

## The involvement of third-party professionals in business registration and property transfer

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Complex business regulations and bureaucratic processes tend to be obstacles for new entrepreneurs. To navigate these processes as smoothly as possible, entrepreneurs might solicit the services of third-party professionals. Whether in business incorporation or land transactions, third-party agents provide professional assistance and ensure that certain processes comply with the regulations in place. Depending on the economy and the specific regulatory process, these professionals can be lawyers, notaries or accountants, among others.

This policy note explores the role of third-party professionals in the areas of starting a business and registering property in 168 economies<sup>1</sup> and analyzes some of the differences in terms of time and costs for services provided by third-party professionals, as well as trends and reforms over time. The *Doing Business* indicator sets for these areas are used to benchmark the steps, cost and time to incorporate a business and to transfer a property.

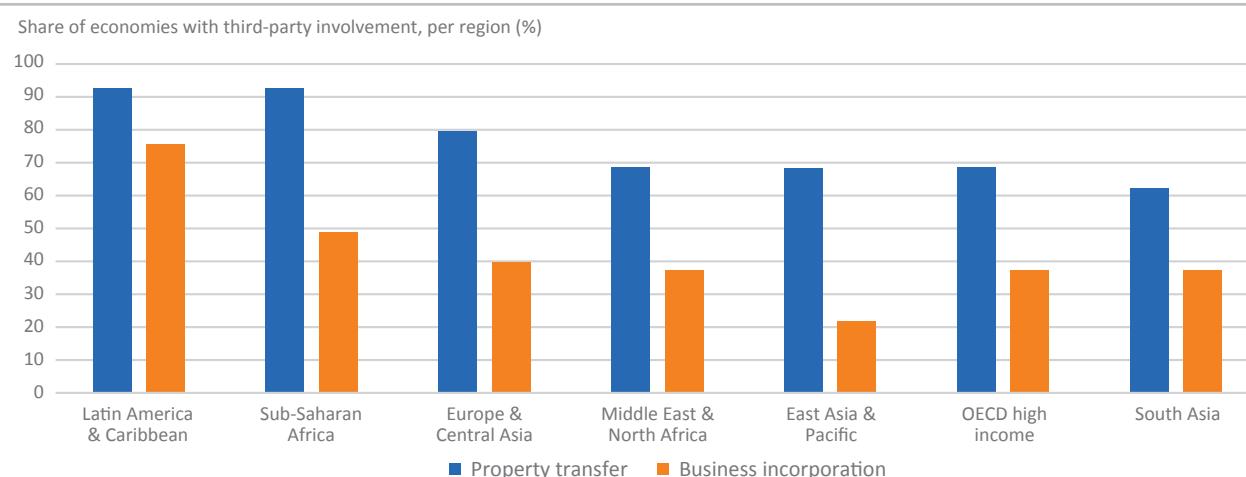
### What is the role of third-party agents in business registration and property transfer?

In the area of business start-up, third-party professionals typically play a role in the preparation of the memorandum and articles of association, the verification of signatures, the request of the company's tax identification number or the legalization of tax accounting books. In the area of property transfer, third-party agents are involved in verifying that the seller is the rightful owner and has the legal right to sell the property, validating the identity of the parties and determining if the property is free of encumbrances and liens. Third-party involvement is greater in economies where real estate transactions are not transparent<sup>2</sup>—their involvement can provide legal security to the parties involved and prevent fraudulent transactions where the perception of corruption is high.

In some economies, the law requires the use of third-party agents. In the Bahamas, for example, it is a legal requirement that a lawyer prepare and notarize the company documents of all new business start-ups. Fifty-one economies require by law that a third-party agent participates in the process of starting a business. In 90 economies, including Chile and Germany, the services of a notary are required to complete property transactions. Unless a notary witnesses the deed of sale, it cannot be registered in the land registry and is not, therefore, opposable to a third party. In other economies, the use of third-party professionals occurs in practice because, without their professional guidance, it would be overly cumbersome for new entrepreneurs to comply with regulatory requirements. While it is optional to use an intermediary for the incorporation of a new limited liability company in 117 economies, entrepreneurs tend to use a notary or a lawyer in only 31 of those economies. Likewise, in the area of real estate transactions, lawyer participation is not legally required in 78 economies but used as a common practice in 37 of those economies, including Colombia and the Democratic Republic of Congo, to complete the process of transferring property.

