

# International Property Markets Scorecard

Colombia Market Conditions – Desktop 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.

**Bruce Sinclair contributed greatly to the research results for this Scorecard as a part of the Master of Professional Studies, Real Estate at the Georgetown School of Continuing Studies.**

### For Education Purposes Only

While great care has been taken to provide accurate and current information, neither the Center for International Private Enterprise, the International Real Property Foundation nor its editors, staff or contractors assume responsibility for the accuracy of the data contained herein. Further, the general principles and conclusions presented in the text are subject to significant market fluctuations over time as well as local, state, and federal laws and regulations, court cases, and any revisions of the same. This publication is distributed for education purposes with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service.



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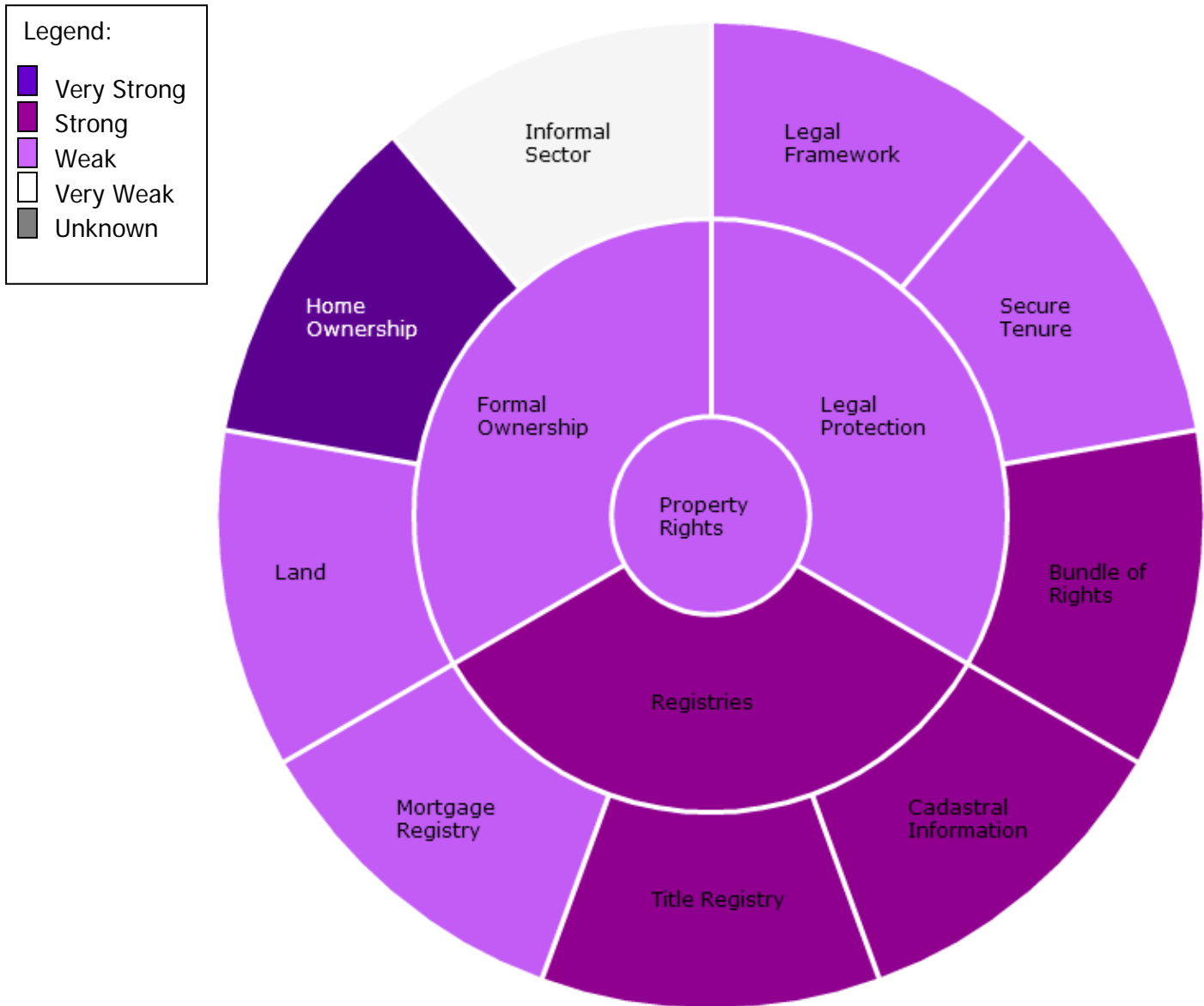
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# 1. Property Rights - Weak



**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 there is a framework in the Constitution to protect the right of private property, scoring in multiple areas is weak. Government expropriation powers, while restricted, are somewhat ill defined.**

## Legal Framework

1.1.1 Are property rights clearly defined and protected by law? **No – Weak – Ranking 91<sup>st</sup> of 139 countries – Score of 3.84**

## Security of Tenure

1.1.2 Can citizens challenge the legality of government takings? **No – Weak – Ranking 73<sup>rd</sup> of 139 countries – Score of 3.45**

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

## Bundle of Rights

### Survey Question

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SQ1 What is the bundle of rights (group of rights such as occupancy, use and the right to sell or lease) associated with both residential and commercial property ownership?

