

Doing Business Reform Roadmap

Sierra Leone

May 2019

Table of Contents

1. Introduction	3
2. Summary of Reform Recommendations	12
3. Reform Recommendations	23
3.1. Starting a Business	23
3.2. Dealing with Construction Permits	35
3.3. Registering Property	46
3.4. Getting Credit	55
3.5. Protecting Minority Investors	70
3.6. Paying Taxes	76
3.7. Trading Across Borders	80
3.8. Resolving Insolvency	89
4. Acknowledgments	95

1. Introduction

Background

This report is prepared by the World Bank upon request by the Government of Sierra Leone to re-engage with the World Bank in various areas of Business Environment reforms supported over the years by lending and advisory programs of the World Bank Group. This Doing Business Road Map follows the structure of a Doing Business Reform Memorandum and is meant to take stock of current reform progress and provide reform recommendations in various areas covered by the Doing Business report, as depicted by its 2019 edition. The report is prepared through desk top review, data collection in the field, extensive consultations with the local public and private sector, the National Doing Business Coordinator of Sierra Leone, and selected local Ministries, Departments and Agencies, identified as Doing Business Champions by the National Doing Business Coordinator. In addition, the report is building up on the institutional memory and extensive project work of current and past World Bank and IFC Task Team Leaders and technical team-members in Sierra Leone over the past 10 years.

This report is meant to be a living document, which could be updated from time to time according to Sierra Leone's progress in specific Doing Business areas, and broader Government priorities in Business Environment and Investment Climate. It is also meant to inform further policy dialogue and collaboration between the World Bank and the Government of Sierra Leone in various World Bank projects in the pipeline and on the ground.

Scope of the Report and the Approached Used

Indicators and benchmarks give an indication of factors that contribute to the creation of an overall enabling environment for business and can help governments identify areas of business regulation that could benefit from further improvement to support private sector growth and investment. This Doing Business Road Map provides non-binding recommendations in areas where the government can have a direct impact on business conditions and discusses how some of these shortcomings can be addressed through legal and regulatory reforms.

The recommendations are based on Sierra Leone's results in the latest Doing Business (2019) report, global regulatory trends and practices, interviews with key public and private sector stakeholders conducted during a data-collection mission from January 14-19, 2019, as well as follow-up consultations with the government counterparts through May 2019. During the above-mentioned mission, the WBG project team held meetings with public and private sector representatives to discuss the current systems and regulations in place, ongoing or planned reform initiatives, as well as more broadly constraints to conducting business in Sierra Leone with regards to 8 regulatory areas covered by Doing Business: starting a business, dealing with construction permitting, registering property, getting credit, paying taxes, protecting minority investors, trading across borders, and resolving insolvency. The recommendations draw on principles laid out by additional assessments, where warranted, as well as the input additional received from the Sierra Leone's government and throughout the course of the project. In this regard, the WBG project team is grateful for all the guidance and support received from the Sierra Leone's National Doing Business Coordinator as well as for all the information received from officials in the Government of Sierra Leone during the preparation of this document.

The recommendations do not address all aspects of the investment climate in the country but focus on regulatory and administrative reform options in the areas of business regulation measured by the Doing Business project. The Doing Business project is founded on the principle that economic activity benefits from clear and coherent rules: rules that set out strong property rights, facilitate the resolution of insolvency and provide contractual partners with protections against arbitrariness and abuse. Such rules are much more effective in promoting growth and development when they are efficient, transparent and accessible to those for whom they are intended. The strength and inclusivity of the rules also have a crucial bearing on how societies distribute the benefits and finance the costs of development strategies and policies.

The Doing Business indicators measure business regulation, the quality and strength of legal frameworks, the protection of property rights—and their effect on businesses, especially small and medium-size domestic firms. First, the indicators document the complexity of regulation, such as the number of procedures to start a business or to register a transfer of commercial property. Second, they gauge the time and cost to achieve a regulatory goal or comply with regulation, such as the time and cost to go through bankruptcy or trade across borders. Third, they measure the extent of legal protections of property, for example, the protections of minority investors against looting by company directors or the range of assets that can be used as collateral according to secured transactions laws. Fourth, a set of indicators documents the tax burden on businesses. The design of the Doing Business indicators has been informed by theoretical insights gleaned from extensive research and the literature on the role of institutions in enabling economic development¹. In addition, the background papers developing the methodology for each of the Doing Business indicator sets have established the importance of the rules and regulations that Doing Business focuses on for such economic outcomes as trade volumes, foreign direct investment (FDI), market capitalization in stock exchanges and private credit as a percentage of GDP².

Each chapter of this Doing Business Road Map presents features of effective regulatory systems in the respective area, examples from across the world, and specific recommendations for the Government of Sierra Leone. The recommendations do not address all aspects of the investment climate in Sierra Leone, but focus on how to:

- Ease business entry and operation with a focus primarily on small and medium domestic firms by reducing complexity and cost of regulatory processes and increasing transparency (e.g. by streamlining registration and licensing procedures).
- Improve cross border trade through improved risk management, full interoperability of the systems involved in international trade regulation through the electronic Single Window (eSW), and a greater degree of automation in document processing.
- Strengthen the regulatory and institutional framework aimed at securing property rights and increasing access to credit (e.g. through strong secured transactions and insolvency frameworks, as well as credit information sharing systems)

¹ Djankov, Simeon. 2016. “The Doing Business Project: How It Started: Correspondence.” *Journal of Economic Perspectives* 30 (1): 247–48.

² These papers are available on the Doing Business website at <http://www.doingbusiness.org/methodology>.

The recommendations take into account ongoing reform initiatives and policy discussions, some of which can positively impact the business environment specifically in the areas included in the Doing Business report. Some of the recommendations can be addressed in the short term, while other recommendations are only implementable over a longer period. The indicated timeframes are preliminary and based on the experience of other countries. All actions will require consultations with and coordination of different stakeholders. Interagency coordination and a strong focus on implementation will be crucial to the success of any reform efforts in Sierra Leone.

Predicting whether the improvements in investment climate topics highlighted in this road map will impact the Doing Business rankings for Sierra Leone is difficult as this is also relative to other countries' performances. For reforms to be captured by the Doing Business report it will be essential that they are fully implemented and enforced by the public sector and adopted by the private sector and the practitioners. The Doing Business project records reforms which are not only enacted into law, but also are fully implemented (Box 1.2). Rather than aiming at specific advancements in the rankings, emphasis should be placed on implementing broader reforms to improve the investment climate. Such comprehensive reform efforts will provide a better business environment that is more conducive to private sector development and economic growth.

Box 1.2 - Reform criteria according to Doing Business

A reform is an action taken by government (or a private utility in the case of the Getting Electricity indicator) that impacts the Doing Business data. A change in the data due to external factors is not considered a reform. All reforms have to be fully implemented prior to the cut-off date, which is May 1st of every year. Legal changes have to be fully in effect. This entails the legal implementation as well as the public recognition (e.g. publication in the official gazette, if required). For indicators that have a time and procedure component, usage by the majority of case study companies covered is a prerequisite for the reform to be counted. For example, unless electronic systems are used by the majority of domestic companies and are fully functional they would not be taken into account.

The WBG stands ready to support the Government of Sierra Leone to implement the regulatory reforms contained in the report and improve the business environment in the country.

The objective of this report is to provide analysis and advice to the Government of Sierra Leone (GoSL) by identifying and prioritizing reforms in eight regulatory areas covered by the World Bank Group's Doing Business Report³. The Doing Business project provides a measure of the “ease of doing business” in 190 countries through a set of objective indicators that focus on the impact of laws, regulations and their enforcement on the ease of Doing Business for domestic firms from starting a business, operations to insolvency.⁴

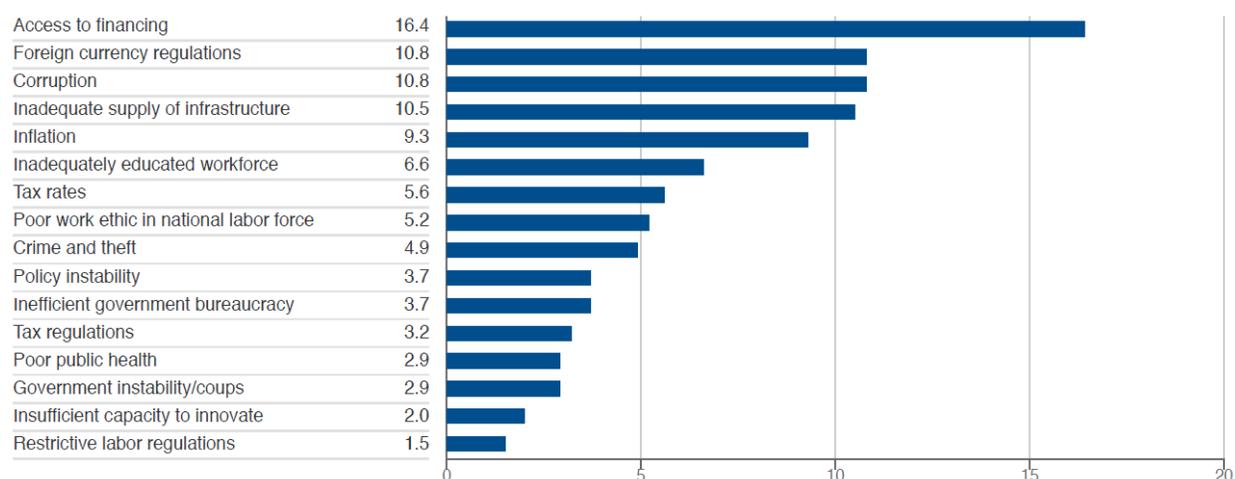
The Doing Business indicators cover an important set of regulatory issues affecting private sector development, nonetheless, it is important to recognize that it not a comprehensive assessment of the

³ The eight regulatory areas covered by the Road Map include: 1) Starting a Business; 2) Dealing with Construction Permit; 3) Registering Property; 4) Getting Credit; 5) Trading Across Borders; 6) Paying Taxes; 7) Protecting Minority Investors; and 8) Resolving Insolvency.

⁴ For more information, please visit: www.doingbusiness.org

business environment in Sierra Leone. The latest World Economic Forum (WEF) Global Competitiveness Index (GCI), for instance, points to multiple weaknesses impacting Sierra Leone’s competitiveness. Sierra Leone ranks 130th out of 137 economies benchmarked on the GCI. According to the executive opinion survey, Sierra Leone’s core weaknesses include limited market size, poor levels of higher education and training, lack of infrastructure facilities and technological unpreparedness⁵, while the most important constraints to further private sector development include access to financing, foreign currency regulations, and corruption (Figure 1.1).

Figure 1.1 – Constraints to private sector development in Sierra Leone, World Economic Forum 2017-2018 Competitiveness report



Source: Executive Opinion survey from the WEF Global Competitiveness Report 2017-2018.

Note: From the list of factors, respondents to the World Economic Forum’s Executive Opinion Survey were asked to select the five most problematic factors for doing business in their country and to rank them between 1 (most problematic) and 5. The score corresponds to the responses weighted according to their rankings.

Doing Business offers policy makers a benchmarking tool useful in stimulating policy debate, both by exposing potential challenges and by identifying good practices and lessons learned. Over the past decade, Doing Business Report (WBG) has been used by policy makers in an increasing number of economies to advance their business environment and competitiveness reform agendas. Since the publication of the first Doing Business report in 2004, the project has tracked over 3,500 reforms in those regulatory areas. With 905 reforms, Sub-Saharan Africa holds the record for the highest total number of reforms captured by Doing Business over the past 15 years.⁶

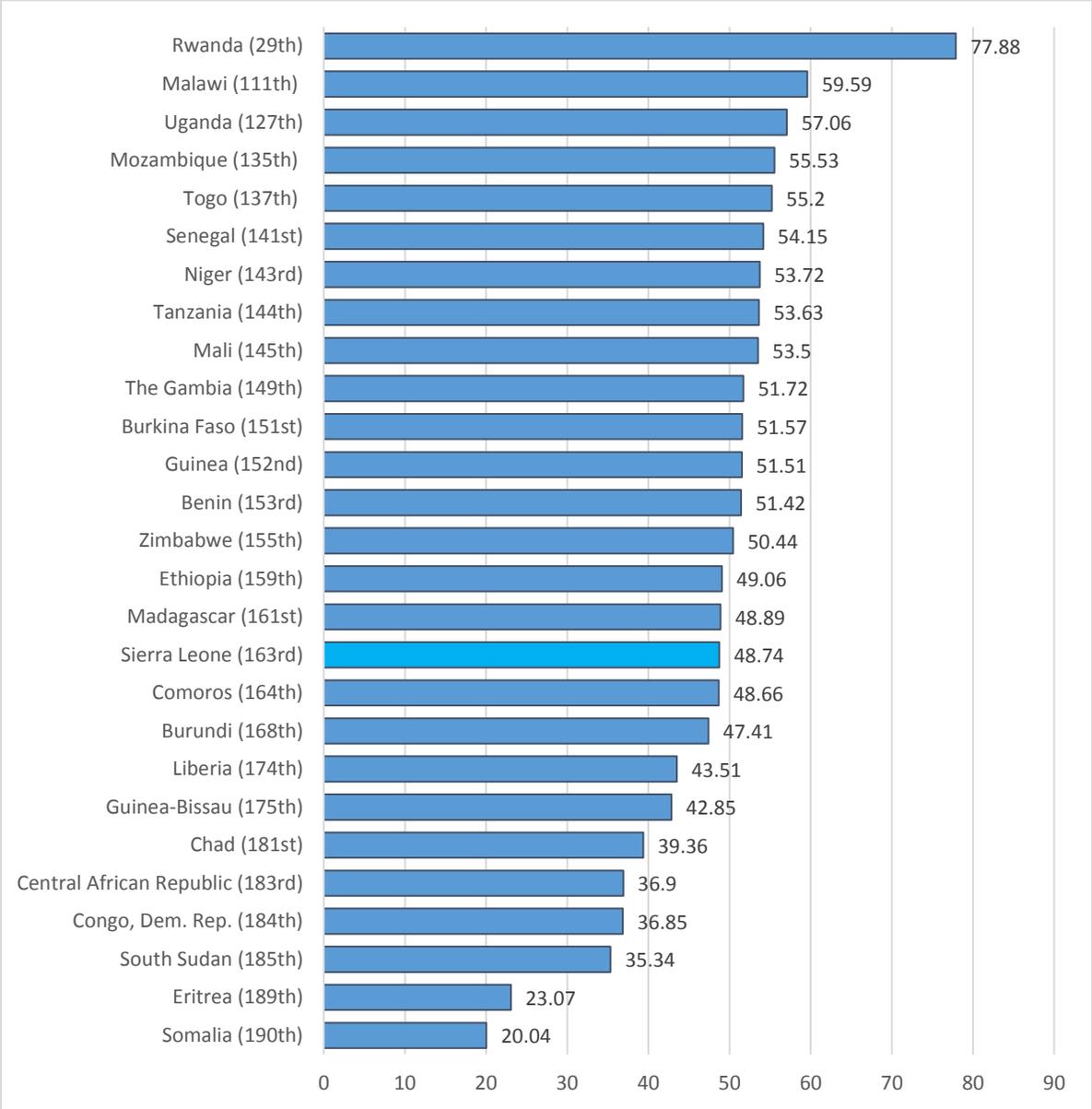
In the latest Doing Business report, Sierra Leone - represented by Freetown - scores 48.74 points out of 100, thus ranking 163rd out of 190 economies worldwide. The country’s overall performance lags

⁵ These are the four pillars where Sierra Leone scores the lowest in the latest Global Competitiveness Index (2017-2018 edition). For more information, please visit: http://www3.weforum.org/docs/GCR2017-2018/03CountryProfiles/Standalone2-pagerprofiles/WEF_GCI_2017_2018_Profile_Sierra_Leone.pdf

⁶ Doing Business 2019.

behind most of the other low-income economies in Sub-Saharan Africa. At the moment, Sierra Leone outperforms only Comoros, Burundi, Liberia, Guinea-Bissau, Chad, Central African Republic, the Democratic Republic of Congo, South Sudan, Eritrea, and Somalia (Figure 1.2).

Figure 1.2 – Sierra Leone’s performance in Doing Business compared to other Low-Income Economies in Sub-Saharan Africa.

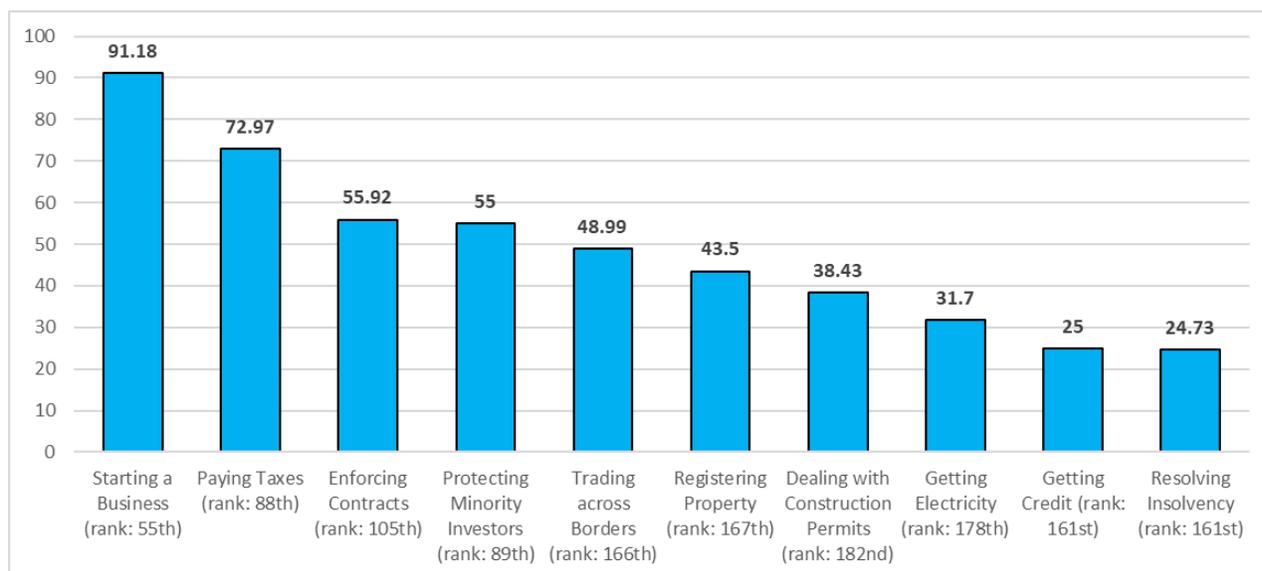


Source: *Doing Business 2019*.

Sierra Leone’s overall performance on Doing Business marks significant variation across regulatory areas (Figure 1.3). Sierra’s results range from 55th economy worldwide for the ease of Starting a Business to 161st when it comes to Getting Credit and Resolving Insolvency. While both comparative ranking and Doing Business score should be taken into account, it must be noted that the comparative ranking does not

indicate the absolute regulatory performance. Thus, while Sierra ranks only 55th on the ease of starting a business, its DB score of 91.18 (out of 100 points) on the same indicator shows that the country is already very close to the frontier of good global practice when it comes to business entry while lots of work remains to be done on the other regulatory areas (Figure 1.3).

Figure 1.3 – How close does Sierra Leone get to the best regulatory practice across the different areas of business regulation benchmarked by Doing Business?



Source: *Doing Business 2019*

Sierra Leone’s efforts to improve the business environment have been recognized by the Doing Business report. Over the past ten years, Sierra Leone has implemented 24 reforms that had a positive impact on the ease of doing business. Most of these reforms took place prior to 2013⁷. Since then the pace of reforms has decreased considerably but it has not stopped⁸. In spite of the high human and financial costs of the Ebola crisis of 2014-2016, Sierra Leone was able to achieve important progress on two areas of business regulation, namely starting a business and trading across borders. In November 2015, Sierra Leone decreased considerably the cost of starting a business by introducing a flat fee for all business registration procedures taking place at the Corporate Affairs Commission⁹. The ease of starting a business

⁷ Between 2009 and 2013, Doing Business counted 16 reforms impacting 8 different areas of business regulation. These include getting credit (3 reforms), starting a business (2 reforms), dealing with construction permits (2 reforms), registering property (2 reforms), trading across borders (2 reforms), paying taxes (2 reforms) and protecting minority investors (1 reform). Source: Doing Business database.

⁸ According to the 2016 and 2019 editions of the Doing Business report, virtually no reform was implemented in Sierra Leone between June 2014 and June 2015 and between June 2017 and June 2018. Three reforms were however implemented between June 2013 and June 2014 – i.e. prior or immediately after the beginning of the Ebola outbreak. These reforms related to getting credit (improved credit information system), registering property (introduction of fast-tracked procedures), and getting electricity (streamlined application process for new connections). For more information, please visit: <http://www.doingbusiness.org/en/reforms/overview/economy/sierra-leone>

⁹ The new fee schedule was introduced by the Company Regulations of 2015, Schedule 2 (Statutory Instrument Supplement to the Sierra Leone Gazette Vol. CXLVI, No. 58). The regulation decrees a flat registration fee that includes name search,

was further increased starting from June 2016, when the Corporate Affairs Commission started operating as a one-stop shop where the Tax Identification Number (TIN) and National and Social Security Insurance Trust Number (NASSIT number) were issued at the same time as the certificate of incorporation¹⁰. In the same year, Sierra Leone also made trading across borders easier through a series of initiatives, including the elimination of export permits and the implementation of pre-arrival processing.

Looking ahead, several broad opportunities for improvements emerge. They span across the areas measured by the Doing Business report and relate to the interactions between the Government and the private sector throughout the business cycle:

- **Update the legal framework through an inclusive process.** The laws and regulations that govern requirements for businesses to operate in Sierra Leone are oftentimes outdated¹¹, do not have sufficient clarity, or lack implementing regulations. In order to accomplish substantial regulatory improvements, administrative reforms will need to be coupled with legal reforms. While some important laws - such as the Borrowers and Lenders Act and Building Control Act - are currently being reviewed or re-drafted, for other pieces of legislation the process has not yet started. One of them is the Companies Act, which at the moment lacks key elements of a modern insolvency and secured-transactions framework and could be significantly improved also when it comes to the protection of minority investors. Using the recommendations of this roadmap as a guideline, the Government of Sierra Leone could identify key legislative and regulatory priorities, partner with the relevant agencies to amend the laws through an inclusive process, and then work with members of parliament to enact and implement the necessary amendments and bills. Establishing consultation and feed-back mechanisms with private sector stakeholders, possibly through a focused and well-defined Public Private Dialogue (PPD) program, will ensure that the legal reforms address the main issues faced by the business community. Giving notice before legal changes are introduced will also help in maintaining a predictable regulatory environment.
- **Enhance transparency to improve performance and reduce discretionary powers.** The business community should have easy access to and be aware of regulatory requirements and the different procedural steps required for common transactions involved in running a business, such as obtaining different licenses and permits, registering property, or export and import procedures. The authorities should ensure that the procedures are clear and simple by publishing user friendly guides for all government services, together with all the relevant fee-schedules. Even though the requirements are stated in the laws and regulations, oftentimes these are not well understood by entrepreneurs. Increasing transparency would contribute to a reduction in discretionary powers for government officials. If implemented in the short-to-medium term, the measures to improve

registration of the Memorandum of Association, statutory declarations, and all other documents required for the purposes of incorporation. This flat fee applies to both online and in-person registration at the Corporate Affairs Commission.

¹⁰ While the one-stop-shop was piloted in January 2016, it became fully operational only by June 2016.

¹¹ For instance, the Freetown Improvement Act, which regulates the construction permitting process, dates to the 1960s. Similarly, the Registration of Instruments Act, which governs the execution of the sale agreement and the registration of the deed at the OARG office, was last modified in 1964, and dates back to 1906. Other examples of outdated or unclear legislation are provided in the following chapters.

transparency recommended in this roadmap might send a strong signal to entrepreneurs and investors that Sierra Leone is actively reforming its regulatory environment and open to business¹².

- **Put in place a legal framework for electronic government services.** Electronic government to business services can increase transparency, limit opportunities for corruption, and reduce implementation gaps after procedures have been streamlined. Although only 11.7% of Sierra Leone’s population used the Internet in 2016¹³, the internet penetration rate is increasing rapidly thanks to the widespread use of smartphones. To rip all the benefits of technological progress, the Government will need to address the lack of comprehensive legal framework for governing electronic transactions as soon as possible. At the moment, only very few processes can be carried out online, and most of them require follow up paper-based submissions. In many areas, including registration of property transactions, or construction permits, among others, no options for electronic procedures exist. Efforts by the Sierra Leone’s government to adopt new laws on e-government and e-transactions will be essential in that regard. The introduction of e-services might also free up resources that are currently used to process paper-based applications, thus increasing the overall efficiency of the services provided by the government. Training staff on the new automated systems and promoting their use through outreach efforts will be key to ensure that entrepreneurs fully utilize e-government services. So will be the introduction of “mobile-phone friendly” e-services and apps.
- **Strengthen inter-agency coordination.** In order to effectively implement a business environment reform agenda spanning multiple agencies and ministries, it will be crucial that effective coordination mechanisms are in place to ensure that all agencies are working together towards the same goals. There should be a designated lead for each reform initiative and the business reform agenda should receive the support of the highest level of government to ensure that reforms are implemented. Up to now, the reform communication strategy has been led by a committee composed by the National Doing Business Coordinator (Ministry of Trade and Industry) and a set of the Reform Champions belonging to the line ministries responsible for the areas of business regulation covered by the report. Providing such committee with the necessary resources and expertise will be necessary to help it achieve its mandate of supporting the nation’s investment climate reform programs and performing its functions (i.e., strategy, prioritization, implementation monitoring, tracking progress, collecting inputs, and feed-back from stakeholders).

¹² In this regard, it must be noted that most of the recommendations related to transparency contained in this roadmap could be implemented relatively quickly. In Trading Across Borders, for instance, transparency could be significantly improved by publishing all the trade-related fee schedules in the Customs’ website. Similarly, Sierra Leone’s authorities could increase the ease of Dealing with Construction Permits by making building laws and regulations available to the public for free. Finally, significant progress on the ease of Registering Property could be achieved by the Surveys and Lands Department and the Office of the Administrator and Registrar General (OARG) by: a) publishing relevant fee schedules and making them available for free; b) collecting and disclosing information on the number of real estate transactions; c) introducing standards for service delivery; and d) creating a specific and separate mechanisms to lodge complaints relating to problems occurred at the Cadastre and Property Registry.

¹³ World Development Indicators, The World Bank, 2016, ITU estimate.

- **Addressing lack of capacity to improve public sector performance.** There are significant capacity weaknesses across the government in line agencies that are meant to serve the business community. Improving the performance of line agencies and enhancing the quality of public service delivery to businesses will require substantive long-term investments. These should include not only investments to expand the coverage of existing archives or introduce modern ICT solutions but also launching capacity building programs, train staff on the implementation of new laws and the use of the new systems, as well as introduce competitive salary structures to promote performance and encourage good behaviors from public officials. Finally, measures addressed aimed at improving public sector performance should be paired with investment in the development and qualification of private sector professionals able to interact effectively with an improved legal and regulatory framework (e.g. insolvency practitioners, construction supervision practitioners, etc.). Such a reform goes beyond the scope of this roadmap, but it is an important consideration.