Third-party involvement is more common in real estate transactions than business incorporation processes. In 2017/18, 80% (134) of the 168 economies studied in this policy note utilized third-party professionals for property transactions and 47% (79 economies) did so for the incorporation of limited liability companies as measured by *Doing Business*. The two regions with the highest share of third-party involvement in real estate transactions are Latin America and the Caribbean and Sub-Saharan Africa (93% of economies in both regions). These shares are slightly lower for business incorporation—76% and 47%, respectively (figure 1). The regions with the lowest involvement of third-party professionals are East Asia and the Pacific for business incorporation and South Asia for real estate transactions.

**Figure 1. Latin America and the Caribbean is the region with the highest share of economies with third-party involvement in business incorporation and property transfer**



Source: *Doing Business* database.

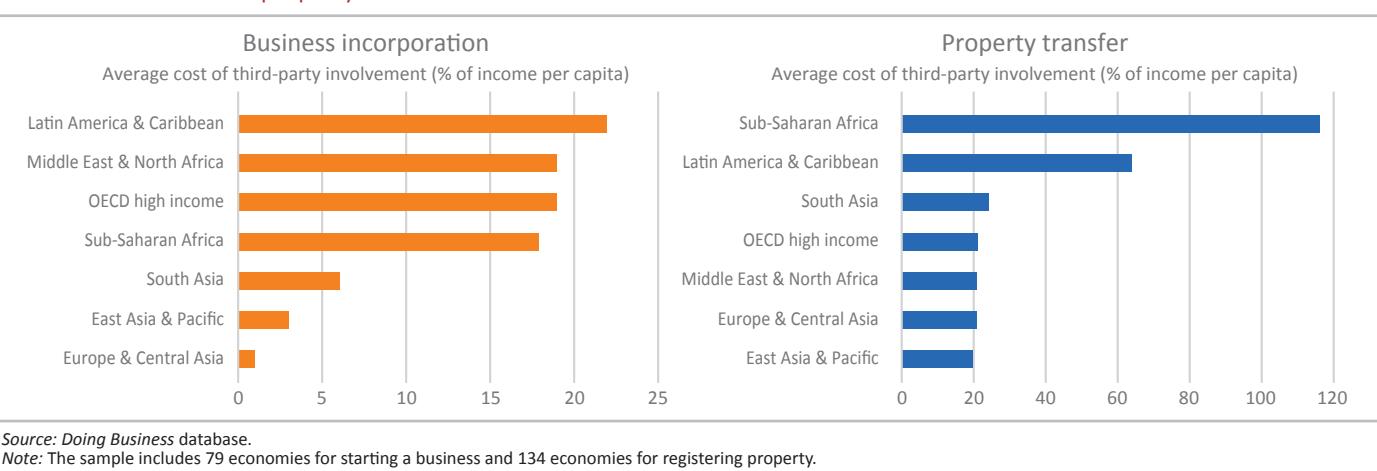
Note: The sample for this policy note is 168 economies.

Affiliation: *Doing Business*, World Bank Group.

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**Figure 2. The cost of third-party agents is highest in Latin America and the Caribbean for business registration, and in Sub-Saharan Africa for property transfer**



### What is the cost of this service?

In economies where third-party agents are involved, the cost of transactions tends to be higher. Indeed, business incorporation is 2.5 times more costly in economies with third-party involvement than in those without (12% versus 30% of income per capita, respectively) and, in economies where they are present, third-party agents represent 46% on average of the total cost to start a business. In Chile, fees paid to the notary represent 18% of the total cost to start a business; in Peru, the notary cost represents 42% of the total cost to start a business.