**Strong –Article 58. Private property and the other rights acquired in accordance with civil laws may not be ignored or infringed upon by subsequent laws.**

**Legislative Decree 1 (1999) amended the national constitution prohibiting extrajudicial expropriation of private property. It also calls for payment to the private landholder prior to expropriation.**

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Sources: Constitution of Colombia (1991), Article 58.  
[http://confinder.richmond.edu/admin/docs/colombia\\_const2.pdf](http://confinder.richmond.edu/admin/docs/colombia_const2.pdf)  
<http://usaidlandtenure.net/usaidltp/products/country-profiles/colombia>

## 1.2 Registries

Core Question: Does a reliable property registry exist including cadastral, title and mortgage lien information? **Yes – Strong, cadastral registry is currently available and there are continued plans to improve the system.**

### 1.2.1 Cadastral Information

**Cadastre Information in Colombia is maintained by the IGAC, a division of the National Administrative Department of Statistics. Additionally four separate cadastres exist; the Cadastre of Bogota, Cadastre of the Department of Antioquia, Cadastre of Santiago de Cali and Cadastre of Medellin.**

#### Survey Questions

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- 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? **Yes**
- SQ 4 Are Geographic Information Systems (GIS) including Global Positioning Satellite (GPS) information used to create and update the registry? **Yes**
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Sources: IGAC [www.igac.gov.co/wps/portal/english/Inicio/Home](http://www.igac.gov.co/wps/portal/english/Inicio/Home)  
<http://mapascolombia.igac.gov.co/wps/portal/mapasdecolombia/>

Stephan, Christa. *Cadastral System in Colombia*. November 2010, Lecture Cadastral Systems ETH Zurich.

[www.supernotariado.gov.co/supernotariado/index.php?option=com\\_content&view=article&id=4673%3Aenglish-version-&catid=48%3ANaturalkesza-juridica&Itemid=64&lang=es](http://www.supernotariado.gov.co/supernotariado/index.php?option=com_content&view=article&id=4673%3Aenglish-version-&catid=48%3ANaturalkesza-juridica&Itemid=64&lang=es)

[www.iclg.co.uk/khadmin/Publications/pdf/4229.pdf](http://www.iclg.co.uk/khadmin/Publications/pdf/4229.pdf)

### 1.2.2 Title Registry

**Strong – Rank 55<sup>th</sup> Trend ↓**

- 1.2.2.1 What is the number of procedures required to register the transfer of a property from one owner to another? **7**
- 1.2.2.2 What is the duration of time in calendar days that it would take to complete the transfer? **20**
- 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? **2%**

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

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Source – *Doing Business* – Registering Property, World Bank  
[www.doingbusiness.org/data/exploreeconomies/colombia](http://www.doingbusiness.org/data/exploreeconomies/colombia)

### 1.2.3 Mortgage Registry

**Status – Weak – Colombia has a high level of notary involvement.**

#### Survey Questions

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

SQ 6 Is information in the registry available electronically? **Yes**

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**

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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 – Land tenure insecurity is a widespread problem in Colombia, which has a history of conflict and violent land-takings.**

#### Survey Questions

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#### 1.3.1 Land

SQ 8 What is the status of land ownership? **Weak – Land distribution in Colombia is highly inequitable. An estimated 0.4% of the population owns 62% of the country's best land.**

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Sources: U.S. AID <http://usaidlandtenure.net/usaidltpproducts/country-profiles/colombia>  
Ministry of Justice  
[www.supernotariado.gov.co/supernotariado/index.php?option=com\\_content&view=article&id=4673%3Aenglish-version-&catid=48%3Anaturalkesza-juridica&Itemid=64&lang=es](http://www.supernotariado.gov.co/supernotariado/index.php?option=com_content&view=article&id=4673%3Aenglish-version-&catid=48%3Anaturalkesza-juridica&Itemid=64&lang=es)

#### 1.3.2 Home Ownership

SQ 9 What is the percentage of formal home ownership? **Very Strong – formal home ownership is at 82.1%.**

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Sources: UN Habitat Website [www.unhabitat.org](http://www.unhabitat.org)  
Ministry of the Environment, Housing and Territorial Development

[www.minambiente.gov.co/contenido/contenido.aspx?catID=1192&conID=6995](http://www.minambiente.gov.co/contenido/contenido.aspx?catID=1192&conID=6995)

### 1.3.3 Informal Sector

What is the percentage of services firms that report competing with unregistered or informal firms? **70.84% - Very Weak Formal Sector (2010)**

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Source: Enterprise Surveys

[www.enterprisesurveys.org/ExploreEconomies/?economyid=46&year=2010](http://www.enterprisesurveys.org/ExploreEconomies/?economyid=46&year=2010)

#### **In-Country Assessment Information**

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

The land ownership breakdown for the country is as follows: Urban – Private (81%), State (19%); Rural – Private (52%), Indigenous Peoples (23%), State (22%), Afro-Colombian Peoples (3%). Acquiring land through adverse possession is a fairly common practice in Colombia and relatively easy.

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

**FQ 3    Do separate contracts or other means exist to hide value from authorities when registering property transactions?**

**FQ 4    Are standard leases used for commercial space? If not, what is a typical arrangement for rental?**

**FQ 5    What are the typical rates, terms and availability of office, retail, manufacturing and logistics facilities in both cities?**

**FQ 6 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 Government of Colombia has attempted land-reform programs designed to equalize land distribution and protect the rights of tenant farmers, with limited success. Large landholders have evaded reform, while institutions charged with promoting reform suffer from internal corruption and lack the capacity to implement changes.