2. Summary of Reform Recommendations

Table 2.1 – Sierra Leone’s performance on the *Doing Business* indicators and suggested short and medium-term recommendations

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
Starting a Business	Procedures: 5 Days: 8 Cost (percent of GNI): 8.4 % Paid-in min. capita (% GNI): 0.0 % Doing Business score: 91.18 out of 100 Global rank: 55 th out of 190	<ol style="list-style-type: none"> Engage in extensive outreach campaigns inclusive of roadshows and mobile registration centers, to familiarize the private sector it with most recent improvements in the services provided by the Corporate Affairs Commission (CAC) and encourage business registration. Combine the reservation of the company name with online incorporation application. 	<ol style="list-style-type: none"> Introduce comprehensive e-commerce legislation and allow for the legal validity of electronic documents. Improve automation of G2B services provided by the Corporate Affairs Commission’s platform and expand them as to create a modern online one-stop shop for all business start-up procedures. Consider introducing a Simplified Limited Liability Company. 	Corporate Affairs Commission (<i>Champion</i>) National Revenue Authority National Social Security Insurance Trust

¹⁴ The indicated timeframes of the short-term recommendations are only preliminary and based on the experience of other countries. All actions will require consultations with and coordination of different stakeholders.

¹⁵ The indicated timeframes of the medium-to-long term recommendations are only preliminary and based on the experience of other countries. All actions will require consultations with and coordination of different stakeholders.

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
			<ul style="list-style-type: none"> 6. Introduce single business identifier and develop interoperable ICT systems and a common database to transmit and share business information among all government agencies, including CAC, NRA, and NASSIT. 7. Ensure good practice mechanisms to sustain the quality, reliability, and transparency of the business registry of the Corporate Affairs Commission (CAC) as the repository of business data. 8. Eliminate company seals and implement a secure digital authentication system. 	
Dealing with Construction Permits	<p>Procedures: 17</p> <p>Days: 182</p> <p>Cost (percent of warehouse value): 21.4 %</p> <p>Building quality control index: 7/15</p> <p>Doing Business score: 38.43 out of 100</p>	<ul style="list-style-type: none"> 1. Finalize transfer of construction-permitting functions, equipment, and databases from Ministry of Works to Ministry of Lands. 2. Improve coordination and exchange of information between the different departments of the Ministry of Lands and, more in general, among all agencies involved in the building permitting process. 	<ul style="list-style-type: none"> 6. Update Freetown’s master plan and zoning regulations with specific area schemes. 7. Review, finalize and implement the Draft Building Control Act and Building Control Regulations 8. Set up a professional accreditation system for professionals in charge of 	<p>Ministry of Lands <i>(Champion)</i></p> <p>Ministry of Works</p> <p>Guma Valley Water Company</p>

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
	Global rank: 182 nd out of 190	<ol style="list-style-type: none"> 3. Map and analyze the current water connection process at the Guma Valley Water Company (GVWC) and identify ways to streamline it. 4. Make building laws and regulations available to the public for free. 5. Consider charging lower fees for small projects presenting no risk to public health and safety. 	<p>verifying construction plans and supervising construction works.</p> <ol style="list-style-type: none"> 9. Amend the law specifying which parties may be held responsible for structural flaws once the building is in use and introduce mandatory insurance requirement to cover structural defects. 10. Consider streamlining the building permitting process by eliminating redundant requirements and adopting a sound approach to risk-based approvals and inspections. 11. Introduce a single online window for online application and approval of construction permits. 12. Implement a robust GIS system including appropriate access for the private sector. 	
Registering Property	Procedures: 7 Days: 56	<ol style="list-style-type: none"> 1. Improve the accountability and transparency of the Western Area land administration system by a) publishing relevant fee schedules and making them 	<ol style="list-style-type: none"> 4. Review and update the existing legal framework applicable to land administration and property transfers. 	Office of the Administrator and

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
	<p>Cost (percent of property value): 10.7</p> <p>Quality of land administration index: 6.5/30</p> <p>Doing Business score: 43.50 out of 100</p> <p>Global rank: 167th out of 190</p>	<p>available for free; b) collecting and disclosing information on the number of real estate transactions; c) introducing standards for service delivery; and d) creating a specific and separate mechanisms to lodge complaints relating to problems occurred at the Surveys and Lands Department and at the Office of the Administrator and Registrar General (OARG).</p> <ol style="list-style-type: none"> 2. Collect and compile statistics on land disputes and make them freely available to the public 3. Conduct an assessment of court processes and the legal framework for handling land disputes cases to identify and address underlying causes of delays. 	<ol style="list-style-type: none"> 5. Digitize land records, maps and property deeds 6. Link the databases and systems of OARG, in charge of the registration of transfer deeds, and Ministry of Lands, in charge of mapping and survey plans, and increase integration of the property registration system in the medium term with the long-term goal of creating a unified Land Title Registry in charge of title registration, surveying, mapping, land use planning and non-judicial adjudication of land disputes. 7. Implement an electronic database covering all interests in land, including financial encumbrances (e.g. liens, mortgages, restrictions and the like). 8. Provide a state guarantee over property registration and introduce a specific compensation mechanism to cover for losses incurred by parties who engaged in good faith in a property transaction based on erroneous information certified by land registry 	<p>Registrar General <i>(Champion)</i></p> <p>Ministry of Lands</p> <p>High Court of Sierra Leone <i>(for land disputes)</i></p>

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
			9. Increase the geographic coverage of the Land Registry and the Cadaster.	
Getting Credit	<p>Strength of Legal Rights index: 5/12</p> <p>Credit Information index: 0/8</p> <p>Credit registry coverage (% of adults): 1.6</p> <p>Credit bureau coverage (% of adults): 0.0</p> <p>Doing Business score: 25.00 out of 100</p> <p>Global rank: 161st out of 190</p>	<ol style="list-style-type: none"> 1. Undertake a comprehensive review the existing legal framework for secured transactions and insolvency to identify legal gaps and weaknesses. 2. Expand the coverage of the Credit Registry by including credit data from microfinance institutions, community banks, and financial services associations. 	<ol style="list-style-type: none"> 3. Implement on-line access for banks and financial institutions to the borrower's credit information. 4. Distribute at least two years of historical data (but no more than 10 years of negative historical data). 5. Facilitate creation and expansion of private credit bureaus, amending the existing legislation where needed (Credit Reference Act 2011). 6. Allow the collection and distribution of additional credit information data from retailers and government agencies 7. Introduce credit scores. 8. Draft, enact and implement modern secured transactions laws that will address the gaps identified in the current legislation. 	Bank of Sierra Leone (<i>Champion</i>)

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
			<p>9. Ensure that secured creditors priority is respected based on the principle of “first-in-time, first-in-right,” while respecting other critical national policy objectives</p> <p>10. Allow secured creditors to seize their collateral when debtors enter reorganization after a definite, predictable time period. Allow for exceptions from automatic stay.</p> <p>11. Create a centralized, modern, electronic and notice-based electronic collateral registry.</p> <p>12. Implement awareness raising campaign and capacity building activities on the new legal tools and security interests introduced by the reforms.</p>	
Protecting Minority Investors	<p>Extent of conflict of interest regulation index: 6.7/10</p> <p>Extent of shareholder governance index: 4.3/10</p>		<p>1. Undertake a comprehensive review the existing legal framework for the protection of minority investors and amend Companies Act, High Court Rules, and other relevant legislation, as to align them to international best practice. Amendments to the current legislation should:</p>	<p>Corporate Affairs Commission (<i>Champion</i>)</p> <p>Judiciary</p> <p>Ministry of Justice</p>

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
	<p>Doing Business score: 55.00 out of 100</p> <p>Global rank: 89th out of 190</p>		<ul style="list-style-type: none"> a) Increase disclosure requirements of related-party transactions to the public and the market regulators; b) Require disclosure of information about board members' other directorships, as well as basic information on their primary employment; c) Separate the role of chairperson of the board from that of CEO; d) Require that the board of directors to include both independent and non-executive board members; e) Require companies to pay dividends within a maximum period of time set by law after the declaration date; f) Provide an independent review of large related-party transactions on which board members and shareholders can base their decision; g) Require the consent of shareholders when disposing of large company assets; h) Ensure that all shareholders are offered an exit option if the company is acquired by a third party. 	

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
			<ul style="list-style-type: none"> i) Guarantee existing shareholders the right to first refusal when selling shares; j) Facilitate shareholder suits by granting shareholders broader access to evidence/information during trial. 	
Paying Taxes	Payments (number per year): 34 Time (hours per year): 343 Total tax and contribution rate (% of profit): 30.7 Postfiling index (0-100): 95.41 Doing Business score: 72.97 out of 100 Global rank: 88 th out of 190	<ol style="list-style-type: none"> 1. Continue providing tax outreach – education and training – to small and medium-sized enterprises to ensure compliance and carry out communications campaigns and workshops to introduce the new e-filing and e-payment system ITAS to companies and entrepreneurs. 2. Simplify tax reporting forms. 	<ol style="list-style-type: none"> 3. Move from manual filing of tax returns to online filing for all 3 major taxes: CIT, GST (VAT) and social security contributions. 4. Consider working with IT developers to produce reliable accounting and payroll software that can be sold in the market at a discounted price or provided to SMEs free of charge. 5. Mandate use of fiscal devices to generates the sales and purchases reports. 	National Revenue Authority (<i>Champion</i>) National Social Security Insurance Trust

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
Trading across Borders	<p>Time to export: Border compliance (hours): 55</p> <p>Cost to export: Border compliance (USD): 552</p> <p>Time to export: Documentary compliance (hours): 72</p> <p>Cost to export: Documentary compliance (USD): 227</p> <p>Time to import: Border compliance (hours): 120</p> <p>Cost to import: Border compliance (USD): 821</p> <p>Time to import: Documentary compliance (hours): 137</p> <p>Cost to import: Documentary compliance (USD): 378</p> <p>Doing Business score: 48.99 out of 100</p> <p>Global rank: 166th out of 190</p>	<ol style="list-style-type: none"> 1. Map existing documentary requirements in order to identify gaps in the implementation of existing regulations and adopt measures to address them. 2. Develop an inventory of all fees to identify possibilities for simplifying fee schedules and reducing the administrative costs linked to importing and exporting. 3. Improve transparency by publishing all trade-related fee schedules in the Customs' website. 	<ol style="list-style-type: none"> 4. Further streamline operations and improve tugging services at the Freetown Port. 5. Improve inter-agency coordination for border management and clearance processes. 6. Provide continuous training to customs staff and other government officials in charge of the daily operations and educate trade operators on the new procedures and processes. 7. Implement a National Single Window (NSW) for Trade. 8. Implement effective Risk Management (RM) and Post-Clearance Audits (PCA) systems and promote the use of Trusted Traders and/or Authorized Economic Operators regimes. 9. Encourage pre-arrival processing of all document requirements electronically. 	<p>National Revenue Authority (Customs Dept., <i>Champion</i>)</p> <p>Freetown Port Authority</p> <p>Sierra Leone Standards Bureau</p> <p>Ministry of Agriculture, Forestry and Food Security;</p> <p>Ministry of Health and Sanitation</p> <p>Ministry of Fisheries and Marine Resources.</p>
Resolving insolvency	<p>Time (years): 2.3</p> <p>Cost (percent of estate): 42.0</p>		<ol style="list-style-type: none"> 1. Conduct a detailed diagnostic of the legal framework and amend the Companies Act 2009 to align with 	<p>Corporate Affairs Commission (<i>Champion</i>)</p>

Topics	Indicators (Doing Business 2019 report)	Short-term reform recommendations <i>(possible timeline: 6 months or less¹⁴)</i>	Medium- to long-term reform recommendations <i>(possible timeline: more than 6 months¹⁵)</i>	DB Champion and other institutional stakeholders
	Recovery rate (cents on the dollar): 11.1 Strength of insolvency framework: 6/16 Doing Business score: 24.73 out of 100 Global rank: 161 th out of 190		international good practices. Such practices should include, but not be limited to: <ol style="list-style-type: none"> a) providing for the continuation of contracts supplying essential goods and services to the debtor; b) allowing for reorganization plans to be voted by creditors whose rights are modified or affected by the plans; c) requiring approval of the creditors in selecting or appointing the insolvency representative; d) requiring the consent of the creditor for the sale of substantial assets of the debtor. <ol style="list-style-type: none"> 2. Identify training needs for the judiciary and the legal community with respect to insolvency. 3. Strengthen the regulatory framework for insolvency practitioners. 4. Explore the use of informal mechanisms for out-of-court workouts, especially for MSMEs. 	Bank of Sierra Leone Judiciary Ministry of Justice

3. Reform Recommendations

3.1. Starting a Business

Efficient and effective business regulations support firm creation and productivity. Economies that have efficient business registration processes also tend to have higher entry rates by new firms and greater business density.¹⁶ Faster business registration is associated with more businesses registering in industries with the strongest potential for growth, such as those experiencing expansionary global demand or technology shifts.¹⁷ Empirical evidence also suggests that more efficient business entry regulations improve firm productivity and macroeconomic performance.¹⁸ Another recent study found that higher entry costs are associated with a larger informal sector and a smaller number of legally registered firms.¹⁹ Furthermore, higher compliance costs cut into firm profits and discourage entrepreneurs, which in turn reduces job creation in the economy.²⁰

The *Doing Business* “Starting a Business” indicator measures the procedures, cost, time and paid-in minimum capital necessary for a domestic entrepreneur to register and formally operate a limited liability company (LLC). *Doing Business* 2019 reported that to start a business in Freetown, entrepreneurs must go through 5 procedures, which take 8 days on average and cost 8.4 percent of Sierra Leone’s income per capita. Registration requirements are the same for male and female entrepreneurs and, like most economies in the world, there is no minimum start-up capital requirement²¹. As a result, Sierra Leone scores 91.18 points out of 100, thus ranking 55th out of 190 economies globally in *Doing Business* 2019 on the ease of starting a business and 7th out of 48 economies ranked in the Sub-Saharan Africa region.

As reported in *Doing Business* 2019, the procedures to start a business in Sierra Leone are the following: (1) check the uniqueness of the company name and pick up a company registration form; (2) register the company with the Corporate Affairs Commission; (3) pay the registration fees; (4) register the employees with Social Security; and (5) make a company seal. The final registration requires 5 procedures and 8 days, with no difference in steps, fees or times between male and female entrepreneurs. This indicates considerable room for improvement: in economies

¹⁶ Klapper, Leora, Anat Lewin and Juan Manuel Quesada Delgado. 2009. “The Impact of the Business Environment on the Business Creation Process.” Policy Research Working Paper 4937, World Bank, Washington, DC

¹⁷ Ciccone, Antonio and Elias Papaioannou. 2007. “Red Tape and Delayed Entry.” *Journal of the European Economic Association* 5(2-3): 444-58.

¹⁸ Loayza, Norman, Ana Maria Oviedo and Luis Servén. 2005. “Regulation and Macroeconomic Performance.” Policy Research Working Paper 3469, World Bank, Washington, DC, and Barseghyan, Levon. 2008. “Entry Costs and Cross-Country Differences in Productivity and Output.” *Journal of Economic Growth* 13 (2): 145-67.

¹⁹ Barseghyan, Levon, and Riccardo DiCecio. 2009. “Entry Costs, Industry Structure and Cross-Country Income and TFP Differences.” Working Paper 2009-005C, Federal Reserve Bank of St. Louis.

²⁰ Fonseca, Raquel, Paloma Lopez-Garcia and Christopher Pissarides. 2001. “Entrepreneurship, Start-Up Costs and Employment.” *European Economic Review* 45 (4-6): 692-705.

²¹ According to *Doing Business* 2019 findings, 117 out of 190 economies in the world do not require a minimum start-up capital. For more information, please visit: <http://www.doingbusiness.org>

like New Zealand, entrepreneurs can start a business in half a day with only 1 procedure. Table 3.1.1 provides an overview of Sierra Leone’s performance in this area as compared to the highest ranked countries.

Table 3.1.1 - Starting a Business ranking and best performers

<i>Doing Business</i> Indicator	Sierra Leone	Regional Average	Regional best performer	Global best performer
Procedures (number)				
<i>Men</i>	5	7.4	3 (Niger, Burkina Faso, Burundi)	1 (New Zealand)
<i>Women</i>	5	7.6		
Time (days)				
<i>Men</i>	8	23.3	4 (Burundi, Rwanda)	0.5 (New Zealand)
<i>Women</i>	8	23.4		
Cost (percent of income per capita)	8.4	44.4	0.2 (South Africa)	0 (United Kingdom, Slovenia)
Paid-in Min. capital (percent of income per capita)	0.0	10.0	0 (30 countries)	0 (117 countries)

Source: *Doing Business 2019*

Short-term reform recommendations

1. Engage in extensive outreach campaigns inclusive of roadshows and mobile registration centers, to familiarize the private sector with most recent improvements in the services provided by the Corporate Affairs Commission (CAC) and encourage business registration.

Over the past 3 years, starting a business in Sierra Leone has become cheaper and faster. In 2016, costs associated with entry were equal to 44.2% of income per capita. Today, they are just 8.4%. In addition, the time to go through the different procedures to register a business has been reduced, from 10 days to 8 days on average. In spite of the recent reforms, only 6000 companies are formally registered. This could be because the private sector is not fully aware of the recent reforms and the benefits of formalization. Continuous education campaigns aimed at small entrepreneurs, street vendors, law firms, accountants, and business consultants will be necessary to ensure that the recent and future reforms reach and benefit small and medium sized-business. A concerted effort could take place to formalize existing businesses via market and site visits, road shows, the introduction of self-service centers at FCC and other municipalities across the country. This approach has already been tested successfully in Kenya, Rwanda and Uganda, and could be implemented also in Sierra Leone.

2. Combine the reservation of the company name with online incorporation application.

At the moment, the company name search is usually done at the Corporate Affairs Commission (CAC) office, although it can also be conducted electronically through the online platform. When

done at the office, the applicant completes Form 28 by providing 3 name options for the company. Then a search is done by a staff member and the desired name availability is confirmed. Building on the recent reforms, Sierra Leone could further simplify the application process by removing the requirement for a separate procedure of reserving a name for the company.²² Instead, business names could be instantly verified and reserved upon submission of the registration application. As CAC improves the existing online application platform, it is important that the new system allows for active comparison between the proposed names and existing ones. In the early 2000s, several jurisdictions in Australia, Canada and United States, published clear rules for ascertaining whether company names use identical or restricted words, and when a separate approval is required. This allows for automatic name rejection or acceptance at the time of registration. Individuals may check online the availability of the name and subsequently apply for it. Based on a set of automated tests the name is either automatically accepted or rejected. In exceptional circumstances, the Australian Securities and Investments Commission (ASIC) may also perform a manual review and reject the proposed name, if it is an unknown word or if it is deemed to be offensive or potentially misleading for the public.²³ In New Zealand, the company name reservation is conducted online at the beginning of the registration process.²⁴ In Sub-Saharan Africa, Rwanda incorporated name-checking into a single registration procedure at Commercial Registration Department in 2009. The Commercial Registration Department checks the company name; reviews and accepts the application form; and receives the payment of the registration fee through a single interaction.

Medium-to-long term reform recommendations

3. Introduce comprehensive e-commerce legislation and allow for the legal validity of electronic documents. Over the past years, the Corporate Affairs Commissions (CAC) has made important progress towards the introduction of e-services for entrepreneurs and businesses operating in Sierra Leone. Today, entrepreneurs can download standard articles of association (as well as the relevant application forms²⁵) and check the uniqueness of their company name online before initiating the registration process.²⁶ In addition, they can upload the relevant forms in pdf format through the CAC platform to incorporate their company and obtain the identification numbers and clearances, including Company Registration Number (CRN), Tax Identification Number (TIN), National and Social Security Insurance Trust Number (NASSIT number) and

²² According to Doing Business 2019 dataset, the reservation of a company name takes 1 day on average and has no cost, while the registration of the company takes 3 days on average and costs SLL 250,000. For more information on procedures, time and costs associated to starting a business in Sierra Leone, please visit: http://www.doingbusiness.org/en/data/exploreconomies/sierra-leone#DB_sb

²³ See Reg. 2B.6.01, 2B.6.02, 5B.3.01 and 5B.3.02 in “SCHEDULE 6—Availability of Names Corporations Regulations”, 2001, available at www.asic.gov.au. The full name reservation procedure is available here: <http://asic.gov.au/regulatory-resources/forms/forms-folder/410-application-for-reservation-of-a-name/>.

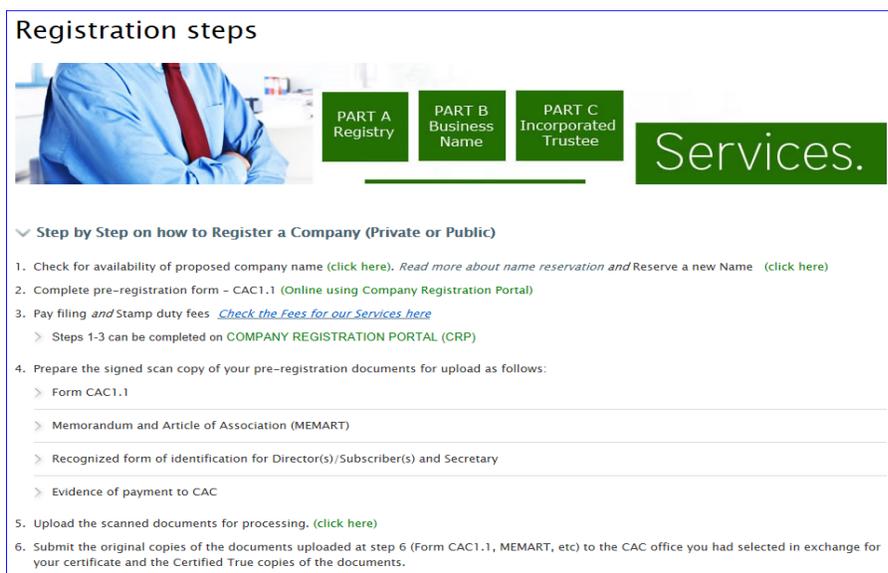
²⁴ For steps to reserve a company name in New Zealand, visit: <https://companies-register.companiesoffice.govt.nz/>.

²⁵ A list of the application forms currently downloadable through the CAC platform can be found at: <http://new.cac.gov.ng/home/forms-4/>

²⁶ For more information, visit: <http://new.cac.gov.ng/home/registration-of-business-names/>

Municipal business license. Entrepreneurs can also pay registration fees through a wire transfer or by mobile money. Yet, they cannot go through the registration process of a new company without paying (at least) a visit to the CAC one-stop shop to submit paper copies of the required documentation and collect the registration documents (Figure 3.1.1). This is because, at the moment, electronic documents have no legal validity in Sierra Leone. In order to move towards paperless G2B services, authorities should introduce a comprehensive legislation to regulate the use and validity of electronic documents, as well as e-transactions, e-authentication, and e-payments. This should be accompanied by the harmonization of all related legislation (e.g. Company Act, Evidence Act, Civil Procedure Act, etc.) as to avoid contradictions and ambiguities.

Figure 3.1.1 – The Corporate Affairs Commission website’s description of steps to register a company



Source: Corporate Affairs Commission of Sierra Leone

4.Improve automation of G2B services provided by the Corporate Affair Commission’s platform and expand them as to create a modern online one-stop shop for all business start-up procedures. Although the procedures to start a business in Sierra are relatively fast, the current process is based on the transfer of simple pdf files (i.e. scanned documents) from the applicant to the CAC, and then from one agency to another. Once the agencies receive an application, their officers must open it on their computer screens and check line by line whether it is complete and can be processed. This system is not only obsolete and extreme work-intensive, but it also becomes unsustainable in specific times of the year, for instance when there is a spike in the submissions of annual returns. Moving forward, CAC and the other agencies involved in the business registration process should move towards a fully automated online registration system where human intervention is reduced to the minimum. This might require introducing IT modules that allow the applicant to input the necessary information directly into the platform, with automatic checks for mandatory fields and cross-references with the existing databases. This measure might not only allow for a significant reduction of the registration time but also allow CAC staff to focus on more

productive activities, such as expanding the registry's coverage over informal businesses or improving data exchange and interoperability with other government databases (e.g. OARG, NRA, FCC, the Credit Registry, the Collateral Registry, Municipalities, etc.). This might allow a considerable expansion of the number of services provided through the CAC platform. For instance, the CAC platform could be improved as to allow the registration of the company's employees with the National Social Security Insurance Trust (NASSIT)²⁷. At the moment, the employee registration is made by completing an application form at NASSIT's office, following the employer's prior registration through CAC, adding one extra day to the business entry process. Additional features of an improved CAC platform could comprise an expansion of the options for the payment of fees beyond wire transfers and mobile money (e.g. direct online payment with debit or credit card, PayPal, etc.).

5. Consider introducing a Simplified Limited Liability Company. Currently only around 6000 firms are formally registered with the Corporate Affairs Commission. This is an incredibly low number for a country with 7.5 million inhabitants and a thriving number of markets and street vendors. Various States representing different legal traditions around the world – including India, Japan, New Zealand, Singapore, South Africa, the United Arab Emirates, and the United Kingdom- and have adopted legislation on simplified business forms to facilitate MSME formation and operation. The adoption of such laws has permitted lower entry barriers, provided effective organizational solutions and reduced transaction costs, thus increasing employment opportunities and economic growth rates. Moreover, the adoption of these new business forms has promoted access of the businesses to the formal economy. In order to encourage the formalization of businesses, the government of Sierra Leone could consider allowing for a new simplified legal form aimed at stimulating the success and sustainability of micro and small enterprises. In this regard, authorities could take inspiration from the legislative guide elaborated by the United Nation Commission on International Trade Law (UNCITRAL). (See Box 3.1.1).

²⁷ See art. 30 of the National Social Security Insurance Trust Act of 2001.

