REGULATION OF RESIDENTIAL REAL ESTATE FIANANCE IN ANGOLA

SUGGESTED REGULATORY FRAMEWORK AND ANALYSIS OF POSSIBLE STRUCTURAL IMPEDIMENTS TO THE DEVELOPMENT OF A SIGNIFICANT MORTGAGE MARKET

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FINANCIAL SECTOR PROGRAM

REGULATION OF RESIDENTIAL REAL ESTATE FINANCING IN ANGOLA

With recommended actions for the BNA to meet new challenges

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PREFACE

Mr. Timothy Kelley, Real Estate Financing Expert, undertook a two week Mission in November 2011 to Luanda, Angola on behalf of the Financial Sector Program, an initiative sponsored by the United States Agency for International Development (USAID). The principal counterpart for this Mission was the Banco Nacional de Angola (BNA). The subjects of analyses for this Mission were a review of the current regulatory structure of residential real estate financing and the feasibility of developing a broader mortgage-based housing finance program. Particular attention was paid to drafting a clarifying regulation "Aviso" to supplement the Presidential Decree dated September 30th 2011.

The immediate product of the Mission is a draft of the supplemental regulation referred to as the "Aviso" and to discuss best practices for mortgage origination and reporting by the banks to the BNA of the loan portfolios and their performance. The Draft "Aviso" was compiled using a similar document issued by the Portuguese government and a line by line comparison to the International Monetary Fund (IMF) Mortgage Toolkit while ensuring compliance with the Presidential Decree which describes some of the terms and conditions under which banks must lend.

The consultant recommends the integration of three primary loan characteristics that are monitored by each bank and by the BNA: 1) Loan to Value 2) Debt to Income 3) Borrower Credit History in some numeric form. The Decree states the Maximum Debt to Income of 40% but appears to have left it to the banks to establish Loan to Value limits and borrower credit history.

The Consultant advises that at this early stage of the development of the mortgage market what is most important is to establish a transparent and healthy environment in which information is clearly communicated to the borrowers and the Banks are regularly informing the BNA of their loan products, origination pipeline and performance of its portfolio of loans. The approach focuses on two areas of concern:

1) Disclosure requirements of loan terms and the impact of different loan structures to borrowers so that they can make informed decisions.
2) The reporting by banks to the BNA of their origination activity and loan portfolio performance with particular attention to the following:
    a. Loan to Value within the pool
        i. Loan to Value exposure in periods of abnormal rising residential housing prices. An affordability index could be used as a benchmark for excessive risk in certain geographic areas as well as an historic point of reference for pricing year on year.
    b. Debt to Income Ratio (periodic audits by BNA inspector should ensure documentation compliance. Various practices of income proof are recommended in the Aviso)
    c. While credit reports or scoring do not yet exist independent of each individual bank it is recommended that a credit bureau or the entrance of private credit rating agencies be allowed into the market to establish an independent scoring mechanism to demonstrate borrower credit history. It is well established that poor credit history correlates highly with deficiency and default rates.
    d. It is recommended that the BNA require and review monthly or quarterly information provided from the banks regarding the number and quality of pre-applications that each bank receives and whether they are accepted or declined. If

they are declined then a reason why should be given. This is critical if the BNA is going to evaluate whether the banks are meeting the needs of the people or not.

These two tools will enable the BNA to first protect the interests of borrowers and later, after a significant pool has been originated for the BNA, to begin to monitor the bank's exposure to any possible systemic risks.

Significant moral hazard exists when loan programs are encouraged or subsidized by governments; however, given that there is currently no secondary market and the fact that it is highly unlikely that one will come into existence within the next few years, the BNA has some time to prepare the framework for further supervision while banks carry these loans on the balance sheets. The ability of banks to sell all or part of their loans in the future must be addressed and how ongoing loan servicing would be managed is critical.

The Basel II framework has been supplanted by Basel III which has yet to be implemented. Basel II allowed banks to use Internal Risk Based assessments which proved to be inadequate as bankers consistently underestimated the risk of their loans and will likely be revised to a more specific and higher capital ratio for mortgage loan portfolios. Regardless of future Basel recommendations the critical factor for the BNA is to receive the necessary information from the banks to make their own evaluations about bank risk and any systemic impact that might exist.

During the Mission the expert worked with the BNA working group to analyze the Presidential Decree and specifically define certain concepts for the banks, such as proof of family income, debt to income ratios, and loan to value limits that could be considered international best practices. Also important to note the recommendation that a system for individual credit histories to be scored be more fully integrated into the bank reporting process in addition to reforms in the Public Registry, Property Rights, Judicial Processing, Foreclosure Processing and Bankruptcy clarification/ simplification.

