

A World Bank Group Flagship Report

Doing Business 2017

Equal Opportunity for All

Economy Profile 2017

Kenya



© 2017 International Bank for Reconstruction and Development / The World Bank
1818 H Street NW, Washington DC 20433
Telephone: 202-473-1000; Internet: www.worldbank.org

Some rights reserved
1 2 3 4 19 18 17 16

This work is a product of the staff of The World Bank with external contributions. The findings, interpretations, and conclusions expressed in this work do not necessarily reflect the views of The World Bank, its Board of Executive Directors, or the governments they represent. The World Bank does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of The World Bank concerning the legal status of any territory or the endorsement or acceptance of such boundaries.

Nothing herein shall constitute or be considered to be a limitation upon or waiver of the privileges and immunities of The World Bank, all of which are specifically reserved.

Rights and Permissions



This work is available under the Creative Commons Attribution 3.0 IGO license (CC BY 3.0 IGO) <http://creativecommons.org/licenses/by/3.0/igo>. Under the Creative Commons Attribution license, you are free to copy, distribute, transmit, and adapt this work, including for commercial purposes, under the following conditions:

Attribution—Please cite the work as follows: World Bank. 2017. *Doing Business 2017: Equal Opportunity for All*. Washington, DC: World Bank. DOI: 10.1596/978-1-4648-0948-4. License: Creative Commons Attribution CC BY 3.0 IGO

Translations—If you create a translation of this work, please add the following disclaimer along with the attribution: *This translation was not created by The World Bank and should not be considered an official World Bank translation. The World Bank shall not be liable for any content or error in this translation.*

Adaptations—If you create an adaptation of this work, please add the following disclaimer along with the attribution: *This is an adaptation of an original work by The World Bank. Views and opinions expressed in the adaptation are the sole responsibility of the author or authors of the adaptation and are not endorsed by The World Bank.*

Third-party content—The World Bank does not necessarily own each component of the content contained within the work. The World Bank therefore does not warrant that the use of any third-party-owned individual component or part contained in the work will not infringe on the rights of those third parties. The risk of claims resulting from such infringement rests solely with you. If you wish to re-use a component of the work, it is your responsibility to determine whether permission is needed for that re-use and to obtain permission from the copyright owner. Examples of components can include, but are not limited to, tables, figures, or images.

All queries on rights and licenses should be addressed to World Bank Publications, The World Bank Group, 1818 H Street NW, Washington, DC 20433, USA; fax: 202-522-2625; e-mail: pubrights@worldbank.org.

ISBN (paper): 978-1-4648-0948-4
ISBN (electronic): 978-1-4648-0984-2
DOI: 10.1596/978-1-4648-0948-4
ISSN: 1729-2638

COVER DESIGN: CORPORATE VISIONS, INC.

CONTENTS

Introduction	4
Starting a business	17
Dealing with construction permits	25
Getting electricity.....	39
Registering property.....	48
Getting credit.....	60
Protecting minority investors.....	66
Paying taxes.....	74
Trading across borders	80
Enforcing contracts	88
Resolving insolvency.....	96
Labor market regulation	105
Distance to frontier and ease of doing business ranking.....	111
Resources on the <i>Doing Business</i> website	114

INTRODUCTION

Doing Business sheds light on how easy or difficult it is for a local entrepreneur to open and run a small to medium-size business when complying with relevant regulations. It measures and tracks changes in regulations affecting 11 areas in the life cycle of a business: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts, resolving insolvency and labor market regulation. *Doing Business 2017* presents the data for the labor market regulation indicators in an annex. The report does not present rankings of economies on labor market regulation indicators or include the topic in the aggregate distance to frontier score or ranking on the ease of doing business.

In a series of annual reports *Doing Business* presents quantitative indicators on business regulations and the protection of property rights that can be compared across 190 economies, from Afghanistan to Zimbabwe, over time. The data set covers 48 economies in Sub-Saharan Africa, 32 in Latin America and the Caribbean, 25 in East Asia and the Pacific, 25 in Eastern Europe and Central Asia, 20 in the Middle East and North Africa and 8 in South Asia, as well as 32 OECD high-income economies. The indicators are used to analyze economic outcomes and identify what reforms have worked, where and why.

This economy profile presents the *Doing Business* indicators for Kenya. To allow useful comparison, it also

provides data for other selected economies (comparator economies) for each indicator. The data in this report are current as of June 1, 2016 (except for the paying taxes indicators, which cover the period January–December 2015).

The *Doing Business* methodology has limitations. Other areas important to business—such as an economy's proximity to large markets, the quality of its infrastructure services (other than those related to trading across borders and getting electricity), the security of property from theft and looting, the transparency of government procurement, macroeconomic conditions or the underlying strength of institutions—are not directly studied by *Doing Business*. The indicators refer to a specific type of business, generally a local limited liability company operating in the largest business city. Because standard assumptions are used in the data collection, comparisons and benchmarks are valid across economies. The data not only highlight the extent of obstacles to doing business; they also help identify the source of those obstacles, supporting policy makers in designing regulatory reform.

More information is available in the full report. *Doing Business 2017* presents the indicators, analyzes their relationship with economic outcomes and presents business regulatory reforms. The data, along with information on ordering *Doing Business 2017*, are available on the *Doing Business* website at <http://www.doingbusiness.org>.

CHANGES IN *DOING BUSINESS* 2017

As part of a three-year update in methodology, *Doing Business* 2017 expands further by adding postfiling processes to the paying taxes indicator, including a gender component in three of the indicators and developing a new pilot indicator on selling to the government. Also, for the first time this year *Doing Business* collects data on Somalia, bringing the total number of economies covered to 190.

The paying taxes indicator is expanded this year to include postfiling processes – those processes that occur after a firm complies with its regular tax obligations. These include tax refunds, tax audits and tax appeals. In particular, *Doing Business* measures the time it takes to get a value added tax (VAT) refund, deal with a simple mistake on a corporate tax return that can potentially trigger an audit and good practices with administrative appeals process.

This year's *Doing Business* report presents a gender dimension in four of the indicator sets: starting a business, registering property, enforcing contracts and labor market regulation. Three of these areas are included in the distance to frontier score and in the ease of doing business ranking, while the fourth—labor market regulation—is not.

Doing Business has traditionally assumed that the entrepreneurs or workers discussed in the case studies were men. This was incomplete by not reflecting correctly the *Doing Business* processes as applied to women—which in some economies may be different from the processes applied to men. Starting this year, *Doing Business* measures the starting a business process for two case scenarios: one where all entrepreneurs are men and one where all entrepreneurs are women. In economies where the processes are more onerous if the entrepreneur is a woman, *Doing Business* now counts the extra procedures applied to roughly half of the population that is female (for example, obtaining a husband's consent or gender-specific requirements for opening a personal bank account when starting a business). Within the registering property indicators, a gender component has been added to the quality of land administration index. This component measures women's ability to use, own, and transfer property according to the law. Finally, within the enforcing contracts indicator set, economies will be scored on

having equal evidentiary weight of women's testimony in court.

Also for the first time this year *Doing Business* collects data on Somalia, bringing the total number of economies covered to 190.

For more details on the changes, see the "'Old and new factors covered in *Doing Business*'" section in the Overview chapter starting on page 1 of the *Doing Business* 2017 report. For more details on the data and methodology, please see the "Data Notes" chapter starting on page 114 of the *Doing Business* 2017 report. For more details on the distance to frontier metric, please see the "Distance to frontier and ease of doing business ranking" chapter in this profile.

THE BUSINESS ENVIRONMENT

For policy makers trying to improve their economy's regulatory environment for business, a good place to start is to find out how it compares with the regulatory environment in other economies. *Doing Business* provides an aggregate ranking on the ease of doing business based on indicator sets that measure and benchmark regulations applying to domestic small to medium-size businesses through their life cycle. Economies are ranked from 1 to 190 by the ease of doing business ranking. *Doing Business* presents results for 2 aggregate measures: the distance to frontier score and the ease of doing business ranking. The ranking of economies is determined by sorting the aggregate distance to frontier scores, rounded to two decimals. An economy's distance to frontier score is indicated on a scale from 0 to 100, where 0 represents the worst performance and 100 the frontier. (See the chapter on the distance to frontier and ease of doing business).

The ease of doing business ranking compares economies with one another; the distance to frontier score benchmarks economies with respect to regulatory best practice, showing the absolute distance to the best performance on each *Doing Business* indicator. When compared across years, the distance to frontier score shows how much the regulatory environment for local entrepreneurs in an economy has changed over time in absolute terms, while the ease of doing business ranking can show only how much the regulatory environment has changed relative to that in other economies.

The 10 topics included in the ranking in *Doing Business 2017*: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency. The labor market regulation indicators are not included in this year's aggregate ease of doing business ranking, but the data are presented in the economy profile.

ECONOMY OVERVIEW

Region: Sub-Saharan Africa

Income category: Lower middle income

Population: 46,050,302

GNI per capita (US\$): 1,340

DB2017 rank: 92

DB2016 rank: 113*

Change in rank: 21

DB 2017 DTF: 61.22

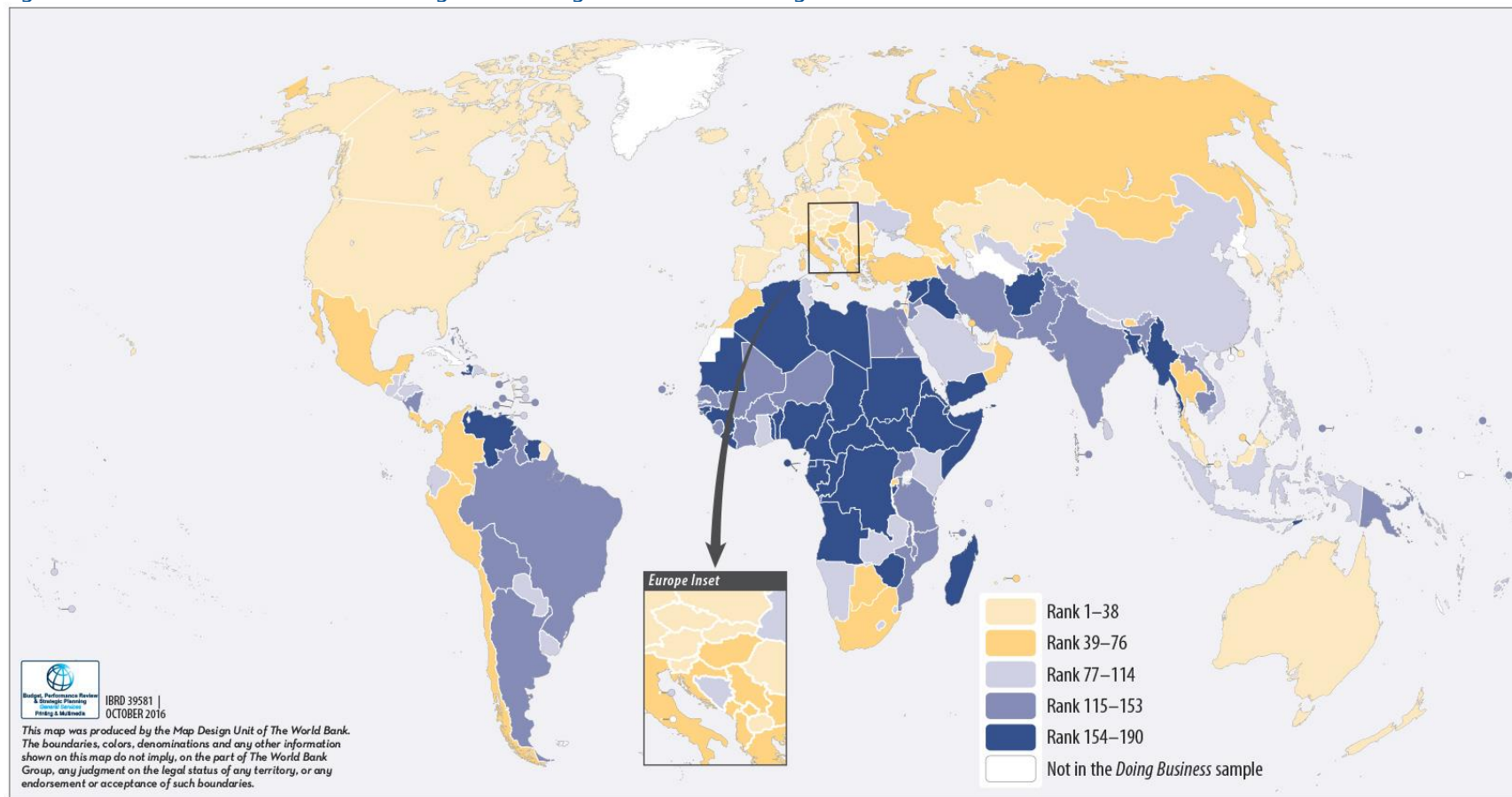
DB 2016 DTF: 57.5

Change in DTF: 3.72

* DB2016 ranking shown is not last year's published ranking but a comparable ranking for DB2016 that captures the effects of such factors as data revisions and the changes in methodology. See the data notes starting on page 114 of the *Doing Business 2017* report for sources and definitions.

THE BUSINESS ENVIRONMENT

Figure 1.1 Where economies stand in the global ranking on the ease of doing business



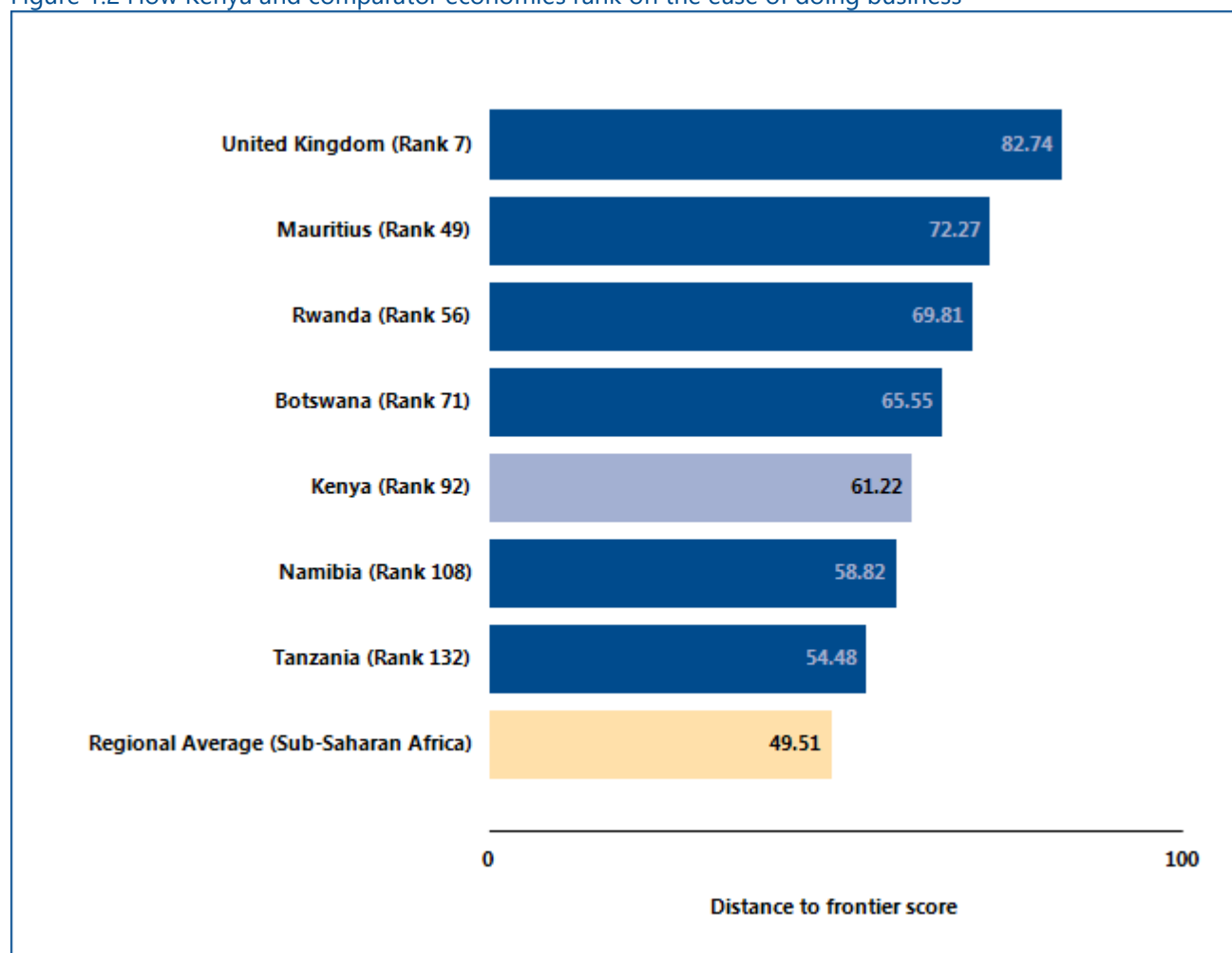
Source: *Doing Business* database.

THE BUSINESS ENVIRONMENT

For policy makers, knowing where their economy stands in the aggregate ranking on the ease of doing business is useful. Also useful is to know how it ranks relative to comparator economies and relative to the

regional average (figure 1.2). The economy's rankings (figure 1.3) and distance to frontier scores (figure 1.4) on the topics included in the ease of doing business ranking provide another perspective.

Figure 1.2 How Kenya and comparator economies rank on the ease of doing business



Note: The rankings are benchmarked to June 2016 and based on the average of each economy's distance to frontier (DTF) scores for the 10 topics included in this year's aggregate ranking. The distance to frontier score benchmarks economies with respect to regulatory practice, showing the absolute distance to the best performance in each *Doing Business* indicator. An economy's distance to frontier score is indicated on a scale from 0 to 100, where 0 represents the worst performance and 100 the frontier. For the economies for which the data cover 2 cities, scores are a population-weighted average for the 2 cities.

Source: *Doing Business* database.

THE BUSINESS ENVIRONMENT

Figure 1.3 Rankings on *Doing Business* topics - Kenya

(Scale: Rank 190 center, Rank 1 outer edge)

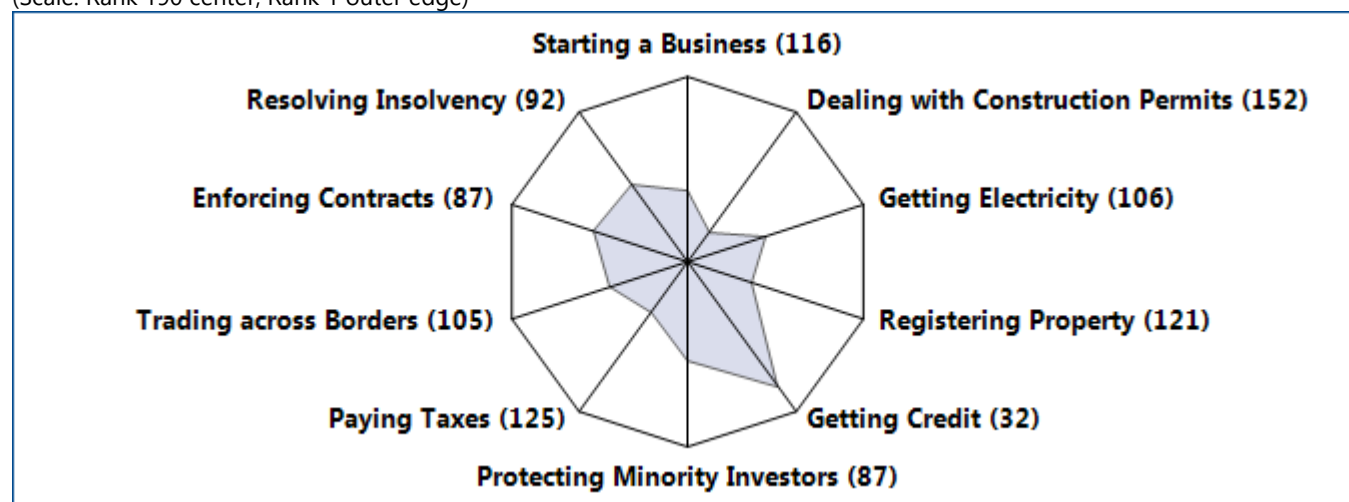
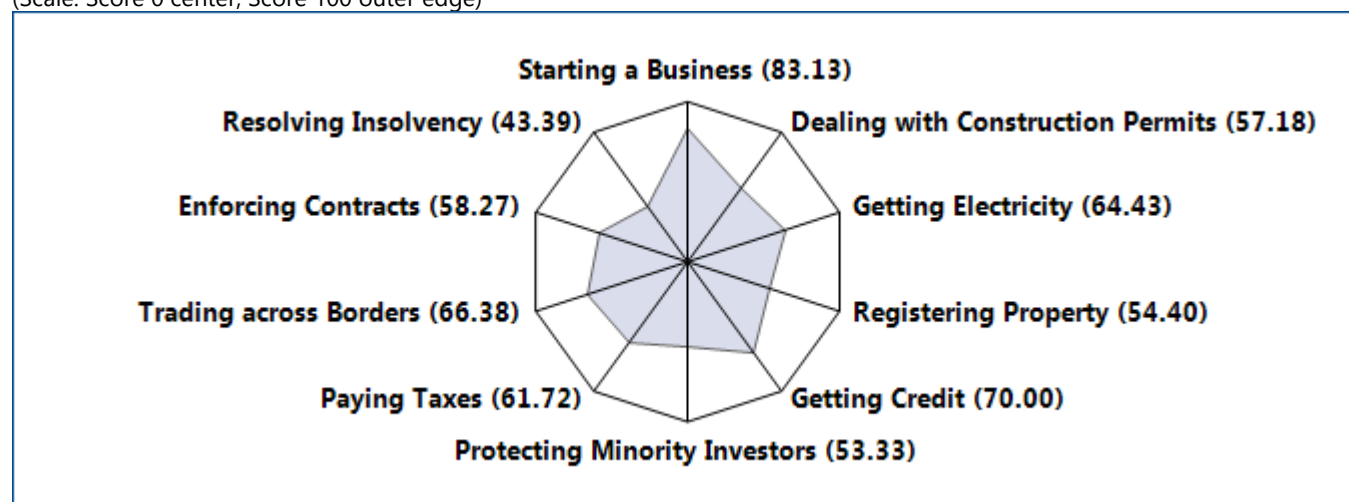


Figure 1.4 Distance to frontier scores on *Doing Business* topics - Kenya

(Scale: Score 0 center, Score 100 outer edge)



Source: *Doing Business* database.

Note: The rankings are benchmarked to June 2016 and based on the average of each economy's distance to frontier (DTF) scores for the 10 topics included in this year's aggregate ranking. The distance to frontier score benchmarks economies with respect to regulatory practice, showing the absolute distance to the best performance in each *Doing Business* indicator. An economy's distance to frontier score is indicated on a scale from 0 to 100, where 0 represents the worst performance and 100 the frontier. For the economies for which the data cover 2 cities, scores are a population-weighted average for the 2 cities.

THE BUSINESS ENVIRONMENT

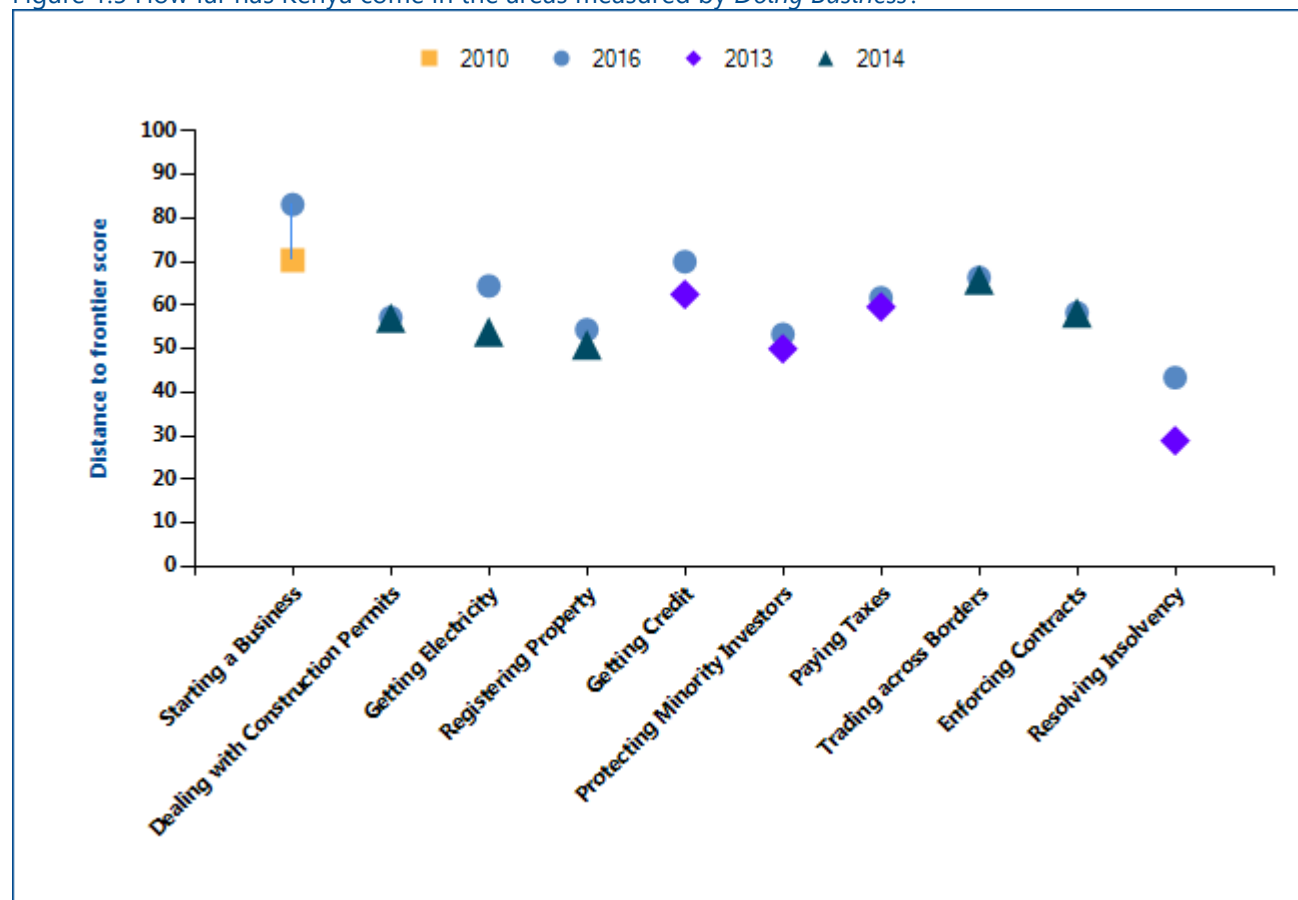
Just as the overall ranking on the ease of doing business tells only part of the story, so do changes in that ranking. Yearly movements in rankings can provide some indication of changes in an economy's regulatory environment for firms, but they are always relative.

Moreover, year-to-year changes in the overall rankings do not reflect how the business regulatory environment in an economy has changed over time—or how it has changed in different areas. To aid in assessing such changes,

Doing Business introduced the distance to frontier score. This measure shows how far on average an economy is from the best performance achieved by any economy on each *Doing Business* indicator.

Comparing the measure for an economy at 2 points in time allows users to assess how much the economy's regulatory environment as measured by *Doing Business* has changed over time—how far it has moved toward (or away from) the most efficient practices and strongest regulations in areas covered by *Doing Business* (figure 1.5).

Figure 1.5 How far has Kenya come in the areas measured by *Doing Business*?



Note: The distance to frontier score shows how far on average an economy is from the best performance achieved by any economy on each *Doing Business* indicator. Starting a business is comparable to 2010. Getting credit, protecting minority investors, paying taxes and resolving insolvency had methodology changes in 2014 and thus are only comparable to 2013. Dealing with construction permits, registering property, trading across borders, enforcing contracts and getting electricity had methodology changes in 2015 and thus are only comparable to 2014. The measure is normalized to range between 0 and 100, with 100 representing the best performance (the frontier). See the data notes starting on page 114 of the *Doing Business 2017* report for more details on the distance to frontier score. *Source:* *Doing Business* database.

THE BUSINESS ENVIRONMENT

The absolute values of the indicators tell another part of the story (table 1.1). The indicators, on their own or in comparison with the indicators of a good practice economy or those of comparator economies in the region, may reveal bottlenecks reflected in large numbers of procedures, long delays or high costs. Or they may reveal unexpected strengths in an area of business

regulation—such as a regulatory process that can be completed with a small number of procedures in a few days and at a low cost. Comparison of the economy's indicators today with those in the previous year may show where substantial bottlenecks persist—and where they are diminishing.