**FQ 7 Are businesses owners compensated fairly when their property is taken for public use?**

**FQ 8 What protections do businesses who lease space have from arbitrary eviction by owners?**

**FQ 9 What services are typically provided to tenants (common areas, public access, security) and what means of redress are available if services are not provided?**

**FQ 10 What is the actual experience of transferring a property, accessing the registry and dealing with registry officials?**

**FQ 11 How large is the presence of unregistered and/or illegal uses of commercial property?**

**FQ 12 How large is the presence of informal markets for goods, i.e. itinerate vendors?**

## 2. Access to Credit - Strong



**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 – Very Strong – Colombia’s relatively large financial sector has become more stable and modern. Banking has undergone significant consolidation and privatization since early 2000.**

### Access

2.1.1 How easy is it to obtain a bank loan? **Strong – Ranking 61<sup>st</sup> out of 139; Score 2.86 out of 7**

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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?)  
**34.98% - Weak**

2.1.1.2 What is the value of the collateral needed for a loan as a percentage of the loan?  
**169.65% - Very Weak**

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Source: Enterprise Surveys

[www.enterprisesurveys.org/ExploreEconomies/?economyid=46&year=2010](http://www.enterprisesurveys.org/ExploreEconomies/?economyid=46&year=2010)

### Soundness

2.1.2 How sound are the country's banks? **Very Strong – Ranking 34<sup>th</sup> out of 139; Score 5.68 out of 7**

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

<http://gcr.weforum.org/gcr2010/>

### 2.1.3 Microlending

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

2.1.3.1 Microfinance allows citizens without traditional creditworthiness to build a credit history. How many microfinance institutions are operating in the country? **34**

<b>Crezcamos</b>	<a href="http://www.crezcamos.com">www.crezcamos.com</a>
<b>BCSC</b>	<a href="http://www.bcsc.com.co">www.bcsc.com.co</a>
<b>Bancamia</b>	<a href="http://www.bancamia.com.co">www.bancamia.com.co</a>
<b>WWB Cali</b>	<a href="http://www.fwwbcoll.org">www.fwwbcoll.org</a>
<b>Comultrasan</b>	<a href="http://www.comultrasan.com.co">www.comultrasan.com.co</a>

2.1.3.2 What is the number of active borrowers per institution?

<b>Crezcamos</b>	<b>25,888</b>
<b>BCSC</b>	<b>No Data</b>
<b>Bancamia</b>	<b>No Data</b>
<b>WWB Cali</b>	<b>203,723</b>
<b>Comultrasan</b>	<b>78,726</b>

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

## 2.2 Other Sources

Core Question: Are entrepreneurs free to raise capital outside the banking system including venture capital and/or by issuing stock in a well-regulated stock exchange? **Yes – Strong – There is limited government control of financial services and venture capital is fairly readily available. The opportunities to raise equity through the stock market are fairly weak.**

### Financial Freedom

2.2.1 How much control does the government exert over financial services? **Strong - Score 60 out of 100 – Limited government control. In 2009 a new law was passed that expands pension fund investment options and opens the stock market up to foreign issuers.**

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

### Venture Capital

2.2.2 How easy is it for entrepreneurs to find venture capital?  
**Strong – 66<sup>th</sup> out of 139; Score 2.54 out of 7**

### Equity Investors

2.2.3 How easy is it to raise money by issuing shares on the stock market? **Weak – 72<sup>nd</sup> out of 139; Score 3.46 out of 7**

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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 – There is significant access to credit information through private credit bureaus, but no public credit bureau exists.**

Overall Ranking 65<sup>th</sup> out of 183 in 2011 – Strong Trend ↓

### Coverage

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

### Public

2.3.2 What is the extent of public credit registry coverage? **0% - Very Weak**

### Private

2.3.3 What is the extent of private credit registry coverage? **63.1% - Very Strong**

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Source: *Doing Business* – Getting Credit, World Bank  
[www.doingbusiness.org/data/exploreeconomies/colombia](http://www.doingbusiness.org/data/exploreeconomies/colombia)

### In-Country Assessment Information

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

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

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

<b>FQ16</b>	<b>What services other than loans such as insurance, funds transfers, and business development training are available from microfinance organizations for formal businesses?</b>
<b>FQ17</b>	<b>What professional financial services are available outside state owned banks including insurance, credit cards and investment management?</b>
<b>FQ18</b>	<b>What has been the appreciation (or depreciation) rate for commercial property over the last several years?</b>
<b>FQ19</b>	<b>How available is seed money or angel investors for the start up of small businesses?</b>
<b>FQ20</b>	<b>Do small businesses have access to credit information about potential customers?</b>
<b>FQ21</b>	<b>Can businesses gain access to information about them contained in credit bureaus and correct inaccuracies?</b>

### 3. Effective Governance - Strong



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

### 3.1 Democratic Representation

Core Question: Does the country have free and open elections for the leadership and can citizens engage in free enterprise? **Yes – Strong – There are issues with conflicts of interest in the executive and legislative branches, but the ability to form political and civic organizations is strong along with a very high level of economic freedom.**

#### 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 – 42.7 – Trend ↑**

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

3.1.1.2 Are citizens free to form political and civic organizations free of state interference and surveillance? **Yes – Strong – Score 8.82 out of 10**

**Overall Ranking – 57<sup>th</sup> out of 167**

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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 68 out of 100 (2009)**

3.1.2.1 Are there regulations governing conflicts of interest in the executive and legislative branches of government? **Executive Score 66 out of 100 - Weak; Legislative Score 51 out of 100 – Very Weak**

3.1.2.2 Can citizens access legislative processes and documents? – **Score 79 out of 100 – Moderate**

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

#### 3.1.3 Market Intervention

**Overall Freedom Ranking – Very Strong - 45<sup>th</sup> out of 179**

3.1.3.1 To what extent does the government intervene in the private sector including state owned industries? **Score 78.9 out of 100 with a higher score indicating less intervention.**

3.1.3.2 To what extent does the government control prices? **Score 75.8 out of 100 with a higher score indicating less control**

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

### 3.2 Lack of Corruption

Core Question:	Is the public sector transparent and free of corruption? <b>Yes, the perceived level of corruption is low and the need to pay elected officials extralegal payments is minimal. There is still a significant gap between the laws as written and as enforced across the board. – Strong</b>
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#### Transparency

3.2.1 What is the perceived level of corruption in the country? **Strong– Ranking – 78<sup>th</sup> out of 178; Score 3.5 out of 10 Trend ↓**

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Source: *Corruption Perception Index*, Transparency International  
[www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results)

