

International Property Markets Scorecard

China Market Conditions – Complete Survey July 2011



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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 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.

The Unirule Institute of Economics was the in-country partner for this Scorecard. Feng Xingyuan contributed greatly to the research results.

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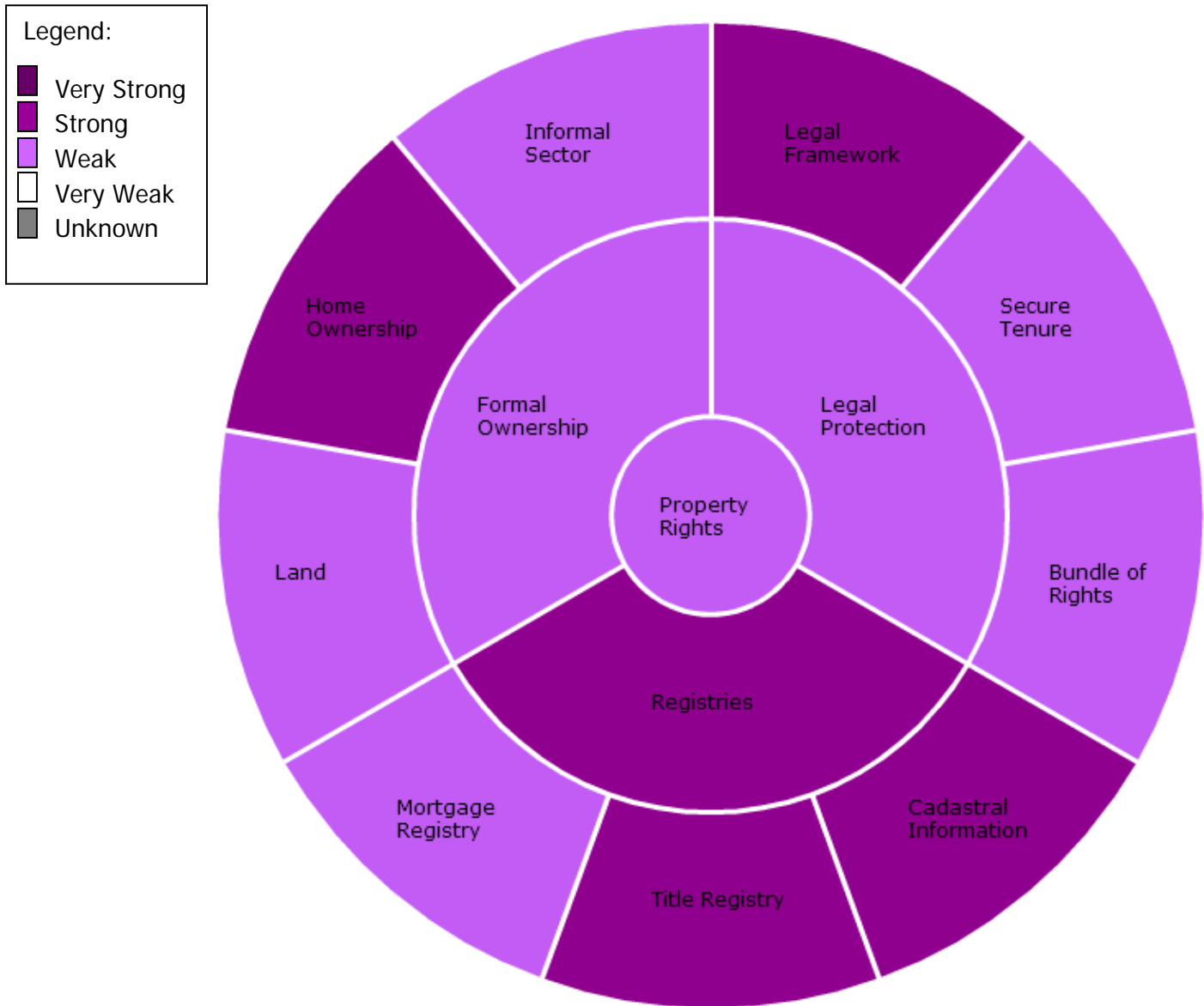
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1. Property Rights



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, while many new laws have been passed in the last years, all land remains the property of the state with only land use rights granted for limited duration. Many properties in rural and peri-urban areas do not have land use certificates.**

Legal Framework

1.1.1 Are property rights clearly defined and protected by law? **Yes – Strong – Ranking 39th out of 133; Score 5.2 out of 7**

Security of Tenure

1.1.2 Can citizens challenge the legality of government takings? **No – Weak – 57th out of 133; Score 3.9 out of 7; while procedures are clear for properties with formal government recognition, many properties have not been formalized.**

Source: *Global Competitiveness Report* – World Economic Forum
<http://gcr.weforum.org/gcr2010/>

Bundle of Rights

Survey Question

SO1 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 – Land in rural areas is collectively owned, all other land is state-owned. Individuals and firms may own and transfer long-term leases on land and buildings.**

Source: Land Administration Law, Ministry of Land and Resources
www.mlr.gov.cn/mlrenglish/laws/200710/t20071011_656321.htm

1.2 Registries

Core Question: Does a reliable property registry exist including cadastral, title and mortgage lien information? **Yes – Strong, over the last 20 years the system of cadastre, land use rights registration and mortgage registry has continually improved.**

1.2.1 Cadastral Information

Status – Strong

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 and are regulations respected and enforced? **Yes, generally, however there are many new buildings that do not match zoning/use information.**
- SQ 4 Are Geographic Information Systems (GIS) including Global Positioning Satellite (GPS) information used to create and update the registry? **No, most information is still from physical survey.**

Source: State Bureau of Surveying and Mapping <http://en.sbsm.gov.cn/>

Civil Society Resource: Chinese Society of Geodesy, Photogrammetry and Cartography

1.2.2 Title Registry

Strong – Ranking – 38th out of 183 Trend ↓ procedures, time and costs are low but many properties lack official ownership certificates.