Table 1.1 Summary of *Doing Business* indicators for Kenya

Indicator	Kenya DB2017	Kenya DB2016	Botswana DB2017	Mauritius DB2017	Namibia DB2017	Rwanda DB2017	Tanzania DB2017	United Kingdom DB2017	Best performer globally DB2017
Starting a Business (Rank)	116	150	153	48	170	76	135	16	1 (New Zealand)
Starting a Business (DTF Score)	83.13	74.45	76.21	91.65	68.87	87.17	79.14	94.58	99.96 (New Zealand)
Procedure – Men (number)	7.0	11.0	9.0	5.0	10.0	5.0	9.0	4.0	1.0 (New Zealand)
Time – Men (days)	22.0	26.0	48.0	6.0	66.0	4.0	26.0	4.5	0.5 (New Zealand)
Cost – Men (% of income per capita)	21.1	35.5	0.8	1.8	11.5	48.5	21.5	0.1	0.0 (Slovenia)
Procedure – Women (number)	7.0	11.0	9.0	6.0	10.0	5.0	9.0	4.0	1.0 (New Zealand)
Time – Women (days)	22.0	26.0	48.0	7.0	66.0	4.0	26.0	4.5	0.5 (New Zealand)
Cost – Women (% of income per capita)	21.1	35.5	0.8	1.8	11.5	48.5	21.5	0.1	0.0 (Slovenia)
Paid-in min. capital (% of income per capita)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0 (127 Economies*)
Dealing with Construction Permits	152	155	50	33	67	158	136	17	1 (New Zealand)

Indicator	Kenya DB2017	Kenya DB2016	Botswana DB2017	Mauritius DB2017	Namibia DB2017	Rwanda DB2017	Tanzania DB2017	United Kingdom DB2017	Best performer globally DB2017
(Rank)									
Dealing with Construction Permits (DTF Score)	57.18	55.59	74.81	76.55	72.22	55.40	61.69	80.34	87.40 (New Zealand)
Procedures (number)	17.0	17.0	17.0	15.0	10.0	15.0	18.0	9.0	7.0 (4 Economies*)
Time (days)	160.0	160.0	100.0	156.0	137.0	113.0	205.0	86.0	28.0 (Korea, Rep.)
Cost (% of warehouse value)	6.3	7.5	0.3	0.6	0.5	42.4	5.3	1.1	0.1 (Trinidad and Tobago)
Building quality control index (0-15)	7.0	7.0	10.5	13.0	6.5	13.0	11.5	9.0	15.0 (Luxembourg*)
Getting Electricity (Rank)	106	127	125	110	124	117	87	17	1 (Korea, Rep.)
Getting Electricity (DTF Score)	64.43	58.57	59.25	63.22	59.36	60.69	70.52	89.12	99.88 (Korea, Rep.)
Procedures (number)	3.0	4.0	5.0	4.0	6.0	4.0	4.0	4.0	3.0 (15 Economies*)
Time (days)	97.0	110.0	77.0	81.0	37.0	34.0	109.0	79.0	18.0 (Korea, Rep.*)
Cost (% of income per capita)	642.0	732.3	323.7	247.7	349.4	2722.6	948.0	25.8	0.0 (Japan)
Reliability of supply and transparency of tariff index (0-8)	0.0	0.0	0.0	0.0	0.0	0.0	4.0	8.0	8.0 (26 Economies*)
Registering Property (Rank)	121	122	70	98	174	4	132	47	1 (New Zealand)
Registering Property (DTF Score)	54.40	53.44	67.27	61.99	38.35	92.67	51.37	74.11	94.46 (New Zealand)
Procedures (number)	9.0	9.0	4.0	4.0	8.0	3.0	8.0	6.0	1.0 (4 Economies*)

Indicator	Kenya DB2017	Kenya DB2016	Botswana DB2017	Mauritius DB2017	Namibia DB2017	Rwanda DB2017	Tanzania DB2017	United Kingdom DB2017	Best performer globally DB2017
Time (days)	61.0	61.0	12.0	14.0	52.0	12.0	67.0	21.5	1.0 (3 Economies*)
Cost (% of property value)	6.1	6.1	5.1	10.6	13.8	0.1	4.4	4.8	0.0 (Saudi Arabia)
Quality of the land administration index (0-30)	16.0	15.0	10.0	15.0	8.5	28.0	7.5	24.0	29.0 (Singapore)
Getting Credit (Rank)	32	29	75	44	62	2	44	20	1 (New Zealand)
Getting Credit (DTF Score)	70.00	70.00	55.00	65.00	60.00	95.00	65.00	75.00	100.00 (New Zealand)
Strength of legal rights index (0-12)	7.0	7.0	5.0	6.0	5.0	11.0	5.0	7.0	12.0 (3 Economies*)
Depth of credit information index (0-8)	7.0	7.0	6.0	7.0	7.0	8.0	8.0	8.0	8.0 (30 Economies*)
Credit registry coverage (% of adults)	0.0	0.0	0.0	83.3	0.0	7.4	0.0	0.0	100.0 (3 Economies*)
Credit bureau coverage (% of adults)	25.8	14.3	53.5	0.0	61.2	16.6	6.5	100.0	100.0 (23 Economies*)
Protecting Minority Investors (Rank)	87	112	81	32	81	102	145	6	1 (New Zealand*)
Protecting Minority Investors (DTF Score)	53.33	46.67	55.00	65.00	55.00	51.67	40.00	78.33	83.33 (New Zealand*)
Strength of minority investor protection index (0-10)	5.3	4.7	5.5	6.5	5.5	5.2	4.0	7.8	8.3 (New Zealand)
Extent of conflict of interest regulation index (0-10)	6.7	4.7	6.0	7.7	5.7	6.3	5.3	8.3	9.3 (New Zealand)
Extent of shareholder governance index (0-	4.0	4.7	5.0	5.3	5.3	4.0	2.7	7.3	8.3 (Norway)

Indicator	Kenya DB2017	Kenya DB2016	Botswana DB2017	Mauritius DB2017	Namibia DB2017	Rwanda DB2017	Tanzania DB2017	United Kingdom DB2017	Best performer globally DB2017
10)									
Paying Taxes (Rank)	125	122	55	45	74	59	154	10	1 (United Arab Emirates)
Paying Taxes (DTF Score)	61.72	61.54	80.58	82.96	74.97	79.69	54.13	90.74	99.44 (United Arab Emirates)
Payments (number per year)	31.0	30.0	34.0	8.0	27.0	29.0	53.0	8.0	3.0 (Hong Kong SAR, China*)
Time (hours per year)	195.5	213.5	152.0	152.0	302.0	124.0	195.0	110.0	55.0 (Luxembourg)
Total tax rate (% of profit)	37.4	37.1	25.1	21.8	20.7	33.0	43.9	30.9	26.1 (32 Economies*)
Postfiling index (0-100)	32.1		89.9	56.1	79.0	83.3	47.9	87.4	98.5 (Estonia)
Trading across Borders (Rank)	105	107	51	74	127	87	180	28	1 (10 Economies*)
Trading across Borders (DTF Score)	66.38	65.83	85.93	78.67	61.47	71.19	20.21	93.76	100.00 (10 Economies*)
Time to export: Border compliance (hours)	21	28	8	48	120	97	96	24	0 (18 Economies*)
Cost to export: Border compliance (USD)	143	143	317	303	745	183	1160	280	0 (18 Economies*)
Time to export: Documentary compliance (hours)	19	19	24	9	90	42	96	4	1 (25 Economies*)
Cost to export: Documentary compliance (USD)	191	191	179	128	348	110	275	25	0 (19 Economies*)
Time to import: Border compliance (hours)	180	180	4	51	6	86	402	3	0 (25 Economies*)

Indicator	Kenya DB2017	Kenya DB2016	Botswana DB2017	Mauritius DB2017	Namibia DB2017	Rwanda DB2017	Tanzania DB2017	United Kingdom DB2017	Best performer globally DB2017
Cost to import: Border compliance (USD)	833	833	98	372	145	282	1350	0	0 (28 Economies*)
Time to import: Documentary compliance (hours)	84	84	3	9	3	72	240	2	1 (29 Economies*)
Cost to import: Documentary compliance (USD)	115	115	67	166	63	121	375	0	0 (30 Economies*)
Enforcing Contracts (Rank)	87	85	132	34	98	95	59	31	1 (Korea, Rep.)
Enforcing Contracts (DTF Score)	58.27	58.27	50.95	68.65	56.03	56.76	61.66	69.36	84.15 (Korea, Rep.)
Time (days)	465.0	465.0	625.0	519.0	460.0	230.0	515.0	437.0	164.0 (Singapore)
Cost (% of claim)	41.8	41.8	39.8	25.0	35.8	82.7	14.3	43.9	9.0 (Iceland)
Quality of judicial processes index (0-18)	9.0	9.0	7.0	12.0	6.5	13.0	6.0	15.0	15.5 (Australia)
Resolving Insolvency (Rank)	92	140	64	39	97	73	100	13	1 (Finland)
Resolving Insolvency (DTF Score)	43.39	30.64	50.53	69.06	41.96	47.85	41.04	82.04	93.89 (Finland)
Recovery rate (cents on the dollar)	28.4	27.9	64.8	67.4	34.4	19.2	21.1	88.6	92.9 (Norway)
Time (years)	4.5	4.5	1.7	1.7	2.5	2.5	3.0	1.0	0.4 (22 Economies*)
Cost (% of estate)	22.0	22.0	18.0	14.5	14.5	29.0	22.0	6.0	1.0 (22 Economies*)
Strength of insolvency framework index (0-16)	9.0	5.0	5.0	10.5	7.5	12.0	9.5	11.0	15.0 (6 Economies*)

Source: Doing Business database.

Note: DB2016 rankings shown are not last year's published rankings but comparable rankings for DB2016 that capture the effects of such factors as data revisions and changes to the methodology. The global best performer on time for paying taxes is defined as the lowest

time recorded among all economies in the DB2017 sample that levy the 3 major taxes: profit tax, labor taxes and mandatory contributions, and VAT or sales tax. If an economy has no laws or regulations covering a specific area—for example, insolvency—it receives a “no practice” mark. Similarly, an economy receives a “no practice” mark if regulation exists but is never used in practice or if a competing regulation prohibits such practice. Either way, a “no practice” mark puts the economy at the bottom of the ranking on the relevant indicator. * Two or more economies share the top ranking on this indicator. A number shown in place of an economy’s name indicates the number of economies that share the top ranking on the indicator. For a list of these economies, see the *Doing Business* website (<http://www.doingbusiness.org>).

STARTING A BUSINESS

Formal registration of companies has many immediate benefits for the companies and for business owners and employees. Legal entities can outlive their founders. Resources are pooled as several shareholders join forces to start a company. Formally registered companies have access to services and institutions from courts to banks as well as to new markets. And their employees can benefit from protections provided by the law. An additional benefit comes with limited liability companies. These limit the financial liability of company owners to their investments, so personal assets of the owners are not put at risk. Where governments make registration easy, more entrepreneurs start businesses in the formal sector, creating more good jobs and generating more revenue for the government.

What do the indicators cover?

Doing Business records all procedures officially required, or commonly done in practice, for an entrepreneur to start up and formally operate an industrial or commercial business, as well as the time and cost to complete these procedures and the paid-in minimum capital requirement. These procedures include obtaining all necessary licenses and permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. The ranking of economies on the ease of starting a business is determined by sorting their distance to frontier scores for starting a business. These scores are the simple average of the distance to frontier scores for each of the component indicators.

To make the data comparable across economies, several assumptions about the business and the procedures are used. It is assumed that any required information is readily available and that the entrepreneur will pay no bribes. Assumptions about the business:

- Is a limited liability company (or its legal equivalent). If there is more than one type of limited liability company in the economy, the limited liability form most common among domestic firms is chosen. Information on the most common form is obtained from incorporation lawyers or the statistical office.
- Operates in the economy's largest business city. For 11 economies the data are also collected for the second largest business city.

WHAT THE STARTING A BUSINESS

INDICATORS MEASURE

Procedures to legally start and operate a company (number)

Preregistration (for example, name verification or reservation, notarization)

Registration in the economy's largest business city¹

Postregistration (for example, social security registration, company seal)

Obtaining approval from spouse to start a business, to leave the home to register the company or open a bank account.

Obtaining any gender specific document for company registration and operation, national identification card or opening a bank account.

Time required to complete each procedure (calendar days)

Does not include time spent gathering information

Each procedure starts on a separate day (2 procedures cannot start on the same day). Procedures that can be fully completed online are recorded as ½ day.

Procedure completed once final document is received

No prior contact with officials

Cost required to complete each procedure (% of income per capita)

Official costs only, no bribes

No professional fees unless services required by law or commonly used in practice

Paid-in minimum capital (% of income per capita)

Deposited in a bank or with a notary before registration (or within 3 months)

- The size of the entire office space is approximately 929 square meters (10,000 square feet).

- Is 100% domestically owned and has five owners, none of whom is a legal entity.
- Has start-up capital of 10 times income per capita
- Performs general industrial or commercial activities, such as the production or sale to the public of products or services. The business does not perform foreign trade activities and does not handle products subject to a special tax regime, for example, liquor or tobacco. It is not using heavily polluting production processes.
- Leases the commercial plant or offices and is not a proprietor of real estate.
- The amount of the annual lease for the office space is equivalent to 1 times income per capita.

- Does not qualify for investment incentives or any special benefits.
- Has at least 10 and up to 50 employees one month after the commencement of operations, all of them domestic nationals.
- Has a turnover of at least 100 times income per capita.
- Has a company deed 10 pages long

The owners:

- Have reached the legal age of majority and are capable of making decisions as an adult. If there is no legal age of majority, they are assumed to be 30 years old.
- Are sane, competent, in good health and have no criminal record.
- Are married, the marriage is monogamous and registered with the authorities.
- Where the answer differs according to the legal system applicable to the woman or man in question (as may be the case in economies where there is legal plurality), the answer used will be the one that applies to the majority of the population.

STARTING A BUSINESS

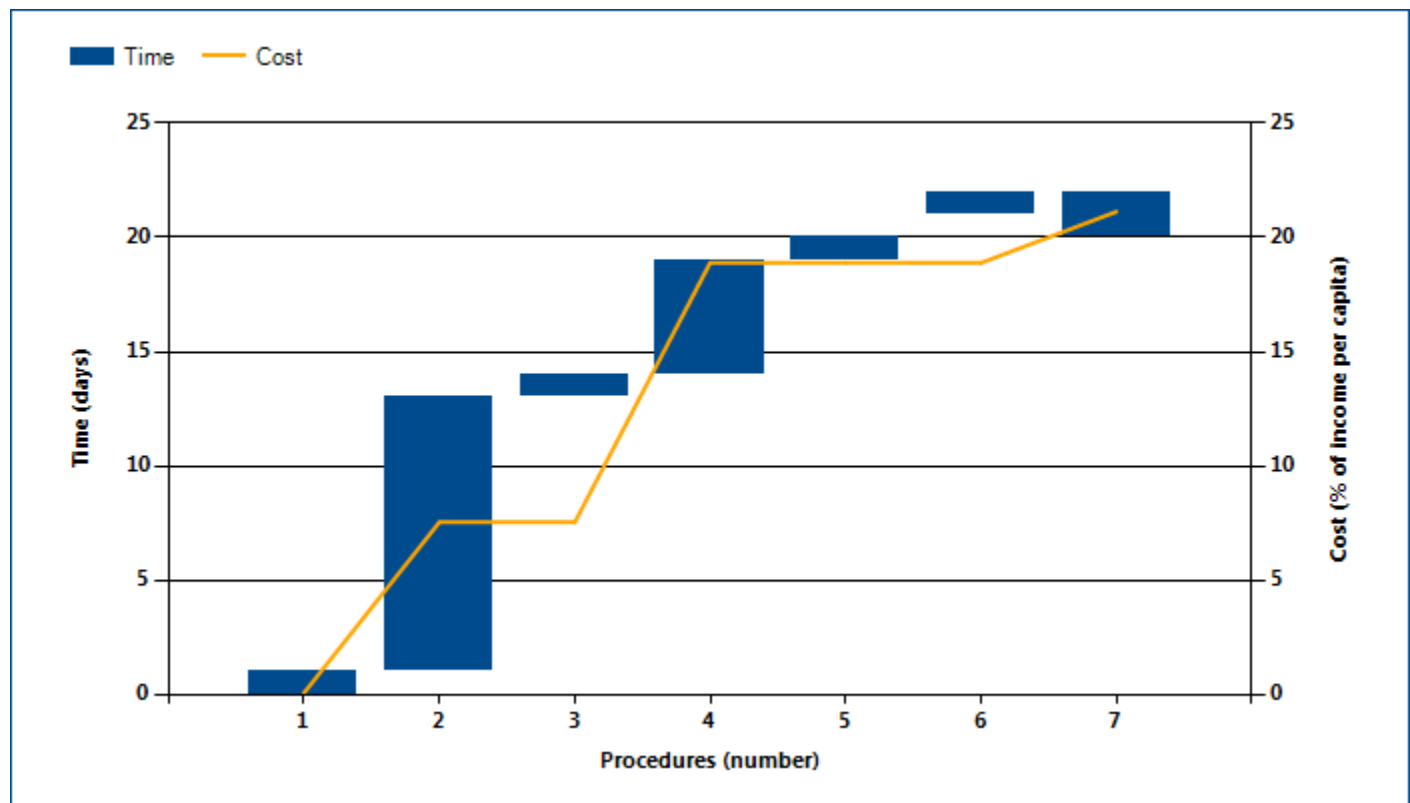
Where does the economy stand today?

What does it take to start a business in Kenya? According to data collected by *Doing Business*, starting a business there requires 7.0 procedures, takes 22.0 days, costs 21.1% of income per capita for men, and requires 7.0 procedures, takes 22.0 days, costs 21.1% of income per capita for women. A requirement of paid-in minimum capital of 0.0% of income per capita (figure 2.1) is legally

mandatory for both men and women. Most indicator sets refer to a case scenario in the largest business city of an economy, except for 11 economies for which the data are a population-weighted average of the 2 largest business cities. See the chapter on distance to frontier and ease of doing business ranking at the end of this profile for more details.

Figure 2.1 What it takes to start a business in Kenya

Paid-in minimum capital (% of income per capita): 0.0



Source: *Doing Business* database.

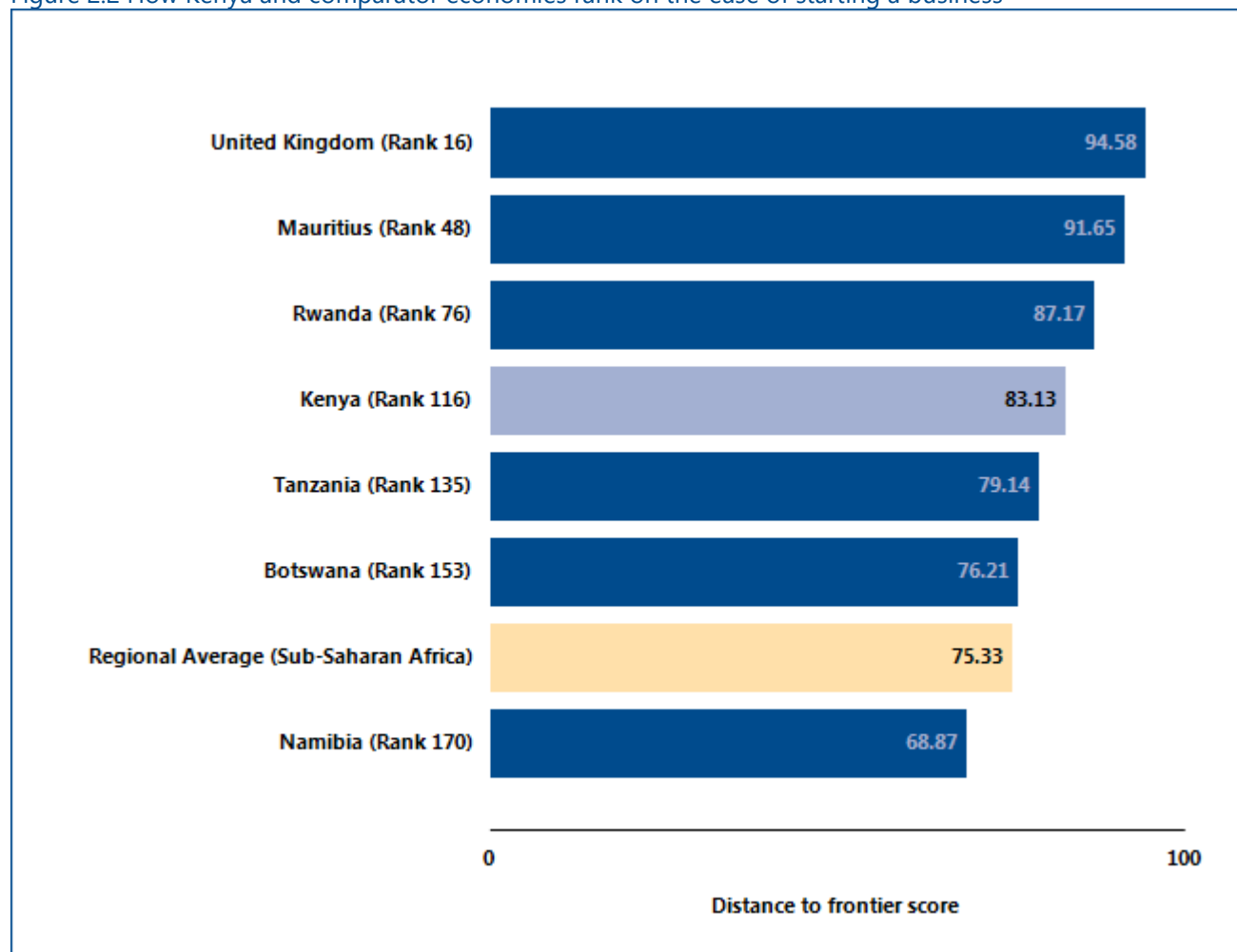
Note: Time shown in the figure above may not reflect simultaneity of procedures. Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the starting a business indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter. Procedures in light blue for married women only.

STARTING A BUSINESS

Globally, Kenya stands at 116 in the ranking of 190 economies on the ease of starting a business (figure 2.2). The rankings for comparator economies and the regional

average ranking provide other useful information for assessing how easy it is for an entrepreneur in Kenya to start a business.

Figure 2.2 How Kenya and comparator economies rank on the ease of starting a business



Source: *Doing Business* database.

STARTING A BUSINESS

Economies around the world have taken steps making it easier to start a business—streamlining procedures by setting up a one-stop shop, making procedures simpler or faster by introducing technology and reducing or eliminating minimum capital requirements. Many have undertaken business registration reforms in stages—and

they often are part of a larger regulatory reform program. Among the benefits have been greater firm satisfaction and savings and more registered businesses, financial resources and job opportunities.

What business registration reforms has *Doing Business* recorded in Kenya (table 2.1)?

Table 2.1 How has Kenya made starting a business easier—or not?
By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2011	Kenya eased business start-up by reducing the time it takes to get the memorandum and articles of association stamped, merging the tax and value added tax registration procedures and digitizing records at the registrar.
DB2016	Kenya made starting a business easier by reducing the time it takes to assess and pay stamp duty.
DB2017	Kenya made starting a business easier by removing stamp duty fees required for the nominal capital, memorandum and articles of association. Kenya also eliminated requirements to sign compliance declarations before a commissioner of oaths. However, Kenya also made starting a business more expensive by introducing a flat fee for company incorporation.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2005), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

STARTING A BUSINESS

What are the details?

Underlying the indicators shown in this chapter for Kenya is a set of specific procedures—the bureaucratic and legal steps that an entrepreneur must complete to incorporate and register a new firm. These are identified by *Doing Business* through collaboration with relevant local professionals and the study of laws, regulations and publicly available information on business entry in that economy. Following is a detailed summary of those procedures, along with the associated time and cost. These procedures are those that apply to a company matching the standard assumptions (the “standardized company”) used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators measure).

STANDARDIZED COMPANY

Legal form: Private Corporation

Paid-in minimum capital requirement: KES 0

City: Nairobi

Start-up Capital: 10 times GNI per capita

Table 2.2 Summary of time, cost and procedures for starting a business in Kenya

No.	Procedure	Time to complete	Cost to complete
1	<p>Reserve a unique company name at the Huduma Center</p> <p>The name reservation is regulated by the Companies Act 2015 (Part V, Section 48). The procedure begins by making a payment for name reservation at the cashier's desk of one of the Nairobi Huduma Centers. Then a payment slip, together with an application for reservation of a company name (Form CR14) are submitted to the counter service provided by the Nairobi Huduma Centers. The name is reserved for 30 days and can be extended to a maximum period of 60 days from the time of reservation.</p> <p>In addition to the Hudumas Center, the name reservation can also be done through a text-messaging system or online through the ecitizen portal. The text-messaging system (through safari.com company) works both for fee payment and name reservation. However, applicants still need to visit the Huduma Center to receive final name approval. This is why the majority of applicants choose to visit the Huduma Center directly, rather than use the text-messaging system. The ecitizen online platform (www.ecitizen.go.ke) is fully electronic and enables online name reservation. However, due to various challenges--such as inconsistent reliability of the system and lack of good internet connection and infrastructure for entrepreneurs--the online platform is not widely used.</p> <p><i>Agency: Nairobi Huduma Center</i></p>	1 day on average	KES 100 per name reservation

No.	Procedure	Time to complete	Cost to complete
2	<p>Apply for company registration</p> <p>Under the Companies Act 2015 there entrepreneurs are now provided with standard Articles which can be adopted by a company. However, articles to supplement or modify the standard Articles may be provided. Furthermore, applicants can no longer apply for company registration at the Registrar of Companies (Sheria House). The entrepreneur must submit a business application package at the business registration assessment desk of two of the three Nairobi Huduma Centers (GPO Branch and City Square Branch) containing the following documents:</p> <ul style="list-style-type: none"> a. Form CR6 (Notice of Appointment of Directors and their Particulars) and Form CR8 (Notice of Residential Address/Change of Address of Director of Company) b. Application to register company limited by shares - form CR1 c. memorandum and articles of association d. Statement of nominal capital e. Application for name reservation- CR. 14 f. Copy of identity card for each director g. Copy of PIN certificate h. Passport photo for each director (and contact details for each director). <p>Under the 2015 Company Act, the previously required Form 201, Form 203, and Form 208 have been replaced by Form CR6 and Form CR8.</p> <p>According to the Official Gazette Notice Legal 61 published April 2016, there is a flat fee of 10,000 shillings for new company incorporation.</p> <p><i>Agency: Nairobi Huduma Center</i></p>	12 days on average	KES 10,000
3	<p>Register for taxes at the Kenya Revenue Authority</p> <p>The personal tax identification number (PIN) of directors and the company tax identification number are required to register for VAT, local service tax, and the Pay-As-You-Earn (PAYE) tax. The PIN certificates of at least two signatories (2 directors or 2 shareholders or a director and the secretary) of the company are required. The directors must apply for personal PIN numbers online at https://itax.kra.go.ke/KRA-Portal/.</p> <p>Once the PIN numbers are received for directors (which is immediate), the applicant can then apply for the company PIN, VAT and PaYE. Unless the KRA has already received confirmation of the company incorporation from the Companies Registry, the entrepreneur must submit the certificate of incorporation and receive log-in details to proceed with online tax registration.</p> <p><i>Agency: Kenya Revenue Authority</i></p>	1 day	no charge

No.	Procedure	Time to complete	Cost to complete
4	<p>Apply for a business permit</p> <p>Applicable permit fees fall within the following scales:</p> <ul style="list-style-type: none"> - Large trader, shop, or retail service with 21-50 employees and premises of 300-3,000 square meters (or at a prime location): KES 30,000 - Medium trader, shop, or retail service with 5-20 employees and premises of 50-3,000 square meters (fair location): KES 15,000 - There is a 200 KES application fee applicable to trader, shop or retail services <p><i>Agency: Nairobi City County</i></p>	5 days	KES 15,200 (KES 15,000 single business permit fee + KES 200 application fee)
5	<p>Register with the National Social Security Fund (NSSF)</p> <p>The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half the contribution is deductible from the employee's salary. The precise amount of the contribution (less than the maximum) is determined by reference to salary bands. As of June 2014, following the enactment of the new National Social Security Fund Act (2013), the pension contribution is 12% of the pensionable wages made up of two equal portions of 6% from the employee and 6% from the employer subject to an upper limit of KES 2,160.</p> <p><i>Agency: National Social Security Fund</i></p>	1 day	no charge
6	<p>Register with the National Hospital Insurance Fund (NHIF)</p> <p>The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary.</p> <p>As of April 1, 2015, the rates of contribution range from a minimum of KES 150 for employees earning up to KES 5,999 to KES 1,700 for employees earning more than KES 100,000 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance.</p> <p><i>Agency: National Hospital Insurance Fund</i></p>	1 day	no charge

No.	Procedure	Time to complete	Cost to complete
* 7	<p>Make a company seal</p> <p>The requirement for companies to obtain a company seal has been made optional as a result of passing the Companies Act, 2015. However, in practice companies still get seals made. Seal makers request a copy of the certificate of incorporation in order to make a company seal.</p> <p><i>Agency: Seal maker</i></p>	2 days, simultaneous	between KES 2,500 and KES 3,500

* Takes place simultaneously with another procedure.

Source: *Doing Business* database.

Note: Online procedures account for 0.5 days in the total time calculation.

Procedures in light blue for married women only.

DEALING WITH CONSTRUCTION PERMITS

Regulation of construction is critical to protect the public. But it needs to be efficient, to avoid excessive constraints on a sector that plays an important part in every economy. Where complying with building regulations is excessively costly in time and money, many builders opt out. They may pay bribes to pass inspections or simply build illegally, leading to hazardous construction that puts public safety at risk. Where compliance is simple, straightforward and inexpensive, everyone is better off.

What do the indicators cover?

Doing Business records all procedures required for a business in the construction industry to build a warehouse along with the time and cost to complete each procedure. In addition, the building quality control index evaluates the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements.

The ranking of economies on the ease of dealing with construction permits is determined by sorting their distance to frontier scores for dealing with construction permits. These scores are the simple average of the distance to frontier scores for each of the component indicators.

To make the data comparable across economies, several assumptions about the construction company, the warehouse project and the utility connections are used.

Assumptions about the construction company

The construction company (BuildCo):

- Is a limited liability company (or its legal equivalent).
- Operates in the economy's largest business city. For 11 economies the data are also collected for the second largest business city.
- Is 100% domestically and privately owned.
- Has five owners, none of whom is a legal entity.
- Is fully licensed and insured to carry out construction projects, such as building warehouses.
- Has 60 builders and other employees, all of them nationals with the technical expertise and

WHAT THE DEALING WITH CONSTRUCTION PERMITS INDICATORS MEASURE

Procedures to legally build a warehouse (number)

Submitting all relevant documents and obtaining all necessary clearances, licenses, permits and certificates

Submitting all required notifications and receiving all necessary inspections

Obtaining utility connections for water and sewerage

Registering and selling the warehouse after its completion

Time required to complete each procedure (calendar days)

Does not include time spent gathering information

Each procedure starts on a separate day—though procedures that can be fully completed online are an exception to this rule

Procedure considered completed once final document is received

No prior contact with officials

Cost required to complete each procedure (% of warehouse value)

Official costs only, no bribes

Building quality control index (0-15)

Sum of the scores of six component indices:

Quality of building regulations (0-2)

Quality control before construction (0-1)

Quality control during construction (0-3)

Quality control after construction (0-3)

Liability and insurance regimes (0-2)

Professional certifications (0-4)

professional experience necessary to obtain construction permits and approvals.

- Has a licensed architect and a licensed engineer, both registered with the local association of architects or engineers. BuildCo is not assumed to have any other employees who are technical or licensed experts, such as geological or topographical experts.
- Has paid all taxes and taken out all necessary insurance applicable to its general business activity (for example, accidental insurance for construction workers and third-person liability).
- Owns the land on which the warehouse will be built and will sell the warehouse upon its completion.

Assumptions about the warehouse

The warehouse:

- Will be used for general storage activities, such as storage of books or stationery. The warehouse will not be used for any goods requiring special conditions, such as food, chemicals or pharmaceuticals.
- Will have two stories, both above ground, with a total constructed area of approximately 1,300.6 square meters (14,000 square feet). Each floor will be 3 meters (9 feet, 10 inches) high.
- Will have road access and be located in the periurban area of the economy's largest business city (that is, on the fringes of the city but still within its official limits). For 11 economies the data are also collected for the second largest business city.
- Will not be located in a special economic or industrial zone.
- Will be located on a land plot of approximately 929 square meters (10,000 square feet) that is 100% owned by BuildCo and is accurately registered in the cadastre and land registry.