#### Integrity Mechanisms

3.2.2 A National Integrity System is a framework where the principle institutions that contribute to integrity, transparency and accountability in a society can address corruption in a systematic way. Does a National Integrity System exist? **Yes – Weak, While almost all pillars are included and defined either through the Constitution or Legislative Decree there is a significant gap between the “letter of the law” and actual enforcement (2001).**

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Source: *National Integrity System Assessment*, Transparency International  
[www.transparency.org/policy\\_research/nis/nis\\_reports\\_by\\_country](http://www.transparency.org/policy_research/nis/nis_reports_by_country)

#### Extralegal Payments

3.2.3 How often do companies report that officials and/or companies expect additional payments to “expedite” services or gain business? **2.8% of firms say they are expected to make unofficial payments – significantly lower than both other countries in the region and the overall rate for countries worldwide – Very Strong**

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Source: *Enterprise Surveys*, World Bank  
<http://www.enterprisesurveys.org/ExploreEconomies/?economyid=46&year=2010>

### 3.3 Efficient Administration

Core Question: Are quality services and qualified civil servants available to the public through the efficient use of public money free of corruption? **Yes – Strong – Overall government is very effective and government spending is not an overly burdensome percentage of GDP. There is still work that can be done to improve the quality of the civil service.**

#### Size of Government

3.3.1 What is the size of government relative to GDP? **26.5% - 25-30% considered Strong**

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

#### Civil Service

3.3.2 What is the quality of the civil service? **Weak – Score 65 out of 100**

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

#### Government Effectiveness

3.3.3 What is the overall effectiveness of the government? **Strong - Percentile Ranking – 56.2 Trend UP**

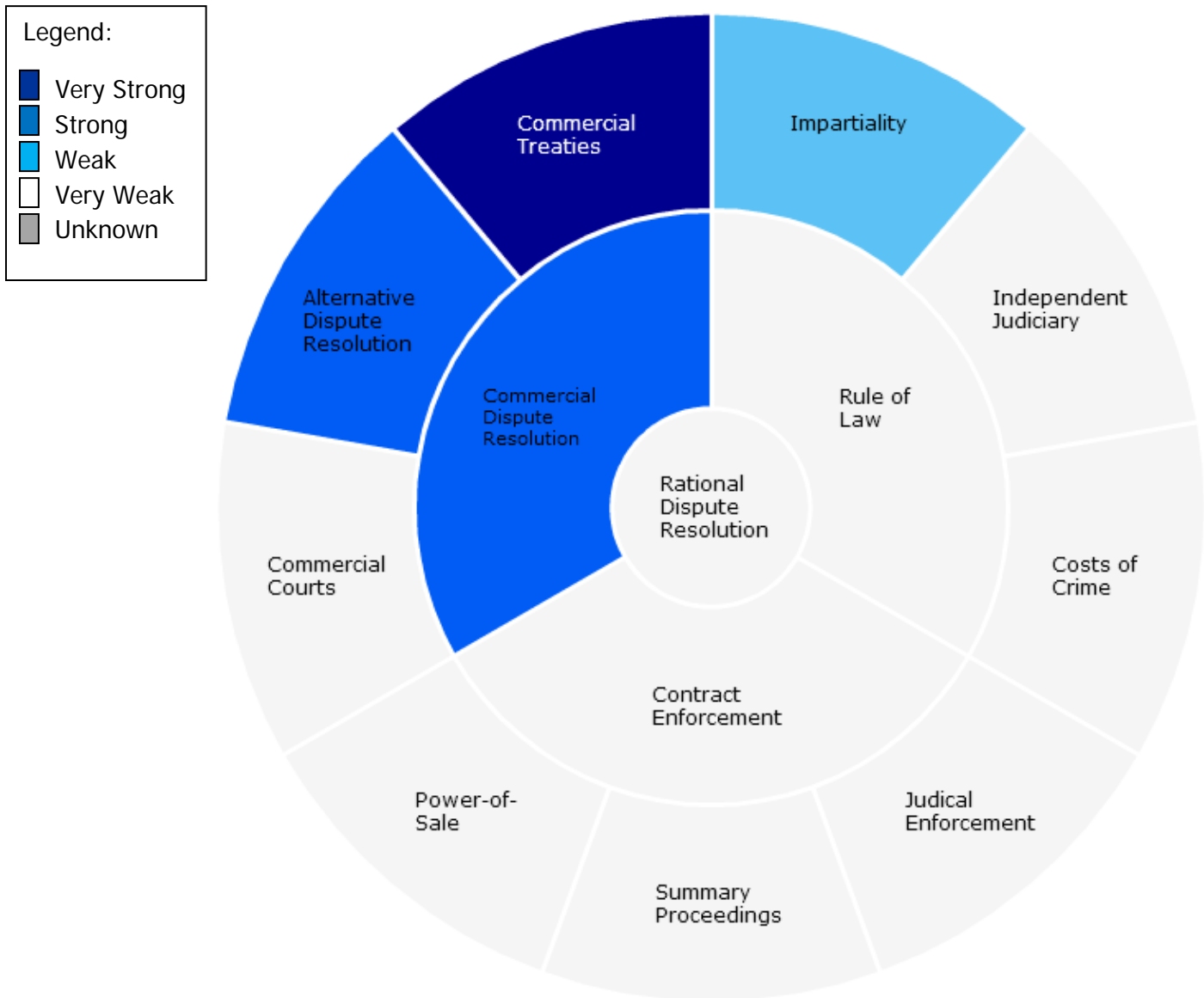
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Source: *Governance Matters*, World Bank  
[http://info.worldbank.org/governance/wgi/sc\\_chart.asp](http://info.worldbank.org/governance/wgi/sc_chart.asp)