Box 3.1.1 – UNCITRAL Recommendations for the establishment of a new Simplified Limited Liability Company

The approach taken by UNCITRAL in its legislative guide is to create a legal business form that does not depend on and is not specifically linked to any existing law in an enacting State for its establishment, definition or operation. Instead, the United UNCITRAL Limited Liability Organization (“UNLLO”) is intended to be a distinct product of legislation that has been prepared based upon the following recommendations. According to such recommendations, the law establishing UNLLO should:

1. provide that an UNLLO is governed by [this law] and by the members’ agreement;
2. provide that an UNLLO may be organized for any lawful business or commercial activity;
3. provide that the UNLLO has a legal personality distinct from its members;
4. provide that a member is not personally liable for the obligations of the UNLLO solely by reason of being a member of that UNLLO;
5. not require a minimum capital for the formation of an UNLLO;
6. provide that the name of the UNLLO must include a phrase or abbreviation that identifies it as an UNLLO;
7. provide that an UNLLO must have at least one member from the time of its formation [until its dissolution]; and specify whether only natural persons or also legal persons are permitted to be members of an UNLLO;
8. provide that the UNLLO is formed once it is registered;
9. keep the information required for the formation of the UNLLO to a minimum. Such information should include: (a) The name of the UNLLO; (b) The business address or, when the business does not have a standard form address, precise geographical location of the UNLLO; and (c) The identity of each person who manages the UNLLO;
10. provide that the members of the UNLLO may adopt a members’ agreement in any form, including an agreement that is written, oral or implied by course of conduct. That agreement may address any matter relating to the UNLLO, except issues covered by⁸⁹ the mandatory rules set out in recommendations 1, 2, 3, 4, 6, 7, 8, 9, 16(a), [15], 19, 20, 23(c), 25 and 26;
11. provide that: (a) The UNLLO is managed by all of its members exclusively unless otherwise indicated in the [members’ agreement]; and (b) Members of the UNLLO may agree in their [members’ agreement] to appoint one or more designated managers.
12. should provide that when the UNLLO is managed by all of its members exclusively and unless otherwise stipulated in the member’s agreement: (a) The members of the UNLLO have joint and equal rights to decide on matters concerning the activities and affairs of the UNLLO; (b) Differences among members on matters concerning the ordinary course of activities and affairs of the UNLLO should be resolved by a [majority] decision of the members; and (c) Differences among members on matters outside the ordinary course of business should be resolved by [qualified majority];
13. provide that, unless otherwise agreed in the members’ agreement, one or more designated manager(s) may be appointed and removed by a majority decision of the members;
14. The law should provide that when the UNLLO is managed by one or more designated manager(s): (a) Managers are responsible for all matters that are not retained by the members of the UNLLO pursuant to the [this law] or the members’ agreement; and (b) Differences among managers should be resolved by a [majority] decision of the managers, unless otherwise stipulated in the members’ agreement;
15. provide that each manager individually has the authority to bind the UNLLO unless otherwise agreed. Restrictions upon that authority will not be effective against third parties dealing with the UNLLO without proper notice.
16. provide that: (a) Any manager of the UNLLO owes: (i) a duty of care; (ii) a duty of loyalty; (iii) a duty to disclose information to all members of the UNLLO;¹¹⁸ and (iv) a duty of good faith and fair dealing; and (b) Unless otherwise stated in the member’s agreement, fiduciary duties also apply to members of the UNLLO.
17. provide that: (a) Members of the UNLLO are permitted to agree upon contributions, if any, they make to the UNLLO, including their type, timing and value. In the absence of such agreement, contributions made to the UNLLO are deemed equal for all members; (b) Unless otherwise agreed in the members’ agreement, the members’ share of the UNLLO shall be in accordance with the agreed value of their contributions; and (c) When members have not agreed upon a value of their contributions, any contributions shall be deemed equal, and members will have an equal share of the UNLLO unless they agreed otherwise in the members’ agreement.
18. provide that distributions are made to members in proportion to their respective share of the UNLLO as stated in the members’ agreement. When the member’s share of the UNLLO is not so stated, distributions by the UNLLO shall be made equally among its members.
19. prohibit distributions from being made to any member if upon giving effect to such distribution: (a) The UNLLO would not be able to pay its debts as they become due in the ordinary course of business; or (b) The UNLLO’s total assets would be less than the sum of its total liabilities.
20. provide that each member who received a distribution, or any portion thereof, made in violation of recommendation 19 is liable to reimburse the UNLLO for this distribution or portion thereof;

21. provide that members may transfer their financial rights in the UNLLO, but not their decision-making rights, unless otherwise agreed in the members' agreement;
22. provide that the members of an UNLLO may agree to restructure it or convert it into another legal form by [qualified majority];
23. provide that the UNLLO shall be dissolved and wound up in the following circumstances: (a) On the occurrence of any event that is specified in the members' agreement as causing the dissolution of the UNLLO; (b) On a decision by [qualified majority] of the members; or (c) Upon the rendering of a judicial or administrative decision that the UNLLO is dissolved.
24. provide that, unless otherwise agreed, members may withdraw from the UNLLO and be paid over a reasonable period of time the fair value of their share of the UNLLO.
25. provide that the UNLLO must keep reasonable records including: (a) Its formation data; (b) Any record of the members' agreement; (c) A current list of managers and members, as well as their contact details; (d) Financial statements (if any); (e) Tax returns or reports; and (f) The activities and operations of the UNLLO;
26. provide that each member has the right to: (a) Inspect and copy any of the records required to be kept by the UNLLO under recommendation 25; and (b) Obtain from the UNLLO information concerning its activities, operations and finances, as well as any other information that would be reasonable for the UNLLO to keep;
27. provide that any dispute that arises among members of the UNLLO or any third party may be submitted to alternative dispute resolution mechanisms, unless there are restrictions upon such actions within the State's domestic legal framework.

6. Introduce a single business identifier and develop interoperable ICT systems and a common database to transmit and share business information among all government agencies, including CAC, NRA, and NASSIT. To achieve greater integration of registration services, Sierra Leone should introduce a single business identification number, which businesses would use as a unique identifier for all interactions with government agencies. This would reduce the risk of errors in identifying the same companies and facilitate enforcement. Today, newly created companies receive several separate IDs. These include a Company Registration Number (CRN) from the Corporate Affairs Commission (CAC), a Tax Identification Number (TIN) from the National Revenue Authority (NRA), an ID number with the National Social Security Insurance Trust (NASSIT), among others. Although some information-sharing between government agencies is already taking place, a common ID could greatly facilitate this task. Electronic solutions may facilitate the necessary company ID mapping, but they cannot exclude the duplication of entities, especially when government agencies report to different Ministries.

In order to successfully implement the single ID, a common database and interoperable ICT systems of relevant government agencies (CAC, should be developed as to transmit and share business information among all agencies. Such organization would make it easy for businesses to deal with different regulations, and for different government agencies to effectively monitor and regulate business activities. When Norway introduced a single ID, the Ministry of Finance was a powerful supporter of the reform. The Ministry and the tax authorities aimed at a more efficient tax reporting system and saw that they would benefit from the exchange of business information by a common unique identifier.²⁸ This kind of reform does not necessarily require introducing an

²⁸ Business registration case study: Norway, World Bank 2011.

entirely new ID. The Belgian government, for example, refrained from introducing a new number but rather changed the old VAT ID number into an enterprise number.²⁹

Two approaches to implementing this reform are most common. In one case, business registration is the initial step and includes the allocation of a unique ID, which is then reused by other authorities, such as the tax authorities or social security agencies. In Australia, for example, business registration is the first step in the process and includes the allocation of the company ID. Norway takes another approach, as entrepreneurs are allocated a unique ID before they proceed to register their business. The ID and the identifying information are then made available and re-used by all agencies involved in the registration process.³⁰

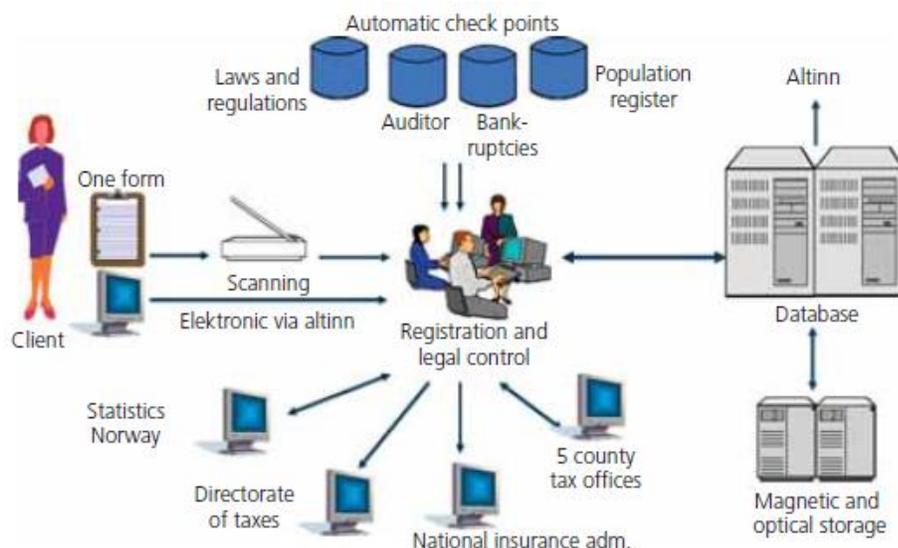
Introducing a common ID for businesses requires mapping and conversion of existing identifiers. This is generally a complex and cost-intensive reform. Yet, the current (low) number of registered companies in Sierra Leone may make mapping and conversion exercise easier, thus giving the country a solid base for the introduction of streamlined online services for businesses and entrepreneurs³¹. A growing number of countries have introduced such common IDs to increase efficiency within the public sector and reduce the administrative burden on businesses. In 2009, Singapore introduced a single identification number (SINGPASS) for all business-to-government transactions. In Estonia and Norway, systems are interoperable and interlinked with six other agency systems, namely e-procurement system for government agencies, and the land, labor, tax, pledges and citizen's registries (for Norway, Figure 3.1.2). Slovenia's system is also interoperable with six systems: land, labor, tax, pledges and citizen's registries and the trade database.

²⁹See http://business.belgium.be/en/managing_your_business/setting_up_your_business/main_steps/company_number/

³⁰ See <http://www.brreg.no/english/registers/entities/entities.html>

³¹ Since Sierra Leone has only about 6000 companies registered with the Corporate Affairs Commission, and presumably the same number of company files with the National Revenue Authority and National Social Security Insurance Trust, it could be relatively easy to run a cross-validation exercise between the three databases of business information and introduce a Unique Business Identifier across these three agencies.

Figure 3.1.2 - Back-office workflow at the Brønnøysund Register Centre, Norway.³²



Source: World Bank Group

7. Ensure good practice mechanisms to sustain the quality, reliability, and transparency of the business registry of the Corporate Affairs Commission (CAC) as the repository of business data. The Corporate Affairs Commission has been the leading institution in reforms making it easier to start a business in Sierra Leone over the past years. In the medium-to-long term, Sierra Leone authorities could consider making the CAC business registry the repository of all business-related data. Good global practices in this regard include:

- Ensuring that the business registry has a centralized complete and reliable repository of up-to-date business registration data with information that is accessible to the public;³³
- Compiling information on all types of business entities registered in the country in the single business registry (including limited liability companies, joint-stock companies, and sole proprietors);
- Integrating tools to produce business statistics and support policy design, and give market participants the information they need to evaluate risks;
- Ensure interoperability with other databases in order to exchange data with other stakeholder agencies (Labor ministry, social security funds, etc.).

³² “Business Registration Reform Case Study. Norway,” Investment Climate, World Bank Group, September 2011, p. 35., available here: <http://docplayer.net/16304244-September-2011-business-registration-reform-case-study-norway-investment-climate-world-bank-group-in-partnership-with.html>

³³ Interviews with private sector practitioners carried out in January 2019 revealed that the current “company name verification service” provided by CAC was not widely trusted, because the company database was not always up to date. As a result, entrepreneurs often preferred to visit the CAC office in person to consult directly with the officials in charge of company name registration.

8. Eliminate company seals and implement a secure digital authentication system. According to the Doing Business 2019 findings, in Sierra Leone every new company must have company seals in order to carry out its operations³⁴. This is due to the fact that many applications must be stamped with the company seal before they are submitted to governmental agencies for their approval or review. In addition, company seals (or stamps) are also widely used when interacting with other businesses and banks to authenticate the company's transactions. In many countries, modern legislation has replaced the company seal with provisions under which a company validly executes a document. None of the 25 top-ranking economies on the Doing Business' ease of starting a business indicator requires, by law or in practice, new companies to get seals. In the United Kingdom, for example, the Companies Act provides that a document is validly executed by a company if signed on behalf of the company by (i) two 'authorized signatories', or (ii) one director, in the presence of a witness who attests the director's signature. Further, the authentication of the person signing on behalf of the company can easily be verified through the commercial registry. Eliminating the need to use a common seal has been a popular reform worldwide. Yet, it takes time. Over the past 5 years, many countries like Georgia and Slovenia have abolished the requirement of obtaining a company seal in order to start and run a business and undertaken extensive outreach campaigns to ensure the reform's full implementation.

Although Section 17 of the Companies (Amendment) Act of 2014 no longer requires the use of company seals, additional measures could be considered to eradicate company seals from day-to-day business practices. These may include: (1) expanding the array of information provided by commercial registry online (e.g. persons authorized to sign on behalf of the company); and (2) making sure that the reference to company seal requirements is deleted from all application forms, administrative checklists as well as relevant business regulations. In addition, authorities should consider engaging in outreach campaigns to relevant private sector stakeholders (mainly, banks and relevant authorities and professionals, lawyers, accountants) to explain that a company seal is no longer a requirement to conduct business transactions, including sales of company shares and loan agreements.

The elimination of companies seals from day-to-day business practices should go hand in hand with the introduction of modern regulations on electronic transactions and e-commerce. In many economies, as more transactions are taking place online, electronic or digital signatures increasingly play the role company seals played in the past, including authenticating the person acting on behalf of the company. In Rwanda, entrepreneurs can obtain an electronic signature in less than a day through the Rwanda Development Board. To obtain an electronic signature, applicants sign up with their email addresses and scan their ID cards to be attached to the account application. Once the account is set up, a registration number is generated to enable users to proceed and register their business online³⁵. This registration number is also the tax identification number (TIN) and VAT number of the company. As a result of the intensive use of e-signature and online platforms, starting a business in Rwanda takes just four days.

³⁴ Companies in Sierra Leone typically need two company seals in to carry out their operations: a formal seal and a common seal. The "formal seal" - usually a metal stamping device with the company's name, crest, and other relevant information - is prevalently used for sealing company documents to be used outside Sierra Leone. A "common seal" - usually wooden (or rubber) stamp with ink - is used for company documents to be used inside the country.

³⁵ In Rwanda, the e-signature contains the user name and password which are used to log into the system for the registration process. The e-signature used to apply for business registration must be of the managing director or of one of the shareholders of the company being formed or of an authorized representative with powers of attorney.

An e-signature can offer greater security as the act of signing with a digital signature encompass capturing and encrypting a digest of the document.³⁶ Moreover, unlike filing and storing signed documents, e-files are easier to manage archive and transfer between parties. This ease of access is crucial, because electronic evidence of signatures must be accessible by all parties for the life of the record. Box 3.1.2 contains a description of the e-governance system in Estonia and lessons that can be learned from its experience. Estonia is one of the most advanced countries in terms of providing government services online. It uses compulsory ID-cards for all citizens and they are equally valid for digital and physical identification³⁷.

³⁶ Hiroshi Matsumoto, Kazuo Takaragi, Seiichi Susaki, Hiroyuki Maezawa, and Shinobu Koizumi. "Electronic document processing system and method of forming digital signature." U.S. Patent 5,465,299, issued November 7, 1995.

Xavier Serret-Avila, and Gilles Boccon-Gibod. "Methods and systems for encoding and protecting data using digital signature and watermarking techniques." U.S. Patent 6,785,815, issued August 31, 2004.

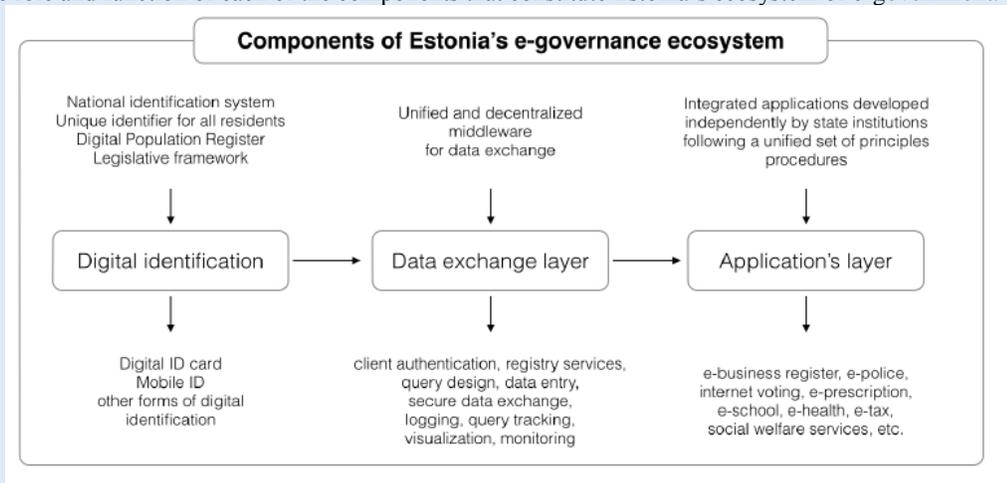
³⁷More information on the Estonian business registration reform is available here:
<http://documents.worldbank.org/curated/en/815341468329340358/pdf/587840WP0Busin10BOX353819B01PUBLIC1.pdf>.

Box 3.1.2 - Estonia's e-governance system description and lessons

The digital ID project started already as early as in 1998 when Estonia had sought solutions on how to digitally identify their citizens. By 1999 a viable project in the form of the existing ID-card was proposed and the legal framework to enable digital identification was set up in the following years. In 2000 the Identity Documents Act and the Digital Signatures Act, the two most important bills regulating the use of digital ID's, were passed in the parliament. The first states the conditions to which an ID-card must adhere to, but most importantly states that the ID-card is compulsory for all Estonian citizens. The latter, states the conditions for a state-governed certification registry, which is fundamentally linked to the functioning of the digital ID-card. Following these events, the first ID-cards were issued in January 2002. Since then about 1.24 million of digital ID-cards have been issued. By the end of 2014 digital ID-card has been used about 315 million times for personal identification and 157 million times for digital signatures.

ID-cards are compulsory for all citizens and they are equally valid for digital and physical identification. The digital functionality of an ID-card is based on an electronic chip and the two pin codes supplied with the card. By using a smart card reader and a computer connected to the internet, citizens can use two core functionalities provided by the ID-card, both of which are essential to the development of e-government – personal authentication (related to the PIN1) and digital signature (related to PIN2). The first pin-code allows citizens to authenticate their identity so that the corresponding e-service knows the identity of the user. Many services run entirely on authentication only basis, i.e., reviewing individual health records, checking the validity of car insurance or reviewing the list of political candidates in voter's district. The second pin-code is used to sign documents or approve transactions online. For example, acquiring the insurance policy, confirming the submission of the tax declaration, or casting a vote in elections. As mobile adoption in Estonia rapidly approached, digital signatures adapted too. Instead of carrying a smartcard reader with their computer, Estonians can now get a Mobile ID-enabled SIM card from their telecommunications operator. Without installing any additional hardware or software, they can access secure systems and affix their signatures by simply typing PIN codes on their mobile phone.

The Estonian e-governance system is an intertwined ecosystem of institutional, legal and technological frameworks that jointly facilitate an independent and decentralized application development by public and private institutions to replace conventional public services with digital ones. The most crucial components of the Estonian e-governance are the digital identification of citizens, a digital data exchange layer and ultimately, a layer of applications developed by different public and private institutions. The figure summarizes the role and function of each of the components that constitute Estonia's ecosystem of e-government.



- Digital authentication in itself requires several institutional, legal as well as societal conditions. First, an institutional setup needs to address the issues of national identification system where a single numeric identifier is used for the entire population (instead of many based on various services). Second, personal data should be stored in an electronic data repository, by design similar to the Estonian Population Register. And finally, a normative environment should explicitly regulate the process by which institutions, individuals and companies can request and receive access to information stored in government databases.
- The second functional component is the unified de-centralized data exchange layer that ensures standardized mechanisms for data gathering, structuring and storage; and subsequent application development. Moreover, an effective e-government would profit from a middle-ware system that would minimize, similarly to Estonian X-Road, repetitive data collection, interconnectedness of state's databases and avoids the labor consuming processing of paper documents, data entry and verification.
- Finally, when the digital identification and the data exchange layer are provided by the state, different institutions should be given an opportunity to develop their own extension of their services into the digital realm. Furthermore, if developed the ecosystem of eventual services will facilitate the growth in usage numbers.

Source: *Estonian e-Government Ecosystem: Foundation, Applications, Outcomes. Background paper for the World Development*

3.2. Dealing with Construction Permits

Reforms that make regulation of constructions more efficient and transparent can help reduce corruption and informality, by encouraging construction companies to go through formal channels and ensuring compliance with important standards, such as those impacting safety or mitigating climate change. Good regulations, combined with sound enforcement mechanisms, ensure safety standards that protect the public while making the permitting process efficient, transparent and affordable for both building authorities and the private professionals who use it. A recent study shows that long delays to obtain permits could lead to higher transaction costs and fewer transactions.³⁸ However, the payoff of construction permitting reforms can be significant. In 2005, a PriceWaterhouse Coopers study found that accelerating permit processes in the United States could permanently increase government revenues.³⁹ Examining the impact of building permit reforms on new income generation, for every 10 jobs directly related to a construction project, another 8 jobs are created locally.⁴⁰ These impacts yield not only additional income for the community, but also additional investments and tax revenues. Beyond economic returns and the pay-off in attracting more investment, the most important benefit of building permit reforms is to protect public safety.

Efficient building permitting systems share key features. Clear building codes and regulations written with a consultative process are at the core of well-designed construction permitting systems. Countries like Canada and New Zealand are increasingly steering towards performance-based codes.⁴¹ Germany, Singapore and Mauritius have incorporated risk-based management tools to streamline the issuing of permits and optimize the effectiveness of inspections. Up-to-date land use and zoning plans improve transparency and predictability for developers.⁴² Establishing sound licensing mechanisms for practitioners, in addition to well-functioning liability regimes and compulsory insurance systems, have become pivotal in order to introduce more efficient regulatory systems. Many countries are outsourcing building control procedures to the private sector. For example, France and the UK introduced inspections by accredited bodies, which in turn required improvements in their private liability and insurance regimes.⁴³

***Doing Business 2019* records the procedures, time and cost required to build a warehouse and connect it to water and sewage services in Freetown following all the official requirements.** Sierra Leone ranks

³⁸ Sonia Hamman, “Housing matters, Volume 1,” World Bank Policy Research Working Paper 6876, 2014. In particular, the paper mentions that “Mayer and Somerville’s (2000) study of U.S. regulations estimates that a metropolitan area with a 4.5-month delay in approval and two different types of growth-control restrictions would have about 45% less construction than a metropolitan area with a 1.5-month delay and no growth management policy.”

³⁹ For a single building project, accelerating permit processes provides a temporary acceleration of property tax collections. For a representative series of projects, the study shows that these revenue increases could reach 16% over a period of 5 years. “Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues” PriceWaterhouse Coopers, December 2005.

⁴⁰ PricewaterhouseCoopers. 2005. “Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues.” Report prepared for the American Institute of Architects, Washington, DC.

⁴¹ Performance-based codes provide more flexibility and support innovation by focusing on outcomes to be achieved rather than prescribing how the building must be constructed. The use of performance-based codes, however, requires a higher level of technical competence to enforce than do other approaches.

⁴² World Bank. 2013. “Urbanization beyond Municipal Boundaries: Nurturing Metropolitan Economies and Connecting Peri-Urban Areas in India.” *Directions in Development*. Washington, DC: World Bank, p. 44.

⁴³ For example, in France, the Spinetta Act of 1978, required broad-based insurance and warranty coverage.

182th globally on the ease of dealing with construction permits and 44th out of 48 economies in the Sub-Saharan Africa (SSA) region, with an overall Distance to the Frontier score of 38.43 percentage points. According to the report, dealing with construction permits requires 17 procedures, takes 182 days and costs 21.4 percent of the warehouse value. Sierra Leone performs worse than the regional average in SSA not only in terms of time, cost and procedures to deal with construction permits but also in the building quality control index⁴⁴, a sub-indicator that looks at the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements. Out of 15 possible points, Sierra Leone scores 7 in the building quality control index and ranks slightly lower than the average 8.5 for SSA countries (Table 3.2.1).

Table 3.2.1 - Dealing with Construction Permits ranking and best performers

<i>Doing Business</i> Indicator	Sierra Leone	Regional average	Regional performer best	Global Best Performer
Procedures (number)	17	14.7	10 (5 countries)	7 (Denmark)
Duration (days)	182	145.7	67 (Sao Tome and Principe)	28 (Korea, Rep.)
Cost (percent of warehouse value)	21.4	8.8	0.3 (Seychelles)	0.1 (5 economies)
Building quality control index (0-15)	7.0	8.5	14 (Rwanda, Mauritius)	15 (New Zealand, Luxembourg, United Arab Emirates)

Source: World Bank Group *Doing Business 2019*

Short-term reform recommendations

1. Finalize the transfer of construction-permitting functions, equipment, and databases from the Ministry of Works to the Ministry of Lands. In April 2018, the function of issuing building permits was transferred from the Ministry of Works to the Ministry of Lands. As of April 2019, while the personnel responsible for the processing of building permit application formally moved to the Ministry of Lands, their equipment (computers, databases, etc..) did not. As a result, applications can only be processed very slowly and building permits are issued with new reference numbers that have no link to the old reference numbers in the Ministry of Works (thus making retrieval of information extremely difficult and most times impossible). This has produced considerable delays and understandable lack of confidence of the private sector in the construction permitting process. Authorities should take immediate action to ensure that the transfer of functions is complete as soon as possible.

2. Improve coordination and exchange of information between the different departments of the Ministry of Lands and, more generally, among all agencies involved in the building permitting process. After the recent transfer of the building permitting functions from the Ministry of Works to the Ministry of Lands that took place in the late spring of 2018, the Ministry of Lands has become the primary

⁴⁴ It accounts for a quarter of the overall ranking for Dealing with Construction Permits indicator.

stakeholder permitting in the construction permitting process in Sierra Leone.⁴⁵ In spite of this reform, coordination among the departments of the Ministry of Lands involved in the construction permitting process (Survey Department, Building Control Authority Department, Inspections Department, etc.) has not yet translated in any significant benefit for the end-user⁴⁶. Lack of coordination also extends to the other agencies involved in the construction permitting process - such as National Revenue Agency, Land Registry, and Sierra Leone's Road Authority, and Guma Valley Water Company - whose databases and maps are not always up to date with those maintained by the Ministry of Lands. As Sierra Leone moves towards a more efficient building permitting system, the different agencies involved in the process should increase their coordination efforts, establishing protocols for the automated exchange of information in a standardized and streamlined manner.

3. Map and analyze the current water connection process at the Guma Valley Water Company (GVWC) and identify ways to streamline it. In Sierra Leone, half of the time necessary to deal with construction permits is spent in obtaining a connection to the water system. According to the Doing 2019 report, obtaining a connection to water takes more than three months (more specifically: 92 days). Interviews with private sector practitioners in January 2019 confirmed the Doing Business report findings: after the applicant purchases and completes the application form and submits it to Guma Valley Water Company (GVWC), the utility conducts an inspection to assess the connection's feasibility and prepares a cost estimate of materials and work. Usually, the inspection takes place a month after the application has been submitted, with the final connection taking place only two months later. Although the cause of the delays seem to reside in the lack of infrastructure and low capacity of the personnel involved, a detailed analysis of the procedures taking place at GVWC might provide some short-to-medium term solutions that might help streamline the process, thus making it more efficient.

4. Make building laws and regulations available to the public for free. Sierra Leone currently scores only 1 point out of 2 possible point on the Doing Business quality of building regulations index – which measures the accessibility and transparency of building regulations. This is because - although building requirements, required preapprovals and fees are clearly specified in the regulations - such regulations and the relevant building laws are not freely accessible to the public and must be purchased from the authorities. This lack of transparency leads to higher rates of rejection for incomplete applications, unnecessary back-and-forth interactions between the entrepreneurs and the administration, and ultimately lengthens the applications' processing time. The fact that applicants do not have easy access to the information needed to hold the administration accountable may also foster informality and corruption. Making the process more transparent could potentially cut the cost and time to obtain a construction permit for developers in Sierra Leone. Recent research shows that easier access to regulatory information is associated with greater regulatory efficiency, lower compliance costs, and better regulatory quality for businesses.⁴⁷ Aware of the benefits of transparency, Kenya, Lesotho and Rwanda have taken important steps to improve the quality and quantity of information available for those who operate in the construction industry. Examples abound. Starting from 2017, for instance, the Gabon Planning Authority (*Agence Nationale de l'Urbanisme des Travaux Topographiques et du Cadastre - ANUTTC*) has made building regulations, fees to be paid and

⁴⁵ It is estimated that eleven of the 17 procedures necessary to deal with construction permits will fall under the jurisdiction of the Ministry of Lands. The estimate is based on conversations with the private sector practitioners and public officials that took place in January 2019. At the time, it was widely assumed that the transfer of functions from one Ministry to another had not yet translated in any significant change in the standard operating procedures used by the public officials in charge of the procedures necessary to deal with construction permits.

⁴⁶ This is also because some departments are de-facto not yet fully established, or not functional.

⁴⁷ World Bank Group. Doing Business Unit. 2012. How Transparent is Business Regulation around the World? Washington, DC.

requirements to obtain a building permit available online on its website (<http://anuttc.ga/index.php>). Similarly, in 2018 Burundi has made building regulations - including the building code and the list of required documents to request a building permit available on the website "www.investburundi.bi".