SUGGESTED REGULATORY FRAMEWORK AND ANALYSIS OF POSSIBLE STRUCTURAL IMPEDIMENTS TO THE DEVELOPMENT OF A SIGNIFICANT MORTGAGE MARKET

Executive Summary

The mission of November 2011 was, in most aspects, a continuation of the previous mission which took place in March of 2010 –which prepared a diagnostic study and review of real estate financing practices in Angola. The Mission Expert worked with Mr. Melvin Brown during that mission, and for practical purposes this mission is considered an extension of the last one. One of the deliverables of the last mission was a report titled *A Review of Real Estate Financing Practices in Angola* which was submitted and will be used as the foundation for this report, with updates as permitted by the BNA work schedule and a description of the specific work related to the draft regulation "Aviso". The purpose of this paper is to provide the BNA and other interested government agencies with a summary of current best practices in real estate lending and discuss the multiple issues that need be addressed in promoting and regulating mortgage lending operations secured by real property in Angola.

CURRENT REAL ESTATE MORTGAGE FINANCE MARKET OVERVIEW

The 2011 Mission has developed the following broad set of conclusions from its two-week consultancy with the BNA in Angola:

Presidential Decree and its Impact

The Presidential Decree dated September 30th 2011 defines the conditions by which banks must abide when making residential mortgage loans and in general allows market forces to exist.

- Only authorized full service banks can offer Mortgages
- Loan payment amounts are limited by a debt to income ratio maximum of 40%
- Income documentation requirements
- The property and the lien must be registered in the Public Registry
- Maximum term of 30 years
- No one over 40 years of age can apply!
- Mandated appraisal taking the lower of the appraisal or sale price
- Banks must report to BNA their product offerings
- Banks must disclose to borrowers a simulation of the loan with all costs and payments
- Construction to perm loans must be completed within 12 months
- Land loans are allowed as long as construction is authorized
- There exists a subsidized interest rate system
- Banks are allowed to charge market interest rates.
- Allows for third party guarantors
- Allows for a maximum 1% prepayment penalty on subsidized loans
- Apparently a different decree mandates that all loans be in Kwanza

It is likely that the presidential decree will not significantly impact the mortgage market because it does not correct the current lack of clarity regarding property rights and the costs associated with registration. It does however provide some additional security to banks who are lending by acknowledging the practice.

The Aviso as drafted adds clarity to the definitions of Income and lists the mandated disclosures as well as the list of data points that should be provided by the banks to the BNA regarding the origination pipeline and the portfolio status with detail loan by loan.

Real Estate Lending

- There is clear evidence that the major real estate bubble of the past has deflated and new units are coming online at a magnitude of thousands per month.
- Of critical importance to housing in Angola is the government's project to build a million homes. While its deadline has been missed and was clearly unrealistic (4 years from 2009) they are in fact building tens of thousands of homes throughout the republic and in the outskirts of Luanda.
- A substantial portion of the construction is being done by CITIC, the Chinese state-owned investment company, with construction financing provided by the Chinese to the Angolan Government and guaranteed by Oil.
- The real estate bubble in Luanda has been driven by speculators but there appear to be middle income dwellings in the suburbs of Luanda (near the new "Cidade Universitaria" and the Airport which is to be delivered by 2015), that appear to be directly financed by the government (likely through the Chinese/Sonangol loan guarantee program).
- It is unknown how these homes will be distributed.
- A fund for Government Sponsored Housing projects has been created, but is not subject to BNA supervision at this moment, and it is unclear how it will function in financing government sponsored projects or to what degree individual ownership will exist within those projects.
- It was determined that the banking sector was somewhat insulated from this market collapse, as there is limited overall exposure to real estate related credits. The residential loans longer than 1 year is at approximately 400 million as of October 30 2011. Total residential sector exposure is likely still less than one billion dollars out of a total assets of 40 billion dollars.
- Banks are not extending normal levels of credits into the real estate sector partially because the market is deflating, but more importantly because of the following:
    - A lack of a workable legal framework to ensure collateral rights;
    - High transaction costs;
    - An inefficient public registry;
    - A complicated judicial process to receive surface rights or actual fee simple ownership; and
    - No foreclosure process.
- As a result of high levels of oil export revenue, the economy has become heavily dollarized. There is little incentive for banks to offer long-term mortgages in Kwanza when their deposits are primarily short term and dollar-based. Inflation and currency risk concerns persist.
- It remains the view of the consultant that wide spread use of financing as a tool for residential real estate acquisition <u>will not occur</u> until the private banking sector is incentivized to enter into long term (20 to 30 years) Kwanza-based mortgage lending through programs that mitigate over exposure to currency risk and provide future liquidity by matching short term deposit liabilities with illiquid long term mortgage assets.
- Additionally, the consultant has concluded that given the current structure, excessive pricing and high volatility of the real estate sector, the risk of money laundering activity occurring through real estate transactions is quite high. It is recommended that the BNA consider this issue as well in its ongoing efforts to properly regulate the sector and provide for a structured environment for normal housing finance.