#### In-Country Assessment Information

**FQ22** 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?

#### 4. Rational Dispute Resolution – Very Weak



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

## 4.1 Rule of Law

Core Question:	Do all market participants abide by the rule of law and have confidence in the courts and the ability of police to control crime? <b>No – Very Weak – There is little judicial accountability. Despite notable improvements in fighting corruption concerns remain over the influence of criminal organizations on the police and lower levels of the judiciary.</b>
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### Impartiality

4.1.1 What is the confidence level of the strength and impartiality of the police, courts and contract enforcement? **Weak – Percentile Ranking – 39.6 Trend ↑**

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

### Judiciary

4.1.2 Can members of the judiciary be held accountable for their actions? **No– Score 53 out of 100 – Very Weak**

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

### Costs of Crime

4.1.3 What are the business costs of crime and violence? **High Costs – Ranking 134<sup>th</sup> out of 139 – Score 2.46 out of 7, Very Weak**

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Source: *The Global Competitiveness Report 2010-2011*, World Economic Forum

## 4.2 Enforcement of Contracts

Core Question:	Are systems in place for timely and efficient enforcement of contracts? <b>No – Very Weak – Arbitration is complex and dilatory, especially with regard to the enforcement of awards.</b>
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### 4.2.1 – Judicial Enforcement

**Commercial – Very Weak – Ranking 150<sup>th</sup> out of 183 Trend =**

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

4.2.1.2 What is the time between the filing of a lawsuit and resolution in judicial enforcements? **1,346 days**

4.2.1.3 What is the cost of judicial enforcements as a percentage of debt value? **47.9%**

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

**Survey Question 10** What is the time between notice of intent to foreclose and loan collection in judicial enforcements? - **705 days**

**Survey Question 11** What is the cost of judicial enforcements as a percentage of property value? – **8.59%**

#### 4.2.2 – Summary Proceedings – Very Weak

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? – **Not Available – Very Weak**

SQ 13 What is the cost of summary proceeding if available to lenders as a percentage of property value? – **NA – Very Weak**

#### 4.2.3 – Power-of-Sale

SQ 14 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? **NA – Very Weak**

SQ 15 What is the cost of power-of-sale agreements if available to lenders as a percentage of property value? **NA – Very Weak**

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

### 4.3 Commercial Dispute Resolution

Core Question:	Can commercial disputes be resolved efficiently and fairly without exorbitant expense and delay? <b>Yes – Strong – There are methods for alternative dispute resolution and the country is involved in multiple regional and bilateral trade agreements. There is a lack of a court system specialized for handling commercial disputes.</b>
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Survey Questions

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#### Commercial Courts

SQ 16 Do specialized commercial courts exist for the handling of property disputes and foreclosures? **No – Very Weak, commercial disputes are tried in the lower court division called Ordinary Courts**

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Sources: Globalex [www.nyulawglobal.org/globalex/colombia1.htm](http://www.nyulawglobal.org/globalex/colombia1.htm)  
[www.estandardsforum.org/colombia/business-indicators?id=159](http://www.estandardsforum.org/colombia/business-indicators?id=159)

### Alternative Dispute Resolution

SQ 17 Are alternative dispute resolution mechanisms in place including commercial arbitration, private mediation and community based processes? **Yes – Strong – Member of New York Arbitration Convention**

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Sources: New York Convention  
[www.newyorkconvention.org/new-york-convention-countries/contracting-states](http://www.newyorkconvention.org/new-york-convention-countries/contracting-states)

The Colombia Law and Business Post  
<http://colombialawbiz.com/2009/04/24/foreign-arbitration-in-colombia-and-enforcement-issues/>

### Commercial Treaties

SQ 18 What bilateral, regional and international commercial treaties exist concerning business between countries? **Colombia is a member of WTO and participates in several regional trade agreements. Additionally Colombia is in the process of negotiating a free trade agreement with the United States. – Very Strong**