5. Consider charging lower fees for small projects presenting no risk to public health and safety.

Dealing with construction permits in Sierra Leone is a comparatively expensive endeavor. According to Doing Business 2019, the costs associated with completing the procedures to legally build a simple 1,300-square meter commercial warehouse in Freetown amount to 21.4 per cent of the warehouse value. In Nairobi the same process costs 4.7 per cent of warehouse value; in Lusaka 2.6 and Conakry just 1.5 per cent. In order to reduce the burden on small entrepreneurs, Sierra Leone authorities should assess the feasibility of introducing smaller fees for the building permit for simpler buildings that present no risk to public health and safety. Since the cost of providing services is not directly proportional to the area or cost of the building, larger projects with more substantial building fees could subsidize smaller ones.

Medium-to-long term reform recommendations

6. Update Freetown’s master plan and zoning regulations with specific areas schemes. The masterplan and zoning maps of Freetown have not been updated since the 1980s. Given the impressive growth of the city in the past 20 years, they are therefore outdated and of very limited value. As a result, building permits are currently granted based only on very simple considerations - such as building orientation and road access - that do not take into account the overall development of the districts and of the city as a whole. Updating the city’s master plan and zoning regulations would address the issue of unplanned settlements, help manage urban development, improve public safety and greatly increase the efficiency of the construction permitting process. In the medium to long term, it is recommended that Freetown updates its master plan with clear zoning regulations and requirements (setting different categories, commercial, residential, industrial – with specific rules for each purpose). The master plans should be easily accessible and integrated with the planning permissions and construction permits online application platform to ensure that new buildings comply with zoning regulations. Clear zoning rules make it easier for both investors and authorities to determine which activity is allowed and where. Furthermore, clear and up-to-date zoning regulations also reduce the need for multiple interactions with the authorities, minimize back-and-forth interactions with the permitting agency, and reduce the possibility of outright rejections for non-compliance. Obtaining a permit where up-to-date zoning rules are in place is both faster and more efficient. An updated zoning plan should, in fact, create a straightforward and predetermined “right to build” when a building project is in compliance with zoning requirements⁴⁸.

7. Review, finalize and implement the Draft Building Control Act and Building Control Regulations.

The building process in Freetown is regulated by the Freetown Improvement Act (FIA) of 1960, amended in 1961. The FIA (1961) provides the basic components of the construction permitting system and are complemented by the Freetown Improvement Rules, which set out the technical requirements. This legislation, which is based on previous laws, does not apply outside the capital of Sierra Leone and does not address modern building techniques. As a result, both private sector professionals and public officials commonly refer to British technical standards to fill the regulatory gaps in their day-to-day practice.

A revised Draft Building Control Act, together with its implementing Building Control Regulations is now being considered for implementation. A previous version of the Act, issued in 2015, was reviewed by the

⁴⁸ World Bank. 2013. *Good practices for construction regulation and enforcement reform: guidelines for reformers*. Investment climate. Washington DC: World Bank.

<https://hubs.worldbank.org/docs/imagebank/pages/docprofile.aspx?nodeid=17647713>

WBG IFC and considered to be “*modern in structure, well-drafted and incorporating many important elements of a high-quality construction permit system*” although in need for significant “*corrections and revisions*”. The most recent version of the Building Control Act available to the public, dated 2016, seems not to have addressed such comments. Moreover, the legislation seems to be oblivious of important elements of a modern construction permitting system. These include:

- The introduction and use of ICT technologies. For instance, the draft Act mandates applications for building permits to be submitted by “a notice in writing”.
- A modern risk-based approach to approvals and inspections based on the buildings’ footprint, its size and height, and intended purpose.
- The involvement (and responsibilities) of the private sector (architects, engineers, investors, and construction companies) in the construction permitting process. For instance, the Draft Act does not require the architect or engineer who prepared the plans to certify the building permit applications or to be insured against structural defects.

It is recommended the latest version of the Draft Building Control Act and Building Control Regulations to be reviewed in consideration of the above-mentioned concepts and taking into account the following reform recommendations and best practices.

8. Set up a professional accreditation system for professionals in charge of verifying construction plans and supervising construction works. Architects and engineers interviewed in January 2019 reported that in Sierra Leone anyone can submit a construction permit application and obtain a permit on that plan. The same happens for professionals who are authorized to supervise construction on the ground.⁴⁹ As a result, Sierra Leone scores 0 points out of 4 in the Doing Business 2019’s professional certifications index. To further improve quality and public safety, Sierra Leone could review the existing (or draft) legislation on the matter – the Freetown Improvement Act of 1960, the Professional Engineers Act of 1990, the Architects’ Act of 1986, and the Draft Building Control Act – and assess their current deficiencies, contradictions and loopholes.⁵⁰ In addition, Sierra Leone should consider creating a professional accreditation program aimed at improving the technical competency and ethical standards of practice of construction professionals who review drawings or supervise construction sites. The program could deliver professional accreditation based on global best practices and should be based on a wide consultation process with stakeholders in order to build consensus. More specifically, it is good practice to:

- Require professional responsible for verifying that the architectural plans are in compliance with the building regulations to have a minimum number of years of practical experience, to have a university degree (a minimum of a bachelor’s) in architecture or engineering, and to either be a registered member of the national order (association) of architects or engineers or pass a qualification exam.
- Require the professional who conducts the technical inspections during construction to have a minimum number of years of practical experience, to have a university degree (a minimum of a bachelor’s) in engineering, and to either be a registered member of the national order of engineers or pass a qualification exam.

⁴⁹ The draft Building Control Acts and the Building Control Regulations do not seem to introduce any improvement in this regard.

⁵⁰ The Freetown Improvement Act of 1960 does not mandate for building plans to be certified by the developer, an architect or an engineer as for their compliance to the existing building standards.

9. Amend the law specifying which parties may be held responsible for structural flaws once the building is in use and introduce mandatory insurance requirement to cover structural defects. When defects are discovered during construction, they are more likely to be easily remedied. But defects are often discovered only after the building has been occupied. Remedying defects at that stage can be both costly and time-consuming. So, it is important that the responsible party be held liable and that the parties involved in the building design, supervision and construction obtain insurance to cover the costs of any structural defects. In Sierra Leone, the law does not define which parties are responsible once the building is in use nor mandates any party to obtain insurance to cover for structural flaws or problems that happen after the building has been legally occupied. As a result, Sierra Leone scores 0 out of 2 points in the Doing Business 2019's liability and insurance regimes index.

Having clear standards to determine liability for problems occurring after the completion of construction and an insurance to cover the costs that arise from structural defects benefits clients as well as contractors and encourages more construction, particularly for small and medium-size construction companies. While many advanced economies also lack specific legal provisions related to insurance, they typically have standard contractual clauses that set the liability regime and insurance requirements for structural defects. In order to align itself to good international practice, Sierra Leone should define which parties are held legally liable for structural defects and which are required to obtain insurance policies to cover damages caused by defects. In doing so, Sierra Leone can follow the examples of Denmark, France and Togo. In Denmark, the mandatory decennial insurance is required for construction of new permanent dwellings. The municipality checks the validity of insurance before the issuance of the building permit and after the completion of construction, when issuing the occupancy permit. In France, the same requirement applies to all new buildings, regardless of the functional purpose,⁵¹ and has two levels – insurance covering defects in the constructed property (*dommage ouvrage*) taken out by the owners of the building, and decennial insurance taken out by constructors to cover possible structural flaws. On December 2017, Togo passed the “Inter-ministerial decree N°1719 regarding the liability of constructors” which stipulates that the constructor - any architect, entrepreneur, engineer, consulting company (*bureau d'études*) or any other party taking part in the conception, completion or the supervision of the construction or linked to the owner by a contract - is held liable towards the owner for structural flaws or problems in the building once it is in use. The same decree also stipulates that the architect and the project owner are required to obtain an insurance policy to cover possible structural flaws or problems in the building once it is in use.

As a first step, Sierra Leone could introduce voluntary mechanisms. A public-private partnership between the government and the construction association could then identify the most relevant cases for decennial insurance and develop standard contractual clauses. Alternatively, the mandatory decennial insurance requirement could be introduced only for major projects. For example, Italy has introduced compulsory decennial insurance for public procurement projects exceeding 10 Million Euros.⁵²

10. Consider streamlining the building permitting process by eliminating redundant requirements and adopting a sounder approach to risk-based approvals and inspections. Construction regulators pursuing a robust reform agenda consistently integrate an element of risk management into their building-

⁵¹ Except those listed in the art. L243-1-1 of the Insurance Code.

⁵² Consortium formed by Centre d'Etudes d'Assurances (CEA) and Centre Scientifique et Technique du Bâtiment (CSTB) (2010). Liability and insurance regimes in the construction sector: national schemes and guidelines to stimulate innovation and sustainability. Paris: ELIOS.

controls systems to allocate resources better and to improve regulatory outcomes.⁵³ It is therefore recommended to conduct a risk assessment of the stock of buildings in Freetown, which would serve as basis for a risk-based system for building permits applications and pre/post construction inspections, and a review of existing construction regulations to differentiate areas that warrant more attention and direct controls from the building authorities from those that warrant less. This exercise would allow the competent authority to streamline and prioritize the issuance of building permits in a responsible manner. It would also provide the basis for actions that could reduce the procedures and the time to obtain building permits in the future.

Modern best practices have established risk categorizations typically associated with the footprint of the building, the building's size, and its intended purpose. This classification determines the level of checks required for each building type and creates a predictable framework for building authorities and building professionals. See Box 3.2.1 below for the risk-based classification of buildings in Ontario, Canada.

Box 3.2.1 - Experience of Ontario (Canada) in developing a risk classification (key principles, not exhaustive):

- Buildings under 100 sq. ft. don't require a building permit;
- Most “small buildings” up to and including 3 stories and 6,000 square feet in total (gross) floor area do not require professional design (by an architect and or engineer). Residential buildings within this size category for example do not require automatic sprinklers or fire separations;
- Some higher risk “small buildings” such as “assembly buildings” (theatres) and higher occupancy industrial buildings within the size category of small buildings;
- “Large buildings” over the small building threshold, require professional design;
- “High buildings” which are buildings above 18 meters (about 60 feet or six stories) from the grade level (ground level) require fire fighters elevators, pressurized stairwells, and other measures for fire safety (these buildings are harder to get out of because of height therefore they need extra provisions);
- Certain additional requirements apply to assembly buildings, high hazard industrial uses and care facilities such as nursing homes that have less mobile occupants;
- Post-disaster buildings such as police stations and hospitals, and water treatment plants (that must provide public services in the event of a severe event (seismic, wind etc.) must be constructed to withstand higher loads (large buildings are designed to the 50 year wind load whereas post disaster buildings are designed to this load with a further safety factor referred to as an “importance factor” which means that in effect it can withstand a more severe event than a 50 year storm (an event that has a chance of being exceeded of 1 in 50 in any given year).

Today, only 18 countries have risk-based inspections mandated by law.⁵⁴ One of them is Rwanda. On May 2017, the Executive Secretary of Kigali City signed off the ministerial instructions and the public notice, which was published in the official gazette No. 19. The notice provides instruction regarding determining inspection of type of buildings in relation to their anticipated risks, and clearly outlines the building classifications and provides a risk matrix. In the European Union, the European Standard EN 1990 sets three “Consequence Classes” determined by the risks to users as well as social and economic consequences

⁵³ World Bank Group, Investment Climate Department. 2013. *Good Practices for Construction Regulation and Enforcement Reform: Guidelines for Reformers*. Washington, DC: World Bank Group.

⁵⁴ Doing Business database.

(Figure 3.2.1). Each category requires a different and proportionate degree of scrutiny from building authorities.⁵⁵

Figure 3.2.1 - EN standard 1990. European approach to risk categorization, using “Consequence Classes”⁵⁶

Definition of <i>Consequences Classes</i>		
Consequence Class	Description	Example of Buildings and Civil Engineering Works
CC3	High consequence for loss of human life; high consequences for economic, social, or environmental consequences	Grandstands, public buildings where consequences of failure are high (e.g., a concert hall)
CC2	Medium consequence for loss of human life; considerable economic, social, or environmental consequences	Residential and office buildings, public buildings where consequences of failure are medium (e.g., an office building)
CC1	Low consequence for loss of human life; small or negligible economic, social, or environmental consequences	Agricultural buildings people do not normally enter (e.g., storage buildings), greenhouses

Control at the Design Stage (Design Supervision Levels, or DSL)		
Design Supervision Levels	Characteristics	Minimum recommended requirements for checking of calculations, drawings and specifications.
DSL3	Extended supervision	Third party checking: Checking performed by an organization different from that which prepared the design
DSL2	Normal supervision	Checking by different persons than those originally responsible and in accordance with the procedure of the organization
DSL1	Normal supervision	Self-checking: Checking performed by the person who has prepared the design

Controls by Inspectors (Inspection Levels or IL)		
Inspection Levels	Characteristics	Requirements
IL3 Relating to RC3	Extended inspection	Third-party inspection
IL2 Relating to RC2	Normal inspection	Inspection in accordance with the procedures of the organization
IL1 Relating to RC1	Normal inspection	Self-inspection

Other jurisdictions have combined the use of risk-based approvals with the provision of fast-track options. For example, for small, low risk projects, developers of commercial buildings in Ontario, Canada, can opt

⁵⁵ See for example the Guidelines of the Government of Queensland Australia on inspections depending on the risk category of buildings. <http://www.hpw.qld.gov.au/SiteCollectionDocuments/guidelines-inspection-of-class-2-to-9-buildings.pdf>

⁵⁶ Source: European Union, as summarized in “Good Practices for Construction Regulation and Enforcement Reform. *Guidelines for Reformers.*” Investment Climate, World Bank Group, January 2013, p. 17.

for the “Commercial Xpress” permit review process which takes just 10 days.⁵⁷ A similar procedure is in place for further construction works in existing residential buildings. Under Article 10 of the new building code, anyone who intends to construct a building may choose to apply for a fast-track procedure. Similar fast track procedures exist in the United States. For example, the New York City Department of Buildings (DOB) offers a fast-track service for simple projects called the Professional Certification Program, as it relies on self-certification mechanisms by certified private practitioners. In these cases, the process of DOB examination and approval of plans is eliminated, although the application must go through the same pre-filing payment and data-entry process as normal applications. In addition, 20% of all applications will have an audit within 10 days of the building permit issuance.⁵⁸ As a general rule, fast-track options should only be implemented where regulations clearly spell out the requirements and enforcement is strong. This can avoid risks associated with structural flaws, as well as corruption

11. Introduce a single online window for online application and approval of construction permits. In Sierra every process and transaction in construction permitting is paper-based. Once the relevant e-government legislation has been introduced, the authorities could consider creating a comprehensive automated system for all construction-related clearances and permits. The deployment of new technologies can help Sierra Leone “leapfrog” to a more efficient and transparent building regulatory apparatus. New technologies, such as web and SMS-based tracking and notification systems as well as e-applications (e.g. web-based software applications), can bring automation which can substantially improve efficiency in construction-permitting administration as well as increase formality and compliance with safety requirements. Automation will require transparency with respect to regulatory agency approval processes and documentary requirements. Such a system could include:

- Online submission of applications for planning permits, construction permits, renewals, appeal processes, inspections, certificates of completion;
- Online tracking of applications;
- Comprehensive database pertinent to construction permitting processes that shall include: legacy data of construction permit approval, renewal, rejection, related inspections, related appeals, and completion certifications; This should also include database of registered vendors/ architects’ information;
- Automated workflow capabilities for construction permit approval, renewal, carrying out inspection activities such as planning, scheduling, risk assessment, documenting visit checklists, reports and actions, communication with business via e-mail or SMS, etc. and completion certification;
- Analytical Reporting;
- Document management and archiving capabilities to handle attachment uploaded to the system.

Several countries already have such computerized systems in place. Developers in Austria, Denmark, Iceland, Norway, Portugal and the United States can complete their building permit applications online. In Singapore, the data management system, established in 2001, enables easy access to information needed for obtaining a building permit, it allows on-line submission of plans, and it facilitates efficient permit processing. Today, builders regularly receive updates on the status of their application either by e-mail or

⁵⁷ The following projects qualify for the Commercial Xpress service: interior alterations to assembly, business, industrial, office and retail uses, up to 300m² in area, no change of use, no change in patron area for restaurants, tents, and minor fire damage repair For more information on the project based building permitting procedures in Ontario, please visit: <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=e7c14b1c296c0410VgnVCM10000071d60f89RCRD>.

⁵⁸ For more information, please visit: <http://www1.nyc.gov/site/buildings/industry/professional-certification.page>

text messaging. As a result, the time for dealing with construction permits has been reduced by two-thirds. This reform saves time for builders and government officials alike. In addition, developers can pay the fees by using an online system called CORENET. In 2009, Egypt introduced a single window for processing construction-related approvals. In September 2011, Kenya implemented a web-based software application to automate plan review procedures and delivery of construction and occupancy certificates, also complemented by a web and SMS-based tracking and notification system. Before this reform, it used to take 6 months for a building permit approval, it now takes 30 days and intermediaries have become redundant (see Box 3.2.2).

Box 3.2.2 - Key features of a new online platform introduced by Kenya in 2011

- Online registration of building professionals/property developers
- Online submission of building plans
- Workflow management – concurrent review/evaluation
- Online issuance of permit upon approval
- Document management and archival (no storage constraints)
- Support for field inspections using mobile devices
- Client interactions - SMS/email notifications & online tracking
- Management reporting & oversight

Automation, unlike the other reforms, would require substantial technical hardware investments. In addition, it should be noted that in order to reap the full benefits of automation and new technologies, prior initiatives must be undertaken. Before implementing automated solutions, it is advisable to review the existing legislation and reengineer the issuance of building permits based on international best-practices (see recommendations above).

12. Implement a robust GIS system including appropriate access for the private sector. A Geographic Information Systems (GIS) is an integrated system of computer hardware, software, and trained personnel capable of assembling, storing, manipulating, and displaying topographic, demographic, utility, facility, image and other resource data that is geographically referenced. To be fully functional, the implementation of a robust GIS must be linked to the appropriate Master Plan. The accessible maps should contain all relevant zoning, infrastructure and construction information to allow designers to proceed with their plans without having to contact authorities for further details (Box 3.2.3). If the Sierra Leone authorities introduced a robust and detailed GIS system, applicants who produced their conceptual drawings electronically with a CAD⁵⁹ system may be in a position to overlay these plans with the zoning, planning and utility requirements captured in the GIS system and, in certain circumstances (mainly low risk applications), this may be able to have the effect of pre-approving some elements before being checked by Ministry of Lands and the utility companies in order to make savings in processing time.

⁵⁹ CAD (or Computer-Aided Design systems) are combinations of hardware and software that enable engineers and architects to create, modify, analyze, and optimize their designs.

Box 3.2.3 - An example of the GIS system in North Shore City Council, Auckland New Zealand

Key to the success of the NSCC GIS program has been their commitment to distribute access to the map data and associated council information to the various stakeholders. The online 'GIS Viewer' initiative has been especially well-received. Anyone with access to a standard web browser can create their own maps from available data including color aerial images, boundary lines, water pipes, manholes, hydrants and even property values and zoning information. North Shore City Council can have anywhere from 500 up to 10,000 maps being produced in a single day, typically from house hunters. Real estate agents, surveyors, designers, architects and lawyers are also high users.

Source: North Shore City Council

3.3. Registering Property

Registered property rights are important to support investment, productivity and growth.⁶⁰ Research suggests that property owners with secure ownership are more likely to invest in private enterprises and transfer land to more efficient users. The ability to access authoritative information on land ownership also reduces the transaction cost in financial markets, making it easier to use property as collateral.⁶¹ Land registries, together with cadasters that identify the location of a property, are institutions used around the world to map, prove and secure property rights. These institutions are part of the land information system of an economy. With land and buildings accounting for between half and three-quarters of the wealth in most economies, having an up-to-date land information system matters.⁶² The benefits of land registration go beyond the private sector. For governments, having reliable, up-to-date information in cadasters and land registries is essential to correctly assess and collect tax revenues. With up-to-date land information, governments can map out the varying requirements of their cities and strategically plan the provision of services and infrastructure in the areas of each city where they are most needed.⁶³

International experience also shows that a unified computerized registry with clear titles is one of the main features of an effective property registration system. A unified computerized registry would make information and procedures available online, offer expedited procedures, low transaction costs, set reasonable transfer fees, and respect effective time limits to complete the property transfer process. In countries with the most efficient property registry systems, such as Norway, New Zealand and Denmark, a single agency oversees all property transfers and registration. In Norway, for example, the Norwegian Mapping and Cadaster Authority maintains a single registration office for the entire country. Property registration can be done in 1 procedure and 3 days. The application is easily accessible online. In Denmark, Norway, Portugal, Belgium and New Zealand, the transfer can be done electronically. In Italy and Poland, there are strict time limits to complete property transfers, but these have been implemented along with streamlining procedures through reorganization and computerization.

The Doing Business “Registering Property” indicator records the full sequence of procedures, time and cost necessary for a business to transfer a property title of a land and a building to another business in Freetown. In addition, it presents an index of the quality of the land administration system in each economy, based on four dimensions: reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution (Figure 3.3.1). Sierra Leone currently ranks 167th out of 190 economies in the ease of registering property and 37 out of 48 economies in the Sub-Saharan Africa region, with an overall DB score of 43.50 percentage points. Registering property in Sierra Leone takes 7 procedures, 56 days and costs 10.7% of property value. The score on the quality of the land administration is of only 6.5 points out of 30 (Table 3.3.1).

⁶⁰ Claessens, Stijn and Luc Laeven, Financial Development, Property Rights, and Growth, *Journal of Finance*, 58 (6): 2401–36, 2003.

⁶¹ Simon Johnson, John McMillan, and Christopher Woodruff, Property Rights and Finance, *The American Economic Review*, Volume 92, Issue 5, Pages 1335-1356, December 2002.

⁶² World Bank. 1989. *World Development Report 1989*. New York: Oxford University Press.

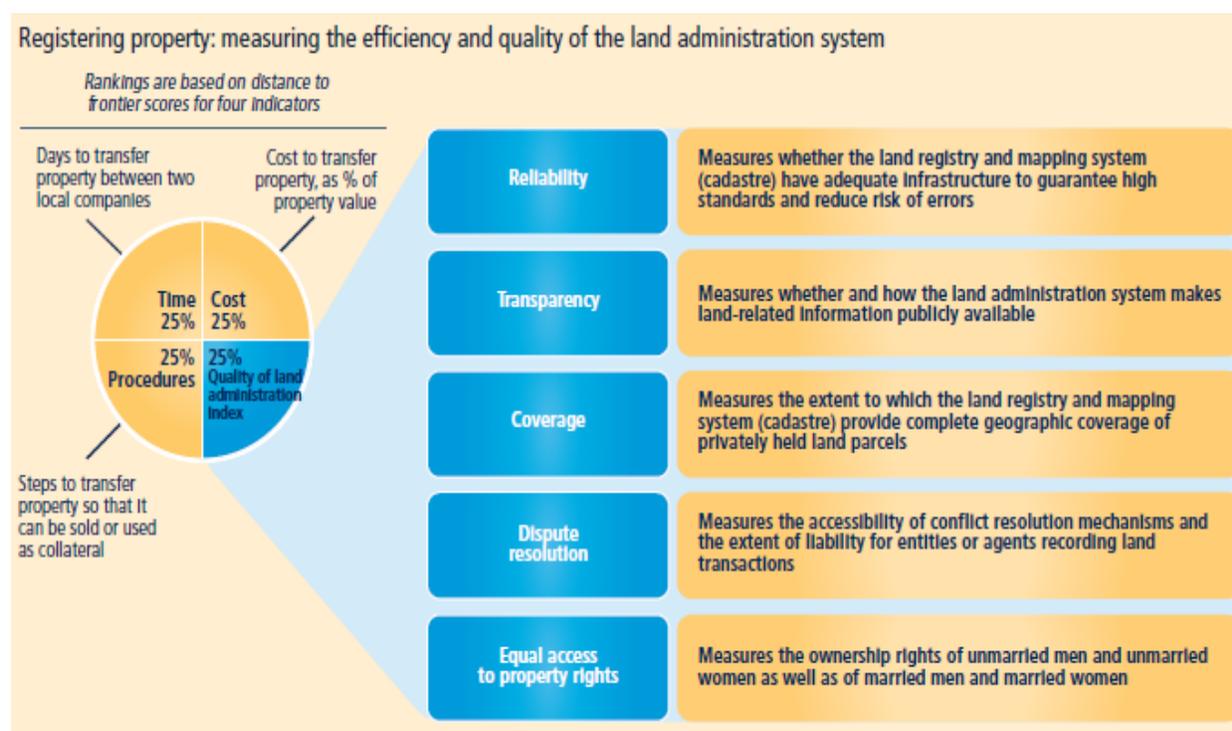
⁶³ Property information held in cadasters and land registries is part of the land information available to governments. Land information also includes other geographic, environmental and socioeconomic data related to land that are useful for urban planning and development.

Table 3.3.1 - Registering Property rankings and best performers

<i>Doing Business Indicator</i>	Sierra Leone	Regional Average	Regional best performer	Global best performer
Procedures (number)	7	6.3	3 (Rwanda)	1 (4 economies)
Time (days)	56	53.9	7 (Rwanda)	1 (New Zealand)
Cost (percent of property value)	10.7	7.6	0.1 (Rwanda)	0 (Saudi Arabia)
Quality of land administration index (0-30)	6.5	8.8	28.5 (Rwanda)	28.5 (5 economies)

Source: *Doing Business 2019 database*

Figure 3.3.1 - Registering Property: Measuring the efficiency and quality of the land administration system



Source: *Doing Business 2019 website*

A disclaimer on the scope of this chapter

Land administration in Sierra Leone is complex and inefficient. A dual land tenure system linked to the colonial period remains in effect. Given the scope of this document, which is primarily based on the WBG Doing Business indicators, the focus of the following reform recommendations is primarily on actions to improve the ease of registering property in Freetown and in the Western Area. A comprehensive,

nation-wide reform of the Sierra Leone's Land Administration system will require a more extensive analysis, which should also include considerations relating to the improvement of land registration practices and recording of customary land tenure rights in the Northern, Eastern and Southern Areas.

Short-term reform recommendations

1. Improve the accountability and transparency of the Western Area land administration system by a) publishing relevant fee schedules and making them available for free; b) collecting and disclosing information on the number of real estate transactions; c) introducing standards for service delivery; and d) creating a specific and separate mechanisms to lodge complaints relating to problems occurred at the Surveys and Lands Department and at the Office of the Administrator and Registrar General (OARG). Transparency is a key element in the quality of land administration systems. It helps eliminate asymmetries in information between users and public officials and increases the efficiency of the land market.⁶⁴ A transparent land administration system—one in which all land-related information is publicly available, all procedures and property transactions are clear, and information on fees for public services is easy to access—minimizes the possibilities for informal payments and abuses of the system itself. One powerful consequence of transparency is accountability: information gives citizens the power of knowing what to expect and whom to hold accountable in case things go awry.

In Freetown, anyone who pays a fee can consult maps of land plots held at the Surveys and Lands Department of the Ministry of Lands, Country Planning, and the Environment. Although this may seem optimal, in practice the applicable fees for accessing the maps are not easily accessible and can be only be obtained by visiting the premises of the Surveys and Land Department in person. In addition to the lack of transparency in relation to applicable fees, private sector practitioners interviewed in January 2019 report that the quality and timeliness of the services provided by the Survey and Lands department is unpredictable. Once the fees have been paid, there is no guarantee that the updated maps will be delivered within a specific timeframe. Processing of applications can take weeks, or months, and often require a lot of follow-up with the officials in charge and no way of filing complaints about subpar services.

The situation is considerably better when it comes to property deeds that are held and the Office of the Administrator and Registrar General (OARG). In this case, applicable fee schedules together with lists of documents necessary to complete property transactions are made publicly available through a website⁶⁵. In the same website, OARG also commits to standards of service delivery with its customers, although it is not possible to lodge complaints if the services provided do not abide by such standards. Also, OARG does not publicly disclose the number of property transaction occurring during the year.