- Is valued at 50 times income per capita.
- Will be a new construction (there was no previous construction on the land), with no trees, natural water sources, natural reserves or historical monuments of any kind on the plot.
- Will have complete architectural and technical plans prepared by a licensed architect. If preparation of the plans requires such steps as obtaining further documentation or getting prior approvals from external agencies, these are counted as procedures.
- Will include all technical equipment required to be fully operational.
- Will take 30 weeks to construct (excluding all delays due to administrative and regulatory requirements).

Assumptions about the utility connections

The water and sewerage connections:

- Will be 150 meters (492 feet) from the existing water source and sewer tap. If there is no water delivery infrastructure in the economy, a borehole will be dug. If there is no sewerage infrastructure, a septic tank in the smallest size available will be installed or built.
- Will not require water for fire protection reasons; a fire extinguishing system (dry system) will be used instead. If a wet fire protection system is required by law, it is assumed that the water demand specified below also covers the water needed for fire protection.
- Will have an average water use of 662 liters (175 gallons) a day and an average wastewater flow of 568 liters (150 gallons) a day. Will have a peak water use of 1,325 liters (350 gallons) a day and a peak wastewater flow of 1,136 liters (300 gallons) a day.
- Will have a constant level of water demand and wastewater flow throughout the year.
- Will be 1 inch in diameter for the water connection and 4 inches in diameter for the sewerage connection.

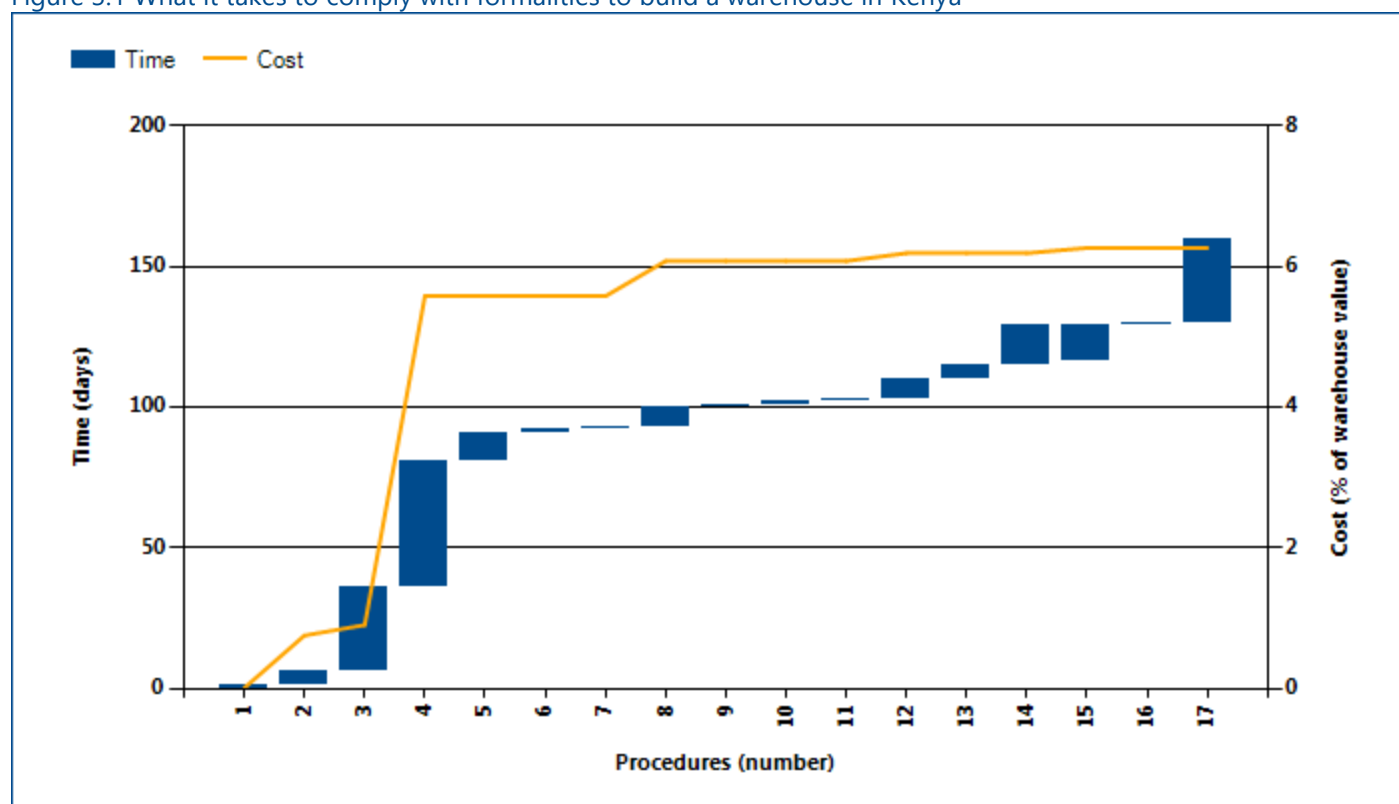
DEALING WITH CONSTRUCTION PERMITS

Where does the economy stand today?

What does it take to comply with the formalities to build a warehouse in Kenya? According to data collected by *Doing Business*, dealing with construction permits there requires 17.0 procedures, takes 160.0 days and costs 6.3% of the warehouse value (figure 3.1). Most indicator sets refer to a case scenario in the largest business city of

an economy, except for 11 economies for which the data are a population-weighted average of the 2 largest business cities. See the chapter on distance to frontier and ease of doing business ranking at the end of this profile for more details.

Figure 3.1 What it takes to comply with formalities to build a warehouse in Kenya



Source: *Doing Business* database.

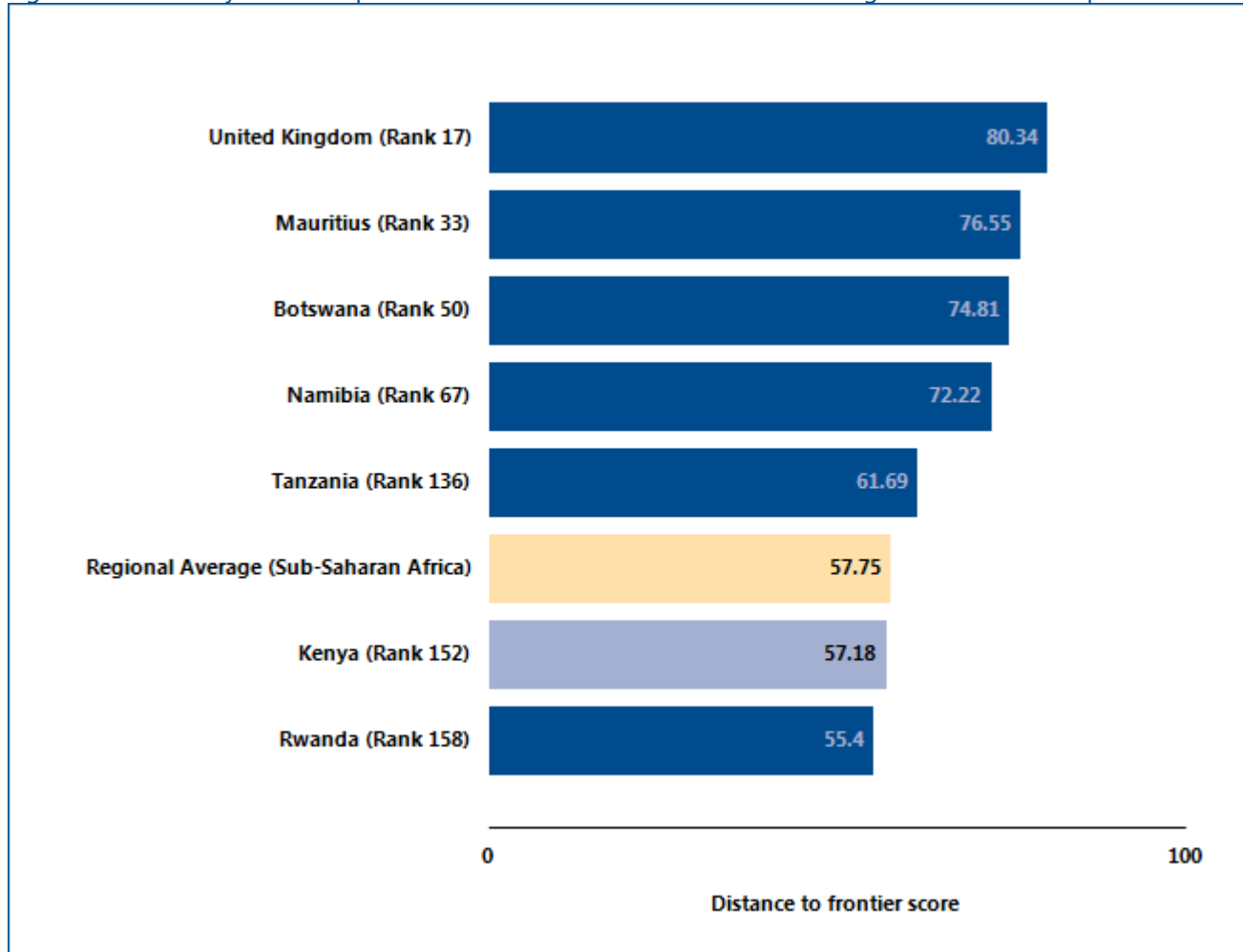
Note: Time shown in the figure above may not reflect simultaneity of procedures. Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the dealing with construction permits indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

DEALING WITH CONSTRUCTION PERMITS

Globally, Kenya stands at 152 in the ranking of 190 economies on the ease of dealing with construction permits (figure 3.2). The rankings for comparator

economies and the regional average ranking provide other useful information for assessing how easy it is for an entrepreneur in Kenya to legally build a warehouse.

Figure 3.2 How Kenya and comparator economies rank on the ease of dealing with construction permits



Source: Doing Business database.

DEALING WITH CONSTRUCTION PERMITS

Smart regulation ensures that standards are met while making compliance easy and accessible to all. Coherent and transparent rules, efficient processes and adequate allocation of resources are especially important in sectors where safety is at stake. Construction is one of them. In

an effort to ensure building safety while keeping compliance costs reasonable, governments around the world have worked on consolidating permitting requirements. What construction permitting reforms has *Doing Business* recorded in Kenya (table 3.1)?

Table 3.1 How has Kenya made dealing with construction permits easier—or not?
By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2015	Kenya made dealing with construction permits more costly by increasing the building permit fees.
DB2016	Kenya made dealing with construction permits more difficult by requiring an additional approval before issuance of the building permit and by increasing the costs for both water and sewerage connections

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2006), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

DEALING WITH CONSTRUCTION PERMITS

What are the details?

The indicators reported here for Kenya are based on a set of specific procedures—the steps that a company must complete to legally build a warehouse—identified by *Doing Business* through information collected from experts in construction licensing, including architects, civil engineers, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations. These procedures are those that apply to a company and structure matching the standard assumptions used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators cover).

BUILDING A WAREHOUSE

Estimated value of warehouse : KES 6,698,175

City : Nairobi

The procedures, along with the associated time and cost, are summarized below.

Table 3.2 Summary of time, cost and procedures for dealing with construction permits in Kenya

No.	Procedure	Time to complete	Cost to complete
1	Obtain a survey plan from Survey Kenya A survey plan from Survey of Kenya is a required document when applying for a building permit. <i>Agency: Survey Kenya</i>	1 day	KES 500
2	Obtain a project report from an environmental expert Once the survey plan has been obtained, a licensed environmental expert must be hired to prepare a project report to be submitted to NEMA. <i>Agency: Private Expert</i>	5 days	KES 50,000
3	Obtain approval of the environmental impact study Following the enactment of new Environmental Management and Co-ordination Act on February 27, 2009, companies now have to obtain approval of projects from the National Environment Management Authority. Projects of all risk categories are subject to approval and an environmental impact assessment (EIA), including the BuildCo warehouse. It takes 30 days on average. The cost is set at 0.05% of warehouse value (0.05% * KES 32,500,000.00). Prior to February 11, 2009, the fee rate was 0.1% of warehouse value. The regulation regarding environmental impact assessment approval for Kenya has been in place since 1999. However, in recent years NEMA started enforcing the rules more vigorously. NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental impact assessment they may order the project be	30 days	KES 10,000

No.	Procedure	Time to complete	Cost to complete
	<p>closed and erected objects demolished. Therefore, construction companies are now obtaining the environmental approval before the building is completed. However, the legislation is not clear on what categories of building this regulation applies to.</p> <p><i>Agency: National Environment Management Authority (NEMA)</i></p>		
4	<p>Submit and obtain approval of the architectural plans</p> <p>The structural engineer submits all the structural and architectural drawings to be approved using an online platform https://ccn-ecp.or.ke/. The required documents to be submitted are the following:</p> <ul style="list-style-type: none"> i. The proposed development; ii. A survey plan from Survey of Kenya; iii. Ownership documents iv. Up-to-date rates payment receipts. v. Structural plans <p>The City Council will issue an invoice that must be paid, this can take up to 2—3 weeks to be obtained. The drawings are reviewed by all relevant departments simultaneously. Once the structural and architectural drawings are approved, they will be signed on by the governor of Nairobi. When all signatures have been obtained, the approved plans are scanned and uploaded in the system so that they can be retrieved by the architect.</p> <p>On June 27, 2013 the Nairobi City County adopted the new Financial Act 2013 which became effective as of October 1, 2013. The Act modified the method of assessing the building permit fees and consolidated several costs into one. The building permit fee is now based on the size of the building. The Joint Building Council Rates provide the estimated cost per square meter which varies depending on the type of building (e.g. office block, residential, industrial complex, etc.).</p> <p>For the Doing Business case study, the estimated cost is KES 21,000 / sq. m.</p> <p>The fees are as follows:</p> <ul style="list-style-type: none"> (i) Building plan approval fee: 1% of the estimated cost of construction (ii) Construction sign board fee: KES 25,000 (iii) Application fee: KES 5,000 (iv) Inspection of building file: KES 5,000 (v) Occupation certificate: KES 5,000 <p><i>Agency: Nairobi City County - Development Control Section</i></p>	45 days	KES 313,126
5	<p>Submit and obtain approval of the structural plans</p> <p>When construction is about to commence, the Contractor will apply for a construction permit. However, with approved drawings construction may start while the application for a</p>	10 days	no charge

No.	Procedure	Time to complete	Cost to complete
	<p>building permit is being processed.</p> <p>BuildCo must have the following items approved: project plans, architectural drawings, location survey of property documents and others.</p> <p><i>Agency: Nairobi City County - Development Control Section</i></p>		
6	<p>Obtain stamps on architectural and structural plans from the Nairobi City County - Development Control Section</p> <p>Once the plans have been approved, the architect must submit hard copies of the plans to be stamped by the Nairobi City County, even after submitting the documents online. The engineer must also do the same after the architect's plans have been stamped. The engineer does not have to wait one month like the architect to bring in the hard copies.</p> <p><i>Agency: Nairobi City County - Development Control Section</i></p>	1 day	no charge
* 7	<p>Apply for project registration with the National Construction Authority (NCA)</p> <p>BuildCo has to register the proposed construction project with the National Construction Authority (NCA) and fill a project registration form providing details of the construction work (that can be downloaded from the NCA website since 2012, www.nca.go.ke). This is line with the adoption of the National Construction Authority Regulations (2014) that mandate contractors to register their construction projects and obtain compliance certificate from NCA before construction. It takes around a week to obtain the compliance certificate. Upon submission of the application, BuildCo receives a temporary certificate that testifies the registration is under process. Most of the time, construction companies start building just after submission at NCA without waiting to receive the compliance certificate as they should be doing. NCA conducts periodic inspections during the construction looking for registration certificates and structural flaws. NCA ensures that the safety of the workers on site and the general public is respected. BuildCo submits the project registration form to the authority with several documents listed below. BuildCo is issued with an invoice on the amount of levy it should pay the authority at selected bank accounts, which are posted on the NCA website. The levy is 0.5% of the total cost of the project (percentage applicable to projects with a value of over KES 5,000,000). The following documents must be provided for the registration application</p> <ol style="list-style-type: none"> 1. Authenticated architectural plans (original) 2. Authenticated structural plans (original) 3. Nema approval (Simple copy) 4. Bill of quantities (Simple copy) 5. contract/agreement (Simple copy) It should be duly 	1 day	no charge

No.	Procedure	Time to complete	Cost to complete
	<p>signed by both the contractor and the client</p> <p>6. Contractor's registration certificate (Simple copy)</p> <p>7. Quantity surveyor's practicing certificate (Simple copy)</p> <p>8. Architect's practicing certificate (Simple copy)</p> <p>9. Engineer's practicing certificate (Simple copy)</p> <p><i>Agency: National Construction Authority (NCA)</i></p>		
8	<p>Receive on-site visit by NCA to check for compliance and obtain invoice</p> <p>Once the application has been made, there is a site-inspection to check for compliance of the construction site against the approved plans and the NEMA clearance. After this site inspection, the applicant will receive an invoice showing the amount to be paid. Once payment is made, then a provisional certificate of compliance, valid for 90 days, is given to the applicant. If later, there are no violations of compliance, then the final compliance certificate will be issued.</p> <p>The payment of 0.5% of any construction cost superior to 5million</p> <p><i>Agency: National Construction Authority (NCA)</i></p>	7 days	KES 33,491
9	<p>Notify the Nairobi City Council of commencement of work</p> <p>According to the Planning and Building Regulations 2009 - Volume I- Section A-101, AA 54, BuildCo must complete a form to notify the Nairobi City Council of the commencement of work.</p> <p><i>Agency: Nairobi City Council</i></p>	1 day	no charge
10	<p>Request and receive set out inspection</p> <p>According to the Planning and Building Regulations 2009 - Volume I - A-102, AA 55, BuildCo must complete a form and request an inspection from the Building Control Section.</p> <p><i>Agency: Nairobi City County - Development Control Section</i></p>	1 day	no charge
11	<p>Request and receive foundation excavation inspection</p> <p>According to the Planning and Building Regulations 2009 - Volume I- Section A-103, AA 56, the Development Control Section of the Nairobi City Council must be informed that the foundation /excavation is complete and request an inspection by completing a form and submitted it.</p> <p><i>Agency: Nairobi City County - Development Control Section</i></p>	1 day	no charge

No.	Procedure	Time to complete	Cost to complete
12	<p>Apply for permit to connect to the city sewage system</p> <p>According to the Planning and Building Regulations 2009 - Volume 1, Section A-110, AA 63, a permit to connect to the City sewage system. It will take about a week to obtain the permission.</p> <p><i>Agency: Nairobi City County - Development Control Section</i></p>	7 days	KES 7,500
13	<p>Request and receive final inspection by the Municipal Authority after construction</p> <p>Once the construction is completed alongside statutory inspections, BuildCo applies for an occupancy certificate. The Structural engineer will file a form AA65, according to the Planning and Building Regulations 2009, certifying that the "that the structural work of the building mentioned below has been carried out as per my structural design and details and that the said structure is safe and stable for the purpose for which it is intended".</p> <p>This certificate is issued to completed developments that have complied to all approval conditions and have undergone the regular inspections at the required stages. The application has to be accompanied by: Copy of approved building plans; Copy of approved structural plans; Structural Engineer's indemnity form; Architect's report; Plumbers certificate; and Kenya Bureau of Statistics form duly filled.</p> <p>The occupancy certificate is given when the City Council deems the building is in compliance with the approved architectural drawings.</p> <p>The application is then forwarded to the Assistant Director Enforcement so that an inspector is assigned for the final inspection of the construction. Normally it should be a combined visit from several other departments.</p> <p><i>Agency: Nairobi City County - Development Control Section</i></p>	5 days	no charge
14	<p>Obtain occupancy certificate</p> <p><i>Agency: Nairobi City County - Development Control Section</i></p>	14 days	no charge

No.	Procedure	Time to complete	Cost to complete
	Apply for water connection BuildCo is required to submit an "application for water and sewerage supply form" obtained from the Nairobi City Water and Sewerage Company. Afterwards, BuildCo is required to pay KES 5000 for a survey and estimate of fees and attach the receipt of payment to the application form. BuildCo must also attach the company's certificate of registration and its PIN number. The Nairobi Water Company may approve the application after all these documents have been submitted.		
* 15	Two to three weeks after the application has been received Nairobi City Water and Sewerage Company will send a team to assess the connection cost. The final connection will be made once payment of the estimated connection cost has been paid and this will take about 2—3 weeks to be done. <i>Agency: Nairobi City Water and Sewerage Company (NairobiWater)</i>	1 day	KES 5,000
16	Receive inspection for assessment of connection fees Once an application has been submitted by BuildCo, an inspector will visit the property to make a cost assessment for labor and materials for the connection. This inspection will happen in about 2--3 weeks. <i>Agency: Nairobi City Water and Sewerage Company (NairobiWater)</i>	1 day	no charge
17	Obtain water connection <i>Agency: Nairobi City Water and Sewerage Company (NairobiWater)</i>	30 days	no charge

* Takes place simultaneously with another procedure.

Source: Doing Business database.

Note: Online procedures account for 0.5 days in the total time calculation.

DEALING WITH CONSTRUCTION PERMITS

Building Quality Control Index

The building quality control index is the sum of the scores on the quality of building regulations, quality control before construction, quality control during construction, quality control after construction, liability and insurance regimes, and professional certifications indices.

The index ranges from 0 to 15, with higher values indicating better quality control and safety mechanisms in the construction permitting system.

The indicator is based on the same case study assumptions as the measures of efficiency.

Table 3.3 Summary of quality control and safety mechanisms in Kenya

	Answer	Score
Building quality control index (0-15)		7.0
Which third-party entities are required by law to verify that the building plans are in compliance with existing building regulations? (0-1)	Licensed engineer.	
Quality of building regulations index (0-2)		1.0
How accessible are building laws and regulations in your economy? (0-1)	Available online; Free of charge.	1.0
Which requirements for obtaining a building permit are clearly specified in the building regulations or on any accessible website, brochure or pamphlet? (0-1)	List of required documents; Fees to be paid.	0.0
Quality control before construction index (0-1)		1.0
Which third-party entities are required by law to verify that the building plans are in compliance with existing building regulations? (0-1)	Licensed engineer.	1.0
Quality control during construction index (0-3)		1.0
What types of inspections (if any) are required by law to be carried out during construction? (0-2)	Unscheduled inspections; Inspections at various phases; No inspections are legally required during construction.	1.0
Do legally mandated inspections occur in practice during construction? (0-1)	Mandatory inspections are not done in practice during construction; Mandatory inspections are done most of the time during construction.	0.0
Quality control after construction index (0-3)		2.0
Is there a final inspection required by law to verify that the building was built in accordance with the approved plans and regulations? (0-2)	Yes, final inspection is done by government agency.	2.0
Do legally mandated final inspections occur in practice? (0-1)	Final inspection does not always occur in	0.0

	Answer	Score
	practice; Final inspection occurs most of the time.	
Liability and insurance regimes index (0-2)		0.0
Which parties (if any) are held liable by law for structural flaws or problems in the building once it is in use (Latent Defect Liability or Decennial Liability)? (0-1)	No party is held liable under the law.	0.0
Which parties (if any) are required by law to obtain an insurance policy to cover possible structural flaws or problems in the building once it is in use (Latent Defect Liability Insurance or Decennial Insurance)? (0-1)	No party is required by law to obtain insurance	0.0
Professional certifications index (0-4)		2.0
What are the qualification requirements for the professional responsible for verifying that the architectural plans or drawings are in compliance with existing building regulations? (0-2)	Minimum number of years of experience; University degree in architecture or engineering; Being a registered architect or engineer.	2.0
What are the qualification requirements for the professional who supervises the construction on the ground? (0-2)	Minimum number of years of experience; Being a registered architect or engineer; Passing a certification exam.	0.0

Source: Doing Business database.

GETTING ELECTRICITY

Access to reliable and affordable electricity is vital for businesses. To counter weak electricity supply, many firms in developing economies have to rely on self-supply, often at a prohibitively high cost. Whether electricity is reliably available or not, the first step for a customer is always to gain access by obtaining a connection.

What do the indicators cover?

Doing Business records all procedures required for a local business to obtain a permanent electricity connection and supply for a standardized warehouse, as well as the time and cost to complete them. These procedures include applications and contracts with electricity utilities, clearances from other agencies and the external and final connection works. In addition, *Doing Business* also measures the reliability of supply and transparency of tariffs index (included in the aggregate distance to frontier score and ranking on the ease of doing business) and the price of electricity (omitted from these aggregate measures). The ranking of economies on the ease of getting electricity is determined by sorting their distance to frontier scores for getting electricity. These scores are the simple average of the distance to frontier scores for each of the component indicators. To make the data comparable across economies, several assumptions are used.

Assumptions about the warehouse

The warehouse:

- Is owned by a local entrepreneur.
- Is located in the economy's largest business city. For 11 economies the data are also collected for the second largest business city.
- Is located in an area where similar warehouses are typically located. In this area a new electricity connection is not eligible for a special investment promotion regime (offering special subsidization or faster service, for example).
- Is located in an area with no physical constraints. For example, the property is not near a railway.
- Is a new construction and is being connected to electricity for the first time.

WHAT THE GETTING ELECTRICITY

INDICATORS MEASURE

Procedures to obtain an electricity connection (number)

Submitting all relevant documents and obtaining all necessary clearances and permits
 Completing all required notifications and receiving all necessary inspections
 Obtaining external installation works and possibly purchasing material for these works
 Concluding any necessary supply contract and obtaining final supply

Time required to complete each procedure (calendar days)

Is at least 1 calendar day
 Each procedure starts on a separate day
 Does not include time spent gathering information
 Reflects the time spent in practice, with little follow-up and no prior contact with officials

Cost required to complete each procedure (% of income per capita)

Official costs only, no bribes
 Excludes value added tax

The reliability of supply and transparency of tariffs index

Sum of the scores of six component indices:
 Duration and frequency of outages
 Tools to monitor power outages
 Tools to restore power supply
 Regulatory monitoring of utilities' performance
 Financial deterrents aimed at limiting outages
 Transparency and accessibility of tariffs

Price of electricity (cents per kilowatt-hour)*

Price based on monthly bill for commercial warehouse in case study

***Price of electricity is not included in the calculation of distance to frontier nor ease of doing business ranking**

The warehouse (*continued*):

- Has two stories, both above ground, with a total surface area of approximately 1,300.6 square meters (14,000 square feet). The plot of land on which it is built is 929 square meters (10,000 square feet).
- Is used for storage of goods.

Assumptions about the electricity connection

The electricity connection:

- Is a permanent one.
- Is a three-phase, four-wire Y connection with a subscribed capacity of 140-kilo-volt-ampere (kVA) with a power factor of 1, when 1 kVA = 1 kilowatt (kW).
- Has a length of 150 meters. The connection is to either the low- or medium-voltage distribution network and is either overhead or underground, whichever is more common in the area where the warehouse is located
- Requires works that involve the crossing of a 10-meter road (such as by excavation or overhead lines) but are all carried out on public land. There is no crossing of other owners' private property because the warehouse has access to a road.
- Includes only a negligible length in the customer's private domain.
- Does not require work to install the internal wiring of the warehouse. This has already been completed up to and including the customer's service panel or switchboard and the meter base.

Assumptions about the monthly consumption

- It is assumed that the warehouse operates 30 days a month from 9:00 a.m. to 5:00 p.m. (8 hours a day), with equipment utilized at 80% of capacity on average and that there are no electricity cuts (assumed for simplicity reasons).
- The monthly energy consumption is 26,880 kilowatt-hours (kWh); hourly consumption is 112 kWh.
- If multiple electricity suppliers exist, the warehouse is served by the cheapest supplier.
- Tariffs effective in March of the current year are used for calculation of the price of electricity for the warehouse. Although March has 31 days, for calculation purposes only 30 days are used.

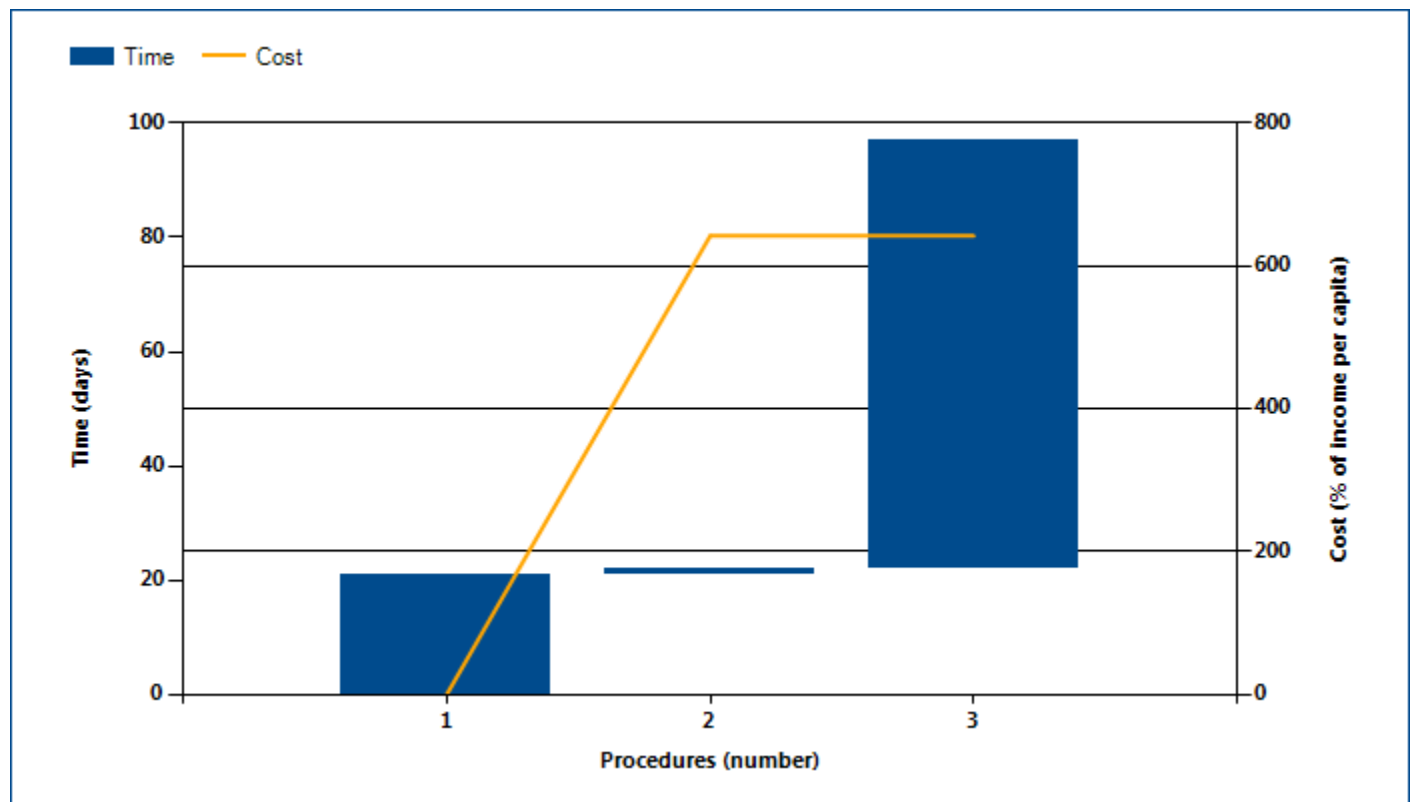
GETTING ELECTRICITY

Where does the economy stand today?