- 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? **29**
- 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? **3.6%**

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

Source – *Doing Business* – Registering Property, World Bank
www.doingbusiness.org/data/exploreeconomies/china

1.2.3 Mortgage Registry

Status – Weak, the mortgage market is still relatively new in China.

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? **Yes**
- SQ 6 Is information in the registry available electronically? **Yes, available from the local property administration.**

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, however home owners must have property insurance before receiving a loan.**

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 – conflict between formally recognized property “big title” and “small title” properties without use certificates creates dual systems.
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Survey Questions

1.3.1 Land

SQ 8 What is the status of land ownership? **Weak – although the Property Law of 2007 does set out the concept of private property rights (Chapter V, Article 64), private ownership of land is still excluded.**

Source: Property Rights Law of the People’s Republic of China
www.lehmanlaw.com/fileadmin/lehmanlaw_com/laws_regulations/Propoerty_Rights_Law_of_the_PRC_LLX_03162007.pdf

1.3.2 Home Ownership

SQ 9 What is the percentage of formal home ownership? **Over 80% in urban areas, less in rural and peri-urban areas – Strong**

Source: Government Statistics

Informal Sector

1.3.3 What is the percentage of services firms that report competing with unregistered or informal firms? **Large– Weak, the presence of informal markets for goods is pervasive.**

Source: Interviews with small businesses.

In-Country Assessment Information

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

All land remains the property of the state. Small businesses only have land use rights. Courts do not support home owners in the case of government takings, especially for properties that have not been granted ownership certificates.

Owners of properties purchased from more recent commercial real estate developers have a better position in challenging government takings. The general position of the government and the courts is that "public interest" takes precedent over private property. Many cases against government takings are not allowed to proceed. Often administrative regulations and discretion is more detailed and restrictive than the Property Law.

FQ 2 Are standard leases used for commercial space? If not, what is a typical arrangement for rental?

Standard forms of lease contracts are available for leasing commercial space. However, there are sometimes some informal arrangements in which the rental was understated in the contract so that the owner doesn't have to pay too large an amount of tax. A small company can sublease from an existing lease holder through a legal process.

Most feel that as tenants they are not secure in their rights. Some believe renters can protect their interests by formulating better clauses to avoid the property owners' request for changing the contract, especially the increase in rent. Some renters of business properties paid rental first and also the tax the owners were to pay to the government. Villages in suburbs often rent out standard factory halls to small companies.

FQ 3 What are the processes for government expropriation of property especially notice and due process for owners? Are those laws followed or do expropriations happen by collusion between officials and connected elites?

The new land taking regulation, State Council's "Regulations on the Expropriation of Property on State-owned Land and Compensation Therefore" of January 21, 2011, improved the land taking procedures. If there is land taking, there are cases in which "small title" properties were destroyed without prior notification and the level of compensation to the owners was inadequately low.

FQ 4 Are businesses owners compensated fairly when their property is taken for public use?

In land takings, the government provides insufficient protection of the interests of renters from the loss of value of their equipment and their investment in the immovable property. City governments negotiate only with the owners according to current government regulations. With their move to another location, some commercial equipment (including showcases, polishing machines, etc.) lost value without any or insufficient compensation. If there was any compensation, it was made by the property owners who got an overall compensation from the government. Representatives of small companies believe that such problems exist and are more severe outside of Beijing and Nanchang.

FQ 5 What protections do businesses have who lease space from arbitrary eviction by owners?

Notice is often too short on the side of the owners or the primary renters in advance so that companies as (primary or secondary) renters do not have sufficient time to find new suitable locations. And they have to pay market rentals for their newly rented business properties which are often higher than before. In land taking cases, some renters of standard factory halls have to suffer the loss in terms of their investment in the improvement of the factory halls, their cost of moving equipment and the loss of some new orders. The rental itself is cheap. However, all the further improvement of the factory hall has to be contracted to the administrative committee of the industrial park.

FQ 6 What is the actual experience of transferring a property, accessing the registry and dealing with registry officials?