Sierra Leone authorities could act to address these problems and ensure greater transparency and accountability for both agencies. The first step could be to ensure that the all fee schedules for accessing maps of land plots are made publicly available both through billboards and online. This measure could be accompanied by the introduction service standards for all the services provided by the Survey and Land Department. In parallel, statistics about the total number of property transfers in Freetown should be consolidated to keep track of the time required to process each application. These statistics should then be

⁶⁴ One definition of a transparent business environment is one in which individuals possess essential information about the environment in which they operate, meaning that information asymmetries do not place an unjustifiable burden on them (OECD 2002).

⁶⁵ For more information, please visit: <http://www.oarg.gov.sl/Land%20Registry.html>

made publicly available and updated regularly by OARG. After that, both the Survey and Land Department and OARG could introduce specific and separate mechanisms for filing complaints in relation to the services provided to citizens and businesses.

In the United Kingdom, the Independent Complaints Reviewer (ICR), created in 1998, has the authority to review, investigate and propose redress for complaints submitted specifically regarding the services provided by the Land Registry. The ICR provides an entirely independent complaints review service to the Land Registry. If a complaint is upheld, the ICR sends actionable recommendations to the land registry to improve its procedures and may even grant compensation for the inconvenience and distress caused to the citizen. Singapore, one of the top-performing economies in registering property, has created an online system allowing anyone to access not only information about fees and list of requirements, but also information on service delivery standards of both the cadaster and at the land registry (Figure 3.3.2). Service standards at land registries are rare: land registry users are not aware of any specific time limits promulgated by law in economies covered by Doing Business. However, economies that do not establish service standards, such as specific time limits, tend to complete property transfers less efficiently (Figure 3.3.3).

Figure 3.3.2 - Example of service delivery standards at the Singapore Land Authority website

Service Standards

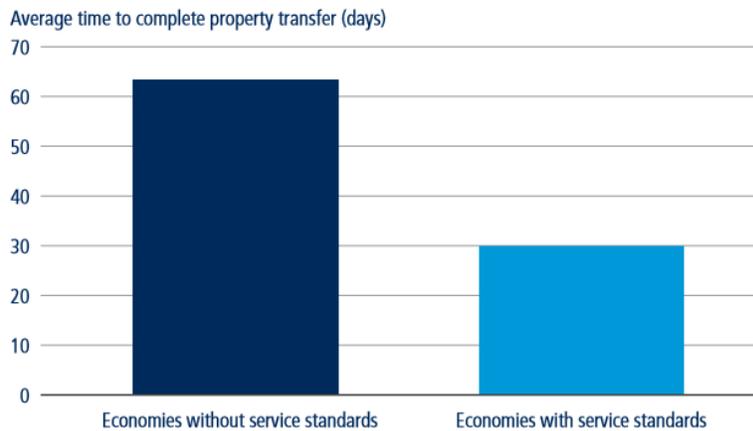
We are committed to serving the public with empathy and sincerity. We will strive to deliver reliable, responsive and result-oriented service at all times. We will continuously improve our processes, and review our policies to build a pro-enterprise regulatory environment.

Our list of service standards is our service commitment to you. However, we seek your patience and understanding if more time is required for more complex cases.

SLA Core Functions	Service Category	S/N	Service/Process	Service Standards		
Registration of Property Transactions		7)	Registration of private property documents/instruments (except for cases affected by statutory time imposed)	within 7 working days (if in order)		
		8)	Registration of HDB documents/instruments (except for cases affected by statutory time imposed)	within 14 working days (if in order)		
		9)	Issuance of new certificates of title a) Pursuant to issue of state titles	within 1 working day		
		10)	Issuance of new certificates of title b) Pursuant to applications (except for cases affected by statutory time imposed)	within 12 working days (if in order)		
		11)	Notification of caveats	within 1 working day (if in order)		
		12)	Issuance of clearance certificate	within 3 working days (if in order)		
		13)	Cancellation of clearance certificate	within 15 working days		
		14)	Fax/Post image of leases, instruments, books and deeds in microfilm format	within 1 working day (For requests made before 3pm)		
		SLA Overall	General Enquiries	15)	Response to Public enquiries and feedback	within 3 working days for general enquiries within 14 working days for case-specific enquiries

Source: Singapore Land Authority website

Figure 3.3.3 - Economies that publish effective time limits tend to be more efficient in completing property transfers



Source: *Doing Business 2018*.

2. Collect and compile statistics on land disputes and make them freely available to the public.

Currently, the High Court of Sierra Leone does not publicize the number of first-instance cases resulting from land disputes. When land disputes occur, it is important to ensure that they clear the courts quickly so that citizens' resources are not perpetually tied up in the legal system. The availability of statistics on the number of first-instance land disputes is a measure of the quality of the land administration system. Such statistics help citizens learn about the true performance of the courts and offer the courts information on current bottlenecks and challenges that can stimulate future initiatives to streamline the courts' operations. Across the globe, 24 economies – including Nigeria and Rwanda- provide such statistics: Sierra Leone could follow suit.

3. Conduct an assessment of court processes and the legal framework for handling land disputes cases to identify and address underlying causes of delays.

When land disputes end up in court, an efficient legal system should be able to provide a timely resolution. According to *Doing Business*, however, obtaining a judgment in a standard land dispute between two local businesses over tenure rights of a property located in Freetown from the Sierra Leones High Court currently takes more than 3 years. In 58 of the economies benchmarked by *Doing Business*, obtaining a similar judgment from the relevant court takes less than one year. In order to tackle this problem, it is recommended to map out both the procedures required by the law and court rules, together with the processes actually implemented in the court to take a case from filing through enforcement. This exercise, which could be extended to other contract enforcement cases⁶⁶, would help identify unnecessary administrative tasks required by court staff, judges and court users as well as opportunities for improvement with (and without) legislative changes. It could also help identify needs for resource allocation to enhance court efficiency and cost effectiveness. The World Bank developed a tool for conducting such assessment that has been used a several courts in different countries, i.e. the UAE, Egypt, Serbia, Mali, Nepal, among others. Such an assessment can be conducted upon the government's request and may foster the ongoing efforts to improve the efficiency of the court proceedings undertaken by the Ministry of Justice.

⁶⁶ The *Doing Business* Road Map for Sierra Leone does not cover the Enforcing Contracts indicator. It is however worth noting that – according to the latest *Doing Business* data - enforcing a commercial contract in Sierra Leone takes more than 500 days and has a cost equal to 39.5% of claim's value.

Medium-to-long term reform recommendations

4. Review and update the existing legal framework applicable to land administration and property transfers. Transferring real estate property in Sierra Leone is cumbersome for many reasons. One of them is certainly the outdated legal framework that upholds the administrative procedures necessary to register property. The Registration of Instruments Act, which governs the execution of the sale agreement and the registration of the deed at the OARG office, for instance, was last modified in 1964 and dates back to 1906. Other applicable laws, such as the Survey Act, are also outdated and often date to the early 1960s. It is recommended that the Sierra Leone authorities carry out a comprehensive review of all laws that in order to identify ways to streamline existing administrative processes and align them to best international practice.

5. Digitize land records, maps and property deeds. In Freetown, the overwhelming majority of deed records, preserved by OARG, and the maps of land plots, preserved by Survey and Lands Department of the Ministry of Lands, are in paper format. Making property records electronic not only improves records safety, but also aids transparency and information sharing. Completing the full digitization of records both at the OARG and at the Ministry of Lands would also greatly facilitate the creation of a unified registry where land ownership, existing encumbrances, and their relative priorities can easily be determined by consulting the single registration system. “Although it will not alter the quality of underlying property rights information,” a recent World Bank study argues, “computerization can reduce the cost associated with keeping the property register up to date, eliminate informal side payments that have traditionally been associated with property registration, and improve third party access to registry information. These could potentially increase the volume of registered land transactions, reduce the level of informality, and thus improve registry comprehensiveness.”⁶⁷

Computerized records are an increasingly common practice around the world: in the past ten years, 49 countries as diverse as Estonia, Portugal, Tunisia, Rwanda, Kenya, and Zambia digitized their registries, which resulted in a cut of the average time to transfer property by half (about 3 months on average). Property registries have electronic files in over 60% of countries measured by the *Doing Business* report, while all 32 OECD high-income countries have electronic registries too. After using a paper-based land registry system for over 450 years, Denmark began digitizing its land registry in 2009. Soon thereafter, the land registry introduced electronic lodgment of property transfers. Norway and New Zealand digitized their property records between 1997 and 2002. Both countries took the next step of implementing electronic registration when digitization was complete. Registration in New Zealand can now be completed in just 2 steps and 1 day, while in Denmark it takes 3 steps and 4 days.

Mauritius and Swaziland computerized their registries in the past 10 years. In 2013 Liberia stopped writing deeds by hand and computerized its land registry – reducing the time to transfer property by 6 days. Angola, and West Bank and Gaza are others that have started to reap the benefits of years of computerization efforts at their registries. New Zealand digitized its property records between 1997 and 2002. Then it introduced electronic registration. But by 2005 only about half of property transactions were being submitted

⁶⁷ See: <http://blogs.worldbank.org/ic4d/benefits-of-land-registry-digitization>

electronically. A final push was needed. In 2008 the law made electronic registration mandatory. Registration can now be completed in just 2 steps, at a cost of 0.1 percent of the property value.

Kosovo provides an interesting example of using innovative methods to map land information (Box 3.3.1).

Box 3.3.1 - Land mapping through drones in Kosovo

In a post-conflict country like Kosovo, clear legal rights would help stabilize the situation and facilitate a return to normalcy. Since 2011, with the support of the World Bank and other development partners, the land and property sector in Kosovo has undergone substantial transformation. The Kosovo Cadaster Agency (KCA) has made considerable progress in introducing a modernized land administration system, securing property rights and improving the business environment. The most notable achievements include:

- a significant improvement in Kosovo's ranking in the World Bank Doing Business Index for Registering Property from 73 (DB 2012) to 33 (DB 2017);
- systematic registration and updating of cadastral information (called cadastral reconstruction) completed in 30% of the territory of Kosovo;
- increased land market efficiency with the time to register a transaction dropping by 65% from 30 days before RECAP to under 10 days as of May 2017;
- introduction of a national spatial data infrastructure (NSDI) with an NSDI Strategy approved and the establishment of a national Geoportal with access to datasets from seven institutions, including the KCA.

As part of these reform efforts the Kosovo Cadastral Agency has prioritized testing the use of innovative technology. In 2013 and 2014 KCA and the World Bank successfully piloted the use of unmanned aerial vehicles (UAVs or "drones") as a way to produce faster, fit-for-purpose spatial data (aerial photographs, orthophoto maps, and 3-D models). The pilot demonstrated how UAVs allow local map production with very high accuracy (4-8 cm) in a matter of days. In addition to maps, the technology can produce 3-D models that can be used for multiple purposes. In 2015 KCA and the World Bank continued to use drones to support the national cadastral reconstruction program. This work is the first phase of a broader task to combine UAV technology with the use of free, customizable open source registration software (OSS) that is easily deployable in the field on tablets for data collection.

The reforms are still ongoing. In 2016 the Government of Kosovo issued an order to address KCA sustainability in a new draft law on cadaster which would regulate key aspects the structure of KCA as well as possibilities for self-financing.

For more information see: <http://www.worldbank.org/en/news/feature/2016/01/07/drones-offer-innovative-solution-for-local-mapping>

6. Link the databases and systems of OARG, in charge of the registration of transfer deeds, and Ministry of Lands, in charge of mapping and survey plans, and increase integration of the property registration system in the medium term with the long-term goal of creating a unified Land Title Registry in charge of title registration, surveying, mapping, land use planning and non-judicial adjudication of land disputes. Registering and transferring property in Sierra Leone requires lengthy processes in multiple agencies which are not connected to each other. In the simple case study analyzed by the Doing Business report, these agencies include: OARG, in charge of the registration of the deed of transfer; the Ministry of Lands, in charge of survey plans and mapping; and the National Revenue Authority, in charge of assessing the taxes to be paid for each property transfer.

Currently, the immovable property registration agency (OARG) and cadastral agency (Ministry of Lands) keep separate databases and use different identification numbers for properties. Throughout these separate processes, each agency duplicates the other in information requested and records validated. There is great opportunity for sharing information and reducing the workload of each agency. In the longer run, consideration should, however, be given to the idea of creating a consolidated Land Title Registry in charge of title registration, surveying, mapping, land use planning and non-judicial adjudication of land disputes.

In the more medium term, the OARG and the Ministry of Lands should strive to increase their integration, possibly including NRA in the process. One approach would be to design and implement a streamlined and automated process in both the OARG and Ministry of Lands to receive and administer land transfer applications. The system could exchange information between the two agencies so that the land owners would not have to complete various processes twice. Such a system could also provide information on-line to parties about the status of their applications, cutting the time they spend in the agency offices following up on the status of their file.

After scanning or - better still - digitizing property-related documents, it is recommended that the Government of Sierra Leone link the different databases to create a unified registration database in the first instance, and a single window interface in a second stage. An automated land information sharing system should have an integrated approach so that a person searching the database can obtain all the information pertaining to the land at one glance: ownership rights, registration, mutation, transfer, disputes, judicial cases, land map, taxes paid and pending, liens and other legal documents. Having all records related to the property digitized and linked would serve the purpose of having all records combined into the same files, so that they are automatically updated with every transfer transaction.

7. Implement an electronic database covering all interests in land, including financial encumbrances (e.g. liens, mortgages, restrictions and the like). Although not fully captured by the Doing Business indicator, in Sierra Leone the due-diligence process relating to encumbrances and claims can be considerably long.⁶⁸ This is particularly true for cases where the information at the property registry (OARG) is paper-based and handwritten. A reliable land administration system provides clear information on the ownership of property, supports the security of tenure and facilitates the development of a land market. One key element to fulfilling these functions is to have in place the infrastructure needed to maintain land information, supported by an appropriate institutional framework and adequate capacity. A common element of reliable systems is the existence of a consolidated database with information on property ownership and encumbrances. An electronic database for encumbrances can quickly show whether there is a mortgage or other charges on a property or any other limitations that would impede its sale to a third party. At present, 106 economies around the world have an electronic database for rights and encumbrances. Sierra Leone is not one of them. Creating an electronic database for encumbrance would be the natural step following records digitization.

8. Provide a state guarantee over property registration and introduce a specific compensation mechanism to cover for losses incurred by parties who engaged in good faith in a property transaction based on erroneous information certified by the land registry. Most countries benchmarked by Doing Business have a property registration system backed by a state guarantee. Sierra Leone is not one of them.

⁶⁸ Doing Business -which captures the ease of registering property through a simple standardized business scenario - estimates that a due-diligence procedures aimed at verifying the seller's title and property incumbrances can carried out at OARG in just 5 days. However, interviews with law firms carried out in January 2019 revealed that, depending on the location of the property and the complexity of the case, the process may take much longer and often involves written requests to commercial banks operating in Sierra Leone to confirm that the property to be transferred has indeed no encumbrances.

Furthermore, the country does not have a specific compensation mechanism to cover for losses by parties engaged in good faith in property transactions based on erroneous information provided by the land registry (OARG). The most advanced forms of guarantee indemnify individuals for losses suffered because of deficiencies in information provided by the registry. In Morocco, for example, the land registry has established an insurance fund that compensates losses due to errors by the registry. In England and Wales indemnity is also payable for losses incurred because of a mistake in an official search or an official copy. Sierra could consider introducing similar compensation mechanisms to align itself to international good practice in property administration.

9. Increase the geographic coverage of the Land Registry and the Cadaster. Where land registries do not provide complete geographic coverage, companies and individuals cannot be sure whether the areas not covered at the registry might be relevant to their interests.⁶⁹ For maximum effectiveness, the registry and cadaster should make records of all registered private land readily available and the records should cover the entire country. Around the world, only 27% of economies have a registry with full coverage of private land—and only 34% a cadaster with complete coverage.⁷⁰ Sierra Leone is not one of them. Several economies have increased the coverage of their land registry and cadaster by registering properties and the associated rights through either systematic adjudication or a more sporadic approach. Between 1984 and 2004 Thailand implemented one of the world’s largest land titling programs, using efficient, systematic land titling procedures and issuing more than 8.5 million titles.⁷¹ Recognized as very successful, the project has served as a model for other countries in East Asia and the Pacific.⁷² More recently, in 2014 Rwanda completed its process of regularizing land tenure, aimed at registering all land in the country. The effort required surveying all land parcels and providing land titles to all rightful claimants. It registered 10.3 million parcels through a low-cost, community-based process starting in 2010.⁷³ With the process complete, the land registry is now able to provide information on different categories of tenure, through a database searchable by parcel across the entire country.

⁶⁹ Deininger, Klaus, Harris Selod and Anthony Burns. 2012. *The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector*. Washington, DC: World Bank.

⁷⁰ UNECE (United Nations Economic Commission for Europe). 2012. *Policy Framework for Sustainable Real Estate Markets: Principles and Guidance for the Development of a Country’s Real Estate Sector*. Geneva: UNECE.

⁷¹ Burns, Anthony. 2004. “Thailand’s 20 Year Program to Title Rural Land.” *World Development Report Background Paper*, World Bank, Washington, DC.

⁷² Brits, Anne-Marie, Chris Grant and Anthony Burns. 2002. “Comparative Study of Land Administration Systems with Special Reference to Thailand, Indonesia and Karnataka (India).” Synthesis paper prepared for Asia Region, World Bank, Washington, DC.

⁷³ Gillingham, Polly, and Felicity Buckle. 2014. “Rwanda Land Tenure Regularization Case Study.” *Evidence on Demand*. doi:10.12774/eod_hd.march2014.gillingham.

3.4. Getting Credit

Doing Business covers two aspects of the regulatory framework and infrastructure that affect the availability of credit: The indicator has two major components: the availability of credit information, by the public credit registry coverage (or private credit bureau coverage), and the protection of creditor and debtor rights in collateral and bankruptcy laws. The first aspect, measured by the Depth of Credit Information Index, includes the coverage, scope and quality of credit information available through credit registries and credit bureaus. The second, measured by the Strength of Legal Rights Index, evaluate the degree to which movable property can be effectively used as collateral and the protection of creditor rights and priorities in bankruptcy.

In *Doing Business 2019*, Sierra Leone ranked 161rd of 190 countries on the Getting Credit indicator while the economy scored 25.00 percentage points on the “Ease of Doing Business” Score. Under the Depth of Credit Information Index, Sierra Leone receives 0 points out of maximum 8. This is so because the Doing Business methodology does not acknowledge any points for economies where the Credit Registry or the Credit Bureau cover less than 5% of the adult population. In Sierra Leone, the Credit Registry reported that only 1,6% of the adult population is covered by it

Under Legal Rights of Creditors Index, Sierra Leone scores 5 out of 12 possible points, meaning that the country lacks an integrated legal framework for secured transactions, and lacks a modern centralized collateral registry that covers all types of security interests in movable assets an electronic database indexed by debtor’s identifier, which would be available for incorporated and non-incorporated entities which wish to register their security interest in order to make it enforceable against third parties pursuant to the priority of registration. In addition, the rights of secured creditors during reorganization and insolvency are less protected compared to other economies which makes both recovering assets and resolving insolvency much harder. Since Sierra Leone is in the process of adopting a new secured transactions framework, there is an opportunity to modernize its regulations and align them with international best practices.

A. Credit Information

A credit reporting system is an integral part of a well-functioning credit market. Credit reporting systems help satisfy lenders’ need for accurate, credible information about the potential borrower that reduces the risk of lending and the cost of loan losses by providing a reliable indication of whether an applicant will repay a loan. The lack of credit information makes checking borrowers’ credit history an onerous and uncertain process. This raises transaction costs for banks and, ultimately, increases the cost of credit to borrowers. The lack of credit information could also result in the approval of loans based on personal connections, and not necessarily the likelihood of repayment.

Credit reporting systems are essential in facilitating access to financial services for SMEs. When comprehensive credit infrastructures are available, efficient, and reliable, the cost of financial intermediation falls; financial products and services become accessible to greater numbers of borrowers; and lenders and investors have greater confidence in their ability to evaluate

and price risk. The information captured by credit reporting systems are critical to ensuring stability in the financial markets.

Credit reporting service providers can reduce information asymmetry, thus reducing default rates, which in turn should result in lower average interest rates, customized products and services, enhanced competition in the credit market, and, ultimately, greater financial inclusion and increased access to credit for individuals as well as SMEs.

Research suggests that bank risk is lower, while profitability is higher, in countries where lenders share borrowers' information through credit bureaus and registries.⁷⁴ Well-functioning credit reporting systems can help to reduce adverse selection and moral hazard and contribute to both an expansion of credit and a reduction in lending costs by facilitating the adoption of lending technologies based on credit scoring models. The development of credit information systems is particularly important for smaller firms, given the more severe problems of information opacity and asymmetry in these cases.

Sierra Leone scores 0 out of 8 points on the Depth of Credit Information Index. As of May 2018, only 1.6 % of adults were covered by the Credit Registry, compared to an average of 7.0 % in the region (Table 3.4.1).

Table 3.4.1 - Credit information ranking and best performers in *Doing Business 2019*

<i>Doing Business</i> Indicator	Sierra Leone	Regional Average	Regional best performer	Best global performer
Depth of credit information index (0-8)	0	3.3	8 (Côte d'Ivoire, Kenya, Nigeria, Rwanda, Tanzania, Zambia)	8 (42 economies)
Private credit bureau coverage (percent of adults)	0	8.9%	29.9 (Kenya)	100 (25 economies)
Public registry coverage (percent of adults)	1.6	7.0%	9.2 (Rwanda)	100 (4 economies)

Table 3.4.2 - Credit information score in *Doing Business 2019* (even if the answer is yes, the score is 0 because the coverage is less than 5% of the population)

Depth of credit information index (0-8)	Private credit bureau	Public credit registry	Score
Are data on both firms and individuals distributed?	No	No	0

⁷⁴ Joel Houston, Chen Lin, Ping Lin, and Yue Ma, 2010. "Creditor rights, information sharing, and bank risk taking." *Journal of Financial Economics*, Volume 96, Issue 3, Pages 485–512, June.

Depth of credit information index (0-8)	Private credit bureau	Public credit registry	Score
Are both positive and negative credit data distributed?	No	No	0
Are data from retailers or utility companies - in addition to data from banks and financial institutions - distributed?	No	No	0
Are at least 2 years of historical data distributed? (Credit bureaus and registries that distribute more than 10 years of negative data or erase data on defaults as soon as they are repaid obtain a score of 0 for this component.)	No	No	0
Are data on loan amounts below 1% of income per capita distributed?	No	No	0
By law, do borrowers have the right to access their data in the credit bureau or credit registry?	No	No	0
Can banks and financial institutions access borrowers' credit information online (for example, through an online platform, a system-to-system connection or both)?	No	No	0
Are bureau or registry credit scores offered as a value-added service to help banks and financial institutions assess the creditworthiness of borrowers?	No	No	0
Score ("yes" to either public bureau or private registry)			0

Short-term reform recommendations

1. Expand the coverage of the Credit Registry by including credit data from microfinance institutions, community banks, and financial services associations. The Doing Business methodology evaluates the current access to credit information status only if at least 5% of the adult population is covered by the Credit Registry, defined as a database managed by the central bank (or a banking regulatory agency), that collects information on the creditworthiness of borrowers (individuals or firms) in the financial system and facilitates the exchange of credit information among banks and other regulated financial institutions. Doing Business 2019 reports the credit registry coverage based on the number of individuals and firms listed in a credit registry's database as of January 1, 2018, with information on their borrowing history within the past five years, plus the number of individuals and firms that have had no borrowing history in the past five years but for which a lender requested a credit report from the registry in the period between January 2, 2017, and January 1, 2018. The number is expressed as a percentage of the adult population (the population age 15 to 64 in 2017 according to the World Bank's World Development Indicators). Currently, according to the Global Findex Database⁷⁵ around 20% of the adult population in Sierra Leone has a bank account, while according to the Credit Registry only 1,6% of the adult population has a credit history available through a standardized credit report. In

⁷⁵ <http://microdata.worldbank.org/index.php/catalog/3274/study-description>

order to reach the above-mentioned threshold of 5%, Sierra Leone should expand the current coverage of its Registry by including all types of loans issued to individuals and firms. Increased coverage can be achieved by a more systematic inclusion of data from licensed financial institutions (i.e. making sure all of them report their data) but also from the inclusion of new data coming from micro-finance institutions, community banks, financial services institutions, and other non-bank financial institutions databases of issued loans.

Medium- and long-term reform recommendations

2. Implement on-line access for banks and financial institutions to the borrower's credit information (e.g. through an on-line platform, a system-to-system connection). To achieve this goal, it is necessary to upgrade the Credit Registry IT systems. The existence of reliable Credit Registry requires constant support and upgrade of IT systems not only on the side of the Bank of Sierra Leone, but also on the side of all financial sector players, including micro-finance institutions (MFIs), non-banking financial institutions (NFBIs), telecom companies and utilities, as explained in detail below.

3. Distribute at least two years of historical data (but no more than 10 years of negative historical data). When credit reporting agencies do not preserve historical information or erase negative data upon repayment, assessing credit risks becomes more challenging for lenders. Sharing information on reliable repayment allows customers to establish a positive credit history and improves lenders' ability to distinguish good borrowers from bad ones. Currently in Sierra Leone, currently all historical information is erased immediately upon payment. In Italy, a best performing country in this area of business regulation, the private credit bureau distributes information on active loans plus 3 years of historical data after the last update of closing date of the loan. Information on defaults is distributed for 24 months (if they are repaid) or 3 years (if not repaid and the loan has been closed). If arrears are of less than 2 months/2 consecutive late payments, the information is distributed for 12 months after repayment. If arrears are of a longer duration, the information is distributed for 24 months after repayment on the condition that during the last 12/24 months no other late payments occur. Interesting best practice examples can be found also in Sub-Saharan Africa. In Ghana, for instance, the private credit bureau began its operations in 2010. When it turned 2 years old, in 2012, the bureau had accumulated enough credit data to begin distributing 2 years of historical data. At the moment, the bureau preserves and distributes positive and negative data for 6 years (or 10 years in the case of criminal conviction). Similarly, starting from January 2010, the Credit Registry of Cape Verde started to provide 5 years of historical data on credit information in reports distributed to banks and financial institutions

4. Facilitate creation and expansion of private credit bureaus, amending the existing legislation where needed (e.g. Credit Reference Act 2011). A credit bureau is defined as a private firm or nonprofit organization that maintains a database on the creditworthiness of borrowers (individuals or firms) in the financial system and facilitates the exchange of credit

information among creditors. Many credit bureaus support banking and overall financial supervision activities in practice, though this is not their primary objective. Credit bureau also reports on the number of individuals and firms listed in the bureau's data base as of January 1 (of the year preceding the data collection for the purpose of Doing Business), with the same information on the borrowers as the credit registry, but for which a lender requested a credit report in the period of last calendar year. The expansion should include the scope of data gathered by the credit bureaus and develop a scoring system as described in detail below.

5. Allow the collection and distribution of additional credit information data from retailers and government agencies. The Doing Business 2019 survey tells us that only 1.6% of the adult population have a credit record at the credit registry. Part of the reason for this gap is that there are some credit providers (e.g. instalment companies, retailers and some government agencies who provide credit) that are not part of the country's CRS and therefore not contributing their borrower's information. Under the current law, there is no obligation for these credit providers to participate, it is their voluntary choice to join a credit bureau and by consequence submit their data. Across the world, more advanced credit reporting systems collect credit information also from utility companies (i.e. electricity, water, and mobile phone providers). Globally, 47 of the 190 economies benchmarked by Doing Business follow this good practice. These economies include United Kingdom, Kenya and Côte d'Ivoire. The Ivorian credit bureau, "*Creditinfo VoLo*", started operations only in 2016. A crucial step to increasing its coverage was the implementation of Decree n ° 2017-829 in December 2017. Such Decree allowed the submission of data to the credit bureau by public utility companies (e.g. Orange, Moov, CIE and SODECI) thus rapidly expanding the coverage of the bureau's database to 1,258,137 individual borrowers and 10,956 commercial borrowers.