What does it take to obtain a new electricity connection in Kenya? According to data collected by *Doing Business*, getting electricity there requires 3.0 procedures, takes 97.0 days and costs 642.0% of income per capita (figure 4.1).

Most indicator sets refer to a case scenario in the largest business city of an economy, except for 11 economies for which the data are a population-weighted average of the 2 largest business cities. See the chapter on distance to frontier and ease of doing business ranking at the end of this profile for more details.

Figure 4.1 What it takes to obtain an electricity connection in Kenya



Source: *Doing Business* database.

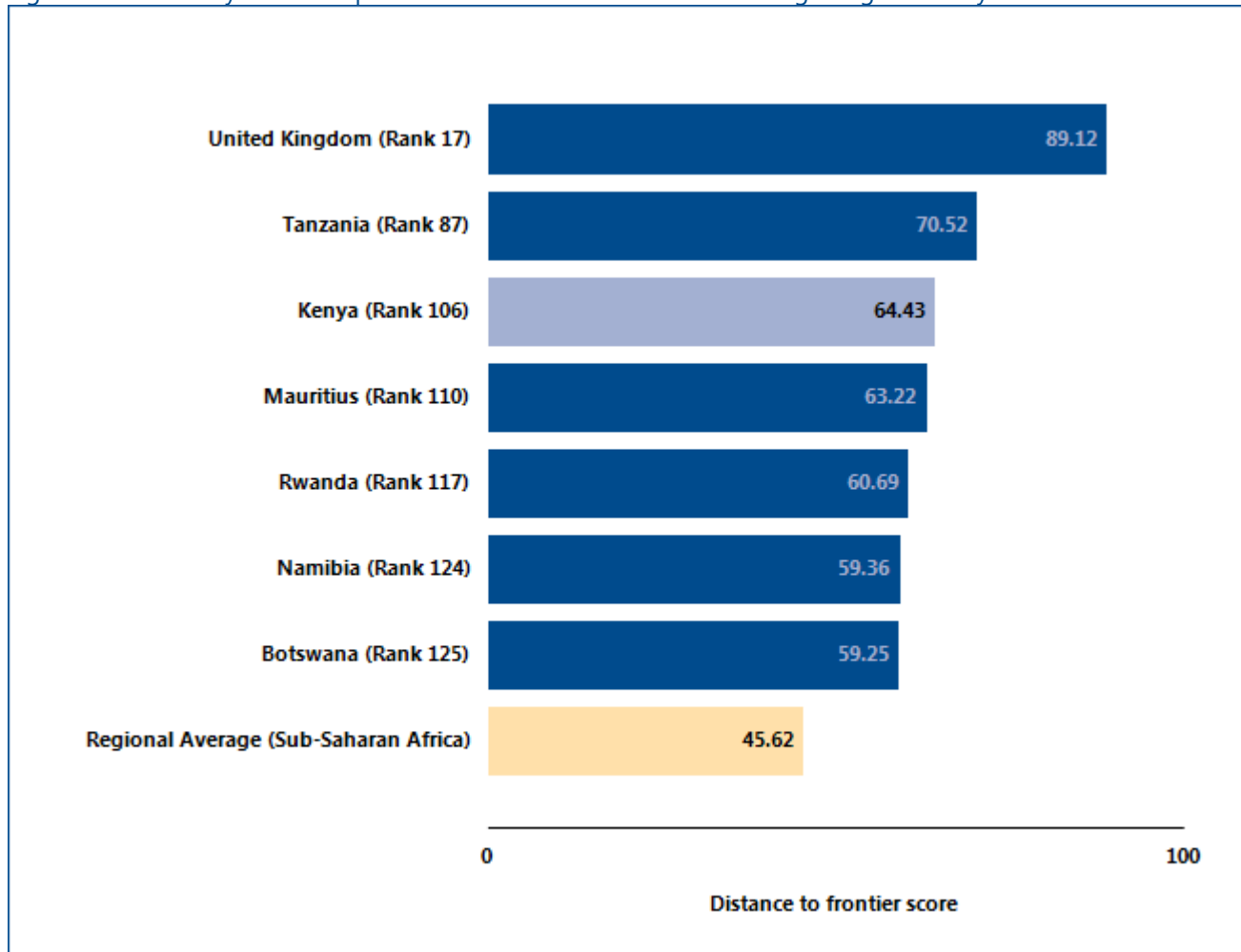
Note: Time shown in the figure above may not reflect simultaneity of procedures. For more information on the methodology of the getting electricity indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

GETTING ELECTRICITY

Globally, Kenya stands at 106 in the ranking of 190 economies on the ease of getting electricity (figure 4.2). The rankings for comparator economies and the regional

average ranking provide another perspective in assessing how easy it is for an entrepreneur in Kenya to connect a warehouse to electricity.

Figure 4.2 How Kenya and comparator economies rank on the ease of getting electricity



Source: Doing Business database.

GETTING ELECTRICITY

Obtaining an electricity connection is essential to enable a business to conduct its most basic operations. In many economies the connection process is complicated by the multiple laws and regulations involved—covering service quality, general safety, technical standards, procurement practices and internal wiring installations. In an effort to

ensure safety in the connection process while keeping connection costs reasonable, governments around the world have worked to consolidate requirements for obtaining an electricity connection. What reforms in getting electricity has *Doing Business* recorded in Kenya (table 4.1)?

Table 4.1 How has Kenya made getting electricity easier—or not?
By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2016	The utility in Kenya reduced delays for new connections by enforcing service delivery timelines and hiring contractors for meter installation.
DB2017	Kenya streamlined the process of obtaining a new electricity connection by introducing the use of a Geographic Information System which eliminates the need to conduct a site visit and reduces the time taken to connect to electricity.

Source: *Doing Business* database.

GETTING ELECTRICITY

What are the details?

The indicators reported here for Kenya are based on a set of specific procedures—the steps that an entrepreneur must complete to get a warehouse connected to electricity by the local distribution utility—identified by *Doing Business*. Data are collected from the distribution utility, then completed and verified by electricity regulatory agencies and independent professionals such as electrical engineers, electrical contractors and construction companies. The electricity distribution utility surveyed is the one serving the area (or areas) in which warehouses are located. If there is a choice of distribution utilities, the one serving the largest number of customers is selected.

The procedures are those that apply to a warehouse and electricity connection matching the standard assumptions used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators cover). The procedures, along with the associated time and cost, are summarized below.

OBTAINING AN ELECTRICITY CONNECTION*

Name of utility:	Kenya Power and Lighting Co. Ltd
Price of electricity (US cents per kWh):	17.6
City:	Nairobi

*Price is calculated as a monthly consumption of 26,880 kWh for business customers, based on a standardized case study adopted by the getting electricity methodology. *Doing Business* measures the price of electricity but does not include these data when calculating the distance to frontier score for getting electricity or the ranking on the ease of getting electricity.

Table 4.2 Summary of time, cost and procedures for getting electricity in Kenya

No.	Procedure	Time to complete	Cost to complete
1	<p>Submit application to Kenya Power and Lighting Company (KPLC) and await quotation</p> <p>The client submits the following documents:</p> <ul style="list-style-type: none"> • Inquiry for supply of electricity form –Collected from KPLC and duly filled out • Copy of Certificate of registration • Copy of PIN Certificate • Sketch Map to the Premises • Permit from city council to show that the land is occupied legally and structure is correctly done and approved by city council <p>KPLC locates the building using GIS technology and looks at some key aspects that determine the price estimate that the client will receive, and prepares estimate.</p> <ul style="list-style-type: none"> • Amount of power required for the building. • Existing infrastructure (Poles and transformers) and their proximity to the premises. It is important to note that if the premise is within 600m of existing infrastructure, this considerably lowers the cost. • Way leaves clearance –Pathways for laying down infrastructure and any permits or notifications needed to facilitate this. <p>Agency: Kenya Power and Lighting Company Ltd</p>	21 calendar days	KES 0

No.	Procedure	Time to complete	Cost to complete
2	<p>Pay estimate and sign supply contract</p> <p>Connection costs include capital contribution charges for network reinforcement for up to 1000 meters. Customer fills in Supply Contract form and submits to the Meter Installation section through the customer service department. Customer also submits internal wiring clearance certificate from electrician.</p> <p><i>Agency: Kenya Power and Lighting Company Ltd</i></p>	1 calendar day	KES 860,000
3	<p>Receive external works, meter installation and electricity flow</p> <p>External connection works are done by Distribution Department, and while reaching completion, they inform the Meter Installation Section in Customer Service Department to complete metering. This is an internal procedure, and the customer is not involved.</p> <p><i>Agency: Kenya Power and Lighting Company Ltd</i></p>	75 calendar days	KES 0

* Takes place simultaneously with previous procedure.

Source: Doing Business database.

GETTING ELECTRICITY

Reliability of supply and transparency of tariffs index

The reliability of supply and transparency of tariffs index encompasses quantitative data on the duration and frequency of power outages as well as qualitative information on the mechanisms put in place by the utility for monitoring power outages and restoring power supply, the reporting relationship between the utility and the regulator for power outages, the transparency and accessibility of tariffs and whether the utility faces a financial deterrent aimed at limiting outages (such as a requirement to compensate customers or pay fines when outages exceed a certain cap).

The index ranges from 0 to 8, with higher values indicating greater reliability of electricity supply and greater transparency of tariffs.

Doing Business uses the system average interruption duration index (SAIDI) and the system average interruption frequency index (SAIFI) to measure the duration and frequency of power outages in the largest business city of each economy (for 11 economies the data are also collected for the second largest business city). SAIDI is the average total duration of outages over the course of a year for each customer served, while SAIFI is the average number of service interruptions experienced by a customer in a year. Annual data (covering the calendar year) are collected from distribution utility companies and national regulators on SAIDI and SAIFI. Both SAIDI and SAIFI estimates include load shedding.

Table 4.3 Reliability of Supply and Transparency of Tariff Index in Kenya

	Answer	Score
Reliability of supply and transparency of tariff index (0-8)		0.0
Total duration and frequency of outages per customer a year (0-3)		0.0
System average interruption duration index (SAIDI)	162.6	
System average interruption frequency index (SAIFI)	16	
Mechanisms for monitoring outages (0-1)		1.0
Does the distribution utility use automated tools to monitor outages?	Yes	
Mechanisms for restoring service (0-1)		1.0
Does the distribution utility use automated tools to restore service?	Yes	
Regulatory monitoring (0-1)		1.0
Does a regulator—that is, an entity separate from the utility—monitor the utility's performance on reliability of supply?	Yes	
Financial deterrents aimed at limiting outages (0-1)		0.0
Does the utility either pay compensation to customers or face fines by the regulator (or both) if outages exceed a certain cap?	No	
Communication of tariffs and tariff changes (0-1)		1.0
Are effective tariffs available online?	Yes	
Link to the website, if available online	http://www.kplc.c	

	Answer	Score
	o.ke/	
Are customers notified of a change in tariff ahead of the billing cycle?	Yes	
Price of electricity (US cents per kWh)		17.6

Source: *Doing Business* database.

Note: If data on power outages is not collected or if the SAIFI index or SAIDI index are above the threshold of 100, the economy is not eligible to obtain a score in the Reliability of Supply and Transparency of Tariff Index. If SAIDI and SAIFI are 12 (equivalent to an outage of one hour each month) or below, a score of 1 is assigned. If SAIDI and SAIFI are 4 (equivalent to an outage of one hour each quarter) or below, 1 additional point is assigned. Finally, if SAIDI and SAIFI are 1 (equivalent to an outage of one hour per year) or below, 1 more point is assigned. *Doing Business* measures the price of electricity but does not include these data when calculating the distance to frontier score for getting electricity or the ranking on the ease of getting electricity. The price of electricity is measured in cents per kilowatt-hour. On the basis of the assumptions about monthly consumption, a monthly bill for a commercial warehouse in the largest business city of the economy is computed for the month of March. As noted, the warehouse uses electricity 30 days a month, from 9:00 a.m. to 5:00 p.m., so different tariff schedules may apply if a time-of-use tariff is available.

REGISTERING PROPERTY

Ensuring formal property rights is fundamental. Effective administration of land is part of that. If formal property transfer is too costly or complicated, formal titles might go informal again. And where property is informal or poorly administered, it has little chance of being accepted as collateral for loans—limiting access to finance.

What do the indicators cover?

Doing Business records the full sequence of procedures necessary for a business to purchase property from another business and transfer the property title to the buyer's name. The transaction is considered complete when it is opposable to third parties and when the buyer can use the property, use it as collateral for a bank loan or resell it. In addition, *Doing Business* also measures quality of the land administration system in each economy. The ranking of economies on the ease of registering property is determined by sorting their distance to frontier scores for registering property. These scores are the simple average of the distance to frontier scores for each of the component indicators. To make the data comparable across economies, several assumptions about the parties to the transaction, the property and the procedures are used.

The parties (buyer and seller):

- Are limited liability companies, 100% domestically and privately owned and perform general commercial activities in the economy's largest business city.
- Have 50 employees each, all of whom are nationals.

The property (fully owned by the seller):

- Has a value of 50 times income per capita. The sale price equals the value and entire property will be transferred.
- Is registered in the land registry or cadastre, or both, and is free of title disputes.
- Is located in a periurban commercial zone, and no rezoning is required.

WHAT THE REGISTERING PROPERTY INDICATORS MEASURE

Procedures to legally transfer title on immovable property (number)

Preregistration (for example, checking for liens, notarizing sales agreement, paying property transfer taxes)

Registration in the economy's largest business city

Postregistration (for example, filing title with the municipality)

Time required to complete each procedure (calendar days)

Does not include time spent gathering information

Each procedure starts on a separate day—though procedures that can be fully completed online are an exception to this rule

Procedure considered completed once final document is received

No prior contact with officials

Cost required to complete each procedure (% of property value)

Official costs only, no bribes

No value added or capital gains taxes included

Quality of land administration index (0-30)

- Has no mortgages attached, has been under the same ownership for the past 10 years.
- Consists of 557.4 square meters (6,000 square feet) of land and a 10-year-old, 2-story warehouse of 929 square meters (10,000 square feet). The warehouse is in good condition and complies with all safety standards, building codes and legal requirements. There is no heating system.

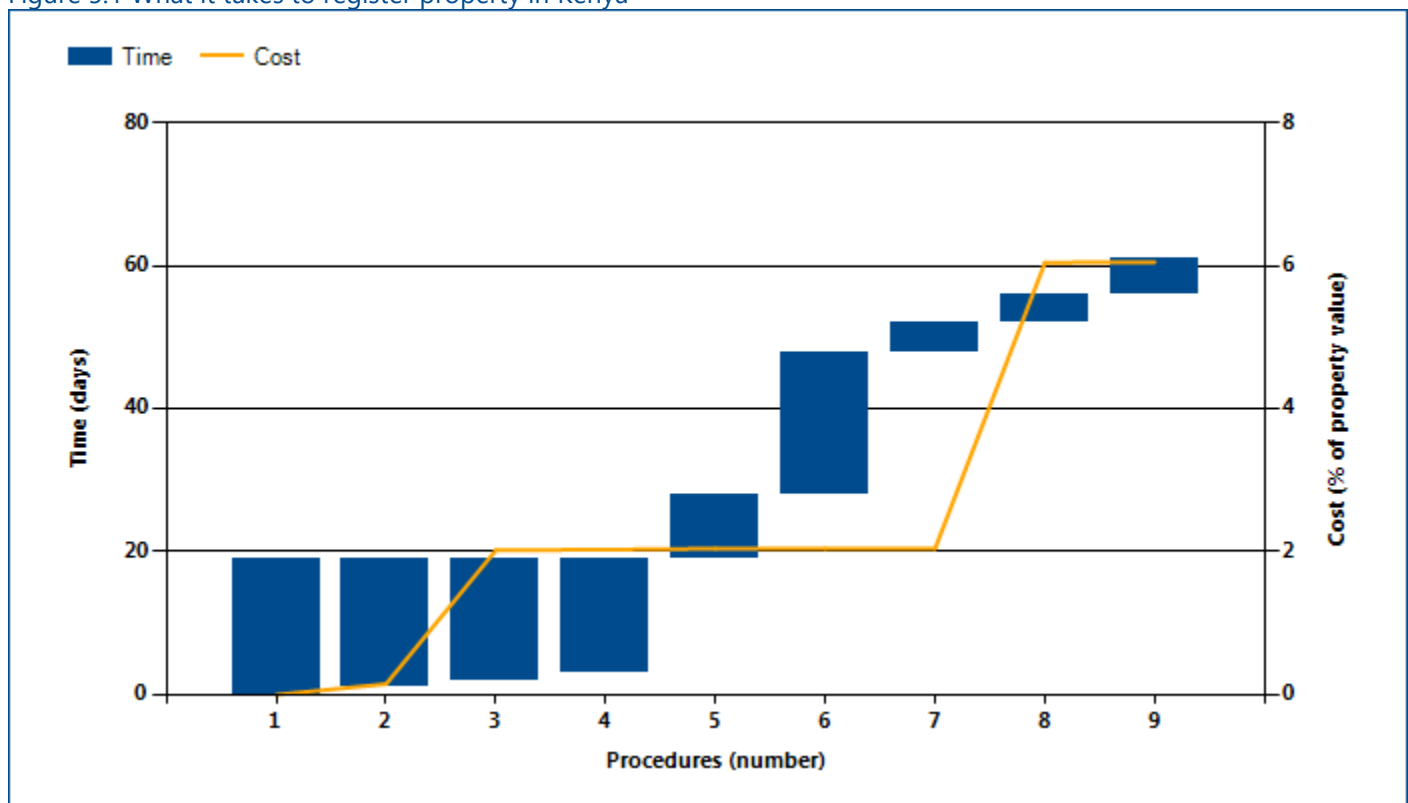
REGISTERING PROPERTY

Where does the economy stand today?

What does it take to complete a property transfer in Kenya? According to data collected by *Doing Business*, registering property there requires 9.0 procedures, takes 61.0 days and costs 6.1% of the property value (figure 5.1). The score on the quality of land administration index is 16.0

Most indicator sets refer to a case scenario in the largest business city of an economy, except for 11 economies for which the data are a population-weighted average of the 2 largest business cities. See the chapter on distance to frontier and ease of doing business ranking at the end of this profile for more details.

Figure 5.1 What it takes to register property in Kenya



Source: *Doing Business* database.

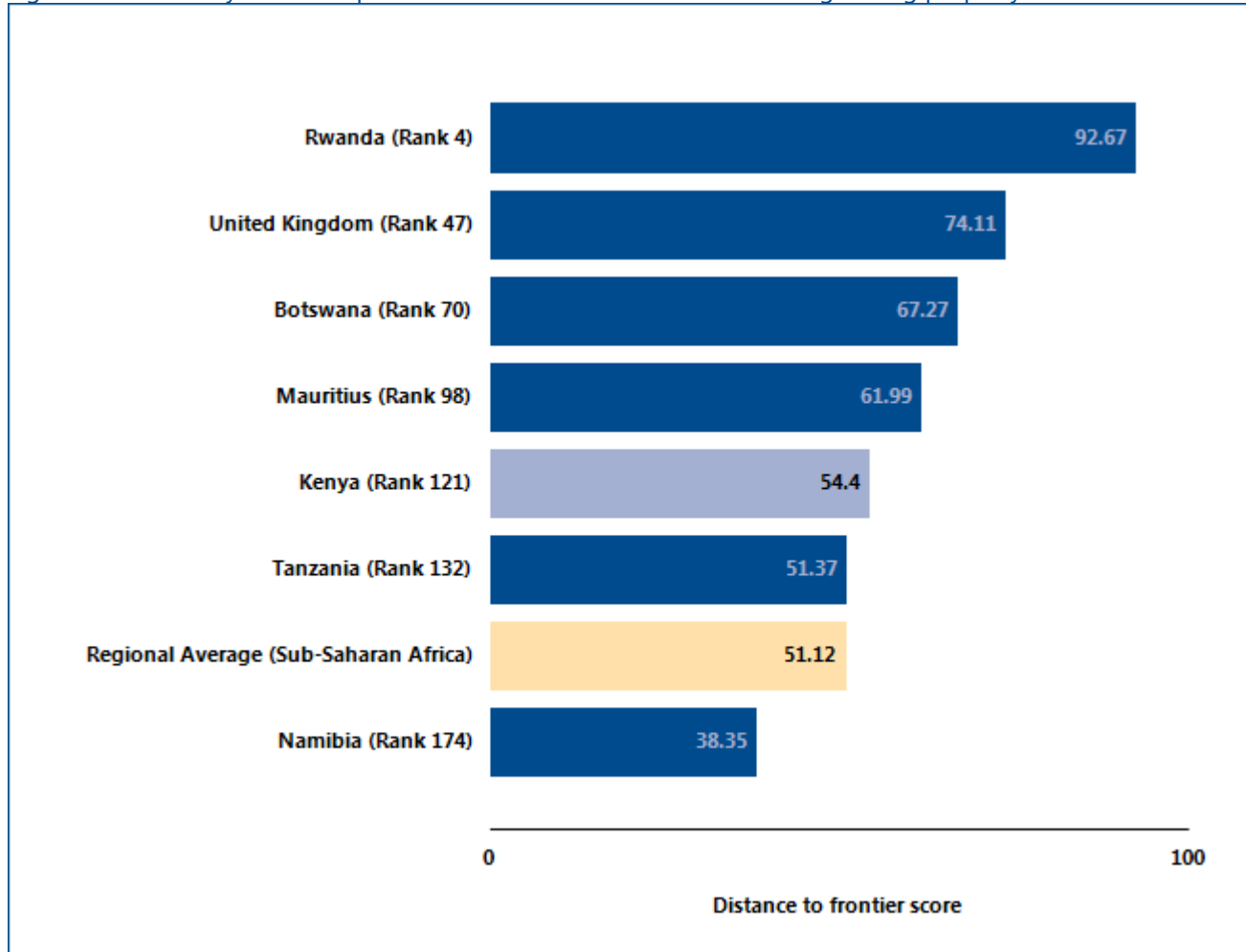
Note: Time shown in the figure above may not reflect simultaneity of procedures. Online procedures account for 0.5 days in the total time calculation. For more information on the methodology of the registering property indicators, see the *Doing Business* website (<http://www.doingbusiness.org>). For details on the procedures reflected here, see the summary at the end of this chapter.

REGISTERING PROPERTY

Globally, Kenya stands at 121 in the ranking of 190 economies on the ease of registering property (figure 5.2). The rankings for comparator economies and the

regional average ranking provide other useful information for assessing how easy it is for an entrepreneur in Kenya to transfer property.

Figure 5.2 How Kenya and comparator economies rank on the ease of registering property



Source: *Doing Business* database.

REGISTERING PROPERTY

Economies worldwide have been making it easier for entrepreneurs to register and transfer property—such as by computerizing land registries, introducing time limits for procedures and setting low fixed fees. Many have cut

the time required substantially—enabling buyers to use or mortgage their property earlier. What property registration reforms has *Doing Business* recorded in Kenya (table 5.1)?

Table 5.1 How has Kenya made registering property easier—or not?
By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2016	Kenya made property transfers faster by improving electronic document management at the land registry and introducing a unified form for registration.
DB2017	Kenya made Registering property easier by increasing the transparency at its land registry and cadastre.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2005), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

REGISTERING PROPERTY

What are the details?

The indicators reported here are based on a set of specific procedures—the steps that a buyer and seller must complete to transfer the property to the buyer's name—identified by *Doing Business* through information collected from local property lawyers, notaries and property registries. These procedures are those that apply to a transaction matching the standard assumptions used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators cover). The procedures, along with the associated time and cost, are summarized below.

STANDARD PROPERTY TRANSFER

Property value: KES 6,698,175

City: Nairobi

Table 5.2 Summary of time, cost and procedures for registering property in Kenya

No.	Procedure	Time to complete	Cost to complete
1	<p>Apply and Obtain Land Rent Clearance Certificate from the Commissioner of Lands</p> <p>The Seller's lawyer obtains the Land Rent Clearance Certificate from the lands office at no cost.</p> <p><i>Agency: Lands Office</i></p>	19 days (simultaneous with Procedures 2, 3 and 4)	no cost
* 2	<p>Apply, pay and obtain Rates Clearance Certificate from the Nairobi City Council</p> <p>The Seller's lawyer obtains the Rates Clearance Certificate from the Nairobi City County Government. This certificate is important proof that there are no outstanding fees to be paid to the Nairobi City County Government.</p> <p><i>Agency: Nairobi City County Government</i></p>	5 days (simultaneous with Procedure 1, 3 and 4)	KES 10,000
* 3	<p>Draft the transfer instrument and file it at the Lands Office to obtain an appointment for valuation</p> <p>The transfer instrument is prepared by the buyer's lawyer and needs to be approved by the seller's counterpart. Lawyers' fees are calculated based on a fixed scale published under the Advocates (Remuneration) Order depending on the value of the property. Lawyers are also permitted to charge on alternative billing methods subject to the minimum fees set out under the scaled provided for under the Advocates (Remuneration) Order.</p> <p>The transfer instrument is filed at the Land office to be assessed for Stamp duty.</p>	4 days (simultaneous with 1,2 and 4)	According to the Advocates Remuneration Order for 2014 the lawyer's fee is calculated cumulatively, based on the property's value: (i) from Kshs. 1 to Kshs. 5,000,000,

No.	Procedure	Time to complete	Cost to complete
	<p><i>Agency: Lawyer's office</i></p>		<p>2% of the consideration or the value of the subject matter or Kshs. 35,000 whichever is higher. (ii) from Kshs. 5,000,001 to Kshs.100,000,000, the fee prescribed in (i) plus 1.5% of the balance. (iii) from Kshs.100,000,001 to Kshs. 250,000,000, the fee prescribed in (ii) plus 1.25 % of the balance. (iv) from Kshs. 250,000,001 to Kshs.1,000,000,000 , the fee prescribed in (iii) plus 1% of the balance (v) in respect of an amount where the consideration or value is more than Kshs.1,000,000,000 , the fee set out in (iv) plus 0.1% of the balance.</p>
* 4	<p>Apply for a search on the title at the Lands Office</p> <p>The Registered Land Act has been repealed by the Land Registration Act (Act No. 3 of 2012). For land previously registered under the Registered Land Act, it is still necessary to provide a copy of the title document at the time of applying for the search. The position reported last year i.e. one cannot carry out a personal search but must instead apply for an official search still applies.</p>	<p>3 days (simultaneous with Procedures 1, 2 and 4)</p>	<p>KES 520</p>

No.	Procedure	Time to complete	Cost to complete
	<i>Agency: Lands Office</i>		
5	<p>Apply and obtain consent to transfer from the Lands Office</p> <p>With effect from August 27, 2010 when the Constitution of Kenya, 2010 was promulgated, the Land Registration Act (No. 3 of 2012) repealed the Government Lands Act (Cap. 280) and consent to transfer leasehold land held by the Government of the Republic of Kenya under the repealed Act is now required to be obtained from the lands office. Previously, such consent was required to be obtained from the Commissioner of Lands and that office was abolished by the repeal of the Government Lands Act.</p> <p><i>Agency: Lands office</i></p>	9 days	KES 1,000
6	<p>Receive site inspection by Government valuer and obtain valuation report</p> <p>Once the draft transfer has been filed at the land office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. Previously, such inspections were conducted on a random basis, but now every transaction requires such an inspection. The issues involved are similar to the inspections by the land officer and, therefore, may happen within 1 day to up to over one month. Once the valuer has inspected the property to assess its value, a report is compiled after which the value is endorsed on the transfer and then it is submitted for assessment of the Stamp duty.</p> <p><i>Agency: Lands office Valuer</i></p>	20 days	no cost
7	<p>Endorsement of value for stamp duty purposes and assessment of Stamp duty</p> <p>The Stamp Duty Assessment form is completed including the purchase price (in quadruplet). The stamp duty assessment officer stationed at the Ministry of Lands banking hall will then assess the stamp duty payable and indicate the amount on the Forms. Stamping of the document takes on average 3 days.</p> <p><i>Agency: Lands Office</i></p>	4 days	no cost

No.	Procedure	Time to complete	Cost to complete
8	<p>Payment of Stamp Duty at Commercial Bank and receive confirmation of payment from Kenya Revenue Authority</p> <p>The payment of Stamp Duty is made at a Commercial Banks designated by the Ministry of Land. If the amount exceed k.shs. 1 million, payment is made by RTGS bank transfer. It takes about 4 days for the Kenya Revenue Authority to confirm receipt of payment after which the transfer agreement can be franked or embossed evidencing payment of stamp duty.</p> <p><i>Agency: Commercial Bank</i></p>	4 days	KES 110 (charge for Banker's check) + 4% of property value (stamp Duty)
9	<p>Lodge stamped transfer document for registration and receive duly registered documents</p> <p>The stamped transfer documents are lodged for registration at the Lands Office. These documents are generally obtained from seller's lawyers, these being original Certificate of Title, Rates Clearance Certificate, Land Rent Clearance Certificate, and the Consent Transfer. Inform seller's lawyers of registration and pay balance of the purchase price. The certificate of the registered transfer is collected at the Lands Office.</p> <p><i>Agency: Lands Office</i></p>	5 days	KES 500

* Takes place simultaneously with another procedure.

Source: *Doing Business* database.

Note: Online procedures account for 0.5 days in the total time calculation.

REGISTERING PROPERTY

Quality of land administration

The quality of land administration index is the sum of the scores on the reliability of infrastructure, transparency of information, geographic coverage, land dispute resolution and equal access to property rights indices.

