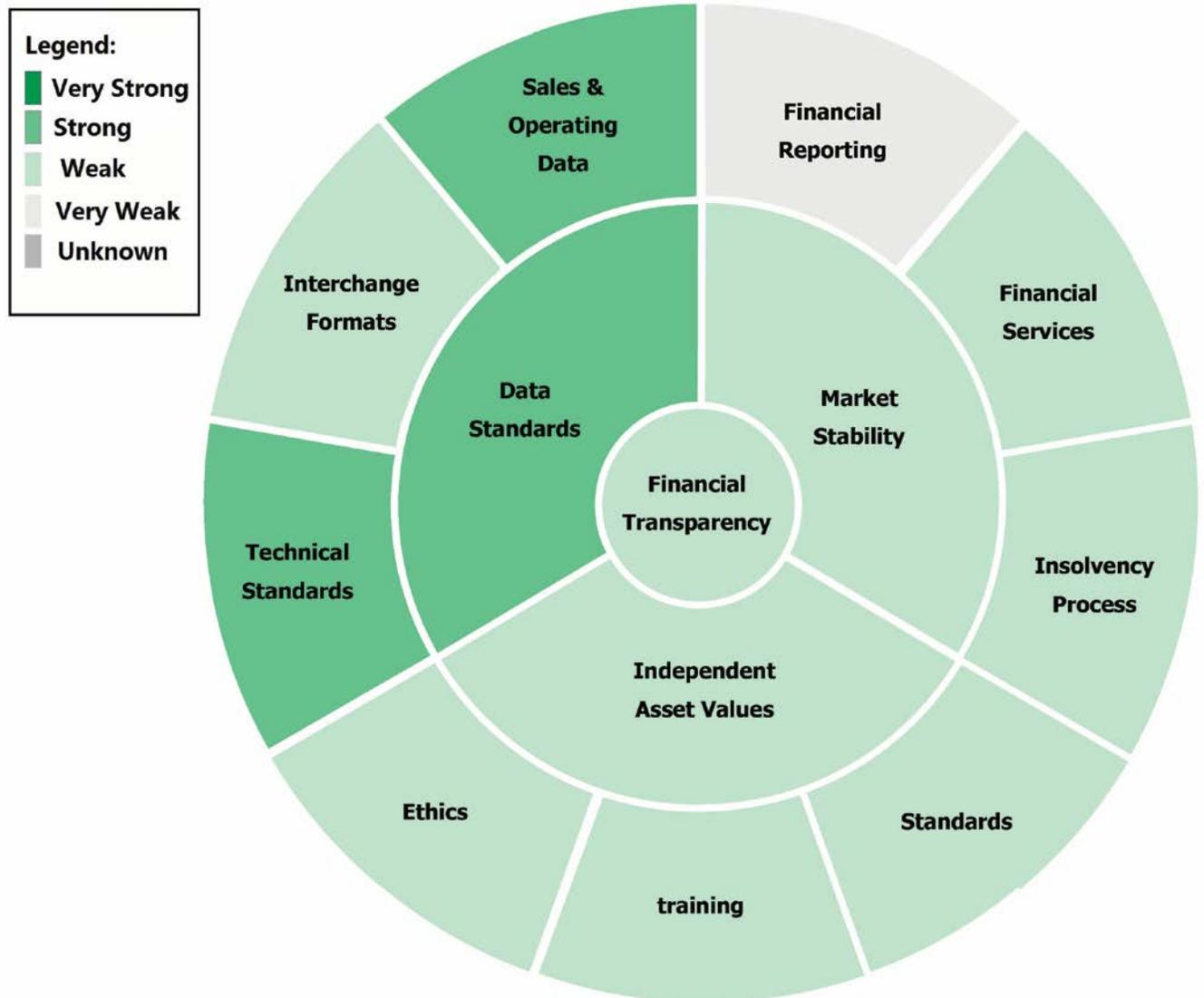
Hand in hand with the clarion call for commercial courts in all judicial divisions in Nigeria, will be the need for specialist Judges in all spheres of commerce, Banking and Credit, Companies and Allied Matters, Patents and Intellectual Property etc. These Judges by their background and training will be adequately equipped to appreciate the needs and aspirations of the business community in their adjudication. The ideal justice delivery system such as that envisaged by the establishment of commercial courts will be that where process and personnel are positioned to take full advantage of the developments in technology by employing the appropriate scientific devices to save judicial time and remove the physical stress placed on Judges in court who at the present time still take notes in long hand, a job that can be more efficiently and conveniently handled by trained stenographers.