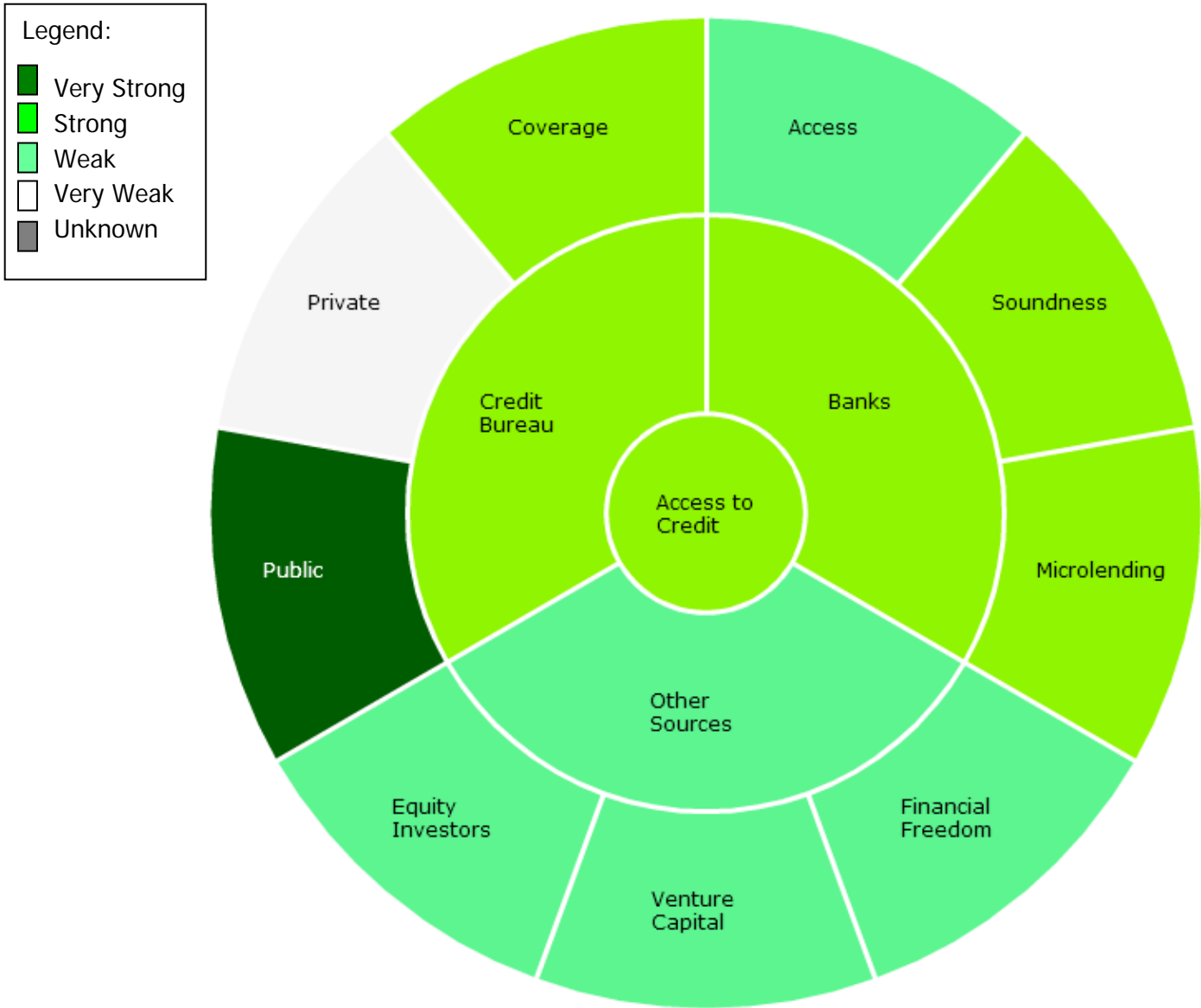
The registration of a transfer of property ownership is in general quite efficient. If all the necessary certificates and required documents are complete, the transfer can be done within the same day in Beijing. However, if the necessary certificates and required documents are incomplete, the transfer cannot be done easily. Some companies have registered their ownership of business properties with the Real Estate Bureau and haven't got the title yet because of incomplete certificates and documents.

FQ 7 How large is the presence of informal markets for goods, i.e. itinerate vendors?

There are many unregistered companies, many informal deals and services in the property market. Most small companies compete with itinerate or unregistered vendors. Individuals of many registered big or small companies are also involved in providing or receiving informal deals and services.

Source: Focus Groups conducted by the Unirule Institute of Economics

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? **Yes – Strong, while the state directs the allocation of credit and the big four state banks lend primarily to state-owned enterprises, the financial sector is very diversified.**

Access

2.1.1 How easy is it to obtain a bank loan? **Weak – Ranking 89th out of 133; Score 2.7 out of 7**

Source: *The Global Competitiveness Report*, World Economic Forum
<http://gcr.weforum.org/gcr2010/>

2.1.1.1 What percentage of firms use banks to finance investments (fixed assets?)
28.8% - Weak

2.1.1.2 What is the value of the collateral needed for a loan as a percentage of the loan?
88.4% - Strong

Source: Enterprise Surveys
www.enterprisesurveys.org/ExploreEconomies/?economyid=10&year=2009

Soundness

2.1.2 How sound are the country's banks? **Strong – Ranking 66th out of 133; Score 5.2 out of 7**

Source: *The Global Competitiveness Report*, World Economic Forum
<http://gcr.weforum.org/gcr2010/>

2.1.3 Microlending

Status – Strong, there are numerous microfinance institutions, village banks and rural mutual fund associations.