The index ranges from 0 to 30, with higher values indicating better quality of the land administration system.

If private sector entities were unable to register property transfers in an economy between June 2015 and June 2016, the economy receives a “no practice” mark on the procedures, time and cost indicators. A “no practice” economy receives a score of 0 on the quality of land administration index even if its legal framework includes provisions related to land administration.

Table 5.3 Summary of quality of land administration in Kenya

	Answer	Score
Quality of the land administration index (0-30)		16.0
Reliability of infrastructure index (0-8)		7.0
What is the institution in charge of immovable property registration?	Lands Office	
In what format are the majority of title or deed records kept in the largest business city—in a paper format or in a computerized format (scanned or fully digital)?	Computer/Fully digital	2.0
Is there an electronic database for checking for encumbrances (liens, mortgages, restrictions and the like)?	Yes	1.0
In what format are the majority of maps of land plots kept in the largest business city—in a paper format or in a computerized format (scanned or fully digital)?	Computer/Fully digital	2.0
Is there an electronic database for recording boundaries, checking plans and providing cadastral information (geographic information system)?	Yes	1.0
Is the information recorded by the immovable property registration agency and the cadastral or mapping agency kept in a single database, in different but linked databases or in separate databases?	Separate databases	0.0
Do the immovable property registration agency and cadastral or mapping agency use the same identification number for properties?	Yes	1.0
Transparency of information index (0–6)		4.0
Who is able to obtain information on land ownership at the agency in charge of immovable property registration in the largest business city?	Anyone who pays the official fee	1.0
Is the list of documents that are required to complete any type of property transaction made publicly available—and if so, how?	Yes, online	0.5
Link for online access:	http://www.ardhi.go.ke/wp-content/uploads/	

	Answer	Score
	2016/04/MOLHU D_Service_Charter _Modified_5th- April.pdf	
Is the applicable fee schedule for any property transaction at the agency in charge of immovable property registration in the largest business city made publicly available—and if so, how?	Yes, online	0.5
Link for online access:	http://www.ardhi.go.ke/wp-content/uploads/2016/04/MOLHU_D_Service_Charter_Modified_5th-April.pdf	
Does the agency in charge of immovable property registration commit to delivering a legally binding document that proves property ownership within a specific time frame—and if so, how does it communicate the service standard?	Yes, online	0.5
Link for online access:	http://www.ardhi.go.ke/wp-content/uploads/2016/04/MOLHU_D_Service_Charter_Modified_5th-April.pdf	
Is there a specific and separate mechanism for filing complaints about a problem that occurred at the agency in charge of immovable property registration?	No	0.0
Contact information:		
Are there publicly available official statistics tracking the number of transactions at the immovable property registration agency?	No	0.0
Number of property transfers in the largest business city in 2015:		
Who is able to consult maps of land plots in the largest business city?	Anyone who pays the official fee	0.5
Is the applicable fee schedule for accessing maps of land plots made publicly available—and if so, how?	Yes, online	0.5
Link for online access:	http://www.ardhi.go.ke/wp-content/uploads/2016/04/MOLHU_D_Service_Charter	

	Answer	Score
	_Modified_5th-April.pdf	
Does the cadastral or mapping agency commit to delivering an updated map within a specific time frame—and if so, how does it communicate the service standard?	Yes, online	0.5
Link for online access:	http://www.ardhi.go.ke/wp-content/uploads/2016/04/MOLHuD_Service_Charter_Modified_5th-April.pdf	
Is there a specific and separate mechanism for filing complaints about a problem that occurred at the cadastral or mapping agency?	No	0.0
Geographic coverage index (0–8)		0.0
Are all privately held land plots in the economy formally registered at the immovable property registry?	No	0.0
Are all privately held land plots in the largest business city formally registered at the immovable property registry?	No	0.0
Are all privately held land plots in the economy mapped?	No	0.0
Are all privately held land plots in the largest business city mapped?	No	0.0
Land dispute resolution index (0–8)		5.0
Does the law require that all property sale transactions be registered at the immovable property registry to make them opposable to third parties?	Yes	1.5
Is the system of immovable property registration subject to a state or private guarantee?	Yes	0.5
Is there 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 immovable property registry?	No	0.0
Does the legal system require a control of legality of the documents necessary for a property transaction (e.g., checking the compliance of contracts with requirements of the law)?	Yes	0.5
If yes, who is responsible for checking the legality of the documents?	Registrar; Notary; Lawyer.	
Does the legal system require verification of the identity of the parties to a property transaction?	Yes	0.5

	Answer	Score
If yes, who is responsible for verifying the identity of the parties?	Registrar; Notary; Lawyer.	
Is there a national database to verify the accuracy of identity documents?	Yes	1.0
For a standard land dispute between two local businesses over tenure rights of a property worth 50 times gross national income (GNI) per capita and located in the largest business city, what court would be in charge of the case in the first instance?	Environment and Land Court	
How long does it take on average to obtain a decision from the first-instance court for such a case (without appeal)?	Between 2 and 3 years	1.0
Are there any statistics on the number of land disputes in the first instance?	No	0.0
Number of land disputes in the largest business city in 2015:		
Equal access to property rights index (-2–0)		0.0
Do unmarried men and unmarried women have equal ownership rights to property?	Yes	0.0
Do married men and married women have equal ownership rights to property?	Yes	0.0

Source: Doing Business database.

GETTING CREDIT

Two types of frameworks can facilitate access to credit and improve its allocation: credit information systems and borrowers and lenders in collateral and bankruptcy laws. Credit information systems enable lenders to view and consider a potential borrower's financial history (positive or negative) when assessing risk and they allow borrowers to establish a good credit history that will facilitate their access to credit. Sound collateral laws enable businesses to use their assets, especially movable property, as security to generate capital—while strong creditors' rights have been associated with higher ratios of private sector credit to GDP.

What do the indicators cover?

Doing Business assesses the sharing of credit information and the legal rights of borrowers and lenders with respect to secured transactions through 2 sets of indicators. The depth of credit information index measures rules and practices affecting the coverage, scope and accessibility of credit information available through a credit registry or a credit bureau. The strength of legal rights index measures whether certain features that facilitate lending exist within the applicable collateral and bankruptcy laws. *Doing Business* uses two case scenarios, Case A and Case B, to determine the scope of the secured transactions system, involving a secured borrower and a secured lender and examining legal restrictions on the use of movable collateral (for more details on each case, see the Data Notes section of the *Doing Business 2017* report). These scenarios assume that the borrower:

Is a domestic limited liability company.

Has its headquarters and only base of operations in the largest business city. For the 11 economies with a population of more than 100 million, data for a second city have been added.

WHAT THE GETTING CREDIT INDICATORS MEASURE

Strength of legal rights index (0–12)

Rights of borrowers and lenders through collateral laws

Protection of secured creditors' rights through bankruptcy laws

Depth of credit information index (0–8)

Scope and accessibility of credit information distributed by credit bureaus and credit registries

Credit bureau coverage (% of adults)

Number of individuals and firms listed in largest credit bureau as percentage of adult population

Credit registry coverage (% of adults)

Number of individuals and firms listed in credit registry as percentage of adult population

Has up to 50 employees.

Is 100% domestically owned, as is the lender.

The ranking of economies on the ease of getting credit is determined by sorting their distance to frontier scores for getting credit. These scores are the distance to frontier score for the strength of legal rights index and the depth of credit information index.

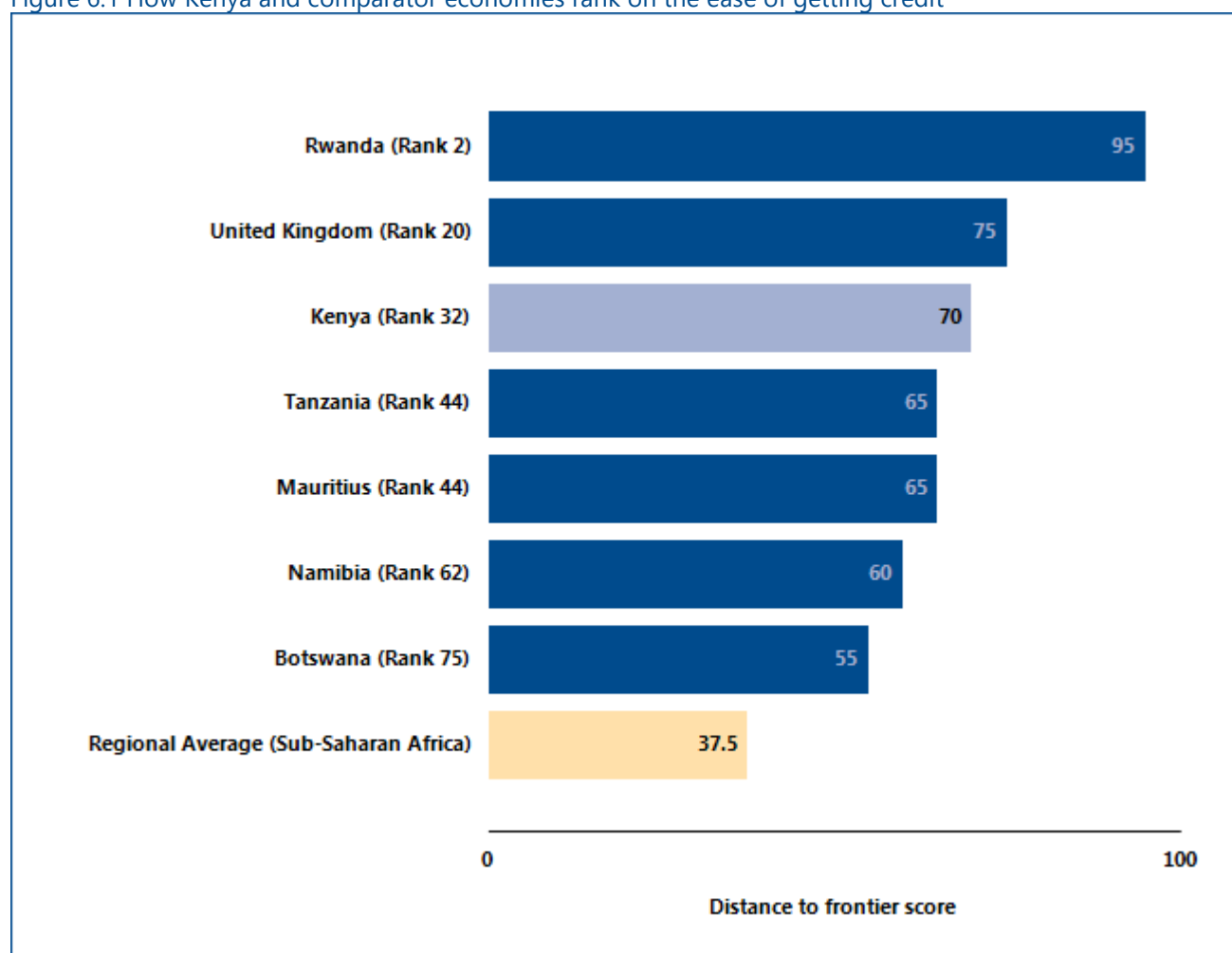
GETTING CREDIT

Where does the economy stand today?

How well do the credit information system and collateral and bankruptcy laws in Kenya facilitate access to credit? The economy has a score of 7.0 on the depth of credit information index and a score of 7.0 on the strength of legal rights index (see the summary of scoring at the end of this chapter for details). Higher scores indicate more credit information and stronger legal rights for borrowers and lenders.

Globally, Kenya stands at 32 in the ranking of 190 economies on the ease of getting credit (figure 6.1). The rankings for comparator economies provide other useful information for assessing how well regulations and institutions in Kenya support lending and borrowing.

Figure 6.1 How Kenya and comparator economies rank on the ease of getting credit



Source: Doing Business database.

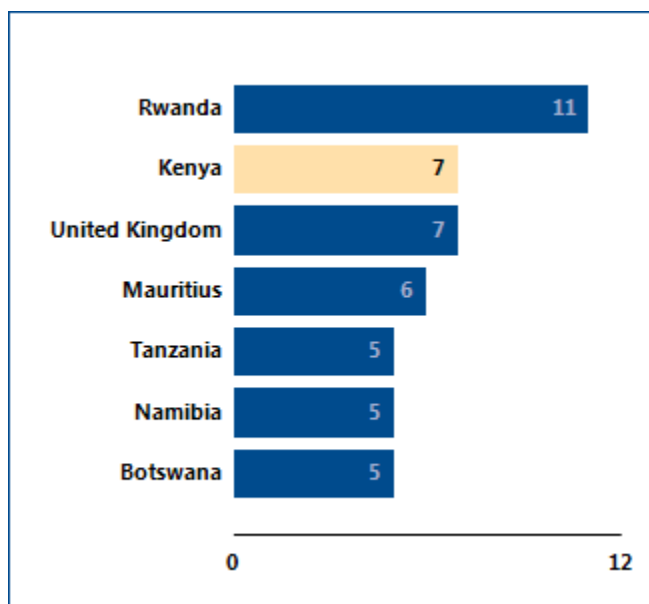
GETTING CREDIT

One way to put an economy's score on the getting credit indicators into context is to see where the economy stands in the distribution of scores across economies. Figure 6.2 highlights the score on the strength of legal

rights index for Kenya and shows the scores for comparator economies as well as the regional average score. Figure 6.3 shows the same for the depth of credit information index.

Figure 6.2 How strong are legal rights for borrowers and lenders?

Economy scores on strength of legal rights index

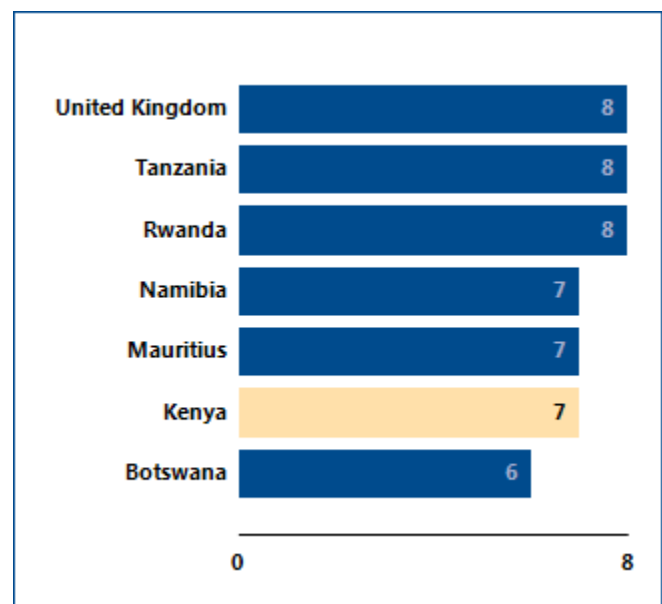


Source: *Doing Business* database.

Note: Higher scores indicate that collateral and bankruptcy laws are better designed to facilitate access to credit.

Figure 6.3 How much credit information is shared—and how widely?

Economy scores on depth of credit information index



Source: *Doing Business* database.

Note: Higher scores indicate the availability of more credit information, from either a credit registry or a credit bureau, to facilitate lending decisions. If the credit bureau or registry is not operational or covers less than 5% of the adult population, the total score on the depth of credit information index is 0.

GETTING CREDIT

When economies strengthen the legal rights of lenders and borrowers under collateral and bankruptcy laws, and increase the scope, coverage and accessibility of credit

information, they can increase entrepreneurs' access to credit. What credit reforms has *Doing Business* recorded in Kenya (table 6.1)?

Table 6.1 How has Kenya made getting credit easier—or not?

By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2015	Kenya improved its credit information system by passing legislation that allows the sharing of both positive and negative credit information and establishes guidelines for the treatment of historical data.
DB2016	Kenya improved access to credit information by passing legislation that allows the sharing of positive information and by expanding borrower coverage.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2005), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

GETTING CREDIT

What are the details?

The getting credit indicators reported here for Kenya are based on detailed information collected in that economy. The data on credit information sharing are collected through a survey of a credit registry and/or credit bureau (if one exists). To construct the depth of credit information index, a score of 1 is assigned for each of 8 features of the credit registry or credit bureau (see summary of scoring below).

The data on the legal rights of borrowers and lenders are gathered through a survey of financial lawyers and verified through analysis of laws and regulations as well as public sources of information on collateral and bankruptcy laws. For the strength of legal rights index, a score of 1 is assigned for each of 10 aspects related to legal rights in collateral law and 2 aspects in bankruptcy law.

Strength of legal rights index (0–12)	Index score: 7.0
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?	0
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?	1
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?	1
May a security right extend to future or after-acquired assets, and may it extend automatically to the products, proceeds or replacements of the original assets?	1
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?	1
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?	0
Can banks and financial institutions access borrowers' credit information online (for example, through a web interface, a system-to-system connection or both)?	0
Does a modern collateral registry exist in which registrations, amendments, cancellations and searches can be performed online by any interested third party?	0
Are secured creditors paid first (i.e. before tax claims and employee claims) when a debtor defaults outside an insolvency procedure?	1
Are secured creditors paid first (i.e. before tax claims and employee claims) when a business is liquidated?	1
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/or sets a time limit for it?	0

Strength of legal rights index (0–12)	Index score: 7.0
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?	1

Depth of credit information index (0–8)	Credit bureau	Credit registry	Index score: 7.0
Are data on both firms and individuals distributed?	Yes	No	1
Are both positive and negative credit data distributed?	Yes	No	1
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.)	Yes	No	1
Are data on loan amounts below 1% of income per capita distributed?	Yes	No	1
By law, do borrowers have the right to access their data in the credit bureau or credit registry?	Yes	No	1
Can banks and financial institutions access borrowers' credit information online (for example, through an online platform, a system-to-system connection or both)?	Yes	No	1
Are bureau or registry credit scores offered as a value-added service to help banks and financial institutions assess the creditworthiness of borrowers?	Yes	No	1

Note: An economy receives a score of 1 if there is a "yes" to either bureau or registry. If the credit bureau or registry is not operational or covers less than 5% of the adult population, the total score on the depth of credit information index is 0.

Coverage	Credit bureau	Credit registry
Number of individuals	6,254,894	0
Number of firms	323,086	0
Total	6,577,980	0
Total percentage of adult population	25.8	0.0

Source: Doing Business database.

PROTECTING MINORITY INVESTORS

Protecting minority investors matters for the ability of companies to raise the capital they need to grow, innovate, diversify and compete. Effective regulations define related-party transactions precisely, promote clear and efficient disclosure requirements, require shareholder participation in major decisions of the company and set detailed standards of accountability for company insiders.

What do the indicators cover?

Doing Business measures the protection of minority investors from conflicts of interest through one set of indicators and shareholders' rights in corporate governance through another. The ranking of economies on the strength of minority investor protections is determined by sorting their distance to frontier scores for protecting minority investors. These scores are the simple average of the distance to frontier scores for the extent of conflict of interest regulation index and the extent of shareholder governance index. To make the data comparable across economies, a case study uses several assumptions about the business and the transaction.

The business (Buyer):

- Is a publicly traded corporation listed on the economy's most important stock exchange. If the number of publicly traded companies listed on that exchange is less than 10, or if there is no stock exchange in the economy, it is assumed that Buyer is a large private company with multiple shareholders.
- Has a board of directors and a chief executive officer (CEO) who may legally act on behalf of Buyer where permitted, even if this is not specifically required by law.
- Has a supervisory board (applicable to economies with a two-tier board system) on which 60% of the shareholder-elected members have been appointed by Mr. James, who is Buyer's controlling shareholder and a member of Buyer's board of directors.
- Has not adopted any bylaws or articles of association that differ from default minimum standards and does not follow any nonmandatory codes, principles, recommendations or guidelines

WHAT THE PROTECTING MINORITY INVESTORS INDICATORS MEASURE

Extent of disclosure index (0–10)

Review and approval requirements for related-party transactions; Disclosure requirements for related-party transactions

Extent of director liability index (0–10)

Ability of minority shareholders to sue and hold interested directors liable for prejudicial related-party transactions; Available legal remedies (damages, disgorgement of profits, fines, imprisonment, rescission of the transaction)

Ease of shareholder suits index (0–10)

Access to internal corporate documents; Evidence obtainable during trial and allocation of legal expenses

Extent of conflict of interest regulation index (0–10)

Simple average of the extent of disclosure, extent of director liability and ease of shareholder indices

Extent of shareholder rights index (0–10)

Shareholders' rights and role in major corporate decisions

Extent of ownership and control index (0–10)

Governance safeguards protecting shareholders from undue board control and entrenchment

Extent of corporate transparency index (0–10)

Corporate transparency on ownership stakes, compensation, audits and financial prospects

Extent of shareholder governance index (0–10)

Simple average of the extent of shareholders rights, extent of ownership and control and extent of corporate transparency indices

Strength of minority investor protection index (0–10)

Simple average of the extent of conflict of interest regulation and extent of shareholder governance indices

relating to corporate governance.

- Is a manufacturing company with its own distribution network.

The transaction involves the following details:

- Mr. James owns 60% of Buyer and elected two directors to Buyer's five-member board.
- Mr. James also owns 90% of Seller, a company that operates a chain of retail hardware stores. Seller recently closed a large number of its stores.
- Mr. James proposes that Buyer purchase Seller's unused fleet of trucks to expand Buyer's distribution of its food products, a proposal to which Buyer agrees. The price is equal to 10% of Buyer's assets and is higher than the market value.
- The proposed transaction is part of the company's ordinary course of business and is not outside the authority of the company.
- Buyer enters into the transaction. All required approvals are obtained, and all required disclosures made (that is, the transaction is not fraudulent).
- The transaction causes damages to Buyer. Shareholders sue Mr. James and the other parties that approved the transaction.

PROTECTING MINORITY INVESTORS

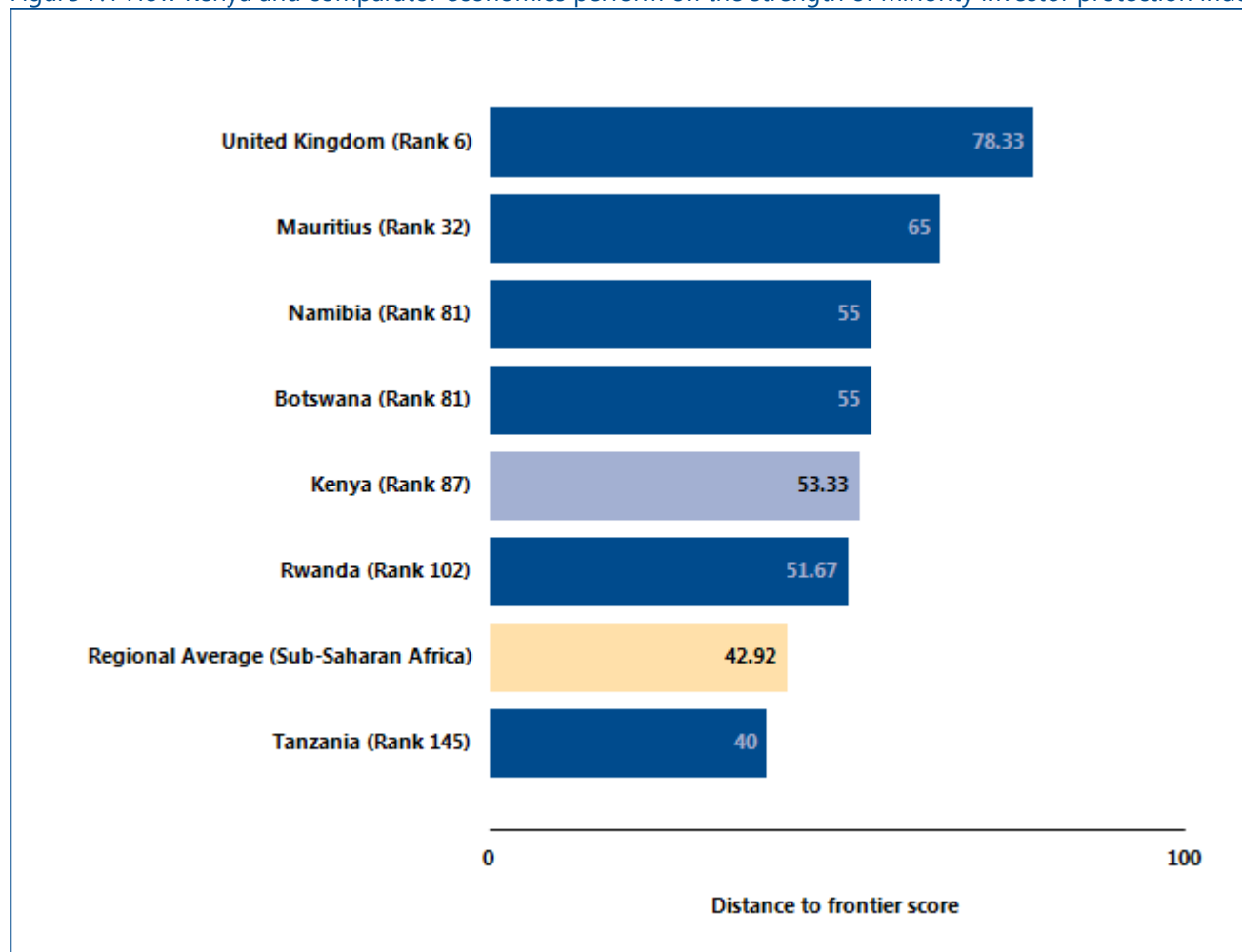
Where does the economy stand today?

How strong are minority investor protections against self-dealing in Kenya? The economy has a score of 53.33 on the strength of minority investor protection index, with a higher score indicating stronger protections.

Globally, Kenya stands at 87 in the ranking of 190 economies on the strength of minority investor

protection index (figure 7.1). While the indicator does not measure all aspects related to the protection of minority investors, a higher ranking does indicate that an economy's regulations offer stronger minority investor protections against self-dealing in the areas measured.

Figure 7.1 How Kenya and comparator economies perform on the strength of minority investor protection index



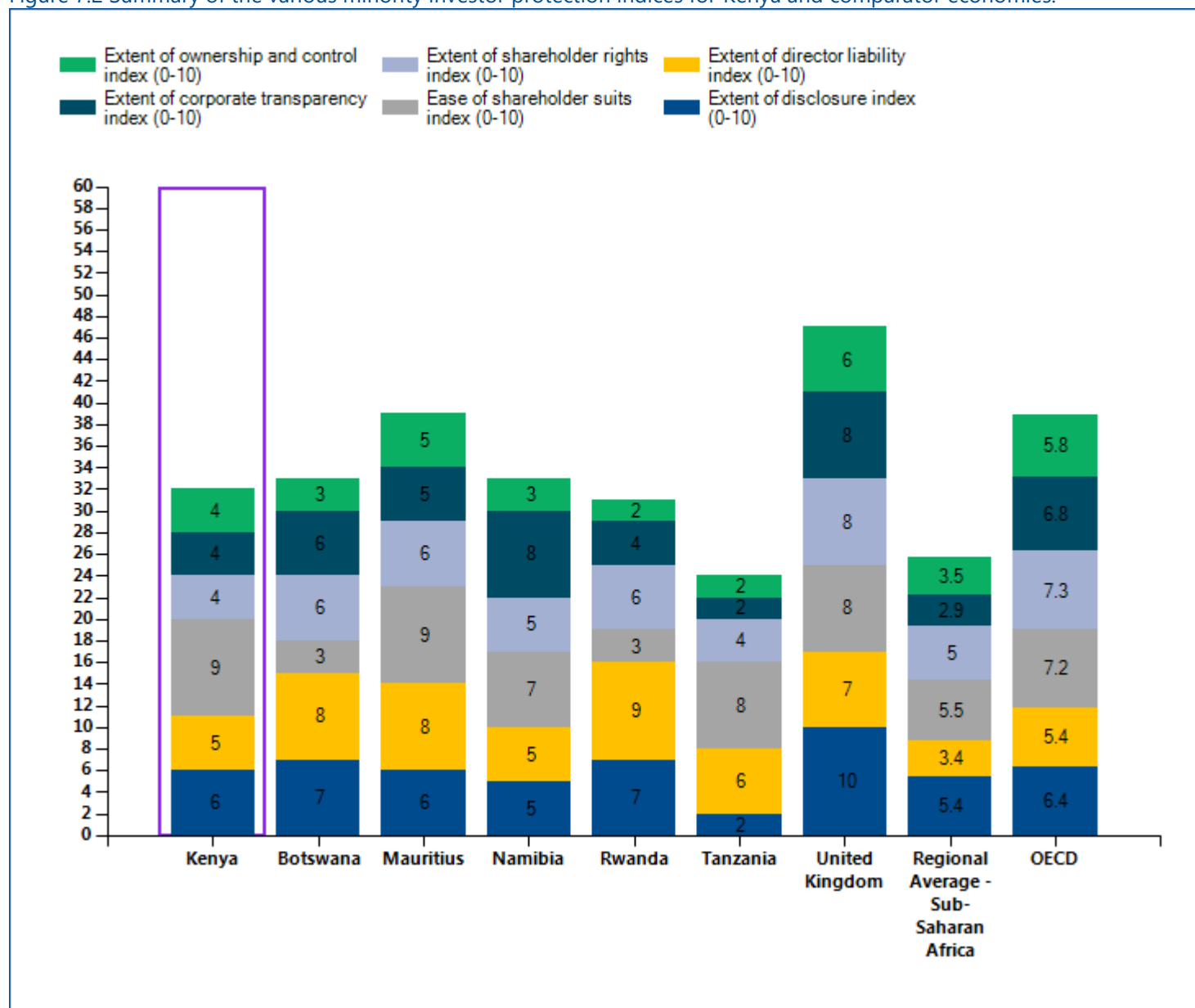
Source: Doing Business database.

PROTECTING MINORITY INVESTORS

One way to put an economy's scores on the protecting minority investors indicators into context is to see where the economy stands in the distribution of scores across comparator economies. Figure 7.2 highlights the scores on the various minority investor protection indices for Kenya.

A summary of scoring for the protecting minority investors indicators at the end of this chapter provides details on how the indices were calculated.

Figure 7.2 Summary of the various minority investor protection indices for Kenya and comparator economies.



Source: Doing Business database.

PROTECTING MINORITY INVESTORS

Economies with the strongest protections of minority investors from self-dealing require detailed disclosure and define clear duties for directors. They also have well-functioning courts and up-to-date procedural rules that give minority shareholders the means to prove their case and obtain a judgment within a reasonable time. As a

result, reforms to strengthen minority investor protections may move ahead on different fronts—such as through new or amended company laws, securities regulations or civil procedure rules. What minority investor protection reforms has *Doing Business* recorded in Kenya (table 7.1)?