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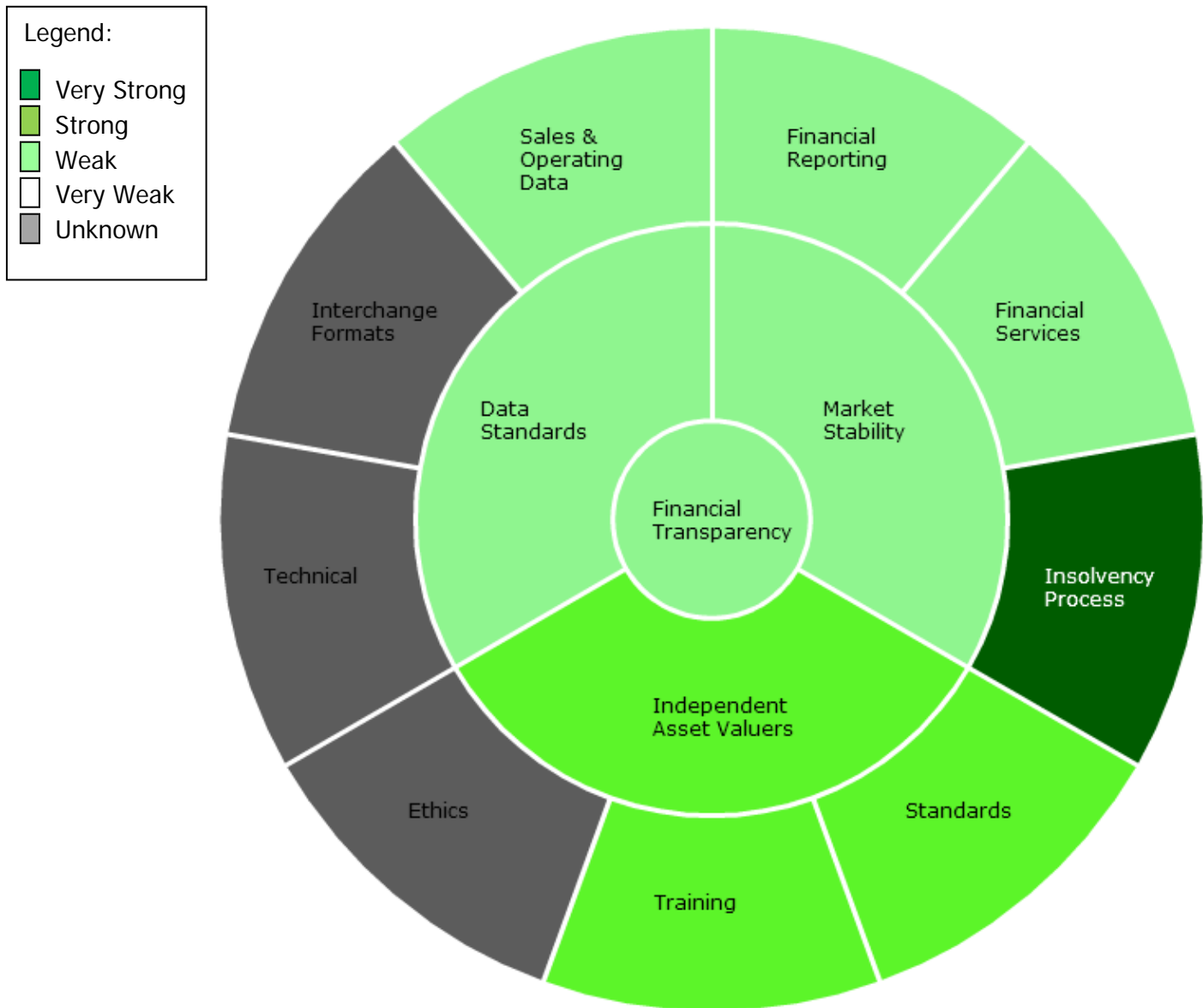
Source: Wikipedia [http://en.wikipedia.org/wiki/Colombia\\_trade\\_agreements](http://en.wikipedia.org/wiki/Colombia_trade_agreements)  
[www.deloitte.com/assets/Dcom-Global/Local%20Assets/Documents/Tax/Intl%20Tax%20and%20Business%20Guides/2011/dtt\\_tax\\_guide\\_2011\\_Colombia.pdf](http://www.deloitte.com/assets/Dcom-Global/Local%20Assets/Documents/Tax/Intl%20Tax%20and%20Business%20Guides/2011/dtt_tax_guide_2011_Colombia.pdf)

### In-Country Assessment

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

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

## 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? <b>No -Weak –Recent reforms have focused on improving regulation and fostering a stronger private sector.</b>
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### Financial Reporting

5.1.1 What is the strength of the country's auditing and reporting standards? **Weak – 89<sup>th</sup> out of 139; Score 4.32 out of 7**

### Financial Market Development

5.1.2 What is the overall level of financial market development in the country? **Weak – 79<sup>th</sup> out of 139; Score 4.01 out of 7**

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

### Insolvency Process

**Very Strong – Ranking – 29<sup>th</sup> out of 183 (2011) Trend ↑**

5.1.3 What is the average time to complete bankruptcy proceedings? **3 years**

5.1.4 What is the cost of bankruptcy proceedings as a percentage of the estate? **1%**

5.1.5 What is the recovery rate of bankruptcy proceedings? **62.4 cents on the dollar**

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

## 5.2 Independent Asset Valuers

Core Question:	Do trained, independent and ethical asset valuers exist for all types of assets? <b>Strong – the Colombian Society of Appraisers and the Federation of Real Estate Associations work together to certify appraisers.</b>
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### Survey Questions

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### Standards

SQ 19 How easy is it to find a valuer who implements International Valuation Standards? – **Strong**

*Civil Society Resource: National Registry of Appraisers* [www.rna.org.co/](http://www.rna.org.co/)

### Training

SQ 20 What is the level of training of valuers? **Strong**

### Ethics

SQ 21 Are opinions offered by valuers free of influence from parties to the transaction?

**Unknown**

*Civil Society Resource: International Valuation Standards Council* [www.ivsc.org](http://www.ivsc.org)

## 5.3 Data Standards

Core Question:	Is accurate property information available electronically in formats that are consistent with international standards? <b>Data is still dependent on a cumbersome notary system.</b>
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### Survey Questions

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#### 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? **No – weak, some internet sites starting to emerge, but no uniform system.**

Source: [www.colombiamls.com/](http://www.colombiamls.com/) [www.encuentra24.com/colombia-en/real-estate](http://www.encuentra24.com/colombia-en/real-estate)

SQ 23 Do resources exist for obtaining building income and expense estimates? **No - Weak**

#### Interchange Formats

SQ 24 Do electronic data interchange formats conform to international standards (ebXML – electronic business using extensive markup language)? **Unknown**

#### Technical Standards

SQ 25 Do building codes and office building measurement standards (ANSI/BOMA Z65.1) conform to international standards? **Unknown**

## **In-Country Assessment**

### **Valuation Profession**

**FQ25            How many independent valuers exist in the market? Can small businesses obtain fair valuations for property they want to buy or sell?**