2.1.3.1 Microfinance allows citizens without traditional creditworthiness to build a credit history. How many microfinance institutions are operating in the country? **1,934**

China Foundation for Poverty Elimination www.cfpa.org.cn/
Chifeng Zhaowuda Women's Sustainable Development Association
Postal Savings Bank of China www.psbc.com
Wansui Microfinance Company www.wsmicrofinance.com/index.asp
Binhe Village Bank of Wuzhang City

2.1.3.2 What is the number of active borrowers per institution?

China Foundation for Poverty Elimination	36,080
Chifeng Zhaowuda	7,299
Postal Savings Bank of China	1,569,900
Wansui Microfinance Company	771
Binhe Village Bank of Wuzhang City	2,000

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, large state-owned companies still dominate.**

Financial Freedom

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

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

Venture Capital

2.2.2 How easy is it for entrepreneurs to find venture capital?
Weak – 38th out of 133; Score 3.2 out of 7, however it is difficult for small entrepreneurs to raise capital.

Equity Investors

2.2.3 How easy is it to raise money by issuing shares on the stock market? **Weak – 66th out of 133; Score 3.9 out of 7, the minimum equity required for the initiating of a company and the total assets for an IPO are extremely high.**

Source: *The Global Competitiveness Report*, World Economic Forum
<http://gcr.weforum.org/gcr2010/>

2.3 Credit Bureau

Core Question: Is comprehensive credit information available through public and private credit bureaus? **Yes – Strong, although use of credit is still very low.**

Overall Ranking 65th out of 183 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? **63.9% - Very Strong**

Private

2.3.3 What is the extent of private credit registry coverage? **Very Weak – not available publicly but information is available within the banks.**

Source: *Doing Business* – Getting Credit, World Bank
www.doingbusiness.org/data/exploreeconomies/china

In-Country Assessment Information

FQ 8 How available are mortgage loans for purchasing commercial property (office, retail, industrial and logistics), who is the typical user and what are the prevailing trends?

The access to loans is still a big problem. Only a small part of small companies have access to loans from banking institutions. To receive loans, they should be able to provide mortgage, collateral or guarantees. In the startup periods, most small companies rely on their own capital and some informal finance (Dai Jinhua). A small company has to provide a number of documents and go through a number of procedures to get its loan application approved by banks, including a rural commercial bank in Nanchang. The time from the application to its approval lasted too long (around 10 to 15 days).

FQ 9 What are the interest rates, term and loan-to-value ratios?

The interest rates are affordable for most small companies which borrowed bank loans (7% +). Many owners of start-up businesses need to borrow from the informal financial sector. Small start-up businesses have to rely on their own capital. Banks are banned by the China Banking Regulatory Commission from disbursing loans to start-up businesses since they have no financial record to be used to borrow funds from banks. The commercial interest rates in informal finance (often between 20%-30%) are much higher than in formal financing. For guarantee or investment companies, one has to pay some guarantee fee.

FQ10 In addition to microloans, to what extent are microenterprises (5 or fewer employees) active in the country? Approximately what percentage are formally registered firms?

Microenterprises are active in Beijing and Nanchang. Many microenterprises are not registered. Many minibuses and tricycles load various goods and sell them in the evening. Many vendors sell goods at the entry of subway stations. Many unregistered taxi drivers provide taxi services. Many unregistered service providers are present in the real estate sector. It is difficult to estimate the percentage of formally registered firms among small businesses. Some experts find it is a part larger than that of unregistered firms. Some others find that the opposite is true.

FQ11 What services other than loans such as insurance, funds transfers, and business development training are available from microfinance organizations for formal businesses?

Savings and funds transfer (Postal Savings Bank), business development training (some microfinance organizations).

FQ12 What professional financial services are available outside state owned banks including insurance, credit cards and investment management?

Savings, loans, insurance, credit cards, debit card, and investment managements are available outside state owned banks. Foreign bank branches in China are not allowed to issue credit cards to Chinese.

FQ13 What has been the appreciation (or depreciation) rate for commercial property over the last several years?

The prices of commercial properties for office, retailing and industrial use all surged up in China. The increase in housing prices has been even more significant, often more than doubled in last 3 years in China (2008-2010), 150% and 120% in Beijing and Nanchang respectively in regard to some high-end properties. The price of commercial properties for office and retailing use has increased around 40%-50% in large cities of China. The increase in prices of commercial properties in Beijing in that period is 23% while that in prices of office space being 33%. There is no significant increase in commercial properties for manufacturing use in China since the supply is large and local government subsidies are heavily involved.

FQ14 How available is seed money or angel investors for the start up of small businesses?

Normally, one has to rely on one's own capital and borrowing from relatives and friends. The borrowed funds are not supposed to be allowed as registered capital; however, many entrepreneurs use borrowed funds as part of their registered capital. One reason is that the required capital for opening a limited liability corporation or share-holding corporation is relatively large and entrepreneurs often lack enough of their own funds.

FQ15 **Do small businesses have access to credit information about potential customers?**

No. They must ask bank officials to help them collect credit information.

FQ16 **Can businesses gain access to information about them contained in credit bureaus and correct inaccuracies?**

Yes, they can gain access to information; however, they cannot correct inaccuracies. They can apply at the banks which provided the information. If there are disputes, they can sue banks to correct inaccuracies.