The consultant trip report reiterates the following suggestions for actions to be taken to the government in general and specifically to the BNA:

- Taxes for registration or transfer of ownership are prohibitively high (11+%) and we recommend that they be completely eliminated.
- The Public Registry fees are also extremely complicated and we recommend that they be replaced with a very low fixed fee per recording, not to exceed a few hundred dollars at most.
- The registry should also develop the capacity to scan documents and make all information available electronically to all parties via the internet (free of charge) to encourage transparency and trust.

Property rights have been allocated in varying forms adding to the complications in the market.

- The current system of limited surface rights (*Direito Superfice*) should be phased out and converted to a structure that clearly allows private property with full perpetual rights of ownership and transfer.
- The consultant also recommends that a dedicated court be set up to expeditiously resolve disputes related to real estate ownership and title.

The report also includes broader recommendations for pro-active action by the central bank as follows:

- The BNA also has the opportunity to incentivize the industry to use standard documentation for residential mortgage. This seemingly administrative issue is nonetheless important for the safe, sound and sustainable development of a housing finance program in the future.
- The BNA has the opportunity to guide the creation of a government-sponsored fund to promote residential real estate financing. This fund can take many forms and can be a driving force to bring the participation of the banking sector into the long-term residential mortgage market.

In summary, this technical report provides guidelines for best practices in how real estate financing (direct mortgage lending) *ought to be developed* and supervised in Angola. It is important to note that the report includes a number of subject-related annexes which are considered as essential to the value of the report as well as the scope of work for this trip's assignment. It is recommended that the annex papers be reviewed by all parties for not only a better understanding of the concepts brought forward in this study but also by those interested in the goal of developing a dynamic and broad residential housing sector within Angola.

In conclusion it remains the consultants' firm opinion that the model which embraces the freedom to buy, sell, rent, improve, leverage and inherit real property is at the core of wealth accumulation in any developed society—a concept best described by the Peruvian economist Hernando de Soto in his seminal work; *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*.

Introduction

A well-functioning real estate sector that includes an efficient housing finance system is integral to the development of housing markets in any emerging economy. Due to the structural weaknesses of the financial sector coupled with the current 'boom-bust' cycle of an economy especially dependent on oil revenues, the case of Angola presents some unique problems.

Banco Nacional de Angola (BNA) has identified a number of areas of concern surrounding current real estate lending practices of the commercial banks and non-bank financial institutions (NBFIs) under their supervisory scope. The BNA is eager to adjust its supervisory policies and procedures in order to mitigate perceived increases in credit and operational risks resulting from any new or increased exposure to real estate-related credits. At the same time the BNA also desires to eliminate unnecessary constraints in the development of a long term mortgage-based market for housing finance.

The purpose of this paper is to provide the BNA with a summary of current practices in real estate lending and discuss the multiple issues that should be addressed by the BNA in promoting and regulating mortgage operations secured by real property in Angola.

This technical report provides guidelines for best practices in how real estate financing (direct mortgage lending) *ought to be developed* and supervised in Angola. Finally, the report includes a set of recommended action steps that the BNA should implement to cover current (and future) bank operations as considered necessary to address and develop a working set of prudential regulations for future bank and NBFI operations in the sector.

Summary of the Economic Environment

Over recent years the Angolan economy has experienced exceptional performance levels with average growth since 2004 at over 12% annually. In both 2006 and 2007 real GDP surged by around 20%, and double-digit growth rates were widely predicted for at least the next five years. It is estimated that growth in 2008 was around 15%, with strong progress in the diversification of the economic structure. The economy was deeply affected in 2009 and 2010 with growth rates slowing to 1.5%. 2011 is likely to be shown to have rebounded strongly. Despite the oil sector continuing to contribute slightly more than 60% to GDP, notable gains have been made in the non-oil sectors of agriculture, manufacturing, and banking. Civil construction was the fastest growing nonoil sector in 2008, 2009, 2010, and likely again in 2011.