In summary, public interest and the interest of all persons in commerce demand the establishment of commercial divisions within our various courts to take the nation into the new information technology era in partnership with other advanced countries of the world who have given priority to the role of Judicial and legal reforms as a necessary element of development within the comprehensive development framework of the more advanced and prosperous nations of the world.

Source: *The Courts and Commercial Dispute Resolution in Nigeria: The Need for Specialization*, 2005, Babalakin and Co, Commercial Law Firm.

www.babalakinandco.com/documents/TOWARDSAQUICKRESOLUTION.pdf

5. Financial Transparency



Goal – A well developed and transparent financial system that includes strong supporting institutions and highly 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 – Weak –development is still hindered by bureaucracy and a cash-based economy, and it takes long to resolve insolvency.
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5.1.1 Financial Reporting

What is the strength of the country's auditing and reporting standards? **Very Weak – 113rd out of 144; Score 3.94 out of 7**

5.1.2 Financial Services

Does the financial sector provide a wide variety of financial services to businesses? **Weak – 106th out of 144; Score 3.83 out of 7**

Source: *The Global Competitiveness Index 2012-2013 data platform*, World Economic Forum
<http://www.weforum.org/issues/competitiveness-0/gci2012-data-platform/>

5.1.3 Insolvency Process

Weak – Ranking – 105th out of 185 for current year, 104th for previous year, Trend ↓

5.1.3.1 What is the average time to complete bankruptcy proceedings? **2 years**

5.1.3.2 What is the cost of bankruptcy proceedings as a percentage of the estate? **22%**

5.1.3.3 What is the recovery rate of bankruptcy proceedings? **28 cents on the dollar**

Source: *Doing Business 2013– Resolving Insolvency*
<http://www.doingbusiness.org/data/exploreeconomies/nigeria#resolving-insolvency>

5.2 Independent Asset Valuers

Core Question:	Do trained, independent and ethical asset valuers exist for all types of assets? No – Weak, valuation firms are not currently reflecting appropriate bases, methods and information contents in their mortgage valuations.
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Survey Questions

5.2.1 Standards

SQ 19 How easy is it to find a valuer who implements International Valuation Standards? **Weak – National Valuation Standards have not been updated since 1985.**

Civil Society Resource: Nigerian Institution of Estate Surveyors and Valuers (NIESV)
<http://niesv.org.ng/>

5.2.2 Training

SQ 20 What is the level of training of valuers? **Weak – valuation firms are currently adopting, blindly, cost or contractor's method instead of investment and market comparison methods in mortgage valuations**

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

5.2.3 Ethics

SQ 21 Are opinions offered by valuers free of influence from parties to the transaction? **Weak – the current practice of relying on mortgage valuation reports prepared by in-house staff valuers and panel valuation system through retainerships can lead to conflicts of interest.**

Civil Society Resource: International Valuation Standards Council www.ivsc.org

5.3 Data Standards

Core Question:	Is accurate property information available electronically in formats that are consistent with international standards? Yes – Strong, most property information is available electronically in formats that are consistent with international standards.
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Survey Questions

5.3.1 Sales & Operating Data

SQ 22 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? **Yes – Very Strong, uniform multiple listing type services exist.**

Source: Private Property Nigeria:

<http://www.privateproperty.com.ng/>

SQ 23 Do resources exist for obtaining building income and expense estimates? **Yes – Weak, resources about building income and expense estimates are available but not uniform.**

[Nairaland](http://www.nairaland.com/properties) Forum: <http://www.nairaland.com/properties>

5.3.2 Interchange Formats

SQ 24 Do electronic data interchange formats conform to international standards (ebXML – electronic business using extensive markup language)? **No – Weak, banks are required to use XML, stock exchange providing real-time data, but property information still manual and not standardized.**