Source: Focus Groups conducted by the Unirule Institute of Economics

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 – Very Weak, the state still directs most economic activity and the Communist Party, while allowing some response to market forces, still maintains ultimate authority over economic decisions.**

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 – 5.2 Trend ↓**

Source: *Governance Matters*, 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 1.18 out of 10**

Overall Ranking – 136th out of 167

Source: *The Economist* Intelligence Unit Democracy Index 2008
<http://graphics.eiu.com/PDF/Democracy%20Index%202008.pdf>

3.1.2 Public Information

Overall Ranking – Weak; Score 60 out of 100 (2009)

3.1.2.1 Are there regulations governing conflicts of interest in the executive and legislative branches of government? **Yes – Executive Score 49 out of 100 – Very Weak; Legislative Score 31 out of 100 – Very Weak**

3.1.2.2 Can citizens access legislative processes and documents? **Yes – Score 81 out of 100 – Strong**

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

3.1.3 Market Intervention

Overall Freedom Ranking – Very Weak 140th out of 179 Trend ↓

3.1.3.1 To what extent does the government intervene in the private sector including state owned industries? **Score 88.1 out of 100 with a higher score indicating less intervention. There has been a trend toward re-nationalization and interventions have increased since 2003.**

3.1.3.2 To what extent does the government control prices? **Score 70.6 out of 100 with a higher score indicating less control**

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

3.2 Lack of Corruption

Core Question:	Is the public sector transparent and free of corruption? No – Weak, anti-corruption activity in China is at a crucial juncture, with certain progress already made but facing a long road ahead.
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Transparency

3.2.1 What is the perceived level of corruption in the country? **Ranking – 78th out of 178; Score 3.5 out of 10 – Strong Formal Sector, Trend =**

Source: *Corruption Perception Index*, Transparency International
www.transparency.org/policy_research/surveys_indices/cpi/2010/results

Integrity Mechanisms

3.2.2 A National Integrity System is a framework where the principle institutions that contribute to integrity, transparency and accountability in a society can address corruption in a systematic way. Does a National Integrity System exist? **Yes – Weak, a proper and effective anti-corruption framework has yet to develop. There are anti-corruption bureaus under people’s protectorates, courts of audit, and there are party discipline committees.**

Source: *National Integrity System Assessment*, 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? **72.5% of firms say they are expected to make unofficial payments – High Occurrence – Very Weak**

Source: *Enterprise Surveys*, World Bank, 2003
www.enterprisesurveys.org/ExploreEconomies/?economyid=42&year=2003

3.3 Efficient Administration

Core Question: Are quality services and qualified civil servants available to the public through the efficient use of public money free of corruption? **Yes – Strong, there has been improvement in recent years. More and more officials are increasingly accountable for their decisions.**

Size of Government

3.3.1 What is the size of government relative to GDP? **19.9% - 25 to 30% considered optimum – Strong, 19.9% in terms of the budgetary revenue as a ratio of GDP. However, if including budgetary revenue, government funds, extra-budgetary revenue, land transfer revenue, and social security funds, the size reaches 31%-33% during recent years.**

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

Civil Service

3.3.2 What is the quality of the civil service? **Strong – Score 71 out of 100**

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

Government Effectiveness

3.3.3 What is the overall effectiveness of the government? **Strong - Percentile Ranking – 58.1 Trend ↑**

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

In-Country Assessment Information

FQ17 **What is the actual experience of small businesses in dealing with the government, particularly the number and complexity of required procedures and the prevalence of extra payments to facilitate services such as licenses or permits?**

Small businesses have very little protection from government appropriation of property. While overt payments are decreasing, officials often expect to be treated to dinner. Tax burdens imposed upon small businesses are heavy. So small businesses find a way to build up a good relationship (guanxi) with key tax officials so that tax burdens can be reduced.

If companies don't have good relations to tax officials, tax bureaus might send tax inspectors to check up on the business and tax payment records. Normally they will identify definitely some faults and charge fines.