Collecting and distributing information on the payment of electricity and phone bills can help establish good credit histories for people without previous bank loans and credit cards. A study in Italy found that more than 83% of water customers, who lacked a credit history before the inclusion of repayment information from the utility provider, were able to have a positive history after the inclusion, solely by paying their utility bills.⁷⁶ Utility companies may also benefit. For example, in August 2006, the United States-based DTE Energy, an electricity and natural gas company, began full reporting of customer payment data to credit bureaus. DTE customers with no prior credit history—8.1% of the total—gained either a credit file or a credit score. And customers began to make payments to DTE a priority. Within 6 months DTE had 80,000 fewer accounts in arrears. Sierra Leone should follow suit.

⁷⁶ Preliminary findings of ongoing internal study at CRIF SpA, Italy.

Expanding the sources of information to incorporate non-regulated financial institutions, however, can be challenging. In this regard, measures should also be taken to ensure the quality of data submitted by retailers and utility providers. Such companies may use different consumer identification systems: both system and human errors are possible when data are transmitted for the first time.

6. Introduce credit scores. Another important tool in expanding access to finance is credit scoring, a statistical method of evaluating the probability that a prospective borrower will fulfill the financial obligations associated with a loan. Credit scores based on credit bureau or credit registry data pool information across many creditors as well as some public information sources. They therefore include characteristics otherwise unavailable to any individual creditor, such as total exposure, number of outstanding loans and previous defaults within the system. Credit scoring models typically incorporate historical data such as defaults, positive payment behavior and previous inquiries. To sharpen the predictive value of credit scores, credit bureaus and registries are also increasingly collecting data from a wider range of sources (such as bankruptcies and court judgments). As a result, credit scores generally have a higher predictive value than assessments derived from credit histories alone.⁷⁷

Credit scores may improve market efficiency and provide borrowers with more opportunities to obtain credit. The availability of credit scores allows lenders that would otherwise not be capable of analyzing the raw credit data to extend credit to underserved markets at lower cost. This value-added product is most widely available in Latin America and the Caribbean and the OECD high-income group, offered in 63% of economies with a credit bureau or registry covering at least 5% of the adult population—compared with 44% in Europe and Central Asia, 25% in the Middle East and North Africa, 16% in East Asia and the Pacific and 19% in Sub-Saharan Africa. Sub-Saharan economies that have introduced credit scores include Côte d’Ivoire, Kenya, Nigeria, Rwanda, Tanzania, and Zambia. The Credit Reference Bureau Africa Ltd. of Zambia started offering credit scoring as a value-added service to banks and financial institutions in 2015. The Zambian credit score offered is a three-digit number computed from available credit history information using a mathematical algorithm to indicate an individual's ability and capacity to repay debt. As a result of the reform, Zambia now scores 8 points out of 8 in the Doing Business’ depth of credit information index.

B. Legal Rights of Creditors and Borrowers in Secured Transactions

The second aspect of the Getting Credit indicator focuses on secured transactions, as well as creditors’ and borrowers’ rights.

⁷⁷ World Bank 2011a.

In many countries, small and medium enterprises do not have access to land to use as collateral. However, they have moveable assets—such as machinery, inventory, accounts receivables, and equipment. The legal and institutional framework plays an important role in facilitating the use of such movable assets as non-possessory collateral. Having to give up the possession of the asset pledged to a creditor would disable the debtor from using such asset, which could hamper the business’s productivity and ability to operate. As a result, it is important to develop a legal system that would allow businesses to use all their moveable assets as collateral to secure loans without having to give up possession of those assets. This in turn may increase firms’ likelihood of accessing credit and improve the terms of the credit.

Effective secured transactions laws and collateral registries are a tool to allow non-possessory security interest and are a crucial component of a healthy financial sector and business climate. In their absence, entrepreneurs are unable to leverage current assets into capital for investment. Modern secured transactions systems allow the use of movable assets (both tangible and intangible) such as equipment, inventory, accounts receivable, cash-flows, livestock, crops and others as collateral in exchange for loans. Economic analysis also suggests that small and medium-sized businesses in countries that have stronger secured transactions laws and registries have greater access to credit, better ratings of financial system stability, lower rates of non-performing loans and a lower cost of credit. In a number of markets, the assets owned by most firms are a poor match for the assets that lenders accept as collateral, due to lack of appropriate secured lending regulations and collateral registries.

An in-depth analysis indicates that availability of collateral is frequently not the source of the problem. The ability of translating valuable assets into productive use often is. While in the developing world 78% of the capital stock of a business enterprise is typically movable assets such as equipment, inventory or receivables, and only 22% is immovable property, financial institutions are reluctant to accept movable property as collateral. Banks heavily prefer land and real estate as collateral.⁷⁸ This is largely due to many gaps in the legal and institutional frameworks for secured transactions.

Research suggests that in countries where security interests over collateral are enforceable against third-parties in cases of loan default based on a predictable priority system, credit to the private sector represents 60% of GDP on average, compared with only 30% to 32% on average for countries without these creditor protections. In industrial countries, borrowers with collateral receive nine times the level of credit on average compared to borrowers without collateral, for a given level of cash flow. They also benefit from repayment periods that are up to

⁷⁸ “Reforming Collateral Laws to Expand Access to Finance” Fleisig, Safavian, De La Pena, 2006.

11 times longer and pay interest rates that are up to 50% lower.⁷⁹ In countries with Collateral Registry for movable securities, the number of firms with access to finance increased on average by 8%. These countries also showed lower interest rates and extension in loan maturity. The increase was even stronger for small firms, which often find it more difficult than bigger firms to access credit due to lack of immovable assets which could be used as a collateral.⁸⁰

Well-designed secured transactions systems and collateral registries offer more robust financial systems by promoting credit diversification, allowing banks and non-bank financial institutions (NBFI) to provide credit (reducing the dependence on bank credit) and relying less on real estate collateral. Financial institutions benefit from these systems by: (i) being able to diversify more their portfolios, by accepting movables and therefore more liquid guarantees (such as receivables or investment instruments); (ii) accessing critical credit information on existing security interests in movable assets, and creditor's priorities over those assets; (iii) strengthening their risk management policies, by making more informed credit decisions on collateral lending; (iv) establishing better reporting mechanisms on collateral lending practices to the supervisory authority or regulator, usually central banks. Box 3.4.1 refers to global good practices in collateral registries.

Box 3.4.1 - Good practices in collateral registries

Economies that accept a broad variety of movable assets to be registered as collateral, have a unified electronic (web-based) database, do not require submission of loan documents and have low registration fees. They are also the ones that experience the largest number of registrations of security interests, of searches, amendments and terminations of security interests over moveable assets. This translates into a higher lending volume as each registration represents a loan secured with movable property⁸¹.

- Include registration of functional equivalents
- Register rights over both incorporated and non-incorporated entities
- Single data source (centralized) registry for all security interests, including non-consensual liens
- Web-based electronic system accessible 24/7
- Notice-based system, meaning that only information on the creditor, the debtor (who can be both a legal or natural person), and the collateral are entered, without the need for any documentation in order to maintain that information
- Registrations to be done by creditors or their legal representatives directly into the system;
- Information available to the general public for searches
- Registrar's role to be limited to management; it shall not extend to verifying and modifying information in the registry

⁷⁹ World Bank Group. 2010. Secured Transactions Systems and Collateral Registries. http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/industries/financial+markets/publications/toolkits/secured+transactions+systems+_+collateral+registries+toolkit

⁸⁰ Love, Inessa, María Soledad Martínez Pería and Sandeep Singh, 2013. "Collateral Registries for Movable Assets. Does Their Introduction Spur Firms' Access to Bank Finance? Policy Research Working Paper n. 6477, The World Bank, June.

⁸¹ Álvarez de la Campa, Alejandro, Santiago Croci Downes and Bettina Tirelli Henning. 2012. Making Security Interests Public. Registration Mechanisms in 35 Jurisdictions. Washington, D.C.: International Finance Corporation. <http://www.ifc.org/wps/wcm/connect/fbef87804c2ab1dda285eaf12db12449/Registry+survey+report.pdf?MOD=AJPERES>

- Flat and reasonable fees for registrations and searches
- Important statistical information is collected on each transaction
- Non-cash payments (debit/credit cards, electronic transfers, or pre-paid accounts);
- Clearly defined liability of the registry for errors; secured and protected registry data, with established disaster recovery sites.
- Search criteria that include, at least, debtor identifier and serial numbered collateral⁸²

Source: IFC.2010. Secured Transactions Systems and Collateral Registries.

Sierra Leone’s performance on Legal Rights Index

Sierra Leone’s existing legal framework for secured transactions includes some elements of good practice, but there are significant opportunities for improvement. In the *Doing Business 2019* report, Sierra Leone scores 5 points out of 12 on the Strength of Legal Rights Index. This is a bit lower than the country’s neighbors (Guinea: 6; Ghana: 6; and Guinea Bissau: 6) and the average for Sub-Saharan Africa (5,2 points of 12). Kenya, the best performer in Sub-Saharan Africa, scores 10 out of 12 points, while globally only 5 economies score 12 out of 12 points. Sierra Leone’s score highlights the need for deep structural reforms related to secured transactions to make the existing legal framework compatible with international best practices (Table 3.4.3). Indeed, banks in Sierra Leone strongly prefer real estate as collateral, as movable assets are considered too risky. Such practices make it difficult for SMEs and sole entrepreneurs to obtain loans.

Table 3.4.3 - Legal Rights of Creditors and Borrowers in Secured Transactions ranking and best performers in *Doing Business 2019*

<i>Doing Business</i> Indicator	Sierra Leone	Regional Average	Regional best performer	Best global performer
Strength of Legal Rights Index (0-12)	5	5.2	11 (Rwanda, Zambia, Malawi)	12 (5 economies)

Table 3.4.4 - Legal Rights of Creditors and Borrowers in Secured Transactions score in *Doing Business 2019*

Strength of legal rights index (0-12)	Sierra Leone’s score
Does an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of functional equivalents to security interests in movable assets exist in the economy?	No

⁸² For a detail account of good practices in collateral registries, see IFC.2010. Secured Transactions Systems and Collateral Registries.

http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/industries/financial+markets/publications/toolkits/secured+transactions+systems+ +collateral+registries+toolkit

Strength of legal rights index (0-12)	Sierra Leone's score
Does the law allow businesses to grant a non-possessory security right in a single category of movable assets, without requiring a specific description of collateral?	Yes
Does the law allow businesses to grant a non-possessory security right in substantially all of its assets, without requiring a specific description of collateral?	Yes
May a security right extend to future or after-acquired assets, and may it extend automatically to the products, proceeds and replacements of the original assets?	Yes
Is a general description of debts and obligations permitted in collateral agreements; can all types of debts and obligations be secured between parties; and can the collateral agreement include a maximum amount for which the assets are encumbered?	Yes
Is a collateral registry in operation for both incorporated and non-incorporated entities, that is unified geographically and by asset type, with an electronic database indexed by debtor's name?	No
Does a notice-based collateral registry exist in which all functional equivalents can be registered?	No
Does a modern collateral registry exist in which registrations, amendments, cancellations and searches can be performed online by any interested third party?	No
Are secured creditors paid first (i.e. before tax claims and employee claims) when a debtor defaults outside an insolvency procedure?	No
Are secured creditors paid first (i.e. before tax claims and employee claims) when a business is liquidated?	No
Are secured creditors subject to an automatic stay on enforcement when a debtor enters a court-supervised reorganization procedure? Does the law protect secured creditors' rights by providing clear grounds for relief from the stay and setting a time limit for it?	No
Does the law allow parties to agree on out of court enforcement at the time a security interest is created? Does the law allow the secured creditor to sell the collateral through public auction and private tender, as well as, for the secured creditor to keep the asset in satisfaction of the debt?	Yes
Score (number of "yes" responses)	5

The draft bill amending the 2014 Borrowers and Lenders Act is the most relevant to the topic of legal rights, as it deals with creation, publication and enforcement of rights in movable as well as immovable assets. In parallel, considerable work has been done in establishing a digital collateral registry under the auspices of the Bank of Sierra Leone. These initial steps represent significant progress.

Short-term reform recommendations

1. Undertake a comprehensive review of the existing legal framework for secured transactions and insolvency to identify legal gaps and weaknesses. Improving the legal framework for secured transactions is a complex process. It requires efforts not only to address the existing gaps in the legislation but also to raise awareness on the merits and benefits of such reforms as to make them user-friendly and easily enforceable. In order to strengthen the legal framework on secured transactions and to align it to international best practices, however, Sierra Leonian authorities should undertake a holistic assessment and reform of the current insolvency and secured transactions legal framework. Such a reform process should take into account the guidelines of the Accounting and Auditing Organization for Islamic Financial Institutions⁸³ as well as the international best practices that have been globally adopted: the UNICITRAL Model Law and/or the World Bank Principles on Effective Creditor/Debtor Regimes. The latter, for example, states that *“the legal framework for secured lending should address the fundamental features and elements for the creation, recognition, and enforcement of security interests in all types of assets—movable and immovable, tangible and intangible—including inventories, receivables, proceeds, and future property and, on a global basis, including both possessory and non-possessory interests. The law should encompass any or all of a debtor’s obligations to a creditor, present or future, and debt obligations between all types of persons.”*⁸⁴

Medium- and long-term reform recommendations

2. Draft, enact and implement modern secured transactions laws that will address the gaps identified in the current legislation. Sierra Leone is currently working on updating its Lenders and Borrowers Act. UNCITRAL’s Legislative Guide on Secured Transactions - the key source of international best practice in the area of secured transactions - recommends that the states adopt functional approach to reform of secured transactions. This means that the scope of the law should comprise not only non-possessory security interests on tangible assets but also include functional equivalents to security interests such as financial leases, sales with retention of titles, fiduciary transfer of titles, assignment of account receivable, etc. It is recommended that all such types of security interests be governed by the same rules of publicity, priority and enforcement⁸⁵.

The Borrowers and Lenders (Collateral Registry) Regulations of 2016 already cover the fiduciary transfer of title and its registration is required in the Sierra Leone Registry by the Bank of Sierra Leone. However, the other functional equivalents don't exist yet. Even if there is a similar medium - known as ‘‘Debt Buy-Back’’ - this does not correspond to the broad tool of assignment of receivables available to creditors and borrowers in countries which follow best global practices⁸⁶. It is thus recommended to assure that the proposed draft law introduces an integrated or unified legal framework for secured transactions that extends to the creation, publicity and enforcement of security interests in movable functional equivalents to security

⁸³ For more information, please visit: <http://aaoifi.com/?lang=en>

⁸⁴ For more information, please visit: [http://siteresources.worldbank.org/EXTGILD/Resources/5807554-1357753926066/ICRPrinciples-Jan2011\[FINAL\].pdf](http://siteresources.worldbank.org/EXTGILD/Resources/5807554-1357753926066/ICRPrinciples-Jan2011[FINAL].pdf)

⁸⁵ Publicity is realized when all types of security interests are required to be registered within the same collateral registry in order to be enforceable against third parties.

⁸⁶ The ‘‘Debt Buy-Back’’ is covered by the Master Repurchase Agreement 2009 - a memorandum of understanding between the Central Bank, commercial banks and other financial institutions.

interests in movable assets that exist in the economy. The proposed secured transactions law should provide the same rules for all kinds of entities, incorporated and non-incorporated, and govern all types of non-possessory security interests in movable assets, including the functional equivalents, which would be required to be registered in a central collateral registry for the whole territory of Sierra Leone.

A thorough revision of draft “The Borrowers and Lenders Act” of 2018 should also be carried out as to ensure that it follows best global practices and includes the tools described above. In this regard, it will be necessary to make sure that security interests can be established on future and after acquired assets, automatically extend to products, proceeds and replacements, as well as that a general description of assets provided as collateral is allowed. Finally, the new law should allow for all types of debts and obligation be secured by movable collateral, including future obligations, non-monetary obligations and conditional obligations. The latter features exist already in the current legislation, but since the new draft will repeal the existing law, it is indispensable to assure that those concepts remain in the new bill.

3. Ensure that a secured creditors priority is respected based on the principle of “first-in-time, first-in-right,” while respecting other critical national policy objectives. It is critical that creditors can lock-in their priority by registration, with a high degree of predictability, and that potential subsequent creditors are notified of existing priorities. Given the important role that secured creditors often play in providing credit to businesses, the priority of their claims should be recognized, both within and outside of insolvency.

If secured creditors can predict their ranking vis-à-vis other types of creditors (including statutory creditors) with confidence, they will make credit available more easily and at a lower cost to the borrower. But when other types of creditors, such as the tax authority in the case of state income taxes, have priority over secured creditors—especially if they came into existence after the registration of the security interest—secured creditors will be less able to predict their level of risk. Providing secured creditors with the highest level of priority possible based on the “first in time, first in right” principle will encourage more credit to be available to entrepreneurs at a lower rate.

There may be broader or more important policy objectives served by ranking certain claims higher than those of secured creditors. If so, both the nature and the scope of these priority claims should be very clearly defined. Many countries achieve this by narrowly defining the class of claims that rank ahead of secured creditors and limiting the amount of money that can be paid under these prior-ranking claims. Similarly, in bankruptcy, there may be the need to temporarily stay or, in some cases subordinate, the claim of secured creditors to provide the borrower with the potential to restructure and continue as a going concern. Secured creditors should have priority over other creditors when the debtor is the subject of a collective procedure or bankruptcy.

Under laws that clearly rank creditors on their priority of repayment, lenders will make credit available more easily and at a lower price. But when non-consensual creditors, such as state income taxes and labor claims, have priority over secured creditors even if they came into existence after the registration of the security interest, secured creditors will have a higher level of risk. In practice, this translates into less credit available and/or credit available at a higher interest rate for entrepreneurs. Providing secured creditors with the highest level of priority possible based on the “first register, first priority” principle will make more credit available to entrepreneurs at lower rates.

Currently, general and specific Tax claims have priority over secured creditors outside of the insolvency proceedings, regardless of time when it's perfected. Similarly, under the insolvency proceedings, claims of state and municipal taxes, social security deductions, all wages and salaries of workers rank ahead of secured creditors in law and are to be paid in full unless there are no sufficient funds to pay them (Section 438(4) of the Companies Act 2009). It is recommended to consider absolute priority for secured creditors in the new legislation, ahead of tax authorities' and labor claims, both outside and within insolvency proceedings. As the new legislation is being put in place, tax laws and labor codes might also need to be reviewed to avoid possible contradictions with the recommendation above.

4. Allow secured creditors to seize their collateral when debtors enter reorganization after a definite, predictable time period. Allow for exceptions from automatic stay. In Sierra Leone, there is an automatic stay on creditor's actions during reorganization or liquidation procedures. This delays repayment of secured creditors for months, or sometimes years. Under international best practice an automatic stay on enforcement actions by secured creditors should be subject to a time limit (e.g. 3-6 months) and foresee exceptions for perishable assets and assets which are not indispensable for on-going business. It is recommended that the new draft law under consideration takes into account relevant amendments in order to assure an automatic stay against enforcement of secured creditors' actions, but which will be limited by definite and predictable time period and that exemptions for some type of assets are foreseen.

5. Create a centralized, modern, electronic and notice-based electronic collateral registry. Enacting a modern secured transactions law alone is unlikely to facilitate access to credit. In fact, countries that modernized their legislation without introducing a well-functioning collateral registry did not experience increase in access to credit. A comprehensive reform needs to be accompanied by the creation of a collateral registry in line with international good practices.

Once the new secured transactions law is enacted, it is important to complement it with adequate regulations for the functioning of a collateral registry and ensure that a modern registry is set up. Creditors will continue to be hesitant to take moveable assets as collateral without a unified and centralized electronic registry that would (1) enable creditors to know their priority vis-a-vis others, and (2) allow the registration, amendment, cancellation and search of all types of security interests and encumbrances over moveable assets in a simple and reliable way.

Although in Sierra Leone a new centralized registry is now in operation, pursuant to the Borrowers and Lenders Act, 2014 only financial institutions licensed and supervised by the Bank of Sierra Leone can register security interest. Individuals can conduct search but cannot register security interest. It is a notice-based registry, i.e. no underlying documentation is required upon registration, however, not all functional equivalents are required to be registered in order to be enforceable against third parties.

Unless the collateral registry is modernized in line with international accepted standards, Sierra Leone will not reap all the potential rewards of this type of reform. Countries that apply to a broad variety of movable assets with respect to which notices may be registered, have a unified electronic (web-based) database, do not require submission of underlying documents and have low registration fees. Such countries experience the largest number of registrations, searches, amendments, and terminations of security interests over

moveable assets. This translates into a higher lending volume as each registration represents a loan secured with movable property.⁸⁷

It is also recommended to expand registry access to all type of creditors and borrowers. The current legislation should be expanded to allow registration of all types of security interests (not just pledges) created by all types of creditors (beyond banks and financial institutions) and all types of borrowers, incorporated and non-incorporated. International best practice recommends that all individual and legal entities that are permitted to create some kind of interest over movable property whether a security interest or a functional equivalent of such interest shall have the right to create a registry client account and file notices of their rights. For example, any person, individual or a legal entity which sells any movable property through a title retention arrangement shall be able to register a notice of this right. This will ensure a full coverage of the registry system and will minimize the number of undisclosed interests in movables.

It is recommended that Sierra Leone upgrades its online Collateral Registry and assure that the new draft bill is amended accordingly in order to align itself to international best practice, and assure that all the following features are in place:

- Single data source (centralized nationally) registry for all security interests (including functional equivalents), for both corporate and non-corporate entities;
- Web-based electronic system accessible 24/7;
- Information entered into the registry should be reflected online in real time;
- Notice-based system, meaning that only information on the creditor, the debtor (who can be both a legal or natural person), and the collateral are entered, without the need for any documentation in order to maintain or verify that information;
- Registrations to be done by creditors or their legal representatives directly into the system (without interference of a clerk, notary or otherwise);
- Information available for free to the general public for searches;
- Search criteria that include, at least, a debtor search criterion or a debtor's identifier search criterion when available;
- Flat and reasonable fees for registrations;
- Registrar role limited to management, not to verify and modify information in the registry;
- Non-cash payments (debit/credit cards, electronic transfers, or pre-paid accounts);
- Secured and protected registry data, with established disaster recovery sites.

5. Implement awareness raising campaign and capacity building activities on the new legal tools and security interests introduced by the reforms. Once the legal and institutional frameworks are established, it is strongly recommended to raise awareness of various public and private sector stakeholders about the new tools and products. Specifically, the following activities can be considered:

- Supporting the public awareness campaign, targeting stakeholders with information on the new secured transactions law, registry system and their economic benefits;
- Training managers and staff of the government entity that manages the registry;

⁸⁷ CFI, *Worldwide Survey of Secured Transactions Registries*, 2010.

- Providing training for end users (e.g. financial institutions), the judiciary, lawyers, trade associations and law school faculty on the new law and new financial products using movable collateral (accounts receivable, inventory, equipment, investment instruments, etc.) as security.

3.5. Protecting Minority Investors

Access to finance is a crucial driver of private sector growth, particularly for aspiring entrepreneurs. The banking sector and institutional lenders are often the second sources after friends and family. However, vibrant economies offer a third option: equity markets, provided that strong structures are in place for them to develop and inspire confidence. A legal framework and institutions that adequately protect and balance the interests of company managers, majority shareholders and minority shareholders instill the requisite trust and confidence. For example, empowering shareholders with more control over sensitive transactions reduces the risk on their investment and helps entrepreneurs raise the capital needed to grow, innovate, diversify and compete.

Without investor protections, equity markets fail to develop, and banks become one of the only sources of external finance. Economies that have dynamic capital markets tend to protect investors effectively. In these economies, investors receive financial information they can trust, they participate in major decisions of the company, and directors are accountable for their managerial decisions. Short of these protections, investors may be reluctant to invest, stunting the liquidity needed to fund business ventures.

Corporate governance determines how companies are directed and controlled, balancing between the rights and duties of managers, directors, shareholders and public authorities. It outlines corporate structures and processes, determines who is responsible for what, particularly for making decisions.⁸⁸ Introducing corporate governance requirements—as opposed to giving each company complete discretion over internal rules—guarantees a minimum standard for investors.⁸⁹ When violated, these rules also provide shareholders with judicial recourse. Investors become more willing to finance the business ventures of others without exerting direct control over the affairs of the company. As a result, entrepreneurs can tap into broader sources of financing. With easier access to capital, companies are more likely to grow, generate tax revenues and create jobs.

Protecting and empowering shareholders are increasingly essential policy goals—even more so following the 2008 global financial crisis. Policymakers worldwide are implementing reforms aimed at increasing the involvement of minority shareholders in corporate decisions. *Doing Business* has recorded and documented 213 reforms to aspects of corporate governance in 114 economies between 2005 and 2018.

***Doing Business* through the Protecting Minority Investors indicator focuses on how policymakers mitigate the risk that corporate executives, directors and majority shareholders use their position to advance their own interests, at the expense of that of the company and other shareholders.** Clear rules, robust rights and increased transparency are some of the regulatory instruments at their disposal. Corporate

⁸⁸ G20/OECD Principles of Corporate Governance; 2015 available at https://www.oecd-ilibrary.org/governance/g20-oecd-principles-of-corporate-governance-2015_9789264236882-en

⁸⁹ The OECD summarizes corporate governance as a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.

governance is a determinant of investment efficiency,⁹⁰ while shareholders' ability to sue and hold directors accountable provide essential checks and balances.⁹¹

According to the *Doing Business 2019* report, Sierra Leone ranks 89th out of 190 economies globally on the protecting minority investors indicator set, with a Doing Business score of 55 out of 100⁹². Regionally, Sierra Leone ranks 7th out of 48 countries in Sub-Saharan Africa above the regional average of 44.55 out of 100 (Table 3.5.1).

Table 3.5.1- Protecting minority shareholders rankings and best performers

<i>Doing Business</i> Protecting Minority Investors Indicator	Sierra Leone	Regional average	Region's best performers	Global best performer
Extent of disclosure index (0-10)	6	5.5	10 (Kenya)	10 (13 economies) ⁹³
Extent of director liability index (0-10)	8	3.5	10 (Kenya)	10 (Cambodia)
Ease of shareholder suits index (0-10)	6	5.5	7 (Kenya)	10 (Djibouti)
Extent of shareholder rights index (0-10)	5	4.7	7 (Kenya)	10 (India)
Extent of ownership and control index (0-10)	2	3.4	6 (Kenya)	9 (8 Economies)
Extent of corporate transparency index (0-10)	6	4.3	5 (Kenya)	10 (6 economies)
Protecting Minority Investors Score (0-100)	55	44.55	78.33 (Kenya)	85 (Kazakhstan)

Source: *Doing Business 2019*

These results reflect the current legal framework in Sierra Leone, namely the Companies Act, 2009, as amended by the Companies (Amendment) Act, 2014, and the High Court Rules. The National Corporate Governance Code would also affect this assessment in so far as the relevant provisions are part of the laws of Sierra Leone and will apply on a *comply or else* basis.

⁹⁰ Durnev, Art, Vihang Errunza and Alexander Molchanov. 2009. "Property Rights Protection, Corporate Transparency, and Growth." *Journal of International Business Studies* 40 (9): 1533–62.

⁹¹ Gutiérrez, Maria. 2003. "An Economic Analysis of Corporate Directors' Fiduciary Duties." *The RAND Journal of Economics* 34 (3): 516–35.

⁹² This score is the simple average of the six indices measured by the indicator on a scale from 0 to 100, where 0 represents the worst regulatory performance and 100 the best regulatory performance

⁹³ New Zealand; Singapore; Hong Kong SAR, China; Malaysia; United Kingdom; Thailand; Macedonia, FYR; Azerbaijan; United Arab Emirates; Bulgaria; Indonesia and China.