Then oil prices crashed with the global recession and real economic growth came to a halt after an average rate of 18% during the previous five years (2003-2008). As a direct result of overdependence on oil revenues, the economy is estimated to have grown, at best, by 1.5% during 2009 and 2010. The impact of the global financial and economic crisis in Angola’s economy was hard and deep. Despite sharp fiscal tightening, for the first time since 2005, the budget registered a deficit and the government accumulated substantial levels of arrears with domestic suppliers.

With oil between $80 and $100 dollars a barrel, the government has been able to create a budget surplus of nearly 7% of GDP in 2010.

Additional economic support was received as Angola increased its sovereign debts outstanding with borrowings from Brazil, Portugal and most notably China to approximately $12 billion—pledging a significant percentage of its future oil revenues towards debt service.

Angola remains principally a mono-economy highly dependent on oil revenues and continues to finance its growth through increased production. The oil sector is projected to grow by 6.5% as oil production increases from 1.79 million barrels per day in 2009 to 1.9 million barrels per day in 2010. Angola is now sub-Saharan Africa’s biggest producer after Nigeria. Oil revenues account for more than half of the country's GDP, 75% of the government's revenues and 90% of export earnings.

The end of year inflation, as measured by the CPI, reached 14.9% in 2010, the third consecutive year of increasing inflation since the 11.78% registered for 2007; this occurred despite a tight monetary policy. During 2010 the Kwanza depreciated in both the reference (from 79.4 to 92.4 Kwanzas per US dollar) and parallel (from 79 to 92 Kwanzas per dollar) markets. Price pressures will remain strong in 2011 even as economic growth improves, as the lag effect of the Kwanza devaluation continues in the first half of the year. The expected tight fiscal and monetary policies imposed by the BNA should help in keeping prices under control.

The private sector has not been immune to this adversity, since its activity and success is extraordinarily dependent on the public sector. In other words, the Angolan State is the main customer and source of revenue for private enterprise. Therefore, it is expected that sectors like civil construction, trade and banking may see a contraction in activity, if the crisis continues. Growth of the non-oil sector should be positively impacted by the projected expansion of the oil sector, increased capital expenditures by the public sector, and some private investment in agriculture and manufacturing.

The agriculture sector, despite not having made a great contribution to GDP growth in 2008 or 2009, has undergone some positive restructuring and has received significant levels of investment that should allow important progress in the future. The diamond mining sector has been negatively affected by the fall in demand for this precious stone in international markets. It is expected that the financial pressure that has developed on companies operating in the sector, will continue to build with recovery and a positive contribution to the GDP not expected in the near future.

In summary, the global financial-economic crisis hit the Angolan economy hard as the price of oil started a free fall trend in the second half of 2008. It was a rough economic ride in 2009, as high levels of uncertainty and rumors on the direction of macro policies resulted in investor nervousness. There were continued large imbalances in some markets such as the foreign exchange and government securities markets. Rebounding oil prices have served to stabilize the government investment schedule.

The general consensus is that the economy will achieve healthier growth rates but volatility will continue in relation to the unpredictable international market and the sovereign debt crisis. Overall the economic scenario has improved considerably from 2010, but the old challenges remain. First, the high dependency on oil will remain a reality for some years in the near future. Second, the tight fiscal and monetary policies proposed for 2012 will not be easily implemented since there will be increasing pressures to increase public spending and to expand credit as oil prices remain at current levels.

Overview of Real Estate Financing in Emerging Markets

Lending for housing in most transition economies and many developing countries is segmented primarily between traditional lending – formal mortgage lending programs for individual home ownership, similar to that in industrialized countries, and micro-lending programs that narrowly support the incremental construction and improvement of dwellings for those in the lower economic strata. This second market segment normally represents the great majority of the populace (often as high as 97%) who either cannot access or cannot qualify for formal mortgage loans.

Because of the multiple challenges existent in emerging markets, such as nascent political systems with contradictory legal systems, limitations on necessary data, general constraints in access to finance, and fragmentation within applicable regulatory frameworks; the banking sector has usually been slow to enter into formal mortgage-based lending programs except for the very high end of the market, and only then with the requirement of additional collateral of third-party guarantees. Any development in the lower end of the market has commonly been left to international development programs or generally underfunded government subsidized programs.

In emerging markets the evolution of commercial real estate sector has customarily been led by foreign contractors and investors. Typically, this market has been dominated by speculators who are driven primarily by the lure of high returns and concentrate their investment in projects that promise short term profit over long term investment returns. This paradigm has been instrumental in distorting the rational development of the sector and creating unsustainable real estate bubbles. The risk to the banking sector follows as a result of excessive credit exposure to these property developers who in turn are at risk for market corrections to the real estate bubble they have helped to create.