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

5.3.3 Technical Standards

SQ 25 Do building codes and office building measurement standards (ANSI/BOMA Z65.1) conform to international standards? **Yes – Strong, national building codes passed in 2006 and there is a renewed effort to focus on enforcement.**

Source: Building Owners and Managers Association International – BOMA www.boma.org

In-Country Assessment

Market Stability

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

Nigeria is Africa's second-largest economy. The country has a shortage of all types of modern space, raising the likelihood that the market will favor landlords for years to come. But there also are drawbacks to investing in Nigerian property. For starters, the country ranked 96 out of 97—one above Sudan—in the Jones Lang LaSalle 2012 global real-estate transparency index, which tracks the ease and confidence investors have in buying commercial real estate in a given country.

The result is a market that is seeing an increase in deals with high price tags from opportunistic funds willing to take a chance on Nigeria's potential. But the world's largest and most established investors continue to steer clear of the country.

Most of the investors who are active in the country are either local players or foreign funds that specialize in Africa.

Nigeria is at the heart of the urbanization. Lagos is predicted to reach a population of 20 million by 2020, up from just under 8 million at the last census in 2006, which would make it one of the world's biggest cities.

One of the many challenges facing foreign real-estate investors is the paucity of market data. Unlike most other markets, investors can have a hard time finding statistics with basic information such as deal prices, supply, leasing activity and property ownership.

But investing in Nigeria isn't for the faint of heart. The Jones Lang LaSalle report places the country in the "opaque" category of transparency, meaning Nigeria suffers from elements of corruption, lack of fundamental data and poor environmental sustainability programs when building large-scale properties.

Another obstacle to investors is that there isn't much of a secondary market for modern developments.

Experts say a possible means of attracting higher-grade capital will come when multinational companies that own operating plants in Nigeria decide they want to remove those assets from their balance sheets, then lease them back.

Source: Wall Street Journal July 4th 2013

<http://online.wsj.com/article/SB10001424127887324251504578579933994141760.html>

Valuation Profession

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

1,600 members are listed in the NIESV database.

Source: <http://niesv.org.ng/archives/category/uncategorized>

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

There were 709 registered valuation firms in 2013.

Source: <http://niesv.org.ng/archives/501>

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

The NIESV has the Statement of Asset Valuation Practices from 1985. The Rules and Regulations for the Practice of Estate Surveying and Valuation date from 1975. These statements and regulations need to be updated and brought in line with International Valuation Standards.

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

The survey revealed that property valuation firms are not currently reflecting appropriate bases, methods and information contents in their mortgage valuations; also, the sources of valuation instruction are suspect and subject to conflicts of interest. Besides, the valuation firms are currently adopting, blindly, cost or contractor's method instead of investment and market comparison methods in mortgage valuations, which are recommended in the literature.

The foregoing has continued to result in mortgage valuation inaccuracies and often lead to sub-optimal lending decisions. The expertise of the estate surveyors and valuers in respect of mortgage valuations is, therefore, called into question.

Source: *Implications of the Current Trend in Mortgage Valuation Practice in Nigeria, 2007*, Aluko,

<http://www.thefreelibrary.com/Implications+of+the+current+trend+in+mortgage+valuation+p+ractice+in...-a0161397756>

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

The majority of registered valuers belong to the NIESV.

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

Similar to RICS qualifications, a potential member must have a degree from an accredited university, pass an examination and two years experience to become a member. There is a yearly, mandatory, one-day continuing education seminar.

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

Three factors – integrity of valuer or valuation firm, importance of the valuation outcome to the client and client size, were ranked; through mean rating point, as the three most significant clients' influencing factors from the view point of responding estate surveyors and valuers. The rating of these factors appeared to be a reflection of the problem of non-compliance of estate surveyors and valuers with the professional code of conduct, weaknesses in the current mortgage valuation practice in the country and the highly competitiveness nature of the valuation industry. These problems, if not urgently addressed could further affect the already

damaged professional credibility of estate surveyors and valuers in the country. Consequently, the regulatory bodies would need to set up a mechanism to constantly monitor the activities of estate surveyors and valuers with a view to ensuring strict compliance with the institution code of conduct.