Medium-to-long term reform recommendations

Undertake a comprehensive review of the existing legal framework for the protection of minority investors and amend Companies Act, High Court Rules and other relevant legislation as to align them to international best practice. The authorities of Sierra Leone should undertake a comprehensive review of the current legal framework for the protection of minority investors. The revision should include the Companies Act, 2009, as amended by the Companies (Amendment) Act, 2014, the High Court Rules, and the National Corporate Governance Code. Amendments to the current legislation should:

a) Increase disclosure requirements of related-party transactions to the public and the market regulators. Fifty-four of the 190 economies covered by Doing Business stand out for the strictest rules on disclosure of related-party transactions (both before and after the conclusion of the transaction). These include Albania, Djibouti, and Malaysia. Corporate scandals, investor activism, the global financial crisis and unification of accounting standards have prompted governments around the world to strengthen disclosure requirements. The Companies Act in Sierra Leone does not make any reference to this obligation. A revised and update regulation should require detailed disclosure and all the relevant information should be posted on the company's website.

b) Require disclosure of information about board members' other directorships, as well as basic information on their primary employment. In order to promote better corporate transparency, annual reports of listed companies could be required to include details of all directorships held by their directors at any time in the 3 years immediately before the end of the financial year, and the period for which each directorship has been held. In addition, the filings should include their working experience and occupation(s) during the past 10 years. Further, key information regarding directors, such as directorships or chairmanships both present and those held over the preceding three years in other listed companies, and other principal commitments, should be disclosed in the company's annual report.

c) Separate the role of chairperson of the board from that of CEO. The board and management are two different corporate bodies; boards are expected to oversee selecting the CEO, managing conflicts of interest, and ensuring the integrity of the financial reporting, internal controls and audit, and risk management systems. Moreover, boards are expected to oversee the management, budgets, strategy and major transactions. On the other hand, CEOs and management oversee implementing the corporate strategy and dealing with the day-to-day management of the company. Therefore, a clear separation of the two roles improves the accountability lines and reduces the potential of conflicts of interest. Because the responsibilities and competencies of the chairperson of the board and the chief executive officer are different, they are most effectively discharged by two different individuals. The separation of the roles ensures the focus of the chief executive on the management of the company, while a distinct chair introduces an additional element of overview and accountability. Sierra Leone's Companies Act is currently silent on this issue and should be in order to align the country's legislation to international best practice.

d) Require that the board of directors to include both independent and non-executive board members. The board is chiefly responsible for monitoring managerial performance and achieving an adequate return for shareholders, while preventing conflicts of interest and balancing competing demands

on the corporation. For boards to effectively fulfil their responsibilities they must be able to exercise objective and independent judgement. Good practice requires the inclusion of both independent and non-executive members on the board of joint stock companies. The terms “independent” and “non-executive” are defined as follows:

- Independent board members are defined as not owning shares in the company, and otherwise not having any material or pecuniary relationship with the company either directly or indirectly through related persons, except for sitting fees;
- Non-executive board members are defined as not being employees of the company or affiliated with the company, either directly or indirectly, and more generally, not being involved in its day-to-day activities.

e) Require companies to pay dividends within a maximum period of time set by law after the declaration date. The declaration of dividends is a discretionary business decision taken by the board of directors based on present financial results and future investment strategies. But once the decision to declare dividends has been made, corporate and accounting practices recommend that payment should be made promptly before the end of the following fiscal year. The last day allowed by law to pay dividends would be considered for the investor as the last day to expect payment or alternatively the day a cause of action for mismanagement against the directors of the company can be started. Generally, the practice is to pay dividends within 3-6 months after the approval by the shareholder meeting. Worldwide, 86 economies require by law such payment to take place within few months from the declaration date. The Republic of Korea and Portugal, for example, mandate payment within 1 month from the declaration date. Sierra Leone’s present legal framework is silent on this matter.

f) Provide an independent review of large related-party transactions on which board members and shareholders can base their decision. Currently, regulations do not require the review of the terms of a related-party transaction by an auditor before the authorization of the transaction by the board of directors. The auditor’s report should evaluate the main terms of the transaction and present an opinion on whether the transaction is being concluded at market terms. To increase disclosure, such a review should be mandatory for large related-party transactions. In addition, a liability regime should be incorporated in the law in case the independent auditor presents false or misleading information on the transaction.

To avoid being too cumbersome and costly, especially for smaller companies, this requirement can be circumscribed to certain transactions only: for instance, to all transactions representing 10% or more of the assets of the company. This measure increases shareholder protections from self-dealing and allows them to make well-informed decisions when voting on these deals.

In recent years several economies such as Armenia, Burundi, Greece, Honduras, Slovenia, Tajikistan, Tunisia, and Vietnam introduced legal provisions regulating disclosure of related-party transactions. Providing reliable information on company dealings allows investors to monitor the activities of companies and assess the performance of their management. Fifty out of 190 economies, - require the review of the terms of related-party transactions by an independent auditor. In these economies, the auditor issues a report before the approval of large related-party transactions.

g) Require the consent of shareholders when disposing of large company assets. Large transactions of a company's assets may directly impact the value of the company and change the nature of the business in which shareholders had initially chosen to invest. The specific threshold to determine that a sale of assets is major should ensure that 51 percent of the company's assets fall within its ambit. Thus, the specific threshold can be set at any number below 51 percent. When selling a large portion of the company's assets, the interests of minority shareholders are likely to be negatively affected. Because of this, it is advisable for the law to require that such transactions can be concluded only with shareholders' approval, whether such sale occurred in a single transaction or several transactions taking place within 1 year from the date of the first transaction. Eighty-one economies globally, including Lao PDR, the Philippines, Chile and Russia, have adopted similar provisions.

h) Ensure that all shareholders are offered an exit option if the company is acquired by a third party. Like shareholder safeguards on disposal of large assets, shareholders could also benefit from a mandatory tender offer, effectively giving remaining shareholders a way out when a new shareholder acquires a major stake in the company. Sierra Leone's present legal framework is silent on this matter.

The law should state that the offer to purchase the remaining shares is triggered by the acquisition of at most 50 percent of shares. The acquirer should not be able to avoid making the offer and the offer price should be equal to the average price paid to reach the triggering threshold. This rule should apply even if such acquisition did not take place in a single transaction. It should also apply to any person who has independently or through actions in concert with other persons acquired such interest, considering the shares belonging to that person and those persons with whom concerted actions have been undertaken.

This rule is important because it helps prevent an acquirer from exploiting minority members by siphoning-off assets and engaging in self-dealing. Also, a change in the majority ownership might result in a change in the company's business strategy, and minority members should be protected from having those changes imposed on them with no realistic option to exit. This rule applies in 97 economies out of 190, including South Africa, Georgia, Korea and Djibouti.

i) Guarantee existing shareholders the right to first refusal when selling shares. When a shareholder in a private company decides to sell his interest stake in the company, the law should require that he or she first make an offer to existing shareholders. Only if they decline to meet the best offer can he or she proceed with selling the stake to a third-party, i.e. an entity that is not already a shareholder of the company. Presently under the Companies Act for private companies, preemption rights or rights of first refusal, if any, are only granted if stipulated in the Articles of Association.

j) Facilitate shareholder suits by granting shareholders broader access to evidence/information during trial. Minority shareholders should be granted access to relevant company information when bringing suits against directors and managers. The scope of documents that can be requested during trial should be expanded to include any information that is relevant to the subject matter of the claim. At present plaintiffs cannot request categories of documents from the company without identifying specific ones. In order to ease access to evidence that is not easily identifiable, for example because the date of the record is unknown to the requesting party (e.g. how to determine which board meeting minutes contains the relevant

discussion), the civil procedure law should allow parties to request categories of documents from the opposing party without identifying specific ones.

3.6. Paying Taxes

Research shows that complicated tax systems risk high evasion and are associated with lower numbers of foreign direct investment.⁹⁴ High tax compliance costs are also associated with larger informal sectors, more corruption and less investment. Recent studies confirm that there is a correlation between tax simplification and levels of corruption,⁹⁵ particularly in environments with significant levels of informality. In contrast, economies with well-designed tax regimes are able to help the creation and growth of businesses and, ultimately, the growth of overall investment and employment.⁹⁶

The *Doing Business* paying taxes indicators record the taxes and mandatory contributions that a medium-size company must pay in a given year, as well as the administrative burden of paying taxes and contributions and complying with post-filing procedures. The *Doing Business* 2017 methodology has expanded the scope of data collection to better understand the overall tax environment in an economy. The new methodology includes measures of post-filing processes and specifically the process of obtaining a Value Added Tax refund related to a large capital purchase and the time and document process of going through an audit on the Corporate Income Tax return due to underpayment.

In *Doing Business* 2019, Sierra Leone received a *Doing Business* score 72.97 out of 100, thus ranking 88 out of 190 economies on the ease of paying taxes. The standardized case study company would have to make 34 payments, spend 343 hours complying with tax obligations and incur a tax cost of 30.7% of commercial profit. Number of tax payments and total tax rate are below the averages in the Sub-Saharan Africa region, while compliance time is higher (Table 3.6.1). On the postfiling index, Sierra Leone performs particularly well, and with a score of 95.41 out of a possible 100.⁹⁷

Table 3.6.1 - Paying Taxes ranking and best performers

<i>Doing Business</i> indicator	Sierra Leone	Regional average	Global best performer
Payments (number per year)	34	37.4	3.0 (Hong Kong SAR, China)

⁹⁴ Complex tax systems are associated with lower numbers of FDI in an economy but do not affect its level. A high corporate tax rate, on the other hand, is negatively related to both the number and level of foreign direct investment. A 10% reduction in tax complexity is comparable to a 1% reduction in effective corporate tax rates (Lawless 2013).

⁹⁵ Awasthi, Rajul; Bayraktar, Nihal. 2014. Can tax simplification help lower tax corruption? Policy Research working paper; no. WPS 6988. Washington, DC: World Bank Group. For more information, please visit: <http://documents.worldbank.org/curated/en/2014/07/19898924/can-tax-simplification-help-lower-tax-corruption>

⁹⁶ Bird, Richard. 2010. "Smart Tax Administration." *Economic Premise* (World Bank) 36: 1–5.

⁹⁷ The postfiling index is based on four components: time to comply with VAT or GST refund, time to obtain VAT or GST refund, time to comply with corporate income tax audit, and time to complete a corporate income tax audit. If both VAT and corporate income tax apply, the postfiling index is the simple average of the distance to frontier scores for each of the four components. If only VAT or corporate income tax applies, the postfiling index is the simple average of the scores for only the two components pertaining to the applicable tax. If neither nor corporate income tax applies, the postfiling index is not included in the ranking of the ease of paying taxes.

Time (hours per year)	343	280.6	49.0 (Singapore ⁹⁸)
Total tax rate (percent of profit)	30.7	46.8	26.1 (32 economies)
Postfiling index (0-100)	95.41	54.63	None in 2017/2018

Source: *Doing Business 2019*

Table 7.2 - Tax rates in Sierra Leone, according to Doing Business 2019

Tax rates (% of commercial profits)	Sierra Leone
Profit tax (%)	18.5
Labor tax and contributions (%)	11.3
Other taxes (%)	1
Total tax rate (% profit)	30.7

Source: *Doing Business 2019*

Short term reform recommendations

1. Continue providing tax outreach – education and training – to small and medium-sized enterprises to ensure compliance and carry out communications campaigns and workshops to introduce the new e-filing and e-payment system ITAS to companies and entrepreneurs. Often, the biggest obstacle in paying taxes for small and medium-sized businesses is the lack of basic accounting skills. Authorities can fill this gap by providing capacity building and training for companies and entrepreneurs. The benefits should be mutual: if well-trained entrepreneurs are able to prepare and file tax returns and pay taxes more efficiently, the government can ensure better compliance with tax regulation. Tax education is particularly important following significant reforms of the tax system (that is, the improvements of electronic filing and payment systems, and required software; and increased rates of some taxes/contributions). The government of Sierra Leone is aware of this problem. Starting from January 2018, NRA is implementing a taxpayer education project with tax clinics around the country, workshops with stakeholders, as well as media sensitization aimed at improving taxpayers understanding of how to file tax returns and voluntary compliance. These measures are sound and should be continued throughout the implementation of the e-filing and e-payment system (ITAS) that the National Revenue Authority is planning to roll out in the next two years.

2. Simplify tax reporting forms. The future introduction of electronic filing (see recommendation below) is likely to significantly reduce tax compliance costs and time for businesses, but there may still be progress to be made to ensure that the online (as well as paper-based) system is simple and easy to use. Simplified tax forms could speed up tax filing and reduce the need for intermediaries. The common perception from the private sector is that tax forms are too lengthy and complex, especially for SMEs. A review of current

⁹⁸ Global best performer among the sample of economies that levy the 3 major taxes: corporate income tax, VAT/sales tax and labor taxes and mandatory contributions.

tax forms could be undertaken to identify opportunities to reduce the number of fields and make them more intuitive. With the use of technology, opportunities exist to strengthen pre-populated forms and include automatic checks on possible errors by the taxpayers when completing the forms. Involving entrepreneurs and professional associations in the enhancement of the existing system could help reveal the critical aspects to improve its user-friendliness.

Medium-to-long term reform recommendations

3. Move from manual filing of tax returns to online filing for all 3 major taxes: CIT, GST (VAT) and social security contributions. According to the Doing Business 2019 report, companies in Sierra Leone spent 343 hours each year to prepare, file return and pay their taxes.⁹⁹ Social security contributions and Value Added Tax (VAT) require the vast majority of time, with a 157 and 170 hours respectively, while Corporate Income Tax payments require only 16 hours on average. In the majority of cases involving small and medium-size businesses, tax payments are done in cash through transfer banks with receipts that are then delivered to the relevant agency to prove compliance. In the next two years, the National Revenue Authority plans to roll out an integrated system for tax administration (ITAS) that will allow e-filing and e-payments. The new system will be implemented in a two-phase approach that will involve the gradual introduction of eight modules. The early stages of implementation will be accompanied by a national e-registration drive to ensure a more accurate and comprehensive Tax registry dataset, especially in relation those SMEs that are not registered. These measures are sound and should be continued.

Electronic systems for filing and paying taxes benefits both tax authorities and firms. For tax authorities, electronic filing lightens the workload and reduces operational costs – such as the costs of processing, storing, and handling tax returns. For taxpayers, electronic filing saves time by reducing calculation errors on tax returns and making it easier to prepare, file and pay taxes¹⁰⁰. By 2017, 98 economies had fully implemented electronic filing and payment of taxes. According to Doing Business data, seventy of them adopted or enhanced their systems in the past 13 years. Electronic filing and payment are most common in OECD high-income economies, where 32 economies out of 34 have such systems in place, followed by Europe and Central Asia, where 21 economies use electronic systems. The expansion of electronic filing and payment systems is likely to continue. In the next few years many other OECD high-income economies, having introduced requirements for electronic filing and payment for larger businesses, plan to extend them to smaller ones. According to the Doing Business data, the use of digital technology in tax administrations have being picked up by economies in the Sub-Saharan Africa region. Sub-Saharan Africa remains the

⁹⁹ The indicator measures the time taken to prepare, file and pay three major types of taxes and contributions: the corporate income tax, value added or sales tax, and labor taxes, including payroll taxes and social contributions. Preparation time includes the time to collect all information necessary to compute the tax payable and to calculate the amount payable. If separate accounting books must be kept for tax purposes—or separate calculations made—the time associated with these processes is included. This extra time is included only if the regular accounting work is not enough to fulfill the tax accounting requirements. Filing time includes the time to complete all necessary tax return forms and file the relevant returns at the tax authority. Payment time considers the hours needed to make the payment online or in person. Where taxes and contributions are paid in person, the time includes delays while waiting.

¹⁰⁰ Che Azmi, Anna, and Yusniza Kamarulzaman. 2010. “Adoption of Tax E-filing: A Conceptual Paper.” *African Journal of Business Management* 4 (5): 599–603.

region with the smallest share of economies using electronic filing or payments. However, in 2017 the use of online systems for filing and payment of taxes resulted in efficiency gains in several economies in the region, including Côte d'Ivoire, Kenya, Mauritius and Togo. Companies saw similar improvements in the ease of tax compliance in other regions also. The use of electronic tax filing and payment systems has increased substantially since 2006, with the most notable progress in the economies of Europe and Central Asia. In this region, 14 years ago the average compliance time was 473 hours per year. Thanks to the use of electronic systems for filing and paying taxes, economies in this region spent on average 227 hours on tax compliance in 2017.

The simple fact that an electronic system is available does not of itself guarantee that taxpayers will feel a reduction in compliance time. Often, taxpayers can experience issues with using electronic filing and payment systems, either due to glitches and errors in the system, or due to lack of taxpayer training and guidance. Many tax administrations tackle issues by ongoing updates to their online systems. Argentina has had electronic filing and payment for all major taxes for several years. Improvements made to the electronic system during 2017 reduced compliance time by 46 hours for businesses.

4. Consider working with IT developers to produce reliable accounting and payroll software that can be sold in the market at a discounted price or provided to SMEs free of charge. According to the feedback provided by the tax professionals, businesses do not use reliable accounting and payroll software for maintaining of books and records and that can be used for tax preparation. This kind of software could be generic or customized to the compliance regulations of the tax authority and the social security agency. This would hasten the inputting of payroll data and sales and purchases data. The tax professionals reported that businesses do not use a computer system that generates the sales and purchases reports with the relevant details.

Economies where tax compliance is easy, businesses have either developed internally their own accounting and payroll software or spreadsheets that could feed data into the relevant tax returns or the tax authority has taken the initiative to develop this kind of software and provide them to the businesses free of charge or at a low cost. Some economies have advanced further by connecting tax preparation software into the tax authority portal enabling data to be automatically exported from the software to the tax return.

5. Mandate use of fiscal devices to generates the sales and purchases reports. Starting from June 2019, the National Revenue Administration (NRA) of Sierra Leone is planning to make the use of electronic fiscal devices for the purchase and sale of goods mandatory. All the data generated will be automatically relayed to the NRA servers. The measure is aimed at improving tax compliance and improve the administration of the Good and Service Tax (VAT). This is in line with good international practice and likely to sensibly reduce the time necessary to pay taxes in Sierra Leone. The use of electronic fiscal devices also helps in conducting desk audits efficiently given that the information about the sales and purchases would be relayed automatically to the NRA servers and stored electronically.

3.7. Trading Across Borders

In today's globalized world, making cross border trade between economies easier is increasingly important for business and heavily influences many investment and product sourcing decisions. Excessive use of paper documents, burdensome customs and border management procedures, inefficient port operations and inadequate infrastructure adversely affect a country's competitiveness by raising the cost of imported inputs and saddling exports with dead weight inefficiencies. Countries that facilitate trade are more likely to attract investment and help their private sector participate and compete in the international trading system¹⁰¹.

The performance of Customs and other government agencies that regulate cross border trade, the quality of trade related infrastructure, the availability and quality of private sector logistics service providers, and the existence and administration of non-tariff barriers, all impact the ease of trading across borders and the competitiveness of the trading community. A firm's ability to trade internationally can be impeded by a range of factors, including inadequate infrastructure, excessive documentation requirements, burdensome customs and border management procedures, poor competition and investment policies, and excessive inspection regimes. By simplifying and rationalizing border management systems and procedures, the government can contribute to creating a business environment conducive to trade that enables entrepreneurs to expand business opportunities beyond their national borders.

The *Doing Business* Trading across Borders indicator measures the time and cost (excluding tariffs) required to import and export goods, as reported by domestic business entities. Since its 2016 edition, *Doing Business* has used an updated methodology for measuring the Trading Across Borders indicator. Specifically, the indicator reports the time and cost associated with the process of importing and exporting for two sets of procedures – documentary compliance and border compliance. The time and cost associated with transporting a shipment between a warehouse and the seaport/land border most widely used by traders located in the main business city of the economy (domestic transport time and costs) is still being reported and published in the report but no longer affects the ranking (or the DB score). The main reason for this is that the time and cost for domestic transport are affected by many external factors, such as the geography and topography of the transit territory, road capacity and general infrastructure, proximity to the nearest port or border and the location of warehouses where the traded goods are stored and so are not directly influenced by and economy's trade policies and reforms. Likewise, the number of documents required to comply with regulations is reported but no longer contributes to the Trading Across Borders ranking. The case study assumptions have also been updated. The export product is now defined based on the country's comparative advantage determined by value of exports (in the case of Sierra Leone, the export product used is HS 18: Cocoa and cocoa preparations. The import product is HS 8708: Parts and accessories of motor vehicles). The route and mode of transport are defined based on the most widely used trade pattern for the selected product. Simultaneity of processes is also considered while measuring time spent on document preparation, customs and other border management agency inspections, port and border handling.

Trading goods across borders in Sierra Leone is very cumbersome. Sierra Leone has a *Doing Business* scores of 48.99 out of 100. As a result, Sierra Leone ranks 166th out of 190 economies on the ease of trading across borders in *Doing Business 2019*, and 33rd out of 48 economies in the Sub-Saharan Africa region. It takes exporters 72 hours and US\$227 to prepare, obtain, submit and process the required export documents, and 55 hours and US\$552 to comply with border clearance export procedures.

¹⁰¹ Gage, Jonathan and Miroudot, Sebastien, OECD Trade Policy Working Paper, A review of Good Practices, 2006.

The figures for imports are higher: it takes importers 137 hours and US\$387 to prepare necessary import documents, and 120 hours and US\$821 to clear border import procedures. In keeping with Sierra Leone's trade patterns, the *Doing Business* case study measures the time and cost for exporting to and from China, through the Freetown Port (Table 3.7.1).

Table 3.7.1 - Trading Across Borders ranking and best performers

Indicator		Unit	Ranking			
			Sierra Leone	Regional average	Regional best performer	Global Best performer
Time to export	Documentary compliance	Hours	72	72.8	1 (Lesotho)	1 (25 economies)
	Border compliance	Hours	55	97.3	2 (Eswatini)	0 (17 economies)
Cost to export	Documentary compliance	US\$	227	168.8	25 (Togo)	0 (19 economies)
	Border compliance	US\$	552	605.5	109 (Burundi)	0 (19 economies)
Time to import	Documentary compliance	Hours	137	97.7	1 (Lesotho)	1 (30 economies)
	Border compliance	Hours	120	126.3	3 (Eswatini)	0 (21 economies)
Cost to import	Documentary compliance	US\$	387	283.5	60 (Mozambique)	0 (30 economies)
	Border compliance	US\$	821	684.3	98 (Botswana)	0 (27 economies)

Source: *Doing Business 2019*

Table 3.7.2 - Components of Border Compliance in Sierra Leone

Component	Time to Complete (hours)	Associated Costs (USD)
Export: Clearance and inspections required by customs authorities	40.3	354.3
Export: Clearance and inspections required by agencies other than customs	11.1	31.4
Export: Port or border handling	54.9	166.1
Import: Clearance and inspections required by customs authorities	40.3	175.0
Import: Clearance and inspections required by agencies other than customs	72.0	500.0
Import: Port or border handling	48.0	146.4

Source: *Doing Business 2019*

According to the *Doing Business 2019* report, traders routinely submit 8 documents to export cocoa and cocoa preparations (HS 18) to China.¹⁰² These reflect legal requirements by authorities of Sierra Leone, transit economies and destination economies, as well as common practice. The documents include the bill of landing, commercial invoice, container allocation document, single customs declaration, packing list, phytosanitary certificate, proof of payment of custom fees, and SOLAS certificate¹⁰³. Ten documents are commonly prepared to import a container of auto-parts (HS 8708) to Sierra Leone from China, including the bill of lading, classification and valuation document, commercial invoice, single custom declaration, custom release order/exit note, delivery order, packing list, proof of payment of custom fees and duties, TPMS/ENS payment, and SOLAS Certificate (Table 3.7.3). The time and costs of trading across borders are outcomes of the existing legal and regulatory framework and *de facto* practices of all involved authorities.

Table 3.7.3 - Documents required for Trading across Borders in Sierra Leone

Export	Import
Bill of Landing	Bill of lading
Commercial Invoice	Classification and Valuation Certificate
Container Allocation Document	Commercial Invoice
Single Allocation Document (EX1)	Single Customs Declaration (IM4)
Packing List	Custom Release Order / Exit Note
Phytosanitary Certificate	Delivery Order
Proof of Payment of Custom Fees	Packing List
SOLAS Certificate	Proof of payment of custom fees and duties
	TPMS/ENS Payment
	SOLAS Certificate

Source: *Doing Business 2019*

Legal, institutional, and procedural changes need to be implemented to make documentary preparation, customs clearance, and regulatory and technical control less burdensome for the private sector. This is consistent with the WTO Trade Facilitation Agreement (TFA) that Sierra Leone ratified on March 7, 2017. The World Trade Report of 2015 showed that full implementation of the WTO Trade Facilitation Agreement could reduce trade costs by an average of 14.3% and boost global trade by up to \$1 trillion per year.¹⁰⁴ In order for Sierra Leone to achieve similar results, the authorities should consider further rationalizing and streamlining its processes in line with WTO requirements and implementing international good practices. Sierra Leone's full implementation of the TFA's provisions are expected to deliver clear benefits to the trading community suggesting meaningful gains can be achieved by accelerating implementation as soon as is practically possible.

Short-term reform recommendations

1. Map existing documentary requirements in order to identify gaps in the implementation of existing regulations and adopt measures to address them. According to the information collected during the fact-finding mission of January 2019, the Custom Authority is planning to reduce the number of documents

¹⁰² This is provided assumptions of *Doing Business 2019* hold, including destination country and transit border crossings.

¹⁰³ Safety of Life at Sea certificate established by the International Convention for the Safety of Life at Sea (SOLAS)

¹⁰⁴ World Trade Report 2015, Speeding up trade: benefits and challenges of implementing the WTO Trade Facilitation Agreement.

necessary to trade across borders starting from February 2019. For imports, the planned measures will include the introduction of an improved Single Customs Declaration form, the elimination of the need for a bill of landing, and the merging commercial invoice and packing list into a single document. For exports, measures include the introduction of a Single Customs Declaration and the elimination of the need to submit an Export Permit for each shipment. These measures will be accompanied by workshops training events to ensure that they are fully implemented in day-to-day practice.

Despite the authorities' ongoing efforts to reduce the documentary requirements, there will still be considerable room to further reduce the times associated to documentary compliance in Sierra Leone's. As a first step, it is advisable to map all the documents currently prepared by traders (see list above) and compare them with those legally required by 1) the Sierra Leone Customs Authority; 2) other regulatory agencies operating in the country; and 3) government agencies of the receiving countries. This assessment can determine the reasons behind any implementation gaps which may include insufficient quality and coherence of regulations, inconsistent or contradictory administrative practices, and lack of awareness and capacity by the private sector.

Based on the assessment, Sierra Leone authorities could further simplify the legal requirements in the first two categories above and ensure regulatory amendments that do not contradict other legislation (or that there are no parallel requirements in place). The Government may explore administrative practices of the agencies involved in each procedure and, when necessary, take measures against the selective and discretionary applications of rules and border procedures. To ensure all agencies are aware of their obligations to implement the updated regulations described above, step-by-step internal guidelines could be prepared. These may be accompanied by dissemination seminars, trainings and other outreach activities. Once the guidelines are provided, the relevant agencies must be held accountable for the implementation of the new regulations. Performance monitoring mechanisms may include establishing targets for agencies, tracking statistics, and user feedback.

Additional documents may be submitted because traders are unsure of what is actually required. In fact, private sector practitioners often give different accounts of the actual clearance process or are not certain of the procedures. Better client education is needed to improve compliance. It is recommended that border agencies formalize information sources and channels of communication, creating specific contact points offering clear advice to improve compliance management. Formal education programs for users could also be considered.¹⁰⁵

Ultimate goal for Sierra Leone should be to fully automate document submission by customs brokers using Customs IT system ASYCUDA World. The new procedure should only require an electronic version of mandatory documents to be submitted in ASYCUDA World, and original documents will only be submitted by customs brokers if specifically requested by customs administration or other border authority for review.