Experience has shown that programs for the development of a real estate market for mortgage financing have been much more strongly influenced by individual government policies regarding housing and housing finance policies than by attempts to increase financial sector depth. Surprisingly, the depth of mortgage lending is not closely related to either a country's financial depth or to its financial efficiency. This is important because it reflects the reality that mortgage market development does not simply follow broad financial market development

In each country real estate financing is necessarily based on local economic realities and is further complicated, and often constrained, by failure to adequately address the following fundamental issues:

a) Laws and regulations governing ownership and transfer of real property;
b) Administration of property laws and regulations;
c) Public policy regarding real estate development and construction financing;
d) Planning and regulation of property development for distinct economic classes;
e) Adaptation of housing policy, legal and regulatory frameworks that meet diverse market demands for real estate development;
f) Adaptation of public and private sector financial institutions to modern practices;
g) Availability of market information; and
h) Availability of borrower credit information.

As a result a wide spectrum of housing sector policies that have been locally designed to address the extensive aspects of mortgage sector development for improving the volume and access to housing finance for a particular market segment.

Bank lending programs to the real estate sector, which are by definition highly dependent on the value of the assets (land and buildings) securing the loan, are further burdened with the particular and complicated issues of credit risk and liquidity requirements. Experience from around the world indicates that poor credit quality of real estate related loans, coupled with weak underwriting and credit management practices continue to be a dominant factor in bank failures and banking crises on a repetitive basis.

The example of the United States in the early 1990s has been repeated with devastating effect in many emerging markets where many of the credit losses suffered by banks, thrifts and insurance companies have been the result of excessive portfolio concentrations of loans in the real estate industry (residential mortgages, commercial real estate mortgages and commercial real estate loans). More specifically, US banks loaned enormous amounts of money to commercial real estate companies based on overly optimistic projections of rental income growth and increased asset values.

Investment in commercial property projects in highly speculative markets such as Angola are characteristically 'high-risk, high-return' proposals that make commercial real estate lending hazardous to banks. Real estate development companies are by nature highly leveraged operations which use acute levels of debt in order to finance the construction of large buildings for either residential or commercial use. High gearing ratios make them sensitive to interest rate swings particularly in countries where most debt is contracted at floating (adjustable) interest rates.

In addition to the obvious credit worthiness of the obligor, the overall credit riskiness of any real estate related loan or lease transaction will be affected by the influences of risk issues such as:

Collateral: Loans may be collateralized by real property, automobiles, equipment, inventories, accounts receivable, securities, savings accounts as well as mutual funds and life insurance. In the case of a borrower default, the lender would have the right to seize the collateral pledged to repay the loan.
Third party guarantee: If a loan is endorsed by a third party guarantee then the third party is committed to repay the borrower's debt in case the borrower defaults.
Loan covenants: Usually the credit contract between a bank and a borrower contains covenants limiting the possible actions of the borrower. These covenants might vary across countries but usually include the responsibility of the borrower to submit financial statements frequently, commitment not to issue new debt, restricted dividend payment, etc.
Information costs: Possibility of sharing information about the credit history of borrowers in order to reduce the unavoidable information costs inherent in the lending decision.
Bankruptcy legislation: The bankruptcy process can be complex and costly. Bankruptcy legislation varies and the level of protection of the different parties involved in the bankruptcy process (workers, suppliers, shareholders, and creditors) is different from one country to another. These differences affect the value of the bank's claim on the bankrupt firm.

The central and most crucial common denominator in all real estate lending programs is obviously the ability to use land and any fixed asset placed upon it, as the principal source of security for credit. The capability to utilize real property as collateral is dependent on the rights of ownership and rights of usage of the land plot.

The following section describes the unique aspects of the Angolan land law and the impediments to the well-organized development of a mortgage-based housing finance market caused by the current inefficiencies of the property registrations system.

Land Law and Property Registration

Property rights in Angola remain highly problematic. The national Land Laws passed in late 2004 have been met with a mixed reception. While provisions endowing individuals and communities with the right to legally register ownership of previously informally occupied land have been, for the most part positively received in rural areas; there remain a number of legal interpretations that have impeded urban development and standard real estate lending practices. There are concerns that the supporting regulations and bylaws are not entirely clear and that the three-year time limits placed on the registration process may undermine security of tenure, particularly in urban and peri-urban areas where evictions are already common.