Across regions, the overall cost to start a business is lower in economies where there is no third-party involvement. The most significant difference in cost is in Sub-Saharan Africa where the cost is 36% higher on average when a third party is involved, followed by Latin America and the Caribbean where the cost increases by 23% of income per capita.

For property transactions, third-party agents represent on average 25% of the total cost to transfer a property. In Chile, for example, where both lawyers and notaries are involved in the registration of property, 84% of the total cost goes to third-party agents; in Colombia, it is only 22%.

Among all economies with third-party agent involvement, Latin America and the Caribbean is the region where this involvement has the highest

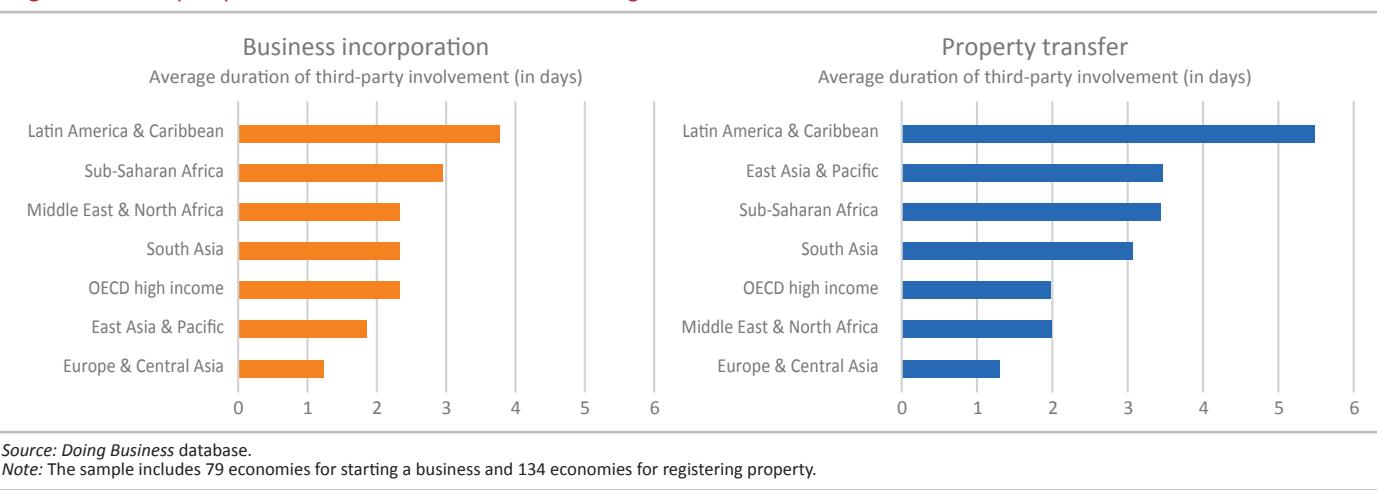
cost for business registration (figure 2). On average, the cost of third-party involvement represents 22% of income per capita, while in Europe and Central Asia it represents less than 1%. Moreover, when it comes to property registration, on average the cost in Latin America and the Caribbean represents 64% of income per capita. However, the highest cost of third-party agent involvement in property transfers is in Sub-Saharan Africa, representing on average 116% of income per capita.

Unlike lawyers, notaries' fees are typically regulated and fixed by law, which can lead to higher costs. When set by law, notaries' fees can either be fixed and independent of the value of the transaction or variable and dependent on the value of the transaction. When the fees charged are determined by the value of the transaction, they can be either progressive or regressive. Mexico has a cumulative and regressive fee schedule for property transactions. In some other economies, fees are not regulated and are negotiated—for example, depending on the number of documents or the hours that the third-party agent spends reviewing them. In Argentina, entrepreneurs pay 440 pesos (about US\$12) for each signature that must be certified by a notary.