2. Develop an inventory of all fee schedules to identify possibilities for simplifying the schedules and reducing the administrative costs linked to importing and exporting. Trading across borders in Sierra Leone is a very costly and unclear endeavor, especially when compared to the regional averages for Sub-Saharan Africa and international best practices (Table 8.1). In order to lower the administrative costs of trade, the Sierra Leone's authorities could develop an inventory of the fees required at each step of the trading process to identify high fees that could be reduced. This measure could lead to further trade facilitation and help boost imports and exports. A study using data from 167 countries finds that every USD

¹⁰⁵ Grainger, Andrew. 2008. "Customs and Trade Facilitation: From Concepts to implementation". World Customs Journal 2(1): 17-31.

1 reduction in the cost to export a 20ft container could increase exports by up to USD \$11,000 and a decrease of USD 1 in the cost to import a 20ft. container can yield an increase in imports of almost USD \$1,000.¹⁰⁶

3. Improve transparency by publishing all the trade-related fee schedules in the Customs' website. Freight forwarders and trading companies in Sierra Leone spend a lot of time locating information and validating customs, port and terminal fees to calculate their expenses. Easy access to relevant and updated schedules of all the agencies involved in import and export procedures – customs, ports, terminal, other government agencies – will allow traders to anticipate costs and reduce unpredictability. Publishing information on all fee schedules could also improve the prospects of compliance, while at the same time allowing traders to take informed decision on their economic activity. In order to achieve this goal, the Sierra Leone's Customs website could be improved by making all fee schedules easily available. In addition, any changes in fees or charges should be announced to the public in advance, giving parties an opportunity for comment, and should not take effect until such information has been made publicly available.

Medium-to-long term reform recommendations

4. Further streamline operations and improve tugging services at the Freetown Port. The port of Freetown has been recently extended to accommodate larger ships and provide more storage space for containers and vehicles. The works were completed in late November 2018. They include a quay extension of 270 m to a depth of 13 m and the installation of two gantry cranes. Private sector practitioners interviewed in January 2019 reported that port congestion has since been reduced considerably. Additional improvements in port logistics could be achieved by further streamlining port logistics. For instance, private sector practitioners reported that the current position of the scanning equipment at the center of the port creates long queues of container trucks. In the longer term, better port efficiency could also be achieved by providing the port with permanent tug boats to help maneuver incoming (and outgoing) large ships against the strong coastal currents. Such services for large ships are currently missing. As a result, large ships might s be prevented from entering the port in a timely manner or, if they do, they might damage the berths.

5. Improve inter-agency coordination for border management and clearance processes. Cross border trade involves controls by many agencies. In Sierra Leone, these agencies include: Department of Customs (under National Revenue Authority); Sierra Leone Standards Bureau (under the Ministry of Trade and Industry); Freetown Port Authority; Phytosanitary Control Unit and Livestock and Veterinary Services (both under the Ministry of Agriculture, Forestry and Food Security); Port Health Officer and Pharmacy Board (both under the Ministry of Health and Sanitation), and Ministry of Fisheries and Marine Resources. Improved sharing of information among border agencies, streamlined processes for customs and non-customs controls, joint controls, and establishment or improvement of the links and interoperability between customs and non-customs electronic systems may all contribute to the reduction of time spent in clearance procedures.

WBG consultations with the private sector practitioners highlighted that the day-to-day coordination on the ground among the above-mentioned agencies could be significantly improved, especially at the point of service delivery. Coordination can take the form of constant and regular meetings and dialogue between agencies to share and exchange information and reduce the over-lapping of responsibilities. International good practices show that timely sharing of information, streamlined processes for customs and non-customs controls, joint controls, establishment or improvement of the links and interoperability between customs

¹⁰⁶ Inma Martinez-Zarzoso and Laura Marquez-Ramos, "The Effect of Trade Facilitation on Sectoral Trade," The B.E. Journal of Economic Analysis & Policy: Vol. 8: Iss. 1 (Topics), Article 42, 2008.

and non-customs electronic systems can all contribute to the reduction of time spent in clearance procedures. A recent reform in this area was implemented by the government of Mali, introducing an interconnection system between two agencies – the Customs Agency and the Direction Nationale du Commerce et de la Concurrence (DNCC). The new system allows for electronic preparation and submission of certain export and import documents and has resulted in a significant reduction in time dedicated to documentary compliance. Thanks to this reform, Malian traders do not need to go to the DNCC office anymore, only to the customs office, thus saving them a full business day.¹⁰⁷

6. Provide continuous training to customs staff and other government officials in charge of the daily operations and educate trade operators on the new procedures and processes. According to the information received during the fact-finding mission of January 2019, Sierra Leone is planned to transition from the current computerized customs management system (ASYCUDA++) to a more modern system (ASYCUDAWorld) starting from February 2019. The transition will be fundamental for establishing paperless customs and allowing electronic submission of documents and improved risk-management techniques. As Sierra Leone implements this reform and embarks on other reforms to further improve its cross-border trade procedures and processes, it should not neglect to invest in the training of its public officials operating at the point of service delivery. Trainings could be accompanied by the implementation of monitoring and evaluation (M&E) mechanisms to ensure that staff are not only well informed on the new rules and procedures, but also implement them right. Important additional steps should also be taken to improve private sector awareness of the latest government initiatives. For instance, the Customs Authority should organize trainings and workshops for international traders and custom brokers every time it introduces a new process or improves the capabilities of the (new) custom management system (ASYCUDA World). This good practice could integrate broader communication campaigns - through social media, billboards, public broadcast, government's websites, etc. - to educate the private sector on the improved ease of trading across borders in Sierra Leone.

7. Implement a National Single Window (NSW) for Trade. The introduction of the computerized customs management system “ASYCUDA World” represents an important step forward on the ease of trading across borders in Sierra Leone. Additional plug-ins are planned in the next year in order to gradually allow other government agencies to benefit from the system. Once these improvements have been implemented, there might still be considerable room for improvement in order to align the Sierra Leone with international best practices relating to modern Single Window (NSW) systems (Box 8.1). In order to effectively introduce a modern NSW, Sierra Leone authorities need to identify and address all the obstacles for the elimination of paper-based submissions. The lack of a functioning e-signature system for private sector users is certainly one of them. As a second step, Sierra Leone should enable full data sharing between the regulatory agencies and the central NSW database (i.e, sharing raw data instead of scanned documents). At its final stage, the NSW should allow submission of all trade documents, interconnect all the relevant ministries and agencies to the system, and introduce advanced risk-management techniques in line with international best practices.

International examples abound. Singapore, for instance, has been a global leader in the implementation of a single window platform. Its TradeNet system handles 20-30,000 trade declarations per day, processes 99% of permits in 10 minutes, and receives all collections through interbank deductions. This was made possible by linking 35 government controlling units. Korea has implemented an online NSW, where importers and exporters can submit documents and obtain approvals from customs and different agencies. This electronic window has brought together 69 agencies as well as private participants - including traders, banks, customs brokers, insurance companies and freight-forwarders. It allows them to exchange

¹⁰⁷ *Doing Business 2016 report.*

information in real time, thus considerably speeding up approvals. The Korea Customs Service estimates that the introduction of its single-window system brought some \$18 million in benefits in 2010 alone, part of the overall economic benefits that year of up to \$3.47 billion from the agency's trade facilitation efforts. In Europe, the computerization of the German port of Hamburg started in 1983, when the first harbor order was sent electronically from a haulage company through its port community system (DAKOSY). Thirty-five years later, the Port of Hamburg is a 100% "paperless port" and DAKOSY has become its single window platform. All logistics companies and authorities involved in the export, import and transit processes communicate their business data through its data center. Transport orders, customs applications, hazardous goods notifications, harbor orders, bills of lading, manifests are transferred electronically through DAKOSY, which currently has more than 2000 customers including haulage companies, shipping lines, rail transport companies, trucking companies, feeders, international trade firms and industrial enterprises.

Box 3.7.1. -World Bank Group guiding principles for National Single Windows (NSW)

Consistent with global good practices, the World Bank Group has developed a set of guiding principles to shape its work on assessing and supporting the development of modern NSW systems. According to these principles, a fully-operational, modern, NSW should:

- Allow traders to interact (either directly or through a broker or agent) with the government on-line in real-time through the NSW for all stages in the import/export process (i.e. registration, license/permit issuance, goods declaration and release, and payment);
- Be used by traders to monitor and track the progress of transactions;
- Eliminate physical visits to government agencies (or reduce them to a minimum). Additionally, data required by any government agency for a trade transaction is submitted only once using a standardized and harmonized data format. Once submitted, data becomes available to all authorized government officials involved in regulating the transaction;
- Eliminate the paper document submissions (or reduce them to the minimum needed to ensure effective controls are maintained);
- Allow border agencies to co-locate officials and coordinate, and where feasible, integrate their processing and inspection processes;
- Apply risk-management techniques at all stages in the registration, permit and license approvals, as well as border clearance operations, by all agencies in a coordinated and transparent manner, making maximum use of ICT;
- Operate through an inter-agency approach to risk management (including an automated risk management system in the NSW). Also, the necessary Inter-agency Memoranda of Understanding (MOUs) and related Service Level Agreements (SLAs) among the NSW Operator, the Lead Agency (TCD) and participating government agencies should in place;
- Have an integrated enforcement database, incorporating information on all enforcement actions and results from inspection and verification activities;
- Allow traders to submit customs declarations in advance of goods' arrival (allowing pre-arrival processing by all relevant government agencies);
- Offer different payment options and allow e-payment of duty taxes and fees. Also, charges processed by banks/treasury should be linked directly to the NSW.
- Provide timely, accurate and comprehensive trade-related statistics to all authorized parties.

8. Implement effective Risk Management (RM) and Post-Clearance Audits (PCA) systems and promote the use of Trusted Traders and/or Authorized Economic Operators regimes. Currently, all

containers arriving to Freetown Port must undergo inspection, either manually or through mobile X-ray machines operated by the inspection company “Africa Links”. This significantly delays the time of border crossing, creates uncertainties among traders, and opens opportunities for discretionary treatment during customs clearance. Requiring imports and exports to undergo inspections—for tax, security, environmental, border control, and health and safety reasons—is often necessary. How these inspections are carried out, including how cargo is selected for inspection, however, varies across economies. Done with a heavy hand, inspections can be a serious obstacle to efficient and predictable trade. Over the years, customs administrations around the world, working in tandem with other border control agencies, have developed systems for establishing risk profiles that allow them to apply physical inspections corresponding to the potential risk of consignments. Investing in equipment is another way to help expedite the processing of cargo. Many economies use scanners to limit the need to physically open containers. In some economies, however, inefficient use of scanners led to additional burden on traders, because customs agents scan all containers, creating delays and imposing mandatory scanning fees on traders. Efficient use of scanners in conjunction with risk-based profiling can strike the right balance in inspection, contributing to the efficiency of the trading process.

Sierra Leone could immediately start by publishing, in an easily accessible manner, such as the Ministry of Industry and Trade website, all requirements related to destination inspection, including the entry process, required documents, fees, exemptions, timelines, and rights of appeal against destination inspection company decisions. In parallel it would be good to conduct a thorough assessment of the current capacity and training needs of Customs officers for the implementation of customs valuation rules and effective controls, tariff classification, and preferential/non-preferential origin rules and documentation requirements. Based on that assessment develop a detailed action plan to transition destination inspection functions to Customs, with timelines and technical assistance and capacity building support requirements.

The implementation of effective Risk Management (RM) and Post Release Audits (PCA) systems can help to reduce time and costs to import and export. Effective RM and PCA systems increase the effectiveness of customs controls, reducing documentary and physical examinations of cargos to optimum levels, focusing controls on high risk products or trades. To transition successfully to a risk-based system, it is however necessary to capture the outcomes of the inspections over time. In order to achieve this goal, Sierra Leone may need to expand the type of statistics collected by the agencies to include a more detailed technical assessment of different types of goods and traders. Based on these statistics, it will be possible to classify risks, determine risk criteria and allocate goods and traders into a certain risk category during the application submission process.

Uruguay is one of the countries that successfully implemented a risk-based approach to inspections. Building on the Uruguayan Customs Modernization Plan launched by the Government in 2007, the National Customs Directorate rolled out a new risk-based system that became fully operational by 2014. Inspections have therefore become faster, as has the time required to complete the process of export and import customs clearance. Albania also implemented an electronic risk-based inspection system, which reduced the time for border compliance. As part of the Western Balkans Trade Logistics Project completed by Albanian Government and UNCTAD in January 2015, Albanian Customs introduced an effective electronic risk-based inspection system at the Port of Durres. The new system establishes risk profiles, which allow to apply physical inspections in proportion to the potential risk of consignments. The risk-based inspection system has been facilitated by the upgrade of the existing ASYCUDA Customs Processing system, which now allows electronic assignation of green channels. The risk-based inspection system is fully operational, and the majority of exports go through green channels which do not require either physical or documents inspection, thus decreasing the time of export customs clearance.

Another measure that could help reduce time and costs at the border is an increased use of Trusted Traders and/or Authorized Economic Operator regimes. Trusted traders and/or Authorized Economic Operators are persons or companies that meet criteria specified by customs, including having an appropriate record of customs compliance, financial viability, and satisfactory system for managing commercial records. The status of trusted trader provides access to simplified procedures—such as pre-arrival processing of information; simplified declaration, valuation, clearance at locations convenient for the trader; payment of duties after release—where the Custom Agency reduces the level of controls and relies more on internal controls applied by the trader to ensure compliance with all relevant laws and regulations. Sierra Leone is planning to introduce a trusted traders program (“Gold Card Scheme”) starting from spring 2019 so to provide preferential release procedure to low-risk importers. The measure is sound and should be encouraged.

9. Encourage pre-arrival processing of all document requirements electronically. Pre-arrival submission and processing of documents helps identifying necessary interventions before the shipment gets to the port. Pre-arrival submissions can be reviewed, and additional documentary requirements communicated prior to arrival, thus saving time and money both for the traders and the authorities. Pre-arrival processing is a global best practice for trade facilitation and is part of the WTO obligations that Sierra Leone is required to comply with. Encouraging the widespread use of electronic pre-arrival document processing by traders may help the authorities in further reducing processing times.

3.8. Resolving Insolvency

Effective insolvency systems enhance predictability and thus lender confidence in loan recovery upon default, which encourages more lending and leads to financial access for more businesses. The relationship between the Doing Business Strength of Insolvency Framework index and the availability of credit domestically to the private sector (as percentage of GDP) shows that weaker insolvency regimes generally reflect lower credit availability and that more developed insolvency systems are positively associated with higher levels of credit.¹⁰⁸ Further, research shows a strong correlation between the Doing Business Report's Resolving Insolvency recovery rate and the availability of domestic credit from a country's banking sector (as measured as a percentage of GDP).¹⁰⁹

Efficient regulation of corporate insolvency is associated with increased access to credit for firms and on better terms. Creditors are more willing to lend because they are more likely to recover their loans. Additionally, economies that reform their insolvency law to provide a mechanism for business rescue may reduce the failure rate among firms, help maintain a higher overall level of entrepreneurship in the economy and preserve jobs. By facilitating the efficient liquidation of non-viable companies, an insolvency framework supports the efficient reallocation of resources across the economy.

The Resolving Insolvency indicator examines the recovery rate, time, cost and outcome of insolvency proceedings involving domestic entities as well as the strength of the legal framework applicable to liquidation and reorganization proceedings. The Strength of Insolvency Framework index component of the indicator is based on four indices: commencement of proceedings index, management of debtor's assets index, reorganization proceedings index and creditor participation index. Doing Business assumes that creditors want to recover as much as possible, while debtors will defend themselves and may end up using dilatory tactics.

Sierra Leone ranks 161 on the Resolving Insolvency indicator globally, and 37 out of 38 in the Sub-Saharan Africa region (Table 3.8.1). Secured creditors in Sierra Leone are expected to recover 11.1 cents on the dollar from an insolvent firm at the end of insolvency proceedings. This is almost half the amount the same creditors are estimated to receive on average in Sub-Saharan Africa at 20.3 cents and much less than the OECD high-income average of 70.5 cents on the dollar. With respect to time, the period measured by *Doing Business* is from the company's default until the payment of some or all of the money owed to the bank. The proceedings are estimated take approximately 2.3 years to complete in Sierra Leone, slightly lower than the 2.9-year average for Sub-Saharan Africa. However, this is higher than the 1.7 years for OECD high-income countries. The true cost of the proceedings is recorded as a percentage of the value of the debtor's estate. In Sierra Leone, the cost is estimated at a very high rate: 42% of the debtor's estate, nearly double that of the Sub-Saharan average of 22.7%. OECD high-income average is 9.3%. This means that, after costs, the potential available is only 58% of the estate in Sierra Leone. The breakdown cost

¹⁰⁸ A. Menezes. World Bank Group ViewPoint Note. "Insolvency Reform for Credit, Entrepreneurship, and Growth" <http://documents.worldbank.org/curated/en/912041468178733220/Debt-resolution-and-business-exit-insolvency-reform-for-credit-entrepreneurship-and-growth>. July 2014, p. 4.

¹⁰⁹ Ibid.

incurred during the entire insolvency process in Sierra Leone includes court fees (2%), attorney fees (15%), insolvency representative fees (5%), auctioneer's fees (10%), fees of accountants, assessors, inspectors and other professionals (7%), and other fees (3%).

The outcome of the insolvency process outlined in the *Doing Business* case study is likely to be a piecemeal sale in Sierra Leone. This is very linked to creditor recovery. In the case study, recovery by creditors depends on whether the hotel business emerges from the proceedings as a going concern or the company's assets are sold piecemeal. If the business continues operating, 100% of the hotel value is preserved. If the assets are sold piecemeal, the maximum amount that can be recovered is 70% of the value of the hotel.

On the Strength of Insolvency Framework index, Sierra Leone receives 6 out of 16 possible points. The average in Sub-Saharan Africa is slightly higher at 6.4. The main gaps in the insolvency framework identified by the *Doing Business* team are lack of a modern judicial reorganization process, missing provisions for fresh financing during insolvency as well as few opportunities for creditors to participate in the insolvency proceedings.

See Table 3.8.1 below for a full comparison of Sierra Leone's scores to regional averages and best performers. As discussed above, Sierra Leone compares to regional averages for time and strength of the insolvency framework index. Although, it should be noted that the regional averages are low for these indicators. However, for cost and recovery rate Sierra Leone has much room for improvement, even compared to the regional averages.

Table 3.8.1 - Resolving insolvency ranking and best performers

<i>Doing Business</i> Indicator	Sierra Leone	Regional Average	Regional best performer	Global best performer
Time (years)	2.3	2.9	1 (Zambia)	0.4 (Ireland)
Cost (percent of estate)	42	22.7	11 (Seychelles)	1 (Norway)
Outcome	Piecemeal sale	-	-	-
Recovery rate (cents on the dollar)	11.1	20.3	67.4 (Mauritius)	92.4 (Japan)
Strength of insolvency framework index (0-16)	6.0	6.4	15 (Rwanda)	15 (9 countries)

Source: *Doing Business 2019*

The current insolvency framework

In 2009, Sierra Leone enacted the Companies Act, which includes provisions for winding-up companies.¹¹⁰ Unfortunately, the Companies Act of 2009 does not contain key modern elements of an insolvency framework in line with international good practice standards. In particular: (i) there are no modern restructuring provisions which would enable viable companies to efficiently negotiate a plan with creditors; (ii) a robust framework for qualifying and monitoring insolvency administrators does not seem to exist; (iii) measures to maintain value of a company in insolvency such as continuation of contracts and post-commencement financing are not provided for; (iv) creditors are not involved in many important decisions. Further, it is not clear whether Sierra Leone has any kind of informal out-of-court framework for restructurings, which may encourage more viable companies (especially MSMEs) to resolve their financial difficulties.

Medium to long-term reform recommendations

1. Conduct a detailed diagnostic of the legal framework and amend the Companies Act 2009 to align with international good practices. As pointed out in the previous section, the insolvency framework of Sierra Leone is outdated and needs to be reformed. In this regard, a detailed diagnostic - based upon the World Bank Principles for Insolvency and Creditor/Debtor Regimes as well as the United Nations Commission on International Trade and Law (UNCITRAL) Legislative Guide on Insolvency Law – should be carried out as soon as possible in order to define a comprehensive reform plan for all the laws connected to the insolvency framework. More in general, the existing legislation could be modified as to:

- **Provide for the continuation of contracts supplying essential goods and services** to the debtor. This supply facilitates firms' continued trading during insolvencies, which allows the firm to maintain value, and therefore higher asset value for liquidations or a more likely successful restructuring.
- **Allow the possibility of debtors to obtain credit after commencement of insolvency proceedings and assign priority to it.** Post-commencement financing is also essential to company trading after commencement. Without it, companies cannot obtain fresh financing, which is often needed to overcome past issues of financial distress. To encourage creditors to provide such financing, priority of payment should also be assigned to the fresh credit.
- **Allow for reorganization plans to be voted by creditors whose rights are modified or affected by the plans.** Should Sierra Leone include a modern reorganization framework in a revised law, we recommend it to permit creditors to vote on any plan which affects them. This is important for the fairness of creditor treatment and to keep creditors involved in the restructuring process.
- **Include a provision that divides creditors into classes for the purposes of voting on the reorganization plans. Each class should vote separately and the creditors in the same class treated equally.**
- **Require approval of the creditors in selecting or appointing the insolvency representative.** Since the insolvency representative will likely have an important role in conducting the business

¹¹⁰ A Bankruptcy Act was also enacted. The Bankruptcy Act appears to be solely related to personal insolvency but may play in the insolvency of a micro or small business where the business is not registered.

of the firm and representing all creditors, it is important that creditors have a say in who the representative will be. This allows them to have more confidence in the framework.

- **Require that the creditor has the right to request information from the insolvency representative.** Creditors should have full access to information throughout the insolvency process.
- **Require the consent of the creditor for the sale of substantial assets of the debtor.** A substantial sale of assets will likely affect creditors and their consent allows them more participation and voice in the proceedings.

As discussed above, Sierra Leone should also consider creating a modern reorganization regime.

Across the world, the highest recovery rates are recorded in economies where reorganization is the most common insolvency proceeding. Reorganization aims to restore the financial well-being and viability of a debtor's business so that the business can continue to operate through means that may include debt forgiveness, debt rescheduling, debt-equity conversions, and sale of the business (or parts of it) as a going concern. The ultimate purpose of reorganization is to allow the debtor to overcome its financial difficulties and resume (or continue) its business operations.

Pakistan provides a good example of successful reforms aimed at implementing reorganization proceedings in line with best international practices. The government of Pakistan adopted the Corporate Rehabilitation Act in March 2018. The Act introduced the option of reorganization for commercial entities as an alternative to the liquidation procedure, allowing the debtor to commence the reorganization procedure. It also stipulated specific rules on how creditors vote on the reorganization plan—all creditors must vote on the plan, regardless of its impact on their interests. Finally, the Act specified that the anticipated cash return to dissenting creditors should be at least equal to the allowed amount of their claims.

2. Identify training needs for the judiciary and the legal community with respect to insolvency. Sierra Leone could also conduct an assessment of its training needs with respect to insolvency. Even if the current framework lacks certain key modern features, training on basic insolvency concepts could begin before the reform process described in the previous recommendation is complete. This could increase interest and awareness of the insolvency framework and encourage a more efficient use of the existing legislation. Finally, trainings would also help explain the macroeconomic case for the use of the insolvency system, including increases in debt recovery as well as amount of lending and an improvement in lending terms (i.e. repayment schedule and interest rates).

Recent World Bank Doing Business research shows that specialized judicial training is valuable in raising resolving insolvency scores.¹¹¹ Economies where judicial training is available scored on average approximately 15 points better on resolving insolvency than those where training is not available. At a minimum, workshops for judges should be offered as they play a very active role in insolvency cases. However, workshops for lawyers, accountants, liquidators, receivers, bankers and businesspeople are also essential for all the relevant stakeholders to have a basic understanding of the function and usefulness of the insolvency framework.

¹¹¹ World Bank Group. “Doing Business Report” 2019. p. 57.

3. Strengthen the regulatory framework for insolvency practitioners. Without effective insolvency representatives (i.e., liquidators, receivers and managers), the entire insolvency framework may falter. In most countries, the importance of the functions undertaken by insolvency representatives cannot be overestimated. They relate to issues pertaining to the determination of the estate and its administration and/or liquidation; their role is often intrinsic to the search, process, analysis and presentation of information to the stakeholders; and they normally provide vital assistance to the court or the authorized body in procedural matters related to insolvency. Many countries—such as the United Kingdom, Canada, Australia, China, Japan, Korea, Brazil, Mexico and Russia—have even facilitated the development of a professional insolvency practitioner profession whose members manage the economic and operational aspects of a proceeding.

The Sierra Leone Companies Act does not appear to provide for robust qualifications for insolvency practitioners like receivers or liquidators. With respect to receivers, there are some minimum qualifications listed in Section 330, but no substantive monitoring or remuneration provisions. Section 364 of the Companies Act states that either “the Commission or any other fit person may be appointed” as a liquidator but provides no further requirements. In addition, while the Corporate Affairs Commission has some responsibilities for investigating liquidators, the monitoring framework and remuneration are not discussed in detail. Any liquidator or receiver should be required to have certain minimum qualifications, including prescribed levels of accounting skills, commercial expertise and knowledge of the applicable legal framework. There should also be supervision in relation to compliance with legal and ethical standards, backed up by disciplinary powers. Among other things, this should assist in mitigating the risk of collusion between office holders and companies’ shareholders with a disregard for creditors’ rights and in ensuring that creditors are informed of and consulted on appropriate matters.

The Companies Act (or specific regulations) could prescribe that liquidators, receivers and managers have certain qualifications and be subject to supervision (backed up by disciplinary powers) in relation to compliance with legal and ethical standards. If modern reorganization proceedings are introduced and involve the appointment of an office holder to conduct the procedure, such qualifications and supervision should also be required.

4. Explore the use of informal mechanisms for out-of-court workouts, especially for MSMEs. Informal mechanisms, such as mediation, can become effective means of conducting out-of-court workouts for viable companies, thus providing a useful method of debt resolution prior to formal insolvency proceedings taking place. This is especially true for MSMEs, who often do not have the means (or knowledge) to navigate and pursue a lengthy court process. Effective use of mediation lowers costs, improves speed of resolution and helps reduce the burden on courts.

The control that is placed in the parties’ hands means that they can play a proactive role in the decision-making, rather than having a court judgment imposed on them. The fact that the agreed upon settlement is consensual means that parties are more likely to adhere to it. Further, the mediation procedure itself provides certain procedural conditions to facilitate debtor-creditor negotiations. For instance, since confidentiality is guaranteed, the parties can feel more at ease about having frank, open discussions, and the enforceability of any negotiated agreement can be built into the system.

Mediation involving financial distress requires mediators to have training specific to financial issues in order for them to grasp the sometimes-complex subject matter and requirements. Mediators in Sierra Leone could be certified for the purposes of out-of-court workouts and debt resolution. The World Bank Group has recognized the usefulness of mediation in the context of the treatment of MSME insolvency in recent reports.¹¹² Several European countries have introduced such frameworks. For example, Portugal successfully adopted guidelines to facilitate debt recovery through mediation, with a specific focus on MSMEs.¹¹³

¹¹² World Bank Group. 2018. "Report on the Treatment of MSME Insolvency." Report. Washington, DC: World Bank Group, p. VI.

¹¹³ Yan Liu and Christoph B. Rosenberg. 2013. "Dealing with Private Debt Distress in the Wake of the European Financial Crisis: A Review of the Economics and Legal Toolbox." Working Paper. Washington, DC: International Monetary Fund, p. 11.

4. Acknowledgments

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