Property rights are a central issue in developing any type of long term financing program for real estate ownership. Where these rights are secure and readily transferable, land and buildings serve as the most important form of collateral for lending. According to the Constitution, land is owned exclusively by the state and appears to be considered nontransferable.

It seems clear that the 2004 Law on Land and Urban Planning (See Annex II, attached); affirms that all land ultimately comes from the State, but permits private ownership of most urban and some non-urban land. Land is obtained for economic purposes through use rights. Property can be transferred through the land use "*Dereito Superfice"* program under long-term renewable grants from the Angolan government. These rights of usage are granted for a term of 60 years with an option to renew for an additional 30 years.

Use-rights transfers can be authorized only if an improvement or structure has been built on the land, but the authorization is highly subjective because of a lack of stipulated regulations. Urban buildings, however, can be freely transferred without prior authorization, along with the use right for underlying land. It is a clear priority for the government to ensure that the rules for authorization of property transfers be clarified and simplified, and use rights should be more freely usable as collateral.

However, registering property can take as long as 184 days, according to the World Bank's 2011 "Doing Business" Survey, with a complicated and expensive fee structure based on a vague valuation of property value. Technically new property owners must also wait five years after the initial purchase before re-selling land, and there is little empirical evidence that this restriction is being adhered to. Implementing regulations, when written, should define different forms of land use, including commercial use, traditional communal use, leasing, and terms of private ownership.

Angolan commercial banks have recently begun to offer more real estate-related financial products. However, unclear land titles and ill-defined property rights continue to complicate and lengthen the process of obtaining a straight forward mortgage loan. Banks that were interviewed by the Mission advised that virtually 100% of their individual credits for the purchase of a house or condominium were collateralized by third-party guarantees and collateral in addition to the mortgage instrument.

Like many other countries emerging from conflict, Angola has adopted a new economic model in recent years, based on encouraging private investment and a reduced emphasis on central planning. The market, rather than the state, is now regarded as the main engine of economic growth, and the concept of a 'right to private property', which was previously regarded with considerable suspicion, has been officially embraced by the authorities.

However, most land in Angola continues to be held and occupied under a 'customary title' system and people do not have documentation proving their rights of ownership. Customary land tenure is currently not recognized by Angolan law, and this creates a difficult gap between the formal legal situation and ability to develop a dynamic housing finance mechanism, and the reality facing most people living without formal tenure rights.

Many Angolans have squatted on land without official permission, often for many years. In some cases they may have bought this land in good faith from others who were illegally occupying it. Many people have lived all their lives on land which they do not have any official right to occupy, and they may have invested considerable sums of money in what they regard as their only economic asset.

THE POLITICAL AND LEGAL FRAMEWORK

Land was regarded as a common resource in pre-colonial Angola, with a system of communal possession in which any member of the community had the right to cultivate parcels of land occupied by the community. Under Portuguese colonial rule, land in the north-west of the country was gradually appropriated, mainly to establish coffee plantations. Portuguese citizens were encouraged to emigrate to Angola, where planned settlements ("*colonatos*") were established for them in rural areas. At the height of the colonial period, 300,000 colonial families occupied approximately half of Angola's arable land. Angola gained independence from Portugal in November 1975, prompting a massive exodus of Portuguese settlers. Thousands of plantations were abandoned, and were promptly 'nationalized' by the new government. This meant that the state became the effective owner of lands that were not already definitively considered as privately owned.

When the Portuguese left in 1975, the Housing Committee or "Commission Habitacional" had authority to determine occupancy of Portuguese properties. The Commission also had to approve any leases. Ownership, however, remained with the Government. After 1975 individuals were no longer able to buy private land, but were instead granted 'surface' or 'possession' rights, which meant that they had the exclusive right to use the land, although it formally belonged to the state.

These provisions were included in Angola's Civil Code, inherited from colonial times, which remained the legal framework governing land rights until 1992, when a new constitution was adopted. The Land Law 1992 (Law 21-C/92) based itself on the former colonial cadastral record, which has not been updated since independence, and tried to restore some order to rural land relations. The law's preamble stated that local community land rights would be protected, and recognized some different forms of tenure. However, it remained heavily based on the old ideals of state central planning principles, requiring, for example, that land conceded by the government must be 'put to effective use', and retaining the right to subject production to the 'requirements of national development.'

According to the 2004 Land Law, the State can only expropriate land for specific public use, and it must declare this purpose when it does so. Anyone whose land is expropriated for public use has a right to compensation. The Land Act of 2004 was an important step towards the formalization of land title and tenure rights, but implementing regulations and required Master Plans remain incomplete.