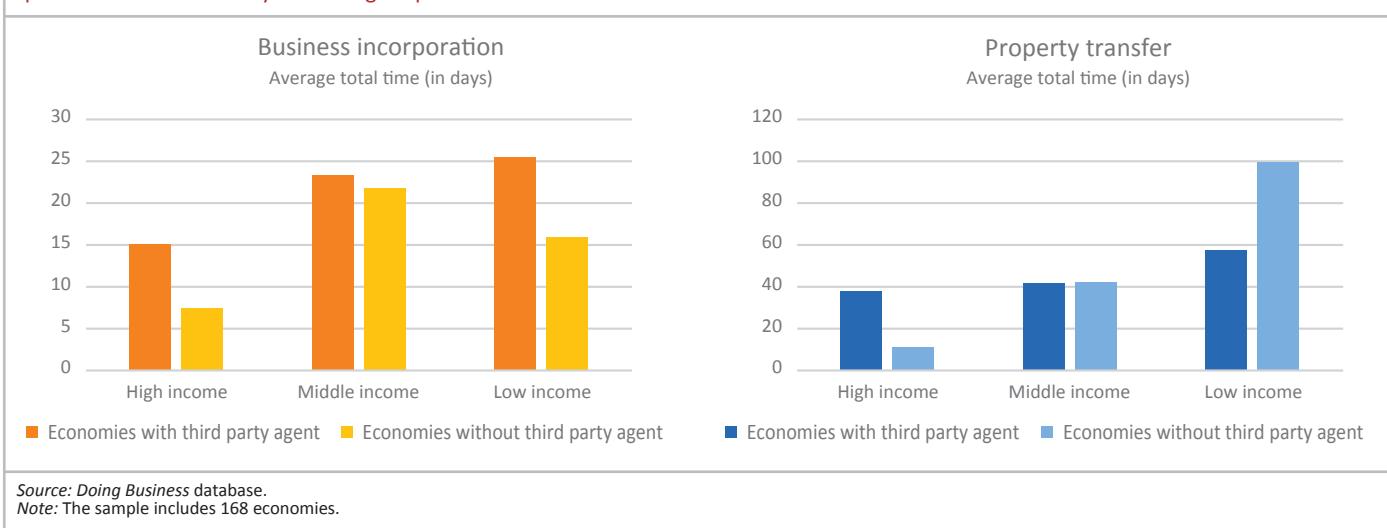
### What is the time needed for this service?

The time spent by third-party agents on business incorporation is longest on average in Latin America and the Caribbean (figure 3). It takes almost

**Figure 3. Third-party involvement is most time-consuming in Latin America and the Caribbean**



**Figure 4. Starting a business tends to be faster without third-party agents, but time to transfer property without third-party professionals varies by income group**



Source: *Doing Business* database.

Note: The sample includes 168 economies.

four days for a lawyer or notary to prepare all the required documents to register a new business in Latin America and the Caribbean—nearly a full day longer than in Sub-Saharan Africa, which has the second-longest duration globally. In Haiti, it takes 17 days on average for a third-party professional to register a business—10 days for the lawyer to prepare the company articles and memorandum of association, and seven days for the notary to notarize the company deeds and articles of association. In Tanzania, by contrast, notaries take only one day to notarize the declaration of compliance.

Latin America and the Caribbean also has the highest average time spent by third parties on property transfers, with a lawyer or notary taking more than five days on average to perform their respective tasks. These procedures take almost 60% longer to complete in Latin America and the Caribbean than in Sub-Saharan Africa (three days). In Argentina and Uruguay—two economies with the longest time to complete property transfers in Latin America and the Caribbean—it takes 20 days on average for notaries to comply with all requirements.

The time to start a business tends to be lower in economies where there is no third-party involvement, regardless of income group. In the high-income group, the time to start a business is eight days shorter in economies without third-party agents than those with them (figure 4). The highest difference in time, however, is in low-income economies where the time to start a business increases by 12 days on average when a third-party is involved. The role of third-party agents in business incorporation appears to be waning in response to the increasing use of standardized company documents and online services.

The time to register a property with third-party involvement varies by income group. Within the high-income group, the process of transferring property is faster where third-party professionals are not involved. In the middle-income group, the difference is marginal. However, in the low-income group, the process of transferring property becomes faster when there is a third-party professional involved. In the high-income group, it takes less time (11 days on average) to transfer property in economies without a third-party agent than with one (38 days). Conversely, in the low-income group, it takes significantly more time (100 days) to transfer property in economies without a third-party agent than in economies with a third-party agent (58 days). A lack of transparency and the high complexity of property transfer processes in low-income economies are possible explanations for this disparity.