Table 7.1 How has Kenya strengthened minority investor protections—or not?
By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2017	Kenya strengthened minority investor protections by clarifying ownership and control structures, by introducing greater requirements for disclosure of related-party transactions to the board of directors, by making it easier to sue directors in cases of prejudicial related-party transactions and by allowing the rescission of related-party transactions that are shown to harm the company.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2006), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

PROTECTING MINORITY INVESTORS

What are the details?

The protecting minority investors indicators reported here for Kenya are based on detailed information collected through a survey of corporate and securities lawyers about securities regulations, company laws and court rules of evidence and procedure. To construct the six indicators on minority investor protection, scores are assigned to each based on a range of conditions relating

to disclosure, director liability, shareholder suits, shareholder rights, ownership and control and corporate transparency in a standard case study (for more details, see the Data Notes section of the *Doing Business 2017* report). The summary below shows the details underlying the scores for Kenya.

Table 7.2 Summary of scoring for the protecting minority investors indicators in Kenya

	Answer	Score
Strength of minority investor protection index (0-10)		5.3
Extent of conflict of interest regulation index (0-10)		6.7
Extent of disclosure index (0-10)		6.0
Which corporate body is legally sufficient to approve the Buyer-Seller transaction? (0-3)	Board of directors excluding interested members	2.0
Must Mr. James disclose his conflict of interest to the board of directors? (0-2)	Full disclosure of all material facts	2.0
Must Buyer disclose the transaction in published periodic filings (annual reports)? (0-2)	Disclosure on the transaction and on the conflict of interest	2.0
Must Buyer immediately disclose the transaction to the public and/or shareholders? (0-2)	No disclosure obligation	0.0
Must an external body review the terms of the transaction before it takes place? (0-1)	No	0.0
Extent of director liability index (0-10)		5.0
Can shareholders representing 10% of Buyer's share capital sue directly or derivatively for the damage the transaction caused to Buyer? (0-1)	Yes	1.0
Can shareholders hold the interested director liable for the damage the transaction caused to Buyer? (0-2)	Liable if negligent	1.0
Can shareholders hold the other directors liable for the damage the transaction caused to Buyer (0-2)	Liable if negligent	1.0
Must Mr. James pay damages for the harm caused to Buyer upon a successful claim by shareholders? (0-1)	No	0.0
Must Mr. James repay profits made from the transaction upon a successful claim by shareholders? (0-1)	No	0.0
Is Mr. James disqualified or fined and imprisoned upon a successful claim by shareholders? (0-1)	No	0.0
Can a court void the transaction upon a successful claim by shareholders? (0-2)	Voidable if unfair or prejudicial	2.0
Ease of shareholder suits index (0-10)		9.0
Before suing can shareholders representing 10% of Buyer's share capital inspect the transaction documents? (0-1)	Yes	1.0
Can the plaintiff obtain any documents from the defendant and witnesses at trial? (0-3)	Any relevant document	3.0
Can the plaintiff request categories of documents from the	Yes	1.0

defendant without identifying specific ones? (0-1)		
Can the plaintiff directly question the defendant and witnesses at trial? (0-2)	Yes	2.0
Is the level of proof required for civil suits lower than that of criminal cases? (0-1)	Yes	1.0
Can shareholder plaintiffs recover their legal expenses from the company? (0-2)	Yes if successful	1.0
Extent of shareholder governance index (0-10)		4.0
Extent of shareholder rights index (0-10)		4.0
Does the sale of 51% of Buyer's assets require shareholder approval?	Yes	1.0
Can shareholders representing 10% of Buyer's share capital call for an extraordinary meeting of shareholders?	Yes	1.0
Must Buyer obtain its shareholders' approval every time it issues new shares?	No	0.0
Do shareholders automatically receive preemption rights every time Buyer issues new shares?	No	0.0
Must shareholders approve the election and dismissal of the external auditor?	No	0.0
Are changes to the rights of a class of shares only possible if the holders of the affected shares approve?	No	0.0
Assuming that Buyer is a limited company, does the sale of 51% of its assets require member approval?	Yes	1.0
Assuming that Buyer is a limited company, can members representing 10% call for an extraordinary meeting of members?	Yes	1.0
Assuming that Buyer is a limited company, must all members consent to add a new member?	No	0.0
Assuming that Buyer is a limited company, must a member first offer to sell his interest to the existing members before selling to a non-member?	No	0.0
Extent of ownership and control index (0-10)		4.0
Is it forbidden to appoint the same individual as CEO and chair of the board of directors?	Yes	1.0
Must the board of directors include independent and nonexecutive board members?	No	0.0
Can shareholders remove members of the board of directors without cause before the end of their term?	Yes	1.0
Must the board of directors include a separate audit committee exclusively comprising board members?	No	0.0
Must a potential acquirer make a tender offer to all shareholders upon acquiring 50% of Buyer?	No	0.0
Must Buyer pay dividends within a maximum period set by law after the declaration date?	Yes	1.0
Is a subsidiary prohibited from acquiring shares issued by its parent company?	Yes	1.0
Assuming that Buyer is a limited company, is there a management deadlock breaking mechanism?	No	0.0
Assuming that Buyer is a limited company, must a potential acquirer make a tender offer to all shareholders upon acquiring 50% of Buyer?	No	0.0
Assuming that Buyer is a limited company, must Buyer	No	0.0

distribute profits within a maximum period set by law after the declaration date?		
Extent of corporate transparency index (0-10)		4.0
Must Buyer disclose direct and indirect beneficial ownership stakes representing 5%?	Yes	1.0
Must Buyer disclose information about board members' other directorships as well as basic information on their primary employment?	No	0.0
Must Buyer disclose the compensation of individual managers?	No	0.0
Must a detailed notice of general meeting be sent 21 days before the meeting?	No	0.0
Can shareholders representing 5% of Buyer's share capital put items on the agenda for the general meeting?	No	0.0
Must Buyer's annual financial statements be audited by an external auditor?	Yes	1.0
Must Buyer disclose its audit reports to the public?	Yes	1.0
Assuming that Buyer is a limited company, must members meet at least once a year?	No	0.0
Assuming that Buyer is a limited company, can members representing 5% put items on the meeting agenda?	No	0.0
Assuming that Buyer is a limited company, must Buyer's annual financial statements be audited by an external auditor?	Yes	1.0

Source: Doing Business database.

PAYING TAXES

Taxes are essential. The level of tax rates needs to be carefully chosen—and needless complexity in tax rules avoided. Firms in economies that rank better on the ease of paying taxes in the *Doing Business* study tend to perceive both tax rates and tax administration as less of an obstacle to business according to the World Bank Enterprise Survey research.

What do the indicators cover?

Using a case scenario, *Doing Business* records the taxes and mandatory contributions that a medium-size company must pay in a given year as well as measures of the administrative burden of paying taxes and contributions and dealing with postfiling processes. This case scenario uses a set of financial statements and assumptions about transactions made over the year. Information is also compiled on the frequency of filing and payments, time taken to comply with tax laws, time taken to comply with the requirements of postfiling processes and time waiting for these processes to be completed. The ranking of economies on the ease of paying taxes is determined by sorting their distance to frontier scores on the ease of paying taxes. These scores are the simple average of the distance to frontier scores for each of the four component indicators – number of tax payments, time, total tax rate and postfiling index – with a threshold and a nonlinear transformation applied to one of the component indicators, the total tax rate¹. If both VAT (or GST) and corporate income tax apply, the postfiling index is the simple average of the distance to frontier scores for each of the four components: the time to comply with a VAT or GST refund, the time to obtain a VAT or GST refund, the time to comply with a corporate income tax audit and the time to complete a corporate income tax audit. If only VAT (or GST) 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 VAT (or GST) nor corporate income tax

WHAT THE PAYING TAXES INDICATORS MEASURE

Tax payments for a manufacturing company in 2014 (number per year adjusted for electronic and joint filing and payment)

Total number of taxes and contributions paid, including consumption taxes (value added tax, sales tax or goods and service tax)

Method and frequency of filing and payment

Time required to comply with 3 major taxes (hours per year)

Collecting information and computing the tax payable

Completing tax return forms, filing with proper agencies

Arranging payment or withholding

Preparing separate tax accounting books, if required

Total tax rate (% of profit before all taxes)

Profit or corporate income tax

Social contributions and labor taxes paid by the employer

Property and property transfer taxes

Dividend, capital gains and financial transactions taxes

Waste collection, vehicle, road and other taxes

Postfiling Index

The time to comply with a VAT or GST refund

The time to receive a VAT or GST refund

The time to comply with a corporate income tax audit

The time to complete a corporate income tax audit

¹ The nonlinear distance to frontier for the total tax rate is equal to the distance to frontier for the total tax rate to the power of 0.8. The threshold is defined as the total tax rate at the 15th percentile of the overall distribution for all years included in the analysis up to and including *Doing Business 2015*, which is 26.1%. All economies with a total tax rate below this threshold receive the same score as the economy at the threshold.

applies, the postfiling index is not included in the ranking of the ease of paying taxes.

Taxes and mandatory contributions include corporate income tax, turnover tax and all labor taxes and contributions paid by the company. A range of standard deductions and exemptions are also recorded.

All financial statement variables are proportional to 2012 income per capita. To make the data comparable across economies, several assumptions are used.

TaxpayerCo is a medium-size business that started operations on January 1, 2014.

The business starts from the same financial position in each economy. All the taxes and mandatory contributions paid during the second year of operation are recorded.

Taxes and mandatory contributions are measured at all levels of government.

Assumptions about the VAT refund process:

- In June 2015, TaxpayerCo. makes a large capital purchase: one additional machine for manufacturing pots.
- The value of the machine is 65 times income per capita of the economy.
- Sales are equally spread per month (that is, 1,050 times income per capita divided by 12).
- Cost of goods sold are equally expensed per month (that is, 875 times income per capita divided by 12).
- The seller of the machinery is registered for VAT or general sales tax (GST).
- Excess input VAT incurred in June will be fully recovered after four consecutive months if the VAT or GST rate is the same for inputs, sales and the machine and the tax reporting period is every month.

Assumptions about the corporate income tax audit process:

- An error in the calculation of the income tax liability (for example, use of incorrect tax depreciation rates, or incorrectly treating an expense as tax deductible) leads to an incorrect income tax return and consequently an underpayment of corporate income tax.
- TaxpayerCo. discovered the error and voluntarily notified the tax authority of the error in the corporate income tax return.

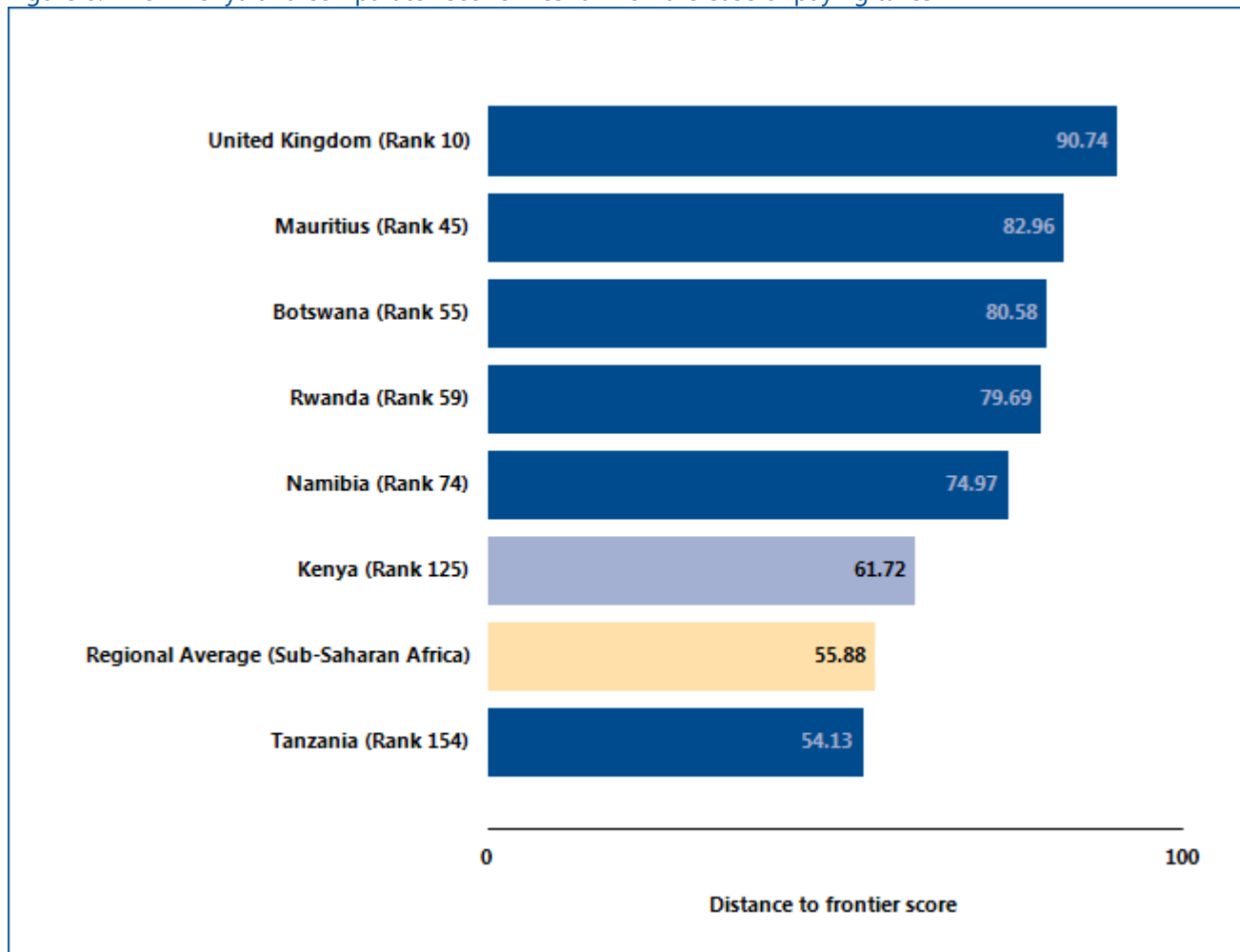
PAYING TAXES

Where does the economy stand today?

What is the administrative burden of complying with tax obligations and postfiling processes in Kenya—and how much do firms pay in taxes? Globally, Kenya stands at 125 in the ranking of 190 economies on the ease of paying taxes (figure 8.1). The rankings for comparator economies and the regional average ranking provide other useful information for assessing the tax compliance burden for businesses in Kenya (see table 8.2 and table

8.3 the end of this chapter for details). Most indicator sets refer to a case scenario in the largest business city of an economy, except for 11 economies for which the data are a population-weighted average of the 2 largest business cities. See the chapter on distance to frontier and ease of doing business ranking at the end of this profile for more details.

Figure 8.1 How Kenya and comparator economies rank on the ease of paying taxes



Source: *Doing Business* database.

PAYING TAXES

Economies around the world have made paying taxes faster, easier and less costly for businesses—such as by consolidating payments and filings of taxes, offering electronic systems for filing and payment, establishing taxpayer service centers or allowing for more deductions

and exemptions. Many have lowered tax rates. Changes have brought concrete results. Some economies simplifying tax payment and reducing rates have seen tax revenue rise. What tax reforms has *Doing Business* recorded in Kenya (table 8.1)?

Table 8.1 How has Kenya made paying taxes easier—or not?
By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2011	Kenya increased the administrative burden of paying taxes by requiring quarterly filing of payroll taxes.
DB2013	Kenya made paying taxes faster for companies by enhancing electronic filing systems.
DB2015	Kenya made paying taxes more costly for companies by increasing employers' social security contribution rate.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2006), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

PAYING TAXES

What are the details?

The indicators reported here for Kenya are based on the taxes and contributions that would be paid by a standardized case study company used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators cover). Tax practitioners are asked to review a set of financial statements as well as a standardized list of assumptions and transactions that the company completed during its 2nd year of operation. Respondents are asked how much taxes and mandatory contributions the business must pay, how these taxes are filed and paid, how much time taxpayers spend preparing, filing and paying three major taxes (profit taxes, labor taxes including mandatory contributions and consumption taxes) and how much time taxpayers spend complying with postfiling processes and waiting for these processes to be completed.

LOCATION OF STANDARDIZED COMPANY

City: Nairobi

The taxes and contributions paid are listed in table 8.2, along with the associated number of payments, time and tax rate.

The postfiling index is based on four components—the time to comply with a VAT or GST refund, the time to obtain a VAT or GST refund, the time to comply with a corporate income tax audit and the time to complete a corporate income tax audit. These components are based on expanded case study assumptions. If only VAT (or GST) or corporate income tax applies for an economy, the postfiling index is the simple average of the scores for only the two components pertaining to the applicable tax. If neither VAT (or GST) nor corporate income tax applies, the postfiling index is not included in the ranking of the ease of paying taxes.

Table 8.2 Summary of tax rates and administration

Tax or mandatory contribution	Payments (number)	Notes on payments	Time (hours)	Statutory tax rate	Tax base	Total tax rate (% of profit)	Notes on total tax rate
Standards levy	2			0.2%	net sales	3.54	
Corporate income tax	5		52	30%	taxable profit	29.81	
Employer paid - Social security contributions (NSSF)	12		63	5% up to KES200 per person per month	gross salaries	1.52	
Single business permit - manufacturer	1			KES 100,000	fixed fee	1.06	
Tax on interest	0			15%	interest income	0.38	included in other taxes

Tax or mandatory contribution	Payments (number)	Notes on payments	Time (hours)	Statutory tax rate	Tax base	Total tax rate (% of profit)	Notes on total tax rate
Employer paid - Training or apprentice tax	2			KES 50 per employee per month	number of employees	0.38	
Land rates	1			0.6%	land value	0.30	
Road maintenance levy	0	jointly		KES 9 per liter	fuel consumption	0.28	
Capital Gains Tax	1			5%	capital gains	0.25	
Advance motor vehicle tax	1			KES 1,500 per ton	vehicle weight	0.24	included in other taxes
Single business permit - trader	1			KES 20,000	fixed fee	0.21	
Tax on check transactions	1			KES 2 per check	number of checks	0.01	
Land rent	1			various rates		0.01	
Petroleum development duty	0	jointly		KES 0.4 per liter	fuel consumption	0.01	
Stamp duty on contracts	1			various rates	type of contract	0.00	small amount
Employee paid - Social security contributions (NSSF)	0	jointly		5% up to KES200 per person per month	gross salaries	0.00	withheld
Employee paid - National hospital insurance fund (NHIF)	0	jointly		various rates	gross salaries	0.00	withheld
Value added tax (VAT)	1	online	81	16%	value added	0.00	not included
Fuel tax - excise duty	1			KES 10.31 per liter	fuel consumption	0.00	small amount
Totals	31.0		195.5			37.4	

Source: Doing Business database.

TRADING ACROSS BORDERS

In today's globalized world, making trade between economies easier is increasingly important for business. Excessive use of paper documents, burdensome customs procedures, inefficient port operations and inadequate infrastructure all lead to extra costs and delays for exporters and importers, stifling trade potential.

What do the indicators cover?

Doing Business records the time and cost associated with the logistical process of exporting and importing goods. *Doing Business* measures the time and cost (excluding tariffs) associated with three sets of procedures—documentary compliance, border compliance and domestic transport—within the overall process of exporting or importing a shipment of goods. The ranking of economies on the ease of trading across borders is determined by sorting their distance to frontier scores for trading across borders. These scores are the simple average of the distance to frontier scores for the time and cost for documentary compliance and border compliance to export and import (domestic transport is not used for calculating the ranking).

To make the data comparable across economies, a few assumptions are made about the traded goods and the transactions:

Time

Time is measured in hours, and 1 day is 24 hours (for example, 22 days are recorded as $22 \times 24 = 528$ hours). If customs clearance takes 7.5 hours, the data are recorded as is. Alternatively, suppose that documents are submitted to a customs agency at 8:00 a.m., are processed overnight and can be picked up at 8:00 a.m. the next day. In this case the time for customs clearance would be recorded as 24 hours because the actual procedure took 24 hours.

WHAT THE TRADING ACROSS BORDERS

INDICATORS MEASURE FOR IMPORT & EXPORT

Documentary compliance

Obtaining, preparing and submitting documents during transport, clearance, inspections and port or border handling in origin economy

Obtaining, preparing and submitting documents required by destination economy and any transit economies

Covers all documents required by law and in practice, including electronic submissions of information as well as non-shipment-specific documents necessary to complete the trade

Border compliance

Customs clearance and inspections

Inspections by other agencies (if applied to more than 10% of shipments)

Port or border handling

Processing of documents during clearance, inspections and port or border handling.

Domestic transport

Loading and unloading of shipment at warehouse, dry port or border

Transport by most widely used mode between warehouse and terminal or dry port

Traffic delays and road police checks while shipment is en route

Cost

Insurance cost and informal payments for which no receipt is issued are excluded from the costs recorded. Costs are reported in U.S. dollars. Contributors are asked to convert local currency into U.S. dollars based on the exchange rate prevailing on the day they answer the questionnaire.

Assumptions of the case study

- For each of the 190 economies covered by *Doing Business*, it is assumed that a shipment travels from a warehouse in the largest business city of the exporting economy to a warehouse in the largest business city of the importing economy. For 11 economies the data are also collected, under the same case study assumptions, for the second largest business city.
- The import and export case studies assume different traded products. It is assumed that each economy imports a standardized shipment of 15 metric tons of containerized auto parts (HS 8708) from its natural import partner—the economy from which it imports the largest value (price times quantity) of auto parts. It is assumed that each economy exports the product of its comparative advantage (defined by the largest export value) to its natural export partner—the economy that is the largest purchaser of this product. Special products, such as precious metal and gems, live animals and pharmaceuticals are excluded from the list of possible export products, however, and the second largest product category is considered as needed.
- A shipment is a unit of trade. Export shipments do not necessarily need to be containerized, while import shipments of auto parts are assumed to be containerized.
- If government fees are determined by the value of the shipment, the value is assumed to be \$50,000.
- The product is new, not secondhand or used merchandise.
- The exporting firm is responsible for hiring and paying for a freight forwarder or customs broker (or both) and pays for all costs related to international shipping, domestic transport, clearance and mandatory inspections by customs and other government agencies, port or border handling, documentary compliance fees and the like for exports. The importing firm is responsible for the above costs for imports.
- The mode of transport is the one most widely used for the chosen export or import product and the trading partner, as is the seaport, airport or land border crossing.
- All electronic submissions of information requested by any government agency in connection with the shipment are considered to be documents obtained, prepared and submitted during the export or import process.
- A port or border is defined as a place (seaport, airport or land border crossing) where merchandise can enter or leave an economy.
- Government agencies considered relevant are agencies such as customs, port authorities, road police, border guards, standardization agencies, ministries or departments of agriculture or industry, national security agencies and any other government authorities.

TRADING ACROSS BORDERS

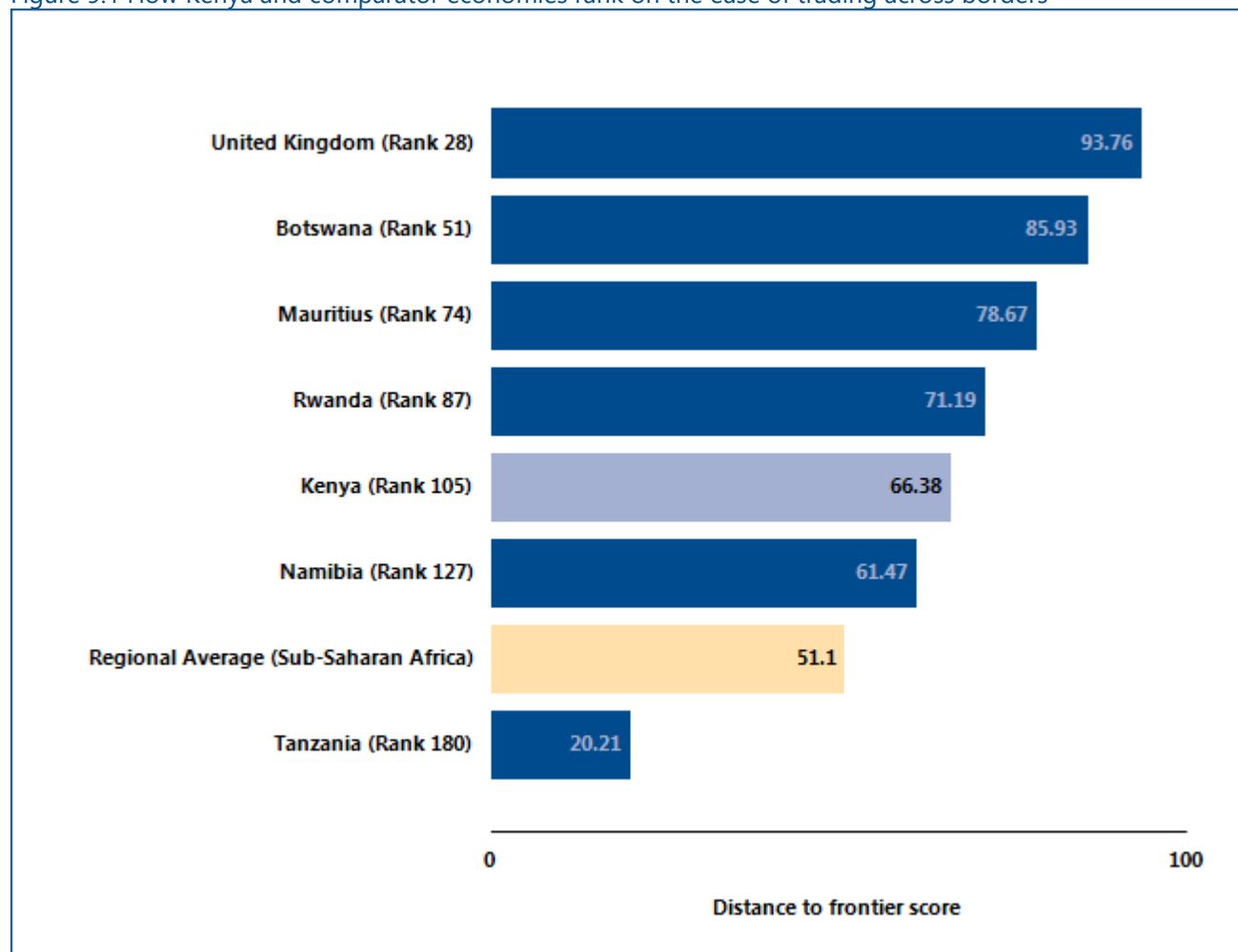
Where does the economy stand today?

The Trading across Borders indicator refers to a case study scenario of a warehouse in the largest business city of an economy (except for 11 economies for which the data are a population-weighted average of the 2 largest business cities) trading with the main import and export partner through the economy's main border crossing.

Globally, Kenya stands at 105 in the ranking of 190 economies on the ease of trading across borders (figure 9.1).

While not included in the distance to frontier or ease of doing business ranking, data on domestic transportation is also recorded for all economies and provided in Table 9.3.

Figure 9.1 How Kenya and comparator economies rank on the ease of trading across borders



Source: Doing Business database.

TRADING ACROSS BORDERS

In economies around the world, trading across borders as measured by *Doing Business* has become faster and easier over the years. Governments have introduced tools to facilitate trade—including single windows, risk-based inspections and electronic data interchange

systems. These changes help improve the trading environment and boost firms' international competitiveness. What trade reforms has *Doing Business* recorded in Kenya (table 9.1)?

Table 9.1 How has Kenya made trading across borders easier—or not?

By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2011	Kenya speeded up trade by implementing an electronic cargo tracking system and linking this system to the Kenya Revenue Authority's electronic data interchange system for customs clearance.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2006), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

TRADING ACROSS BORDERS

What are the details?

The indicators reported here for Kenya are based on a set of specific predefined procedures for trading a shipment of goods by the most widely used mode of transport (whether sea or land or some combination of these). The information on the time and cost to complete export and import is collected from local freight forwarders, customs brokers and traders.

LOCATION OF STANDARDIZED COMPANY

City: Nairobi

The details on the predefined set of procedures, and the associated time and cost, for exporting and importing a shipment of goods are listed in the summary below, along with the required documents.

Table 9.2 Summary of export and import time and cost for trading across borders in Kenya

	Kenya	Sub-Saharan Africa
Time to export: Border compliance (hours)	21	101
Cost to export: Border compliance (USD)	143	571
Time to export: Documentary compliance (hours)	19	91
Cost to export: Documentary compliance (USD)	191	225
Time to import: Border compliance (hours)	180	141
Cost to import: Border compliance (USD)	833	662
Time to import: Documentary compliance (hours)	84	105
Cost to import: Documentary compliance (USD)	115	313

Source: *Doing Business* database.

Table 9.3 Summary of trading details, transport time and documents for trading across borders in Kenya

	Export	Import
Product	HS 09 : Coffee, tea, mati and spices	HS 8708: Parts and accessories of motor vehicles
Trade partner	Uganda	Japan
Border	Malaba border crossing	Mombasa port
Distance (km)	440	481
Domestic transport time (hours)	9	11
Domestic transport cost (USD)	967	1100

Source: *Doing Business* database.

Note: Although *Doing Business* collects and publishes data on the time and cost for domestic transport, it does not use these data in calculating the distance to frontier score for trading across borders or the ranking on the ease of trading across borders.