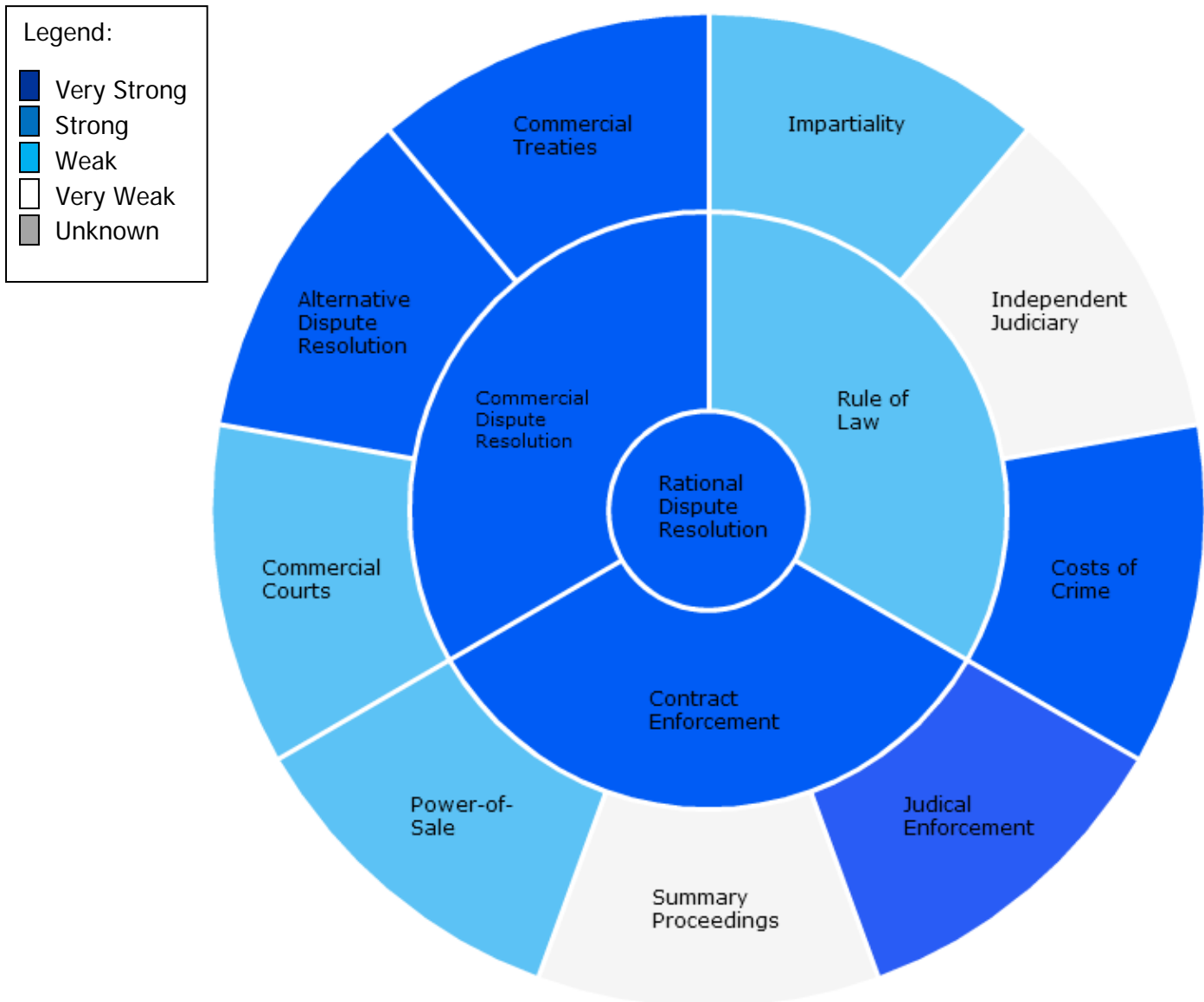
Similarly, one has also to build up and maintain good relations to some officials of some bureaus of industry and commerce, bureaus of health, bureaus of environmental protection etc. Some companies invite credit officials to dinners, entertainment, or vacations, and present some gifts to credit officials.

Many small companies don't think it is necessary that the urban land remains state-owned. The control of land supply increased the price of land using right, which is detrimental to the development of small companies. The city governments take land from farmers' hand and turn them into construction land which is state-owned according to the law.

City governments monopolize the primary land market. City governments reserve land after the land taking and construct infrastructure for the relevant land area and resell the reserved land. They are price makers. Although the using rights of such land are transferred through a system of "tender, land auction and land listing", urban governments control land supply to increase the selling prices. Such a system is also involved with lots of cheating and insider control problems. Also government collects many taxes and fees from the real estate sector. Such a system contributes to the increase of the property prices.

Source: Focus Groups conducted by the Unirule Institute of Economics

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 – Weak, relevant regulations are not strong enough. Some judges have various kinds of connections with law firms or other private businesses.
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Impartiality

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

Source: *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? **No– Score 46 out of 100 – Very Weak, there is strong party control and interference from the local administration.**

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

Costs of Crime

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

Source: *The Global Competitiveness Report*, World Economic Forum
<http://gcr.weforum.org/gcr2010/>

4.2 Enforcement of Contracts

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

Commercial – Strong – Ranking 15th out of 183 Trend =; while costs are low, many cases, especially dealing with land disputes are refused by the courts.

- 4.2.1.1 What is the number of procedures involved in resolving a commercial dispute? **34**
- 4.2.1.2 What is the time between the filing of a lawsuit and resolution in judicial enforcements? **406 days**
- 4.2.1.3 What is the cost of judicial enforcements as a percentage of debt value? **11.1%**

Source: *Doing Business* – www.doingbusiness.org/data/exploreeconomies/china

4.2.2 – Summary Proceedings

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

SQ 11 What is the cost of summary proceeding if available to lenders as a percentage of property value? **Not Available – Very Weak**

4.2.3 – Power-of-Sale

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

SQ 13 What is the cost of power-of-sale agreements if available to lenders as a percentage of property value? **Unknown**

Source – Source: Property Rights Law of the People’s Republic of China
www.lehmanlaw.com/fileadmin/lehmanlaw_com/laws_regulations/Propoerty_Rights_Law_of_the_PRC_LLX_03162007.pdf

4.3 Commercial Dispute Resolution

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

Commercial Courts

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

Source: www.olemiss.edu/courses/pol324/chnjudic.htm

Alternative Dispute Resolution

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

Source: U.S. Dept of Commerce

www.export.gov/china/exporting_to_china/disputeavoidanceandresolution.pdf

Commercial Treaties

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

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

In-Country Assessment

FQ18 To what extent do small businesses trust public institutions to support contract enforcement?

Land leasers who purchased land use rights and built factories have to make great efforts in claiming their rights, in spite of the fact that they signed a use contract which refers to the compensation in the case of land taking. In some cases they didn't get back any compensation from the land lessors who lent out the land but who got compensation from the local government, in some other cases they did get back some compensation.