Source: *Client Influence on Valuation*, 2007, Amidu & Aluko,
http://www.ebiblioteka.lt/resursai/Mokslai/VGTU/International_journal/2007/2/ijspm_2.pdf

FQ 17. What is the quality of valuation reports?

Since banks consider mortgage valuation before advancing loans, it is reasonable to examine whether the valuation reports usually address the needs of the lending institutions. To accomplish this, some information contents identified in the literature were ranked using variables such as (1) of very great importance, (2) of great importance, (3) of some importance and (4) of no importance.

While date of valuation, physical description of property, type of interest and basis of valuation were ranked 1st, 2nd, 3rd and 4th respectively to the valuation firms, opinion of value, type of interest, state of the economy and structural condition of property were ranked 1st, 2nd, 3rd and 4th respectively by the lending institutions. While purpose of valuation and state of the economy are considered not important to valuers, the lending intuitions rely on them. This shows that, currently, mortgage valuation reports are not meeting the demands of lending institutions.

Source: *Implications of the Current Trend in Mortgage Valuation Practice in Nigeria*, 2007, Aluko

Data Availability

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

None known

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

Property advertising in Nigeria is dominated by print media company Castles Weekly Magazine, which covers four major cities in the country (Lagos, Abuja, Port Harcourt and Ibadan). The company also runs the portal castlesweekly.com. They are the clear leader overall in real estate advertising in terms of usage, readership and number of listings. The second major portal is ip4properties.com, a property portal that has been a key player since 2005. Their business model focuses only on the website, and they lead in terms of usage. The majority of estate

agents list their businesses in the directory, but only a small number of properties are listed on the website.

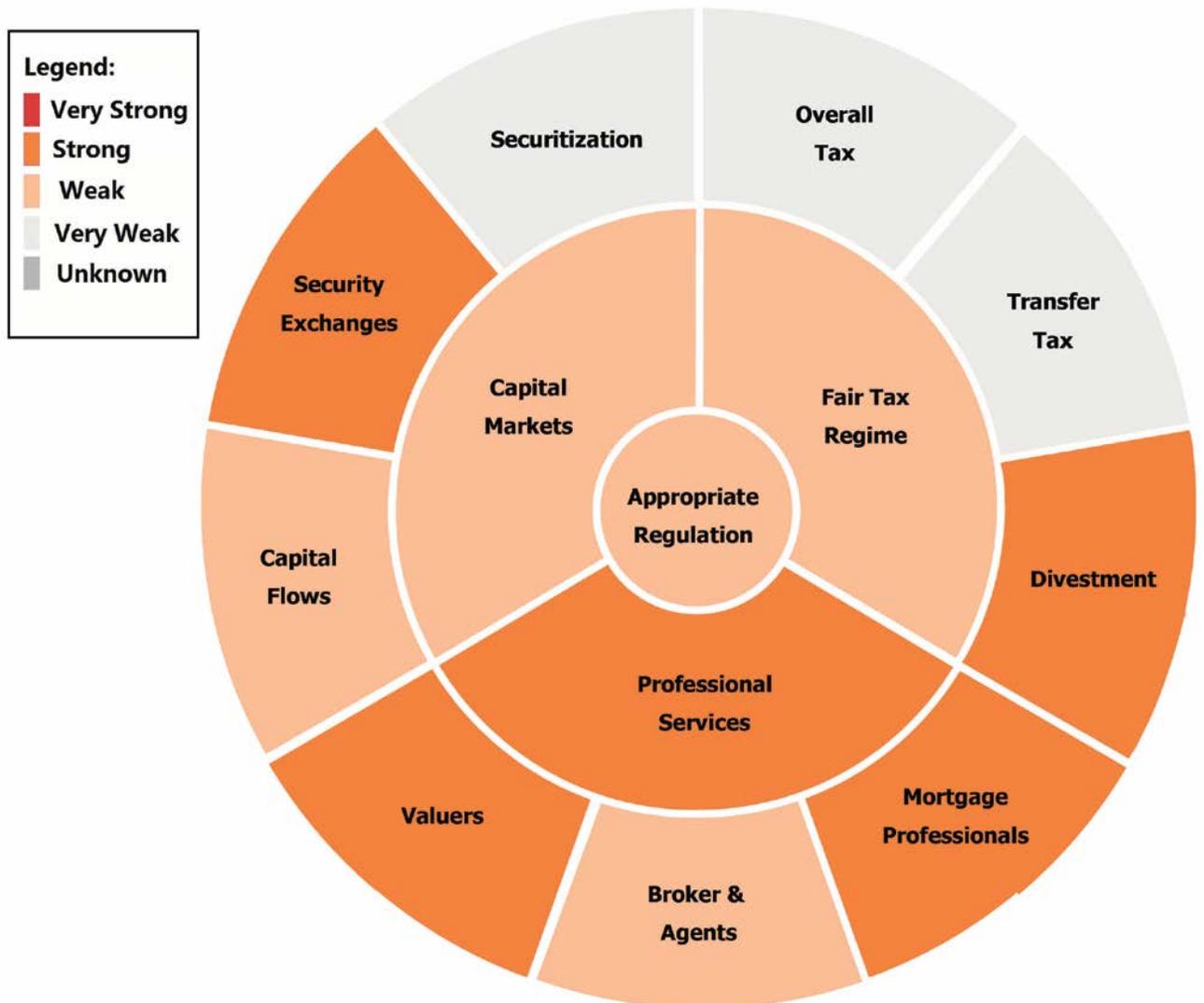
The third contender is propertyinnigeria.com, a website being run and managed by Nigerians in the UK and USA with an office in Nigeria. There are also a few smaller portals such as propertiesng.com, naijaproperties.com, and nethomesng.com, run by various web solution companies. The most notable feature of the Nigerian market is the fact that estate agents advertise and list their properties in the classifieds sections of traditional newspapers, dailies and bulletins. As in Europe, there is a combination of print and online property advertising business models, but the print advertising worldwide is deteriorating as most publishers are closing down their print operations and focusing solely on online advertising.