Documents to export

Inland Bill of lading

Release order

Certificate of origin (COMESA)

Commercial invoice

Exit note

Certificate of export

Export Declaration

Packing list

Documents to import

Bill of lading

Cargo release order

Pre-Import Verification of Conformity (PVoC)

Commercial invoice

Import Declaration Form (IDF Form C-61)

Packing list

Proof of payments of Customs Duties

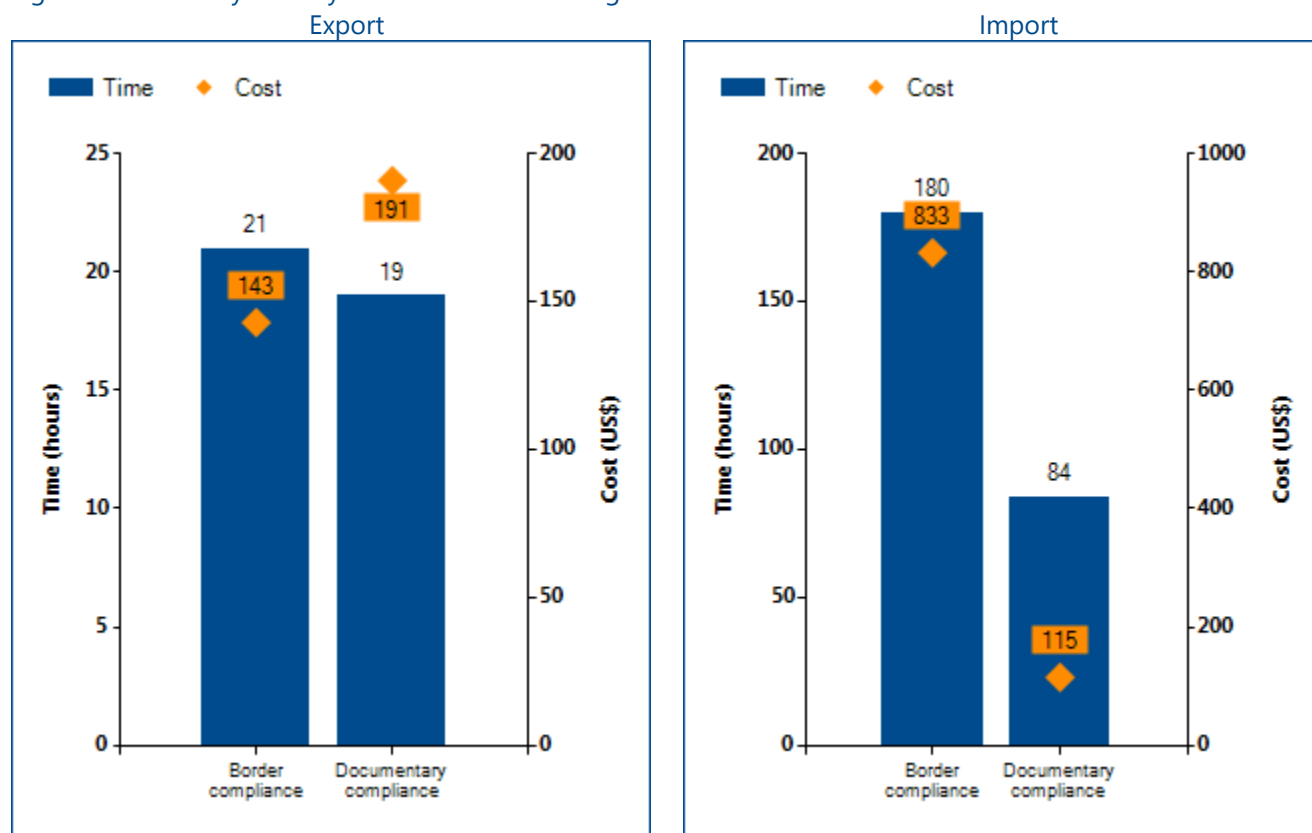
Terminal handling receipts

Declaration of customs value (Form C- 52)

Source: *Doing Business* database.

Note: *Doing Business* continues to collect data on the number of documents needed to trade internationally. Unlike in previous years, however, these data are excluded from the calculation of the distance to frontier score and ranking. The time and cost for documentary compliance serve as better measures of the overall cost and complexity of compliance with documentary requirements than does the number of documents required.

Figure 9.2 Summary of Kenya on the ease of trading across borders



Source: Doing Business database.

ENFORCING CONTRACTS

Effective commercial dispute resolution has many benefits. Courts are essential for entrepreneurs because they interpret the rules of the market and protect economic rights. Efficient and transparent courts encourage new business relationships because businesses know they can rely on the courts if a new customer fails to pay. Speedy trials are essential for small enterprises, which may lack the resources to stay in business while awaiting the outcome of a long court dispute.

What do the indicators cover?

Doing Business measures the time and cost for resolving a standardized commercial dispute through a local first-instance court. In addition, *Doing Business* measures the quality of judicial processes index, evaluating whether each economy has adopted a series of good practices that promote quality and efficiency in the court system. The ranking of economies on the ease of enforcing contracts is determined by sorting their distance to frontier scores. These scores are the simple average of the distance to frontier scores for each of the component indicators.

The dispute in the case study involves the breach of a sales contract between 2 domestic businesses. The case study assumes that the court hears an expert on the quality of the goods in dispute. This distinguishes the case from simple debt enforcement. To make the data comparable across economies, *Doing Business* uses several assumptions about the case:

- The dispute concerns a lawful transaction between two businesses (Seller and Buyer), both located in the economy's largest business city. For 11 economies the data are also collected for the second largest business city.
- The buyer orders custom-made goods, then fails to pay.
- The value of the dispute is 200% of the income per capita or the equivalent in local currency of USD 5,000, whichever is greater.

WHAT THE ENFORCING CONTRACTS

INDICATORS MEASURE

Time required to enforce a contract through the courts (calendar days)

- Time to file and serve the case
- Time for trial and to obtain the judgment
- Time to enforce the judgment

Cost required to enforce a contract through the courts (% of claim)

- Attorney fees
- Court fees
- Enforcement fees

Quality of judicial processes index (0-18)

- Court structure and proceedings (0-5)
- Case management (0-6)
- Court automation (0-4)
- Alternative dispute resolution (0-3)

- The seller sues the buyer before the court with jurisdiction over commercial cases worth 200% of income per capita or \$5,000.
- The seller requests a pretrial attachment to secure the claim.
- The dispute on the quality of the goods requires an expert opinion.
- The judge decides in favor of the seller; there is no appeal.
- The seller enforces the judgment through a public sale of the buyer's movable assets.

ENFORCING CONTRACTS

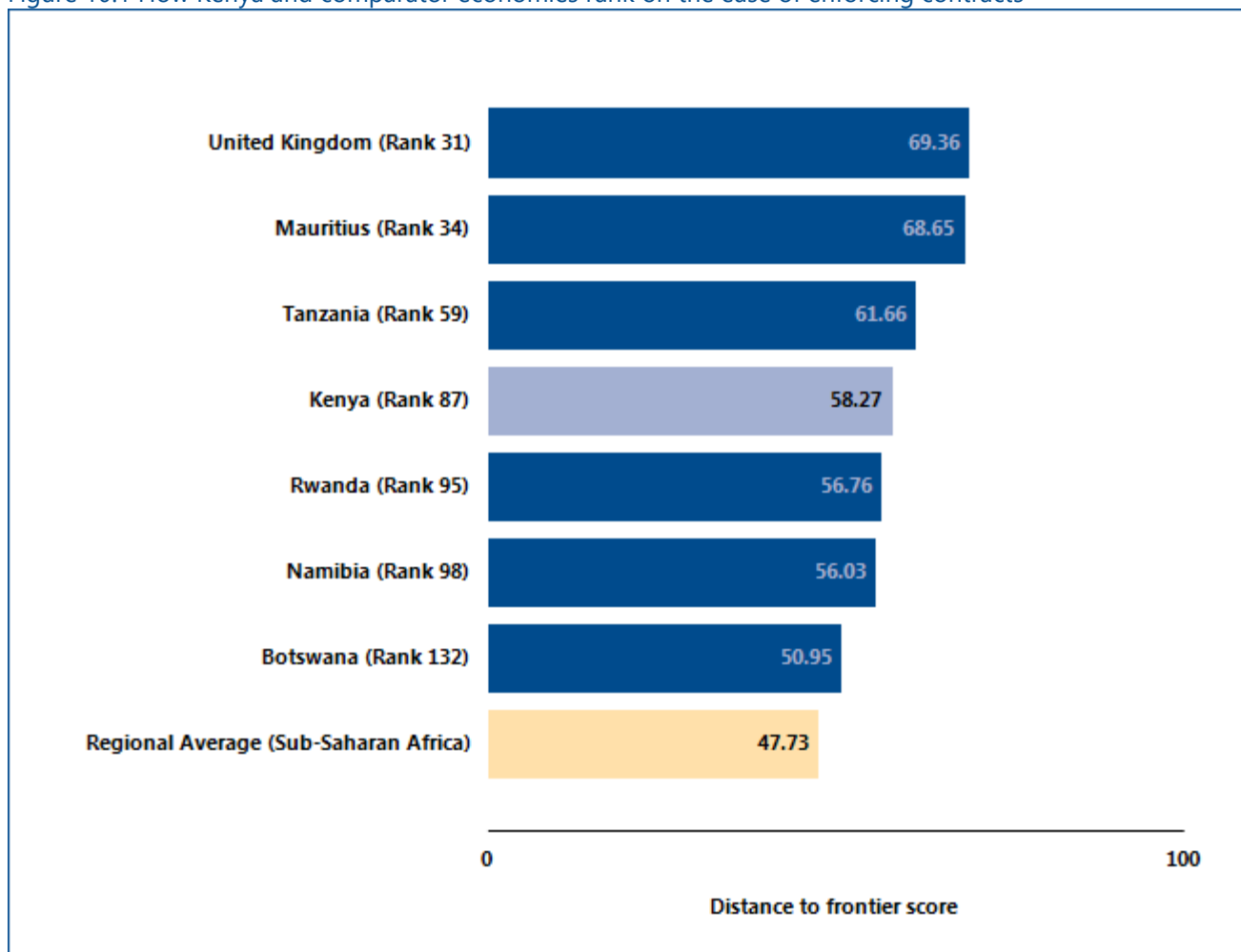
Where does the economy stand today?

How efficient is the process of resolving a commercial dispute through the courts in Kenya? According to data collected by *Doing Business*, contract enforcement takes 465.0 days and costs 41.8% of the value of the claim. Most indicator sets refer to the largest business city of an economy, except for 11 economies for which the data are a population-weighted average of the 2 largest business cities. See the chapter on distance to frontier

and ease of doing business ranking at the end of this profile for more details.

Globally, Kenya stands at 87 in the ranking of 190 economies on the ease of enforcing contracts (figure 10.1). The rankings for comparator economies and the regional average provide other useful benchmarks for assessing the efficiency of contract enforcement in Kenya.

Figure 10.1 How Kenya and comparator economies rank on the ease of enforcing contracts



Source: *Doing Business* database.

ENFORCING CONTRACTS

Economies in all regions have improved contract enforcement in recent years. A judiciary can be improved in different ways. Higher-income economies tend to look for ways to enhance efficiency by introducing new technology. Lower-income economies often work on

reducing backlogs by introducing periodic reviews to clear inactive cases from the docket and by making procedures faster. What reforms making it easier (or more difficult) to enforce contracts has *Doing Business* recorded in Kenya (table 10.1)?

Table 10.1 How has Kenya made enforcing contracts easier—or not?

By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2012	Kenya introduced a case management system that will help increase the efficiency and cost-effectiveness of commercial dispute resolution.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2005), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

ENFORCING CONTRACTS

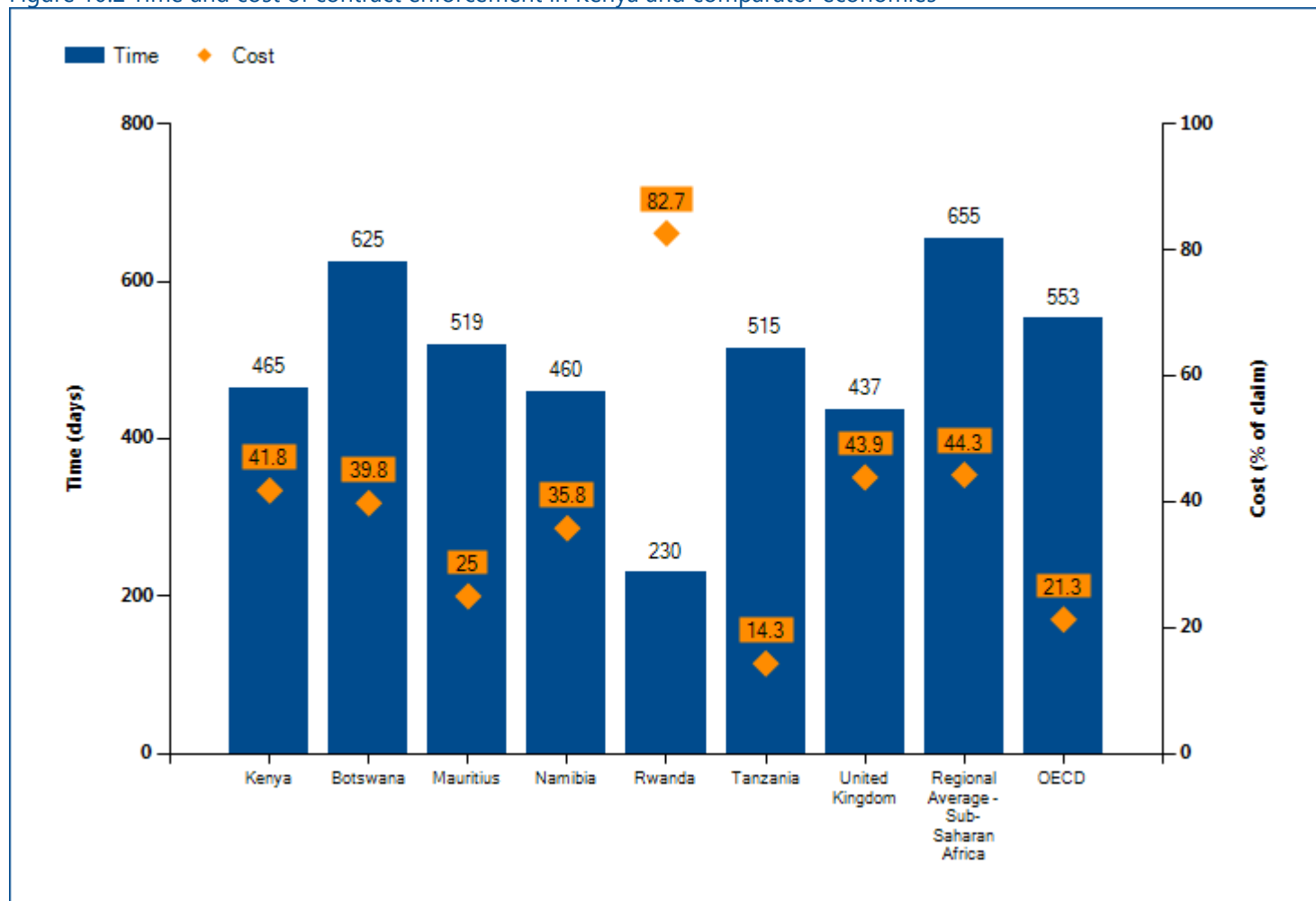
What are the details?

The data on time and cost reported here for Kenya are built by following the step-by-step evolution of a commercial sale dispute within the court, under the assumptions about the case described above (figure 10.2). The time and cost of resolving the standardized dispute are identified through study of the codes of civil procedure and other court regulations, as well as through questionnaires completed by local litigation lawyers (and, in a quarter of the economies covered by *Doing Business*, by judges as well).

ECONOMY DETAILS

Claim value:	KES 458,723
Court name:	Nairobi Resident Magistrates Court
City:	Nairobi

Figure 10.2 Time and cost of contract enforcement in Kenya and comparator economies



Source: *Doing Business* database.

Table 10.2 Details on time and cost for enforcing contracts in Kenya

Indicator	Kenya	Sub-Saharan Africa average
Time (days)	465	655
Filing and service	40	
Trial and judgment	365	
Enforcement of judgment	60	
Cost (% of claim)	41.8	44.3
Attorney fees	27.5	
Court fees	11.6	
Enforcement fees	2.7	

Source: Doing Business database.

ENFORCING CONTRACTS

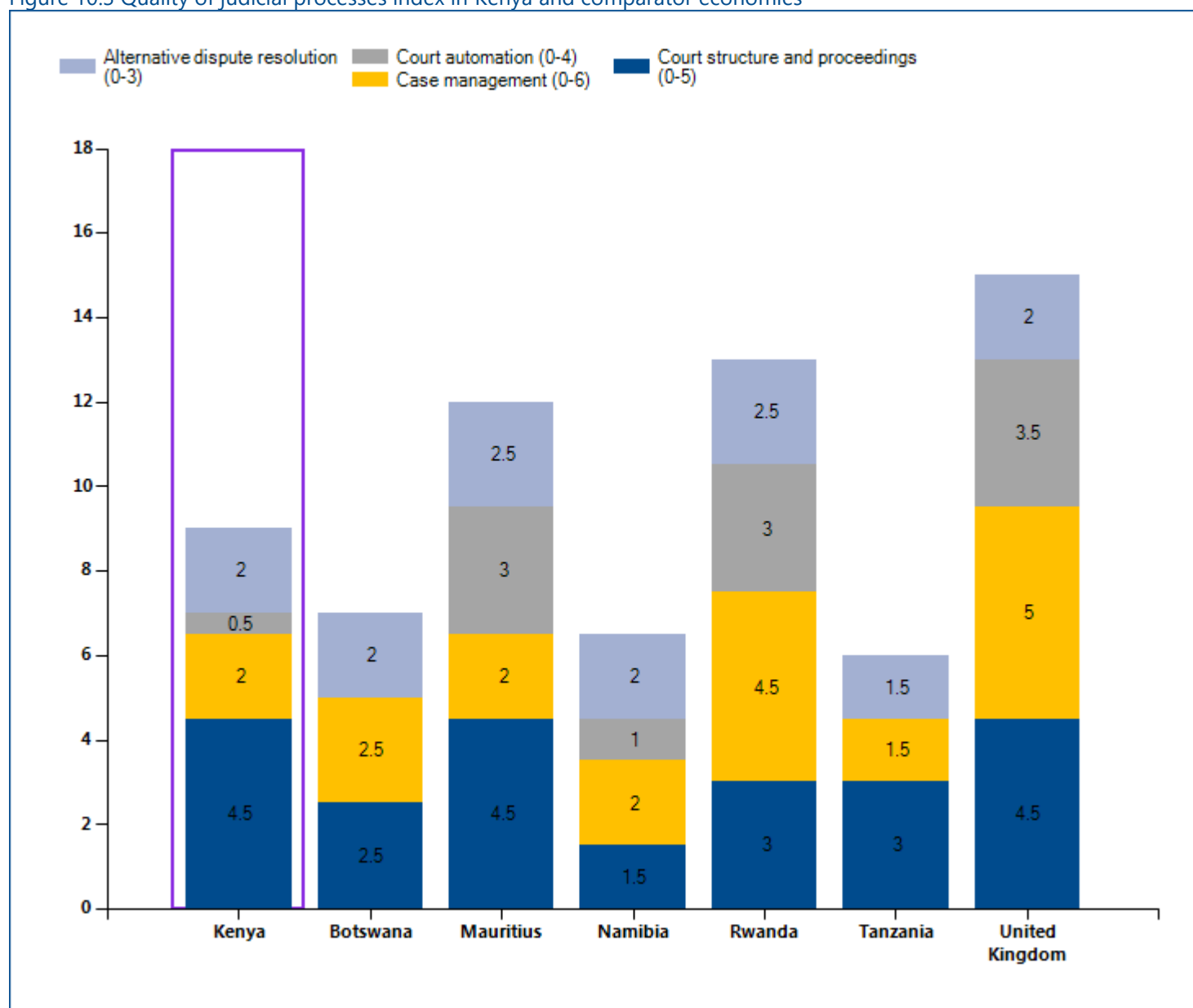
Quality of judicial processes index

The quality of judicial processes index measures whether each economy has adopted a series of good practices in its court system in four areas: court structure and proceedings, case management, court automation and alternative dispute resolution. The score on the quality of judicial processes index is the sum of the scores on these 4 sub-components. The index ranges from 0 to 18, with higher values indicating more efficient judicial processes.

The scores reported here show which of these good practices are available in Kenya (figure 10.3).

This methodology was initially developed by Djankov and others (2003) and is adopted here with several changes. The quality of judicial processes index was introduced in *Doing Business 2016*. The good practices tested in this index were developed on the basis of internationally recognized good practices promoting judicial efficiency.

Figure 10.3 Quality of judicial processes index in Kenya and comparator economies



Source: Doing Business database.

Table 10.3 Details of the quality of judicial processes index in Kenya

	Answer	Score
Quality of judicial processes index (0-18)		9.0
Court structure and proceedings (0-5)		4.5
1. Is there a court or division of a court dedicated solely to hearing commercial cases?	Yes	1.5
2. Small claims court		1.5
2.a. Is there a small claims court or a fast-track procedure for small claims?	Yes	
2.b. If yes, is self-representation allowed?	Yes	
3. Is pretrial attachment available?	Yes	1.0
4. Are new cases assigned randomly to judges?	Yes, but manual	0.5
5. Does a woman's testimony carry the same evidentiary weight in court as a man's?	Yes	0.0
Case management (0-6)		2.0
1. Time standards		1.0
1.a. Are there laws setting overall time standards for key court events in a civil case?	Yes	
1.b. If yes, are the time standards set for at least three court events?	Yes	
1.c. Are these time standards respected in more than 50% of cases?	Yes	
2. Adjournments		0.0
2.a. Does the law regulate the maximum number of adjournments that can be granted?	No	
2.b. Are adjournments limited to unforeseen and exceptional circumstances?	No	
2.c. If rules on adjournments exist, are they respected in more than 50% of cases?	n.a.	
3. Can two of the following four reports be generated about the competent court: (i) time to disposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report?	No	0.0
4. Is a pretrial conference among the case management techniques used before the competent court?	Yes	1.0
5. Are there any electronic case management tools in place within the competent court for use by judges?	No	0.0

	Answer	Score
6. Are there any electronic case management tools in place within the competent court for use by lawyers?	No	0.0
Court automation (0-4)		0.5
1. Can the initial complaint be filed electronically through a dedicated platform within the competent court?	No	0.0
2. Is it possible to carry out service of process electronically for claims filed before the competent court?	No	0.0
3. Can court fees be paid electronically within the competent court?	No	0.0
4. Publication of judgments		0.5
4.a Are judgments rendered in commercial cases at all levels made available to the general public through publication in official gazettes, in newspapers or on the internet or court website?	No	
4.b. Are judgments rendered in commercial cases at the appellate and supreme court level made available to the general public through publication in official gazettes, in newspapers or on the internet or court website?	Yes	
Alternative dispute resolution (0-3)		2.0
1. Arbitration		1.5
1.a. Is domestic commercial arbitration governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects?	Yes	
1.b. Are there any commercial disputes—aside from those that deal with public order or public policy—that cannot be submitted to arbitration?	No	
1.c. Are valid arbitration clauses or agreements usually enforced by the courts?	Yes	
2. Mediation/Conciliation		0.5
2.a. Is voluntary mediation or conciliation available?	Yes	
2.b. Are mediation, conciliation or both governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects?	No	
2.c. Are there financial incentives for parties to attempt mediation or conciliation (i.e., if mediation or conciliation is successful, a refund of court filing fees, income tax credits or the like)?	No	

Source: Doing Business database.

RESOLVING INSOLVENCY

A robust bankruptcy system functions as a filter, ensuring the survival of economically efficient companies and reallocating the resources of inefficient ones. Fast and cheap insolvency proceedings result in the speedy return of businesses to normal operation and increase returns to creditors. By clarifying the expectations of creditors and debtors about the outcome of insolvency proceedings, well-functioning insolvency systems can facilitate access to finance, save more viable businesses and sustainably grow the economy.

What do the indicators cover?

Doing Business studies the time, cost and outcome of insolvency proceedings involving domestic legal entities. These variables are used to calculate the recovery rate, which is recorded as cents on the dollar recovered by secured creditors through reorganization, liquidation or debt enforcement (foreclosure or receivership) proceedings. To determine the present value of the amount recovered by creditors, *Doing Business* uses the lending rates from the International Monetary Fund, supplemented with data from central banks and the Economist Intelligence Unit.

To make the data on the time, cost and outcome comparable across economies, several assumptions about the business and the case are used:

- A hotel located in the largest city (or cities) has 201 employees and 50 suppliers. The hotel experiences financial difficulties.
- The value of the hotel is 100% of the income per capita or the equivalent in local currency of USD 200,000, whichever is greater.
- The hotel has a loan from a domestic bank, secured by a mortgage over the hotel's real estate. The hotel cannot pay back the loan, but makes enough money to operate otherwise.

In addition, *Doing Business* evaluates the adequacy and integrity of the existing legal framework applicable to liquidation and reorganization proceedings through the strength of insolvency framework index. The index tests whether economies adopted internationally accepted good practices in four areas: commencement of proceedings,

WHAT THE RESOLVING INSOLVENCY INDICATORS MEASURE

Time required to recover debt (years)

Measured in calendar years

Appeals and requests for extension are included

Cost required to recover debt (% of debtor's estate)

Measured as percentage of estate value

Court fees

Fees of insolvency administrators

Lawyers' fees

Assessors' and auctioneers' fees

Other related fees

Outcome

Whether business continues operating as a going concern or business assets are sold piecemeal

Recovery rate for creditors

Measures the cents on the dollar recovered by secured creditors

Outcome for the business (survival or not) determines the maximum value that can be recovered

Official costs of the insolvency proceedings are deducted

Depreciation of furniture is taken into account

Present value of debt recovered

Strength of insolvency framework index (0-16)

Sum of the scores of four component indices:

Commencement of proceedings index (0-3)

Management of debtor's assets index (0-6)

Reorganization proceedings index (0-3)

Creditor participation index (0-4)

management of debtor's assets, reorganization proceedings and creditor participation.

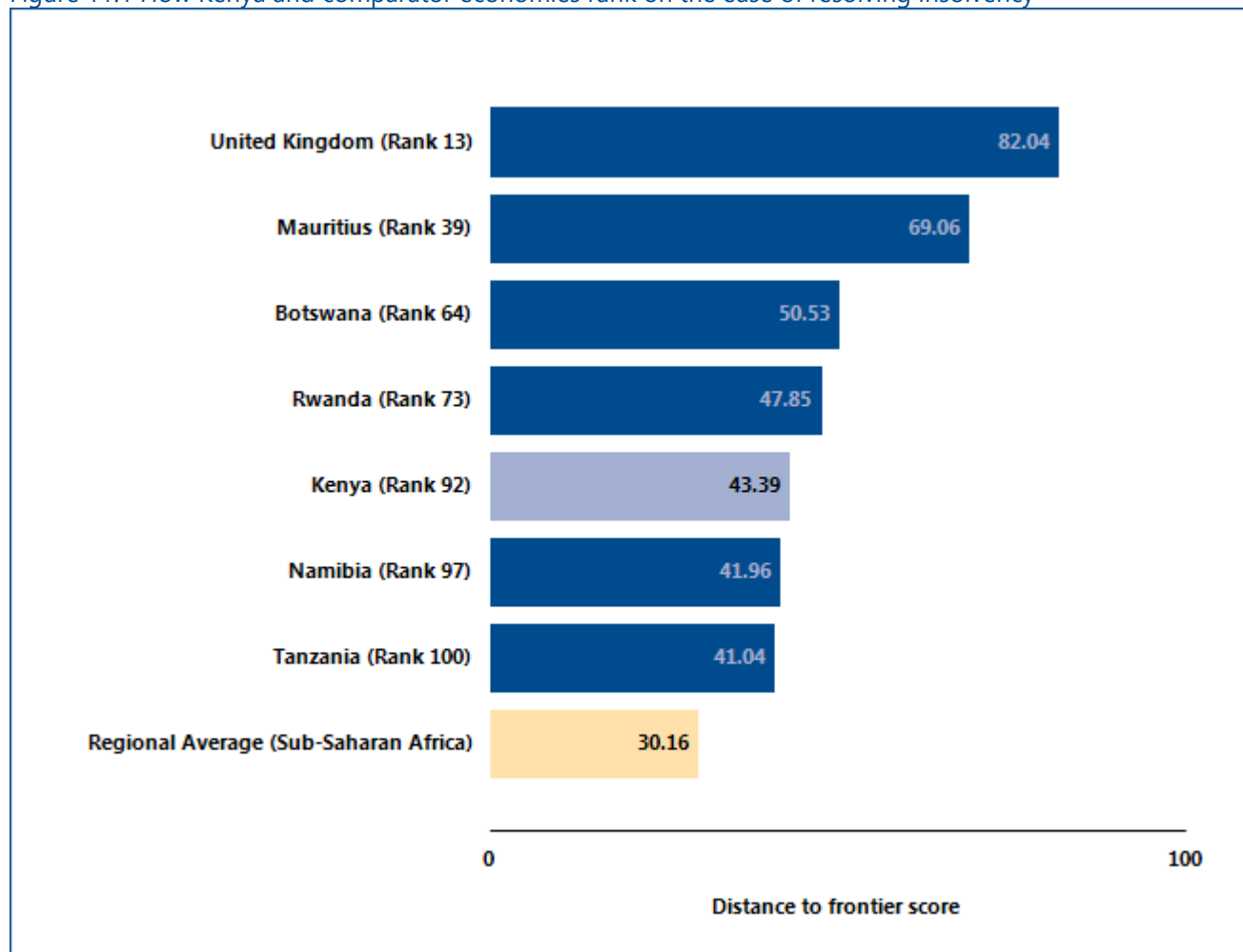
RESOLVING INSOLVENCY

Where does the economy stand today?

Globally, Kenya stands at 92 in the ranking of 190 economies on the ease of resolving insolvency (figure 11.1). The ranking of economies on the ease of resolving insolvency is determined by sorting their distance to frontier scores for resolving insolvency. These scores are the simple average of the distance to frontier scores for the recovery rate and the strength of insolvency framework index. The resolving insolvency indicator does

not measure insolvency proceedings of individuals and financial institutions. The data are derived from questionnaire responses by local insolvency practitioners and verified through a study of laws and regulations as well as public information on bankruptcy systems.

Figure 11.1 How Kenya and comparator economies rank on the ease of resolving insolvency



Source: Doing Business database.