In low-income economies, while transferring property, individuals typically do not disclose sensitive private information such as financial or business records. Instead, they tend to rely on professional agents, such as lawyers and notaries, to review the records and keep the information confidential. In this regard, third-party agents play a role in building trust between individuals (buyers and sellers) and verifying, for example, the identity of the parties involved in the transaction, the ownership of the seller and his right to sell the property, and conducting the due diligence to determine if the property is free of encumbrances and liens. This approach limits the exposure and risks for individuals but also adds more steps to the overall process and increases the cost of the transaction. In high-income economies, the availability of reliable online services and different forms of ledger technologies create a secure and efficient environment for property transactions, thereby reducing the need for third-party involvement.

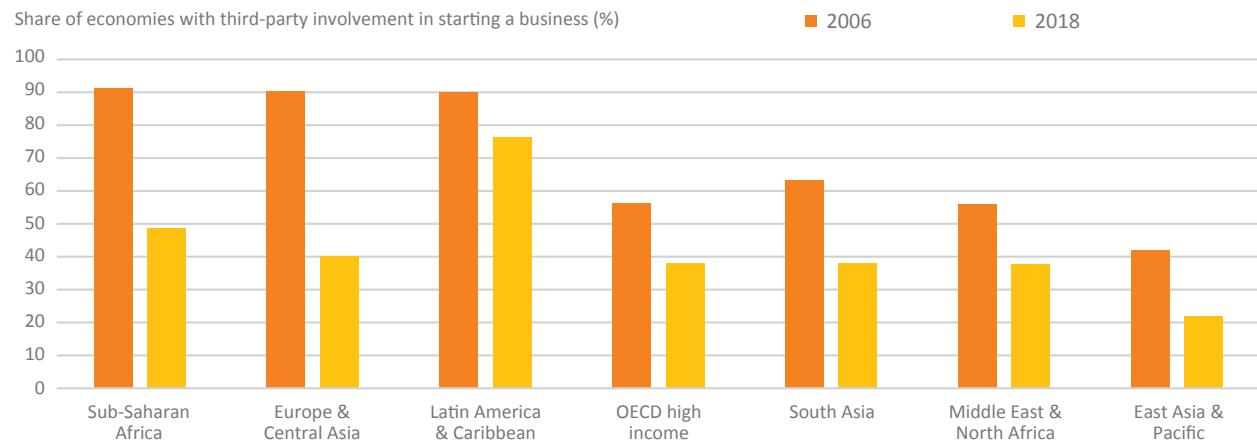
### What has changed over the past 12 years?

In the area of starting a business, the participation of third-party professionals changed significantly between 2006 and 2018. Several economies made third-party involvement optional for business incorporation and property transactions. The number of economies with third-party involvement in the process of starting a business declined by 47—from 126 economies (75% of the total) in 2006 to 79 economies (47%) in 2018. Over the same period, the average time to start a business in those 47 economies dropped from nearly 47 days to just 12 days. The most notable changes occurred in Europe and Central Asia, where the share of economies with third-party agents declined from 90% in 2006 to 40% in 2018, and in Sub-Saharan Africa where this figure fell from 91% to 49% (figure 5).

This dramatic decline was facilitated by the introduction of standardized forms for business incorporation and the creation of one-stop shops (whether virtual or physical) for starting a business. By contrast, little change took place in Latin America and the Caribbean between 2006 and 2018 in this regard. Only four economies—Colombia, the Dominican Republic, Jamaica and Trinidad and Tobago—reformed to make it possible to start a limited liability company without the involvement of a notary or lawyer.

Change has been slower in the area of property registration. Economies began by streamlining processes and introducing standardized deeds, and

**Figure 5. Economies in Europe and Central Asia and Sub-Saharan Africa have reduced third-party participation in business start-up the most**



Source: Doing Business database.