Source: www1.propertyportalwatch.com/2009/10/nigerian-online-real-estate-market/

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

None known

6. Appropriate Regulation



Goal – A comprehensive regulatory regime that is transparent, efficient, simple in its implementation and that leads to 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 – while tax rates are moderate, the arbitrary application of regulations and corruption still plague the public sector.
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Transfer Tax

6.1.1 What is the total property transfer tax including all duties and payments? **Very Weak – 20.8%**

Overall Tax

6.1.2 What is the overall tax rate on entrepreneurs? **33.8% – Ranking – 155th out of 185, process is time consuming, Very Weak – Trend ↓**

Source: *Doing Business 2013* – Paying Taxes & Registering Property, World Bank
<http://www.doingbusiness.org/data/exploreeconomies/nigeria>

6.1.3 Divestment

Survey Question

SQ 26 What is the tax on profits for foreign investors when divesting property? **30% corporate income tax; 10% capital gains – Strong, although acquiring and maintaining property rights can be difficult.**

Source: Chartered Institute of Taxation of Nigeria http://www.citn.org/cur_tax_rates

6.2 Professional Services

Core Question:	Are the professional services necessary for efficient and transparent property markets available and appropriately regulated and supervised? Yes – Strong, the professional services have improved to a large extent in recent years.
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6.2.1 Asset Valuers

Survey Questions

SQ 27 Are property valuers licensed and/or certified by the government? **Yes – Very Strong – a valuer must be certified by the government, and Nigerian Institution of Estate Surveyors and Valuers. There are four categories of membership:**

**Professional, Non-professional, Corporate and Honorary Membership.
Different membership requires different tests and training.**

Source: *Nigerian Institution of Estate Surveyors and Valuers* <http://niesv.org.ng/membership>

Q 28 How effective are mechanisms in place to discipline valuers who engage in misconduct? **Weak – the multi-discipline nature of the firms and the highly competitive nature of the industry suggest non-compliance with the code of conduct.**

See pages 30-31 for in-country assessment information regarding valuers.