Where the state grants land concessions for urban development projects it has a legal duty to publicize this widely. These specific requirements reinforce the general principle in Angolan law that public administration must provide adequate notice to people whose rights are likely to be affected by its actions.

While these provisions, if implemented, should provide people with more procedural protection against forced evictions, a requirement that everyone must complete the official process of registering their land and securing title within three years has proven to be totally unrealistic and unworkable. The law places the onus on individual citizens to seek regularization and registration of the property within three years, and states that irregularly occupied land may be subject to forcible requisition after this period.

To date this program has been a major failure as Angola's official bureaucracy is slow and inefficient and lacks administrative capacity. Land registration requires many steps including conformity with an approved master plan and other requirements that constrain registration in informal settlements.

It is reported that for the whole of Luanda only about 300 titles are registered per month in 2010 and an updated number was not available due to time constraints. The only update given is that a "Notario Publico" has been integrated into the offices to facilitate services. With the fees remaining as they are there is little likelihood that a dramatic increase will occur. Unless the Angolan government takes deliberate steps to simplify the existing regulations and prioritize resources to ensure effective land registration for all those requiring regularization, insecurity of tenure will continue to be prevalent as the urban poor will remain vulnerable to forced evictions and any attempt to enforce the law's provisions could lead to widespread social unrest.

A previous USAID-sponsored project recommended simplified registration systems and intermediate titles of occupancy in informal settlements that can be upgraded to real rights and more formal registration over time.

Status of the Real Estate Market in Angola - 2011

Property plays a critical role in the social and economic challenges facing Angola. Following the peace agreement that ended a long period of civil war, Angola has experienced a surge of construction driven by increased investment and significant oil-based revenues. The problems of the common two-tiered structure for real estate markets in emerging markets, as described above, has been further exacerbated in the case of Angola. While the war caused massive migration into urban centers, the economic development of large oil reserves has created a "boomtown" atmosphere in Luanda, which is driving prices and rents to unrealistic levels simultaneously with severe economic and social distortions.

The economy of Angola continues in its transition from a socialist-oriented command economy mired in civil war to a market based system that respects individual ownership of property and enterprise. Culturally, the vast majority of society still lives with only minimal inclination toward entrepreneurship or the belief in the idea of ownership in the dwelling that they inhabit. Part of this is likely the residual effect of 30 years of war causing a pervading feeling of fear that deters people from demanding a more responsive government. However, the pervasive reality is that the bureaucracy is intimidating with multiple steps in any process through a complex set of government offices. Dealing with the judicial system, public notary system, fiscal authorities and the total registry costs are very complicated and few people have either the knowledge, time, patience, or money to register their de facto ownership of the land they occupy. This actuality limits the growth of the market for available or potential mortgages to less than a minute fraction of the population; with no bank willing to take on additional risk to truly test the market in any substantial way.

Economic distortions in the real estate sector are particularly acute in Angola where it is reported that 70% of the population nationwide, and 10% in Luanda, subsists on $1 per day, while at the other end, western style homes and apartment for expatriates were commanding as much as $25-30,000 per month at the peak in 2009. As of November 2011, those extreme prices are no longer the case as new projects are being completed. Based on a conversation with a local developer he is selling high end units for $2600USD / m^2 with costs in the $1600 USD / m^2. The private sector seems to be building at the high end of the market while the government is building mega projects with tens of thousands of units currently being built on the outskirts of the city. These projects appear to be well designed 10 to 12 story towers with approximately 4-8 units per floor. The announced plan is for more than 20,000 units and judging from the scores of buildings already up and the countless number of cranes it seems realistic to assume that they are on track to achieve that target. At this point only the first buildings have been sold and are being occupied.


DELTA IMOBILIÁRIA
Documentos para Apresentar
FASE DE INSCRIÇÃO
Bilhete de Identidade
Número de Contribuinte
FASE DE AQUISIÇÃO
Bilhete(s) de Identidade
Número(s) de Contribuinte
Atestado de residência
T3 - A/B - 110 m2
VALOR
AKZ*
125.000/130.000 USD
T3+1 - C - 120 m2
VALOR
AKZ*
140.000 USD
T5 - 150 m2
VALOR
AKZ*
200.000 USD

The project listed above is the new city of Kilamba Kiaxi and is offering condominiums of 110 m^2 to 150 m^2 for $125,000 to $200,000USD.

On areas that are not part of the master planned government sponsored communities there are continued legal uncertainties in the key areas of property title, registration and the complexities of land use approvals are major impediments to regular property development, although these issues have often been bypassed by special regulations which greatly favor the building of luxury housing and the establishment of new 'high end' development areas.