Note: The sample includes 168 economies.

later implementing online platforms for property transactions. Only seven economies (4%)—mostly in Europe and Central Asia—made it optional to use a third party in property registration during 2006–18.<sup>3</sup> However, these seven economies have reaped the rewards—their average time to register a property fell from 60 days in 2006 to just seven days in 2018.

In one of these economies—Portugal—the use of third parties was made optional for both business incorporation and property registration. The status of notaries was changed from public to private, and clerks were given the option to remain as a public servant or move to the private sector. Most of them remained as public servants and implemented the *Empresa na hora* (a one-stop shop for business incorporation) and *Casa Pronta* (a one-stop shop for property registration). The use of notaries became optional—entrepreneurs could complete the required steps directly at the one-stop shop—leading to efficiency gains and cost savings for entrepreneurs. The time to transfer a property in Portugal fell from 81 to 10 days, and the cost to incorporate a business in Lisbon was reduced from 8% of income per capita to just 2%.

Even in those economies where third parties continue to be involved, their associated costs have declined dramatically. Between 2006 and 2018, third-party costs declined by half on average in the area of business incorporation and 15% in the area of property transactions.<sup>4</sup> In Indonesia, for example, legal fees for the establishment of small and medium-size limited liability companies were reduced in March 2018. As a result, the cost to notarize the deed of incorporation was reduced by half—from 4 million rupiah (US\$284) to 2 million rupiah (US\$142). Likewise, after Poland liberalized the notary profession the cost of executing the sale-purchase agreement was reduced by about 10%—from 6,724 zlotys (US\$2,155) to 6,167 zlotys (US\$1,966).

Where third-party professionals continue to play a role in transactions, the use of online systems helped to increase their efficiency and reduce their costs. To eliminate time-consuming visits to a notary to draft and sign articles of association, Chile introduced an electronic system to register specific types of legal entities. In Peru, entrepreneurs can prepare the deed of incorporation online (through the *Portal de Servicios al Ciudadano y a las Empresas*), select a notary and send the information required for incorporation electronically. In other economies, third-party professionals can use electronic databases to reserve the company name or file a new application on behalf of their client. Similar advances have taken place

with regards to property transactions. In 2018, for example, it became mandatory for notaries in France to file property transfer applications through the electronic platform, *Tele@actes*. In the United Kingdom, lawyers can search for encumbrances using various electronic databases and then register a new property transaction on the land registry website in a matter of hours.

## Conclusion

In recent years, the role of lawyers and notaries has evolved significantly in the area of starting a business, but less in the area of transferring property. While entrepreneurs need the assistance of a third-party agent to start a business in less than half of economies, lawyers and notaries remain involved in 80% of the economies to transfer a property.

Latin America and the Caribbean is the region with the highest share of economies using third-party professionals for both company incorporation and real estate transactions. The time and cost to deliver such professional services are also highest in the region.

Increasing the transparency of regulation, simplifying registration processes and making the use of third-party agents optional could reduce the cost of formalizing businesses, promote opportunities for all and create a level playing field for entrepreneurs.

## NOTES

<sup>1</sup> This policy note builds on the available historical data of *Doing Business* over the past twelve years. To make consistent comparisons over time, the following economies are excluded from the sample: Angola; the Bahamas; Bahrain; Barbados; Brunei Darussalam; Cyprus; Eritrea; Kiribati; Kosovo; Liberia; Libya; Luxembourg; Malta; Marshall Islands; the Federated States of Micronesia; Myanmar; Qatar; San Marino; Somalia; South Sudan; Timor-Leste; and República Bolivariana de Venezuela.

<sup>2</sup> Monkkonen 2016.

<sup>3</sup> These seven economies are Belarus, Georgia, Namibia, Portugal, the Russian Federation, Turkey, and Uzbekistan.

<sup>4</sup> Third-party costs for business incorporation declined from an average of 28% of income per capita in 2006 to 13% of income per capita in 2018; third-party costs for property transactions fell from an average of 69% of income per capita in 2006 to 60% of income per capita in 2018.

## References

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