RESOLVING INSOLVENCY

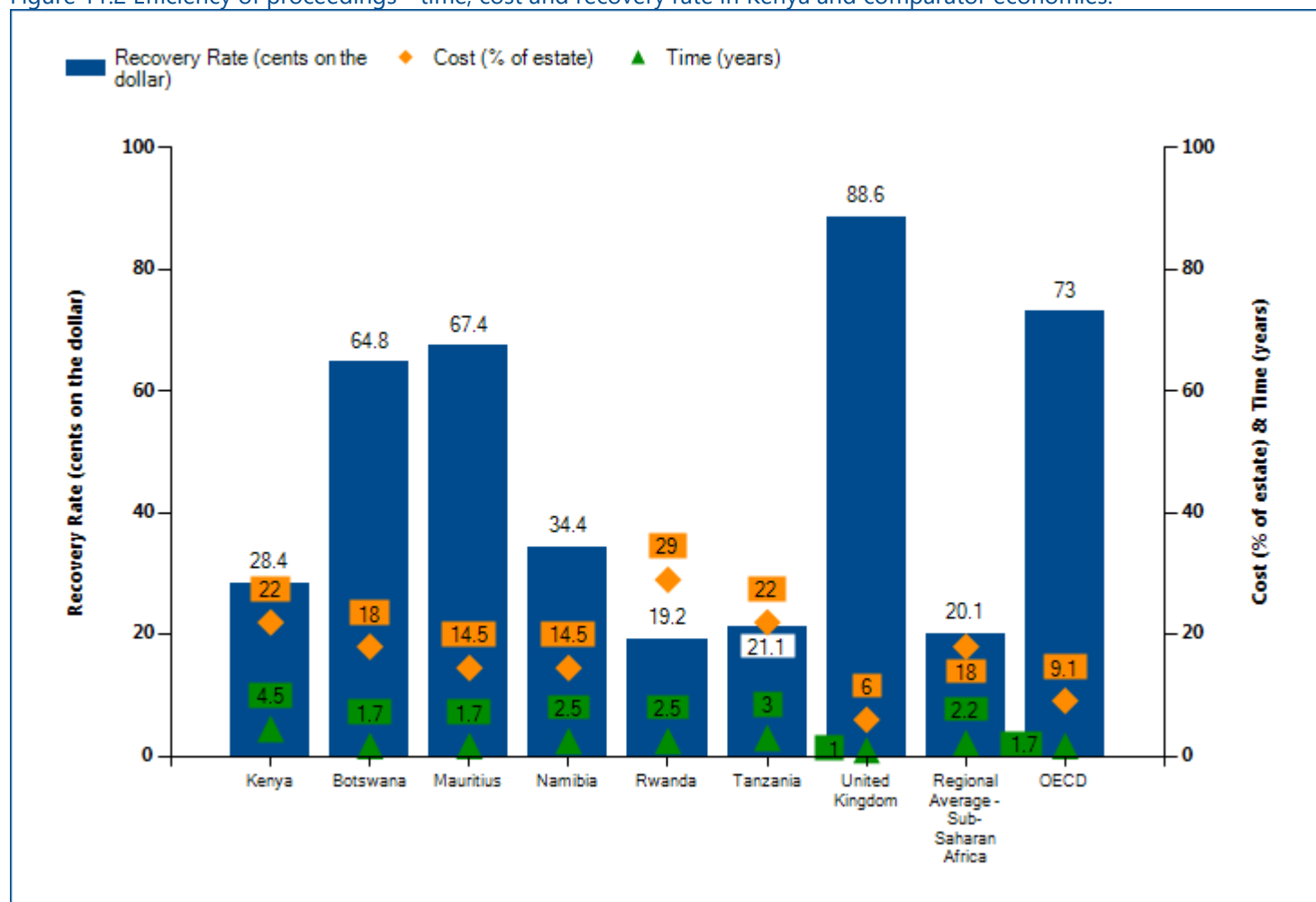
Recovery of debt in insolvency

Data on the time, cost and outcome refer to the most likely in-court insolvency procedure applicable under specific case study assumptions.

According to data collected by *Doing Business*, resolving insolvency takes 4.5 years on average and costs 22.0% of the debtor's estate, with the most likely outcome being that the company will be sold as going concern. The

average recovery rate is 28.4 cents on the dollar. Most indicator sets refer to a case scenario in the largest business city of an economy, except for 11 economies for which the data are a population-weighted average of the 2 largest business cities.

Figure 11.2 Efficiency of proceedings - time, cost and recovery rate in Kenya and comparator economies.



Source: *Doing Business* database.

Note: The recovery rate is calculated based on the time, cost and outcome of insolvency proceedings involving domestic legal entities and is recorded as cents on the dollar recovered by secured creditors. The calculation takes into account the outcome: whether the business emerges from the proceedings as a going concern or the assets are sold piecemeal. Then the costs of the proceedings are deducted. Finally, the value lost as a result of the time the money remains tied up in insolvency proceedings is taken into account. The recovery rate is the present value of the remaining proceeds, based on end-2015 lending rates.

Table 11.1 Details of data on efficiency of insolvency proceedings in Kenya

Indicator	Answer	Explanation
Proceeding	receivership	After Mirage's default on payment, as the debenture holder, BizBank would initiate receivership by filing an application requiring the High Court of Kenya to verify an identified receiver pursuant to Part VII Receivers and Managers of the Companies Act. Mirage or other unsecured creditors may appeal against the appointment before the Court, and according to Section 223 of the Companies Act, the Court can stay or restrain proceedings accordingly based on relevant parties' application, then the receivership proceeding can be converted into liquidation. However, the conversion is unlikely to happen for Mirage's case as BizBank holds 74% of the total outstanding debt and it's likely that the Court would approve its receivership request.
Outcome	going concern	The hotel will continue operating as a going concern after the BizBank appointed receiver sell it as a going concern to a third party.
Time (in years)	4.5	The receivership will approximately take 4.5 years until BizBank is repaid some or all of the money owed to it upon the completion of the proceeding. The delay is largely due to the inefficiency of court and difficulty to organize hearings. It takes about 2 years until the final judgment is made to approve BizBank's receivership appointment. This takes consideration of all possible delaying tactics adopted by Mirage or other unsecured creditors who are likely to defense BizBank's application and stop the receivership proceeding. Then it would take additional 2.5 years to find a potential buyer of the company, sell it as a going concern and receive the sale proceeds.
Cost (% of estate)	22.0	The costs associated with the case would amount to approximately 22% of the value of the debtor's estate. Cost incurred during the entire insolvency process mainly include court or government agency fees (1.4%), attorney fees (up to 10%), receiver fees (up to 10%), and fees of accountants, assessors, inspectors and other professionals (2%), other costs (2%).
Recovery rate: 28.4		

Source: Doing Business database.

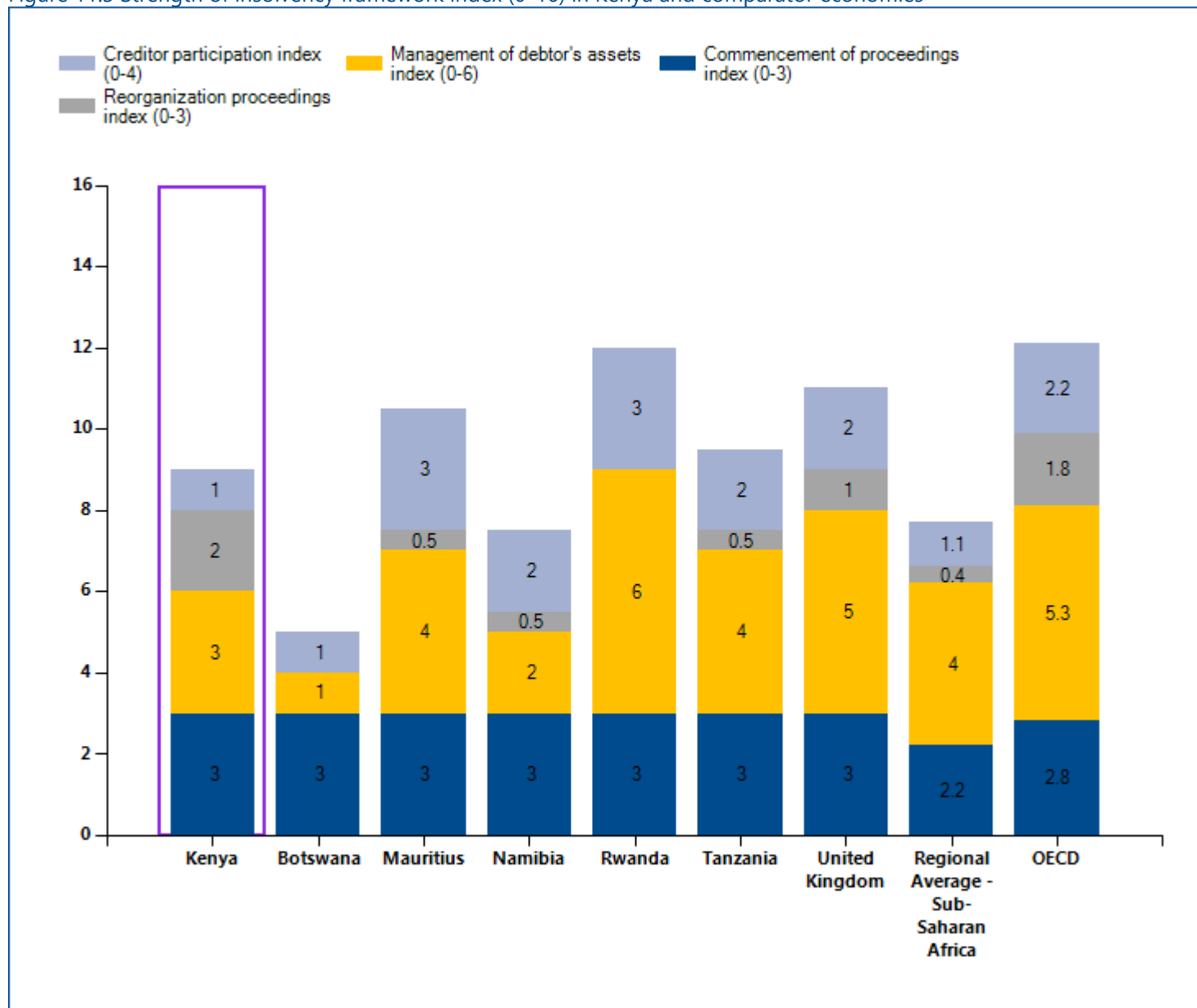
RESOLVING INSOLVENCY

Strength of resolving insolvency index

The strength of insolvency framework index is the sum of the scores on the commencement of proceedings index, management of debtor's assets index, reorganization proceedings index and creditor participation index. The index ranges from 0 to 16,

with higher values indicating insolvency legislation that is better designed for rehabilitating viable firms and liquidating nonviable ones. Kenya's score on the strength of insolvency framework index is 9.0 out of 16. Data on provisions applicable to judicial liquidation and reorganization is based on the current law governing insolvency proceedings in each economy.

Figure 11.3 Strength of insolvency framework index (0-16) in Kenya and comparator economies



Source: Doing Business database.

Note: Even if the economy's legal framework includes provisions related to insolvency proceedings (liquidation or reorganization), the economy receives 0 points for the strength of insolvency framework index, if time, cost and outcome indicators are recorded as "no practice".

Table 11.2 Summary of data for the strength of insolvency framework index in Kenya

	Answer	Score
Strength of insolvency framework index (0-16)		9.0
Commencement of proceedings index (0-3)		3.0
What procedures are available to a DEBTOR when commencing insolvency proceedings?	(a) Debtor may file for both liquidation and reorganization	1.0
Does the insolvency framework allow a CREDITOR to file for insolvency of the debtor?	(a) Yes, a creditor may file for both liquidation and reorganization	1.0
What basis for commencement of the insolvency proceedings is allowed under the insolvency framework?	(c) Both (a) and (b) options are available, but only one of them needs to be complied with	1.0
Management of debtor's assets index (0-6)		3.0
Does the insolvency framework allow the continuation of contracts supplying essential goods and services to the debtor?	No	0.0
Does the insolvency framework allow the rejection by the debtor of overly burdensome contracts?	Yes	1.0
Does the insolvency framework allow avoidance of preferential transactions?	Yes	1.0
Does the insolvency framework allow avoidance of undervalued transactions?	Yes	1.0
Does the insolvency framework provide for the possibility of the debtor obtaining credit after commencement of insolvency proceedings?	No	0.0
Does the insolvency framework assign priority to post-commencement credit?	(c) No priority is assigned to post-commencement creditors	0.0
Reorganization proceedings index (0-3)		2.0
Which creditors vote on the proposed reorganization plan?	(b) Only creditors whose rights are affected by the proposed plan	1.0
Does the insolvency framework require that dissenting creditors in reorganization receive at least as much as what they would obtain in a	Yes	1.0

	Answer	Score
liquidation?		
Are the creditors divided into classes for the purposes of voting on the reorganization plan, does each class vote separately and are creditors in the same class treated equally?	No	0.0
Creditor participation index (0-4)		1.0
Does the insolvency framework require approval by the creditors for selection or appointment of the insolvency representative?	Yes	1.0
Does the insolvency framework require approval by the creditors for sale of substantial assets of the debtor?	No	0.0
Does the insolvency framework provide that a creditor has the right to request information from the insolvency representative?	No	0.0
Does the insolvency framework provide that a creditor has the right to object to decisions accepting or rejecting creditors' claims?	No	0.0

Source: Doing Business database.

RESOLVING INSOLVENCY

A well-balanced bankruptcy system distinguishes companies that are financially distressed but economically viable from inefficient companies that should be liquidated. But in some insolvency systems even viable businesses are liquidated. This is starting to

change. Many recent reforms of bankruptcy laws have been aimed at helping more of the viable businesses survive. What insolvency reforms has *Doing Business* recorded in Kenya (table 11.3)?

Table 11.3 How has Kenya made resolving insolvency easier—or not?
By *Doing Business* report year from DB2011 to DB2017

DB year	Reform
DB2017	Kenya made resolving insolvency easier by introducing a reorganization procedure, facilitating continuation of the debtor's business during insolvency proceedings and by introducing regulations for insolvency practitioners.

Source: *Doing Business* database.

Note: For information on reforms in earlier years (back to DB2005), see the *Doing Business* reports for these years, available at <http://www.doingbusiness.org>.

LABOR MARKET REGULATION

Doing Business studies the flexibility of regulation of employment, specifically as it relates to the areas of hiring, working hours and redundancy. *Doing Business* also measures several aspects of job quality such as the availability of maternity leave, paid sick leave and the equal treatment of men and women at the workplace.

Doing Business 2017 presents the data for the labor market regulation indicators in an annex. The report does not present rankings of economies on these indicators or include the topic in the aggregate distance to frontier score or ranking on the ease of doing business. Detailed data collected on labor market regulation are available on the *Doing Business* website (<http://www.doingbusiness.org>). The data on labor market regulation are based on a detailed questionnaire on employment regulations that is completed by local lawyers and public officials. Employment laws and regulations as well as secondary sources are reviewed to ensure accuracy.

To make the data comparable across economies, several assumptions about the worker and the business are used.

The worker:

- Is a cashier in a supermarket or grocery store, age 19, with one year of work experience.
- Is a full-time employee.
- Is not a member of the labor union, unless membership is mandatory.

The business:

- Is a limited liability company (or the equivalent in the economy).
- Operates a supermarket or grocery store in the economy's largest business city. For 11 economies the data are also collected for the second largest business city.
- Has 60 employees.
- Is subject to collective bargaining agreements if such agreements cover more than 50% of the

food retail sector and they apply even to firms that are not party to them.

- Abides by every law and regulation but does not grant workers more benefits than those mandated by law, regulation or (if applicable) collective bargaining agreements.

LABOR MARKET REGULATION

What are the details?

The data reported here for Kenya are based on a detailed survey of labor market regulation that is completed by local lawyers and public officials. Employment laws and

regulations as well as secondary sources are reviewed to ensure accuracy.

Hiring

Data on hiring cover five areas: (i) whether fixed-term contracts are prohibited for permanent tasks; (ii) the maximum cumulative duration of fixed-term contracts; (iii) the minimum wage for a cashier, age 19, with one year of work experience; and (iv) the ratio of the

minimum wage to the average value added per worker (the ratio of an economy's GNI per capita to the working-age population as a percentage of the total population).

Hiring	Data
Fixed-term contracts prohibited for permanent tasks?	No
Maximum length of a single fixed-term contract (months)	No limit for term contracts (excluding casual employees)
Maximum length of fixed-term contracts, including renewals (months)	No limit
Minimum wage applicable to the worker assumed in the case study (US\$/month)	247.3
Ratio of minimum wage to value added per worker	1.2

Source: Doing Business database.

LABOR MARKET REGULATION

Working hours

Data on working hours cover nine areas: i) the maximum number of working days allowed per week; (ii) the premium for night work (as a percentage of hourly pay); (iii) the premium for work on a weekly rest day (as a percentage of hourly pay); (iv) the premium for overtime work (as a percentage of hourly pay); (v) whether there are restrictions on night work; (vi) whether nonpregnant

and nonnursing women can work the same night hours as men*; (vii) whether there are restrictions on weekly holiday work; (viii) whether there are restrictions on overtime work; and (ix) the average paid annual leave for workers with 1 year of tenure, 5 years of tenure, and 10 years of tenure.

Working Hours	Data
Maximum number of working days per week	6.0
Premium for night work (% of hourly pay)	0.0
Premium for work on weekly rest day (% of hourly pay)	0.0
Premium for overtime work (% of hourly pay)	50.0
Restrictions on night work?	No
Whether nonpregnant and nonnursing women can work the same night hours as men	Yes
Restrictions on weekly holiday?	No
Restrictions on overtime work?	No
Paid annual leave for a worker with 1 year of tenure (working days)	21.0
Paid annual leave for a worker with 5 years of tenure (working days)	21.0
Paid annual leave for a worker with 10 years of tenure (working days)	21.0
Paid annual leave (average for workers with 1, 5 and 10 years of tenure, in working days)	21.0

Source: *Doing Business* database.

LABOR MARKET REGULATION

Redundancy rules

Data on redundancy cover nine areas: (i) the length of the maximum probationary period (in months) for permanent employees; (ii) whether redundancy is allowed as a basis for terminating workers; (iii) whether the employer needs to notify a third party (such as a government agency) to terminate one redundant worker; (iv) whether the employer needs to notify a third party to terminate a group of nine redundant workers; (v)

whether the employer needs approval from a third party to terminate one redundant worker; (vi) whether the employer needs approval from a third party to terminate a group of nine redundant workers; (vii) whether the law requires the employer to reassign or retrain a worker before making the worker redundant; (viii) whether priority rules apply for redundancies; and (ix) whether priority rules apply for reemployment.

Redundancy rules	Data
Maximum length of probationary period (months)	12.0
Dismissal due to redundancy allowed by law?	Yes
Third-party notification if one worker is dismissed?	Yes
Third-party approval if one worker is dismissed?	No
Third-party notification if nine workers are dismissed?	Yes
Third-party approval if nine workers are dismissed?	No
Retraining or reassignment obligation before redundancy?	No
Priority rules for redundancies?	Yes
Priority rules for reemployment?	No

Source: *Doing Business* database.

LABOR MARKET REGULATION

Redundancy cost

Redundancy cost measures the cost of advance notice requirements and severance payments due when terminating a redundant worker, expressed in weeks of salary. The average value of notice requirements and

severance payments applicable to a worker with 1 year of tenure, a worker with 5 years and a worker with 10 years is considered. One month is recorded as 4 and 1/3 weeks.

Redundancy cost indicator (in salary weeks)	Data
Notice period for redundancy dismissal for a worker with 1 year of tenure	4.3
Notice period for redundancy dismissal for a worker with 5 years of tenure	4.3
Notice period for redundancy dismissal for a worker with 10 years of tenure	4.3
Notice period for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure)	4.3
Severance pay for redundancy dismissal for a worker with 1 year of tenure	2.1
Severance pay for redundancy dismissal for a worker with 5 years of tenure	2.1
Severance pay for redundancy dismissal for a worker with 10 years of tenure	2.1
Severance pay for redundancy dismissal (average for workers with 1, 5 and 10 years of tenure)	2.1

Source: Doing Business database.

LABOR MARKET REGULATION

Job quality

Doing Business introduced new data on job quality in 2015. *Doing Business* 2017 covers eight questions on job quality (i) whether the law mandates equal remuneration for work of equal value; (ii) whether the law mandates nondiscrimination based on gender in hiring; (iii) whether the law mandates paid or unpaid maternity leave; (iv) the minimum length of paid maternity leave (in calendar days); (v) whether employees on maternity

leave receive 100% of wages; (vi) the availability of five fully paid days of sick leave a year; (vii) whether a worker is eligible for an unemployment protection scheme after one year of service; and (viii) the minimum duration of the contribution period (in months) required for unemployment protection.

Job Quality	Data
Equal remuneration for work of equal value?	Yes
Gender nondiscrimination in hiring?	No
Paid or unpaid maternity leave mandated by law?	Yes
Minimum length of maternity leave (calendar days)?	90.0
Receive 100% of wages on maternity leave?	Yes
Five fully paid days of sick leave a year?	Yes
Unemployment protection after one year of employment?	No
Minimum contribution period for unemployment protection (months)?	n.a.

Source: *Doing Business* database.

DISTANCE TO FRONTIER AND EASE OF DOING BUSINESS RANKING

Doing Business presents results for two aggregate measures: the distance to frontier score and the ease of doing business ranking, which is based on the distance to frontier score. The ease of doing business ranking compares economies with one another; the distance to frontier score benchmarks economies with respect to regulatory best practice, showing the absolute distance to the best performance on each *Doing Business* indicator. When compared across years, the distance to frontier score shows how much the regulatory environment for local entrepreneurs in an economy has changed over time in absolute terms, while the ease of doing business ranking can show only how much the regulatory environment has changed relative to that in other economies.

Distance to Frontier

The distance to frontier score captures the gap between an economy's performance and a measure of best practice across the entire sample of 41 indicators for 10 *Doing Business* topics (the labor market regulation indicators are excluded). For starting a business, for example, New Zealand has the smallest number of procedures required (1), and New Zealand the shortest time to fulfill them (0.5 days). Slovenia has the lowest cost (0.0), and Australia, Colombia and 111 other economies have no paid-in minimum capital requirement (table 14.1 in the *Doing Business 2017* report).

Calculation of the distance to frontier score

Calculating the distance to frontier score for each economy involves two main steps. In the first step individual component indicators are normalized to a common unit where each of the 41 component indicators y (except for the total tax rate) is rescaled using the linear transformation $(\text{worst} - y)/(\text{worst} - \text{frontier})$. In this formulation the frontier represents the best performance on the indicator across all economies since 2005 or the third year in which data for the indicator were collected. Both the best performance and the worst performance are established every five years based on the *Doing Business* data for the year in which they are established, and remain at that level for the five years regardless of any changes in data in interim years. Thus an economy may set the frontier for an indicator

even though it is no longer at the frontier in a subsequent year.

For scores such as those on the strength of legal rights index or the quality of land administration index, the frontier is set at the highest possible value. For the total tax rate, consistent with the use of a threshold in calculating the rankings on this indicator, the frontier is defined as the total tax rate at the 15th percentile of the overall distribution for all years included in the analysis up to and including *Doing Business 2015*. For the time to pay taxes the frontier is defined as the lowest time recorded among all economies that levy the three major taxes: profit tax, labor taxes and mandatory contributions, and value added tax (VAT) or sales tax. For the different times to trade across borders, the frontier is defined as 1 hour even though in many economies the time is less than that.

In the same formulation, to mitigate the effects of extreme outliers in the distributions of the rescaled data for most component indicators (very few economies need 700 days to complete the procedures to start a business, but many need 9 days), the worst performance is calculated after the removal of outliers. The definition of outliers is based on the distribution for each component indicator. To simplify the process two rules were defined: the 95th percentile is used for the indicators with the most dispersed distributions (including minimum capital, number of payments to pay taxes, and the time and cost indicators), and the 99th percentile is used for number of procedures. No outlier is removed for component indicators bound by definition or construction, including legal index scores (such as the depth of credit information index, extent of conflict of interest regulation index and strength of insolvency framework index) and the recovery rate (figure 14.1 in the *Doing Business 2017* report).

In the second step for calculating the distance to frontier score, the scores obtained for individual indicators for each economy are aggregated through simple averaging into one distance to frontier score, first for each topic and then across all 10 topics: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency. More complex aggregation methods—such as principal components and unobserved components—yield a ranking nearly

identical to the simple average used by *Doing Business*². Thus *Doing Business* uses the simplest method: weighting all topics equally and, within each topic, giving equal weight to each of the topic components³.

An economy's distance to frontier score is indicated on a scale from 0 to 100, where 0 represents the worst performance and 100 the frontier. All distance to frontier calculations are based on a maximum of five decimals. However, indicator ranking calculations and the ease of doing business ranking calculations are based on two decimals.

The difference between an economy's distance to frontier score in any previous year and its score in 2017 illustrates the extent to which the economy has closed the gap to the regulatory frontier over time. And in any given year the score measures how far an economy is from the best performance at that time.

Treatment of the total tax rate

The total tax rate component of the paying taxes indicator set enters the distance to frontier calculation in a different way than any other indicator. The distance to frontier score obtained for the total tax rate is transformed in a nonlinear fashion before it enters the distance to frontier score for paying taxes. As a result of the nonlinear transformation, an increase in the total tax rate has a smaller impact on the distance to frontier score for the total tax rate—and therefore on the distance to frontier score for paying taxes—for economies with a below-average total tax rate than it would have had before this approach was adopted in *Doing Business 2015* (line B is smaller than line A in figure 14.2 of the *Doing Business 2017* report). And for economies with an extreme total tax rate (a rate that is very high relative to the average), an increase has a greater impact on both these distance to frontier scores than it would have had before (line D is bigger than line C in figure 14.2 of the *Doing Business 2017* report).

The nonlinear transformation is not based on any economic theory of an "optimal tax rate" that minimizes distortions or maximizes efficiency in an economy's overall tax system. Instead, it is mainly empirical in nature. The nonlinear transformation along with the threshold reduces the bias in the indicator toward economies that do not need to levy significant taxes on companies like the *Doing Business* standardized case study company because they raise public revenue in other ways—for example, through taxes on foreign companies, through taxes on sectors other than manufacturing or from natural resources (all of which are outside the scope of the methodology). In addition, it acknowledges the need of economies to collect taxes from firms.

Calculation of scores for economies with 2 cities covered

For each of the 11 economies in which *Doing Business* collects data for the second largest business city as well as the largest one, the distance to frontier score is calculated as the population-weighted average of the distance to frontier scores for these two cities (table 13.1). This is done for the aggregate score, the scores for each topic and the scores for all the component indicators for each topic.

² See Djankov, Manraj and others (2005). Principal components and unobserved components methods yield a ranking nearly identical to that from the simple average method because both these methods assign roughly equal weights to the topics, since the pairwise correlations among indicators do not differ much. An alternative to the simple average method is to give different weights to the topics, depending on which are considered of more or less importance in the context of a specific economy.

³ For getting credit, indicators are weighted proportionally, according to their contribution to the total score, with a weight of 60% assigned to the strength of legal rights index and 40% to the depth of credit information index. Indicators for all other topics are assigned equal weights

Table 13.1 Weights used in calculating the distance to frontier scores for economies with 2 cities covered

Economy	City	Weight (%)
Bangladesh	Dhaka	78
	Chittagong	22
Brazil	São Paulo	61
	Rio de Janeiro	39
China	Shanghai	55
	Beijing	45
India	Mumbai	47
	Delhi	53
Indonesia	Jakarta	78
	Surabaya	22
Japan	Tokyo	65
	Osaka	35
Mexico	Mexico City	83
	Monterrey	17
Nigeria	Lagos	77
	Kano	23
Pakistan	Karachi	65
	Lahore	35
Russian Federation	Moscow	70
	St. Petersburg	30
United States	New York	60
	Los Angeles	40

Source: United Nations, Department of Economic and Social Affairs, Population Division, World Urbanization Prospects, 2014 Revision. <http://esa.un.org/unpd/wup/CD-ROM/Default.aspx>.

Economies that improved the most across 3 or more *Doing Business* topics in 2015/16

Doing Business 2017 uses a simple method to calculate which economies improved the ease of doing business

the most. First, it selects the economies that in 2015/16 implemented regulatory reforms making it easier to do business in 3 or more of the 10 topics included in this year's aggregate distance to frontier score. Twenty-nine economies meet this criterion: Algeria; Azerbaijan; Bahrain; Belarus; Brazil; Brunei Darussalam; Burkina Faso; Côte d'Ivoire; Georgia; India; Indonesia; Kazakhstan; Kenya; Madagascar; Mali; Mauritania; Morocco; Niger; Pakistan; Poland; Senegal; Serbia; Singapore; Thailand; Togo; Uganda; the United Arab Emirates; Uzbekistan and Vanuatu. Second, *Doing Business* sorts these economies on the increase in their distance to frontier score from the previous year using comparable data.

Selecting the economies that implemented regulatory reforms in at least three topics and had the biggest improvements in their distance to frontier scores is intended to highlight economies with ongoing, broad-based reform programs. The improvement in the distance to frontier score is used to identify the top improvers because this allows a focus on the absolute improvement—in contrast with the relative improvement shown by a change in rankings—that economies have made in their regulatory environment for business.

Ease of *Doing Business* ranking

The ease of doing business ranking ranges from 1 to 190. The ranking of economies is determined by sorting the aggregate distance to frontier scores, rounded to 2 decimals.

RESOURCES ON THE *DOING BUSINESS* WEBSITE

Current features

News on the *Doing Business* project
<http://www.doingbusiness.org>

Rankings

How economies rank—from 1 to 190
<http://www.doingbusiness.org/rankings>

Data

All the data for 190 economies—topic rankings, indicator values, lists of regulatory procedures and details underlying indicators
<http://www.doingbusiness.org/data>

Reports

Access to *Doing Business* reports as well as subnational and regional reports, case studies and customized economy and regional profiles
<http://www.doingbusiness.org/reports>

Methodology

The methodologies and research papers underlying *Doing Business*
<http://www.doingbusiness.org/methodology>

Research

Abstracts of papers on *Doing Business* topics and related policy issues
<http://www.doingbusiness.org/research>

Doing Business reforms

Short summaries of DB2017 business regulation reforms and lists of reforms since DB2008
<http://www.doingbusiness.org/reforms>

Historical data

Customized data sets since DB2004
<http://www.doingbusiness.org/custom-query>

Law library

Online collection of business laws and regulations relating to business
<http://www.doingbusiness.org/law-library>

Contributors

More than 12,500 specialists in 190 economies who participate in *Doing Business*
<http://www.doingbusiness.org/contributors/doing-business>

Entrepreneurship data

Data on business density (number of newly registered companies per 1,000 working-age people) for 136 economies
<http://www.doingbusiness.org/data/exploretopics/entrepreneurship>

Distance to frontier

Data benchmarking 190 economies to the frontier in regulatory practice and a distance to frontier calculator
<http://www.doingbusiness.org/data/distance-to-frontier>

Information on good practices

Showing where the many good practices identified by *Doing Business* have been adopted
<http://www.doingbusiness.org/data/good-practice>

Doing Business 2017 is the 14th in a series of annual reports investigating the regulations that enhance business activity and those that constrain it. The report provides quantitative indicators covering 11 areas of the business environment in 190 economies. The goal of the *Doing Business* series is to provide objective data for use by governments in designing sound business regulatory policies and to encourage research on the important dimensions of the regulatory environment for firms.



ISBN 978-1-4648-0948-4



SKU 210948