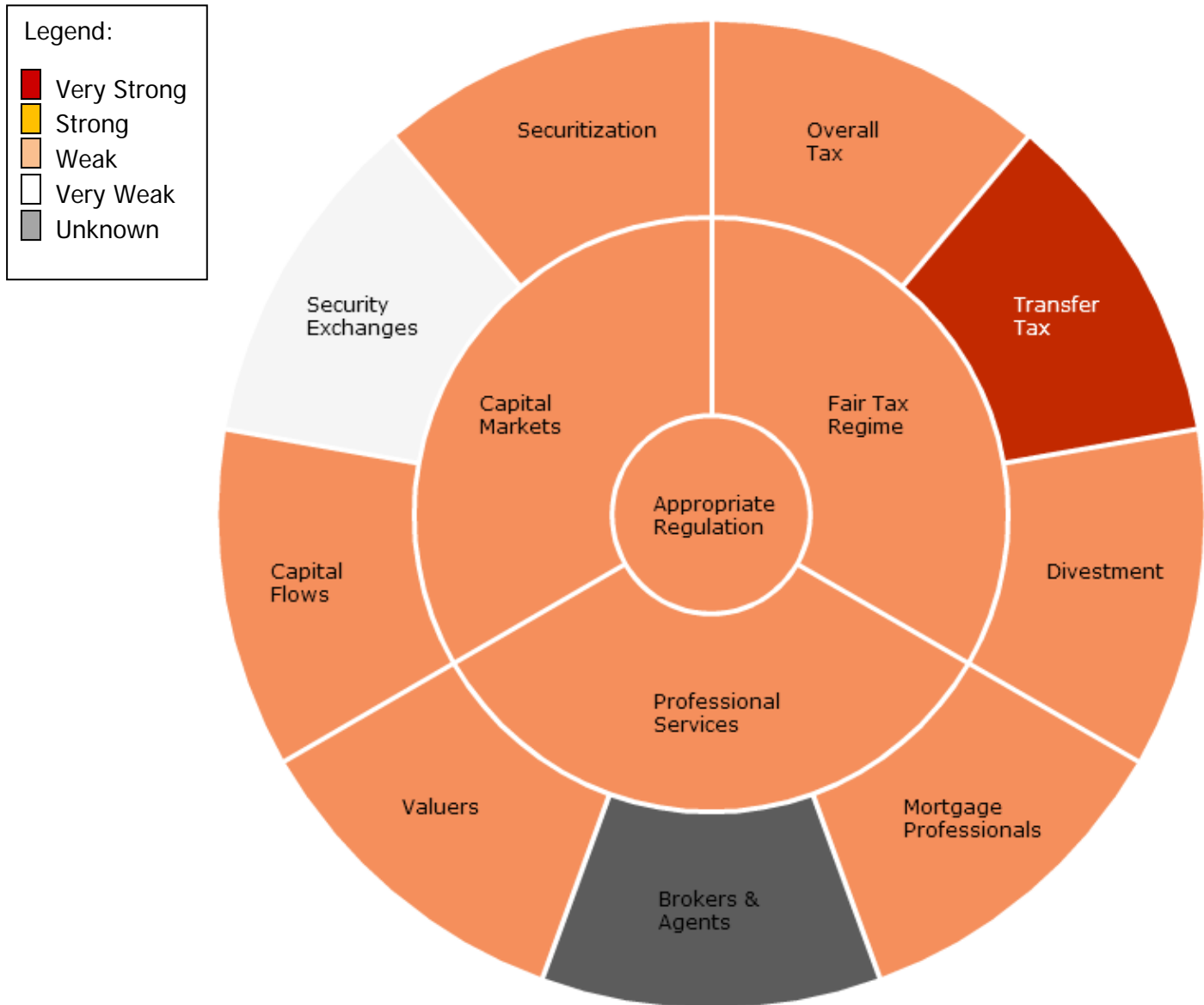
**FQ26            What are the valuation standards and do they conform to international and regional standards?**

**FQ27            What valuation methods and techniques are used in the market?**

### **Data Availability**

**FQ28            How available is information for commercial properties that are for sale or that have sold?**

## 6. Appropriate Regulation – Weak



**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? <b>Weak – While the property transfer tax is very low, the tax rate on entrepreneurs is high and there are inconsistencies when it comes to divestment and foreign property investment.</b>
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### Transfer Tax

6.1.1 What is the total property transfer tax including all duties and payments? **Very Strong – 2%**

### Overall Tax

6.1.2 What is the overall tax rate on entrepreneurs (as a percentage of profits)? **78.7% – Ranking – 118<sup>th</sup> out of 183, - Weak – Trend ↓**

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Source: *Doing Business* – Paying Taxes & Registering Property, World Bank  
[www.doingbusiness.org/data/exploreeconomies/colombia](http://www.doingbusiness.org/data/exploreeconomies/colombia)

### Divestment

#### Survey Question

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SQ 26 What is the tax on profits for foreign investors when divesting property? **33% - Weak**

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Source: Global Property Guide  
[www.globalpropertyguide.com/Latin-America/Colombia/Taxes-and-Costs](http://www.globalpropertyguide.com/Latin-America/Colombia/Taxes-and-Costs)

## 6.2 Professional Services

Core Question:	Are the professional services necessary for efficient and transparent property markets available and appropriately regulated and supervised? <b>Weak – property market is just starting to accelerate.</b>
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### Asset Valuers

#### Survey Questions

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SQ 25 Are property valuers licensed and/or certified by the government? **No – Weak, appraisers are certified by the private sector.**

*Civil Society Resource: The Appraisal Foundation* [www.appraisalfoundation.org](http://www.appraisalfoundation.org)

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

### **Brokers & Agents**

#### Survey Questions

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SQ 27 Are real estate brokers and agents licensed and/or certified by the government?  
**Unknown**

SQ 28 How effective are mechanisms in place to discipline brokers or agents who engage in misconduct? **Unknown**

### **Mortgage Professionals**

#### Survey Questions

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SQ 29 Are mortgage professionals licensed and/or certified by the government? **No - Weak**

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? <b>No – Weak – Colombia’s small capital market provides limited access to long-term credit and is heavily concentrated in government bonds.</b>
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### **Capital Flows**

6.3.1 How restricted is the flow of capital into and out of the country? **Weak – Ranked 104<sup>th</sup> of 139 countries, Score 3.77 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 – Very Weak, Ranking 113<sup>th</sup> out of 133; Score 3.47 out of 7**