The precise design of the land lease contract matters in the relevant dispute settlements. There are also some cases in which the renters can discuss with the lessors on the losses the renter might suffer from the move, and the lessors can discuss with the government on the compensation for the renters.

Small businesses are disadvantaged in taking legal protection and dispute resolution in comparison with larger firms. Larger firms are equipped with more funds, influence, a larger social network, and often better connections to local government, and can lobby the government in a better way.

Source: Focus Groups conducted by the Unirule Institute of Economics

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? Yes – Strong, China’s strong growth has continued and the government constantly monitors and regulates macroeconomic performance.
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Financial Reporting

5.1.1 What is the strength of the country's auditing and reporting standards? **Weak – 72nd out of 133; Score 4.7 out of 7**

Market Sophistication

5.1.2 What is the overall level of financial market sophistication in the country? **Strong – 58th out of 133; Score 6 out of 7**

Source: *The Global Competitiveness Report*, World Economic Forum
<http://gcr.weforum.org/gcr2010/>

Insolvency Process

Strong – Ranking – 68th out of 183 Trend ↓

5.1.3 What is the average time to complete bankruptcy proceedings? **1.7 years**

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

5.1.5 What is the recovery rate of bankruptcy proceedings? **36.4 cents on the dollar**

Source: *Doing Business* – Closing a Business
www.doingbusiness.org/data/exploreeconomies/china

5.2 Independent Asset Valuers

Core Question:	Do trained, independent and ethical asset valuers exist for all types of assets? Yes – Strong, numerous large native and international valuation firms are active, but few independent appraisers support land owners in government takings for urbanization.
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Survey Questions

Standards

SQ 17 How easy is it to find a valuer who implements International Valuation Standards? – **Strong – Valuation Standards Committee is included in the Ministry of Finance and has a member on the IVSC Board of Trustees.**

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

Training

SQ 18 What is the level of training of valuers? **Very Strong – Licensing exam is very difficult and many valuers hold internationally recognized qualifications.**

Civil Society Resource: China Institute of Real Estate Appraisers and Agents www.cirea.org.cn/

Ethics

SQ 19 Are opinions offered by valuers free of influence from parties to the transaction? **Yes – Strong, effective valuation associations are active for all types of assets.**

Civil Society Resource: China Appraisal Society www.cas.org.cn/

5.3 Data Standards

Core Question:	Is accurate property information available electronically in formats that are consistent with international standards? Yes – Strong, rapid improvements have occurred over the last several years.
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Survey Questions

Sales & Operating Data

SQ 20 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 – Weak, dedicated Internet sites starting to emerge, but a standardized listings service is not available.**

Source: <http://soufun.com/>; www.ehousechina.com/

SQ 21 Do resources exist for obtaining building income and expense estimates? **No – Weak**

Civil Society Resource: Shanghai Weston Real Estate Management Institute www.westonedu.com/

Interchange Formats

SQ 22 Do electronic data interchange formats conform to international standards (ebXML – electronic business using extensive markup language)? **Yes – Strong, ebXML introduced as a standard in 2003 and real estate data firms are developing.**

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

Technical Standards

SQ 23 Do building codes and office building measurement standards (ANSI/BOMA Z65.1) conform to international standards? **Yes – Very Strong**

Civil Society Resource: Chinese Office Building Owners and Managers Association
<http://bj.house.sina.com.cn/biz/boma/index.html>

In-Country Assessment

Valuation Profession

FQ19 How many independent valuers exist in the market? Can small businesses obtain fair valuations for property they want to buy or sell?

There are many professional valuation companies in Beijing and Nanchang. The competition among them is quite fierce. They are independent of the government, while some still have explicit or implicit close connections to government. Some were in the beginning associated to and later separated from government. Small businesses can obtain relatively fair valuations for property they want to buy or sell.

FQ20 What are the valuation standards and do they conform to international and regional standards?

There are a set of valuation standards which the valuation institutions have to comply with. There are also a set of baseline values relating to properties in different locations. Based on these values, the appraisers assess the market values of the properties. However, the client has a say in the determination of the final value of the property. The respective valuation institution will discuss with the client the final value and determine the value in favor of the fee payer. So the values the appraiser stated are not too far away from the client thinks it should be.

FQ21 What valuation methods and techniques are used in the market?

The values of some properties can be sometimes quite subjective, depending on how the payer or evaluator expects its use and appreciation in future. The valuation institutions, if their evaluation tasks are assigned by the government, will not add this part in their valuation of properties in the land taking case.

Data Availability

FQ22 How available is information for commercial properties that are for sale or that have sold?

Small companies can find information relating to the purchase and rental of commercial properties from newspapers, journals, and websites. Professional journals and websites are very important for purchase and rental of sector-specific properties. Relating to the purchase of land using rights, one can check the special government website on the prices under the system of land tender, auction and listing. There are also many special applets on land and housing information which can be installed in smart phones.