6.2.2 Brokers & Agents

Survey Questions

SQ 29 Are real estate brokers and agents licensed and/or certified by the government? **Yes – Strong – most of brokers and agents are licensed by the government.**

SQ 30 How effective are mechanisms in place to discipline brokers or agents who engage in misconduct? **Very Weak – no Code of Conduct currently exists outside the registration of estate surveyors.**

6.2.3 Mortgage Professionals

Survey Questions

SQ 31 Are mortgage professionals licensed and/or certified by the government? **Yes – Strong – Primary Mortgage Institutions (PMIs) are regulated by the Central Bank**

SQ 32 How effective are mechanisms in place to discipline mortgage professionals who engage in misconduct? **Strong – although no licensing is in place for individuals and the market is constrained by land documentation restraints, National Housing Fund policy and the high cost of building materials.**

Source: www.cenbank.org/Supervision/Inst-PMI.asp

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 not fully developed but the Stock Market is increasingly active.
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Capital Flows

6.3.1 What are the business impacts of rules on Foreign Direct Investment? **Weak – Ranking 86th out of 144; Score 4.45 out of 7**

Security Exchanges

6.3.2 Is the regulation of securities exchanges transparent, effective and free of influence from government and industry? **Yes – Strong, Ranking 59th out of 144; Score 4.25 out of 7**

Source: *The Global Competitiveness Index 2012-2013 data platform*, World Economic Forum
<http://www.weforum.org/issues/competitiveness-0/gci2012-data-platform/>

Securitization

6.3.3 What is the depth of asset-backed securities, mortgage-backed securities, high-yield bonds and highly leveraged loans? **Very Weak – 49th out of 62, Score 1.2 out of 7, capital markets are very small with low turnover.**

Source: *The Financial Development Report 2012*, World Economic Forum
<http://www.weforum.org/reports/financial-development-report-2012>

In-Country Assessment

Taxation

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

The total roundtrip transaction cost is around 26.60% to 31.275%. This includes several permits, fees and charges. The biggest cost is the 8% consent fee paid to the state government. This seems to be a screening mechanism for collecting bribes. There is also a registration fee of 3%, paid by the buyer.

Nonresidents are taxed only on income earned in Nigeria. Married couples are taxed separately, joint filing and taxation is not allowed. Non-resident individuals are generally subject to withholding taxes.

Nonresidents can only claim the personal allowance of NGN5,000 (US\$31) plus 20% of earned income deduction. No other deductions are available to nonresident individuals. Gross rental income earned from leasing out real property is taxed at a final withholding rate of 10%.

The tax rate may be reduced to 7.5% for countries where Nigeria has concluded a double taxation treaty.

Capital gains tax is levied at a rate of 10% on the gains realized from the disposal of real property. Property acquisition costs and incidental costs in transferring property ownership

There are no real estate taxes in Nigeria.

Source: Global Property Guide www.globalpropertyguide.com/Africa/Nigeria

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?

The number of real estate transactions is high. Castles Weekly Magazine, a clear leader in the real estate print media business, says advertisers have increased from 200 agents to 500, and each previous advertiser increased the number of properties listed from an average of five to eight. The prices of these properties have followed the same trend as property prices went up 150 percent.

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

There are several large nationwide estate agents (Jide Taiwo and Co., Diya Fatimilehin, Dipo Fakorede, Ubosi Eleh and Co., Paul Osaji and Co., ARM Properties, to name a few), but overall the market is fragmented. Small and very local estate agents are very important in the industry. These players form the vast majority, with the big names recognized nationwide. The exceptions to this rule are banks and mortgage institutions/building societies, many of whom also operate as estate agents.

Source: www1.propertyportalwatch.com/2009/10/nigerian-online-real-estate-market/

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

There does not appear to be a brokers association separate from NIESV.

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

None apart from NIESV and in-house training programs at the large firms.

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

None apart from NIESV.

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

No separate association exists, but there are Building Societies, Housing Associations and Credit Unions.

Source: *Challenges of Housing Finance by Primary Mortgage Institutions in Lagos Nigeria*, University of Lagos, 2008, www.gla.ac.uk/media/media_129719_en.pdf