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Source: *The Global Competitiveness Report 2010-2011*, World Economic Forum

### **Securitization**

6.3.3 What is the depth of asset-backed securities, mortgage-backed securities, high-yield bonds and highly leveraged loans? **Weak - Ranking of 33<sup>rd</sup> of 57 countries with a score of 1.1**

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Source: [www3.weforum.org/docs/WEF\\_FinancialDevelopmentReport\\_2010.pdf](http://www3.weforum.org/docs/WEF_FinancialDevelopmentReport_2010.pdf)

### **In-Country Assessment**

#### **Taxation**

**FQ29            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?**

#### **Professional Services**

**FQ30            What is the experience of small businesses in dealing with professional property market service providers such as real estate agents, brokers and valuers?**

## Appendix – Procedures for Registering a Property

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

[www.doingbusiness.org/data/exploreeconomies/colombia/registering-property](http://www.doingbusiness.org/data/exploreeconomies/colombia/registering-property)

### 1. Obtain certificate about history of the property ("Libertad y tradicion")

Time to complete: 1 day

Cost to complete: COP 12,080

It is possible to obtain online the certificado de libertad y tradición. This certificate with the ownership history (at least 20 years) of the property ("Certificado de Tradición") can also be obtained at the corresponding registry office. Fees are set by Decree 2280 of 2008. For properties with no liens, the certificate obtained and printed out from the internet at the notary's offices can now be submitted to the Land Registry.

The Superintendencia de Notariado y Registro, by means of Resolution 0081 of January 13, 2010, established the fees for the Certificado de Tradición y Libertad.

*Agency:* Ventanilla Unica de Registro

### 2. A certificate of good standing ("Existencia y Representacion legal") of the company must be obtained at the Chamber of Commerce

Time to complete: 1 day

Cost to complete: COP 3,060

When the parties are companies, a certificate of good standing ("Certificado de Existencia y Representación legal de la Compañía") of the company must be requested at the Chamber of Commerce. This certificate does not have an expiration date for its validity, but some entities, such banks or authorities, request for certificates issued with less than three months in order to obtain updated information.

Electronic Certificates of Existence and Legal Representation can also be obtained online since 2010. The certificate can be requested, paid and obtained online. Payment can be paid by credit card. The certificate provides real time information of the company (Bogota Chamber of Commerce: <http://serviciosonlinea.ccb.org.co/cerple/index.aspx>)

### 3. A study of the title of the property is done by a lawyer

Time to complete: 5 days

Cost to complete: COP 1,113,000

A lawyer, usually external to the company, will make a study of the past titles of the property and about the history of the owners to carry out the transaction. The study of the titles is not mandatory, but it takes place almost always for the transactions that follow these assumptions.

The lawyer must be provided with the certificates obtained in Procedures 1 and 2 and with a copy of the company's shareholders act authorizing its representative to act on their behalf.

#### **4. Obtain tax certificates ("predial" and "valorizacion")**

Time to complete: 1 day

Cost to complete: no costs

From the VUR website, it is now possible to see and obtain online the "certificado de paz y salvo predial" (stating municipal property taxes have been paid from Secretaría de Hacienda del Distrito) and the "certificado de paz y salvo de valorización" (taxes related to increases in the value of the property due to constructions, roads, etc- Instituto de Desarrollo Urbano -IDU).

For properties with no liens, the certificates obtained and printed out from the internet at the notary's offices can now be submitted to the Land Registry. Notaries have a special login to access these certificates. This certificate has no cost if requested online and can be obtained by submitting the "chip catastral".

The VUR website is: <http://www.registratupropiedad.com/>

*Agency:* Ventanilla Unica de Registro (or CADE)

#### **5. The notary prepares the public deed**

Time to complete: 8 days

Cost to complete: 0.27% of property value + COP 7,120 for the escritura + COP 26,700 for copies of escritura + COP 3,465 to the Superintendency of the Notary + COP 3,465 to the National Fund of the Notary

The notary public will prepare the final public deed with all the documentation previously obtained by the parties. The participation of a notary in the preparation of the public deed is mandatory by law, and his fees are also established by law.

The standard preliminary deed "minuta" that can be prepared by the parties can be obtained for free in the notaries offices or online at:

[www.registratupropiedad.com/index.php?option=com\\_content&view=article&id=71&Itemid=76](http://www.registratupropiedad.com/index.php?option=com_content&view=article&id=71&Itemid=76)

The minuta establishes the terms of the sale between parties. It is not mandatory, but it

is normally prepared by a lawyer. If parties prepare the minuta, the notary will review it while preparing the public deed.

The documentation presented shall include: certificates of good standing (procedure 2), of municipal tax payments (procedure 4), and the Board of directors minutes authorizing the sale and purchase of each property respectively for each limited liability company

## **6. Pay registration fees at the bank counter in the registry**

Time to complete: 1 day

Costs to complete: 1% of property value (Registry Tax) + 0.5% of property value (Registration Fee)

The “registry tax” or “Impuesto de Registro” can be paid at the registry office in the city of Bogotá and other large cities, where the commercial bank in charge of collection of this tax has installed a branch for this purpose. In smaller cities it will have to be paid prior to registration in a commercial bank. Despite its name, the “Impuesto de Registro” is a tax that goes to finance state-level programs on public health. It is not a fee for a service but a tax.

*Agency:* Registry Office (Oficina de Registro de Instrumentos Públicos)

## **7. The public deed must be registered at the Registry Office**

Time to complete: 3 days

Costs to complete: paid in step 6

After the “registry tax” is paid, the public deed prepared by the notary must be registered at the Registry Office for its validity. After registration, the new public deed is automatically sent (via internal procedure) to the Office of the Cadastre to register the change of ownership.