Source: Focus Groups conducted by the Unirule Institute of Economics

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 – income tax rates are high and Land Value Appreciation tax reintroduced to cool down the real estate market.
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Transfer Tax

6.1.1 What is the total property transfer tax including all duties and payments? **3.6% - Strong**

Overall Tax

6.1.2 What is the overall tax rate on entrepreneurs (as a percentage of profits)? **63.5% – Ranking – 114th out of 183, Weak – Trend ↑**

Source: *Doing Business* – Paying Taxes & Registering Property, World Bank
www.doingbusiness.org/data/exploreeconomies/china

Divestment

Survey Question

SQ 24 What is the tax on profits for foreign investors when divesting property? **20% capital gains tax + Land Value Appreciation Tax of 30% or more – Weak**

Source: State Administration of Taxation
www.chinatax.gov.cn/n6669073/n6669088/6888416.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, the profession is relatively new and untested by a severe downturn.
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Asset Valuers

Survey Questions

SQ 25 Are property valuers licensed and/or certified by the government? **Yes – Strong**

SQ 26 How effective are mechanisms in place to discipline valuers who engage in misconduct?

Strong – valuers do not want to lose their government qualifications, so they generally do not engage in misconduct.

Civil Society Resource: China Institute of Real Estate Appraisers and Agents
www.cirea.org.cn/

Brokers & Agents

Survey Questions

SQ 27 Are real estate brokers and agents licensed and/or certified by the government? **Yes – Weak, licensing of agents relatively new. There are many unlicensed brokers and agents.**

SQ 28 How effective are mechanisms in place to discipline brokers or agents who engage in misconduct? **Weak, very few sanction mechanisms in place.**

Civil Society Resource: China Institute of Real Estate Appraisers and Agents
www.agents.org.cn/

Mortgage Professionals

Survey Questions

SQ 29 Are mortgage professionals licensed and/or certified by the government? **No – Weak, no separate profession outside traditional banks**

Source: China Banking Regulatory Commission
www.cbrc.gov.cn/english/home/jsp/index.jsp

SQ 30 How effective are mechanisms in place to discipline mortgage professionals who engage in misconduct? **Unknown**

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 – Very Weak, expanding access to financial services still remains a challenge.
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Capital Flows

6.3.1 How restricted is the flow of capital into and out of the country? **Very Weak – Ranking 125th out of 133; Score 3.1 out of 7**

Security Exchanges

6.3.2 Is the regulation of securities exchanges transparent, effective and free of influence from government and industry? **No – Weak, Ranking 91st out of 133; Score 4 out of 7**

Source: *The Global Competitiveness Report*, World Economic Forum
<http://gcr.weforum.org/gcr2010/>

Securitization

6.3.3 What is the depth of asset-backed securities, mortgage-backed securities, high-yield bonds and highly leveraged loans? **Very Weak – 55th out of 57 countries**

Source: Financial Development Report, World Economic Forum
http://www3.weforum.org/docs/WEF_FinancialDevelopmentReport_2010.pdf

In-Country Assessment

Taxation

FQ23 What is the level of taxation for small businesses? Are any of those taxes an excessive burden on small businesses? Are any tax discounts provided for small businesses?

There are more than 160 different sorts of taxes and fees in China. For small businesses: 3% VAT without any tax base deduction. 25% corporate income tax and some further surcharges. Tax burden of small scale tax payers is normally lower than regular tax payers.

Many participants find that the tax and fee burdens of small companies are quite heavy, if they pay taxes and fees (including social insurance fees) according to laws and regulations. Some companies do some tax evasion or avoidance. The tax law enforcement has become stricter than before. It becomes more and more difficult for some companies to do tax evasion or avoidance.

One has to keep good relations to the tax officials and other government departments, including the city management inspectors (cheng guan). Small companies feel that they are imposed with taxpayers' liability without enjoying taxpayers' rights.

Professional Services

FQ24 What is the experience of small businesses in dealing with professional property market service providers such as real estate agents, brokers and valuers?

These property market suppliers and service providers are relatively reliable since their information has to be to some degree in accordance with the real information on the properties in their real place and time. However, they have some tricks in releasing their price information. They often quote a quite low price for customers' purchasing or renting a property. However, if the customers call them, they might say that that property is sold or rented out already, and then give further information on other properties.

They might provide some biased information and hide some real information on sales situation. They might still inform a buyer on the unavailability of the apartments in better directions and at better height, although these are not sold out. Their purpose is to wait for a better time to sell them at a higher price. They may say that this is the last apartment which is available. However, a buyer might see there is always a last apartment available, even after some apartments were sold during last few days.

Real estate developing companies also run often their own property management companies which manage business properties sold to customers. The latter ones often pursue their own interests at cost of the property owners' interests. These property management companies are often not trustworthy: They often change part of the green space into parking area, or change underground air defense facilities into shops or parking places to collect fees.

The government entrusts only large and certified valuation companies with work. In the fear of the potential punishment from the government (withdrawing the license etc.) most large companies perform well. However, they have to discuss with the government the values of the assessed properties. The values are relatively reliable, however in favor of the government.

Source: Focus Groups conducted by the Unirule Institute of Economics

Appendix – Procedures for Registering a Property

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

1. Parties obtain application and notifications sheet and pay fees

Time to Complete: 1 day
Cost to Complete: Deed tax: 3% of property value to be paid by the buyer
Stamp duty: 0.05% of property value paid each by buyer and seller (total 0.1%)

2. Parties file the application at the House and Land Resources Administration Center

Time to Complete: Up to 20 business days
Cost to Complete: No costs

3. Parties pay registration fee

Time to Complete: 1 day
Cost to Complete: CNY 550 + 0.5% transaction handling fee

4. Parties pick up new title certificate

Time to Complete: 1 day
Cost to Complete: No costs