There are also reports of land expropriation within Luanda and its surrounding areas with little regard for any transparent system of redress for individuals. The Mission heard reports that recently the poor occupying valuable land in areas near the port are being forced to move, justified by their lack of property registration, while the multiple housing developments located in Luanda Sul were 'authorized' on the basis of special legislation approved through Presidential Decree that allows concession and registration of surface rights.

The 2010 Mission conducted several interviews with local banks to gain greater insight on the structure and status of the local real estate market. The following list highlights some of the more interesting findings:

- The new Land Act was passed in 2004, but implementing rules for real estate transactions involving the transfer of land use rights (surface rights) are still not clearly defined or understood.
- There is a central registry system for land titles but it is inefficient. A 'clean' mortgage instrument cannot be structured if the property is not registered.

- Expansion in the real estate market and demand for western style housing began in earnest after the end of the civil war as oil companies and other multinationals (including embassies) started looking for homes for their employees.
- There is a growing middle class of Angolans but most of the local sales of property are being driven by an elite class of persons who have profited from the oil boom.
- Much of the real property market is being driven by speculators who are attracted to the high rental incomes available.
- Rentals in Luanda in 2010 reached a peak of $18-25,000 per month range—often payable two years in advance.
- At least 50 % of the new sales are not to owner-occupants.
- The largest planned residential development in Angola is the Luanda Sul development which was approved under special government legislation that enabled sale and registration of surface rights. The entire area is supposed to be developed under a master plan which includes the building of the Belas Business and Residential Park (two residential towers and two business towers), covering some 48 thousand square meters of area) and the Belas Shopping Center.
- The Mission visited Luanda Sul area one afternoon and met with one of the developers of a new condominium complex to discuss unit pricing and sales terms. This development is being built and sold by an offshore company affiliated with the Banco Espiritu Santo Group from Portugal. There is no direct or indirect credit exposure of the locally-incorporated commercial bank to this project.
- Portuguese construction firms such as Soares da Costa and Techeira Duarte have remained in Angola over the years since independence and are now the leaders for development and construction of a majority of local real estate projects.
- The developer of the Belas Park complex is the Odebrecht Group from Brazil, one of the largest engineering and construction companies in Latin America. It is reported that Odebrecht has employed up to 30,000 workers at one time, making it the second largest private sector employer.
- The Mission was advised that sales in Luanda Sul, and other residential properties under construction downtown, have come to a virtual halt since the decline in oil prices at the end of 2008. However, there is no indication as yet of any reduction in the pricing of new units or any notable decrease in prices in rentals. (An update to this in 2011 is that many of the projects in Luanda Sul have been completed but it is not clear whether they are occupied. The consultant toured the area and witnessed multiple housing developments and buildings with no occupants and is therefore suspicious about how the pricing adjustments have affected this area. Given that there is little experience with bankruptcy it is a high possibility that they are insolvent.)
- The commercial banks report minimum exposure to the housing sales in Luanda Sul as virtually all purchases are either on a cash basis or are financed on a short-term basis directly by the developers.

The Government of Angola has demonstrated a strong interest in normalizing the exigent conditions of the local real estate market. It is well understood that the current market structure is unsustainable and that fundamental changes will have to be made across the full spectrum of real estate financing fundamentals. To achieve progress in this area the government will need bringing to bear the necessary legal, regulatory and financial resources required to allow the market open and free movement. Of immediate concern should be the development of programs that would address the following issues:

- Adaptation of policy, legal and regulatory frameworks that meet market demand for real estate development;

- Advancement and implementation of land ownership and property registrations laws;
- Adaptation of public and private sector institutions to changing needs and modern practices;
- Development of real estate professionals with the qualifications and experience needed for sound investments and efficient transactions; and
- Create the operational environment for banks and other financial institutions extending real estate related finance to create the mortgage market primarily in local currency, avoiding the complex issues of foreign exchange risk when financing local assets.

To date the government has advanced to the stage of drafting legislation which will address some of the above issues. For example, the new "*Lei de Medicao Imobiliário"* will require, among other matters, that real estate brokers be licensed by the National Housing Institute or "Instituto de Habitacao Nacional" and will require verification that the individual prove their knowledge of the industry through training classes (definition of time requirements and subject matter not clear) and continuing education programs. A preliminary limit on real estate commissions charged to sellers has been set at a maximum of 10%.

It was beyond the scope of this Mission to thoroughly evaluate this legislation but a preliminary review indicates that, when enacted, it should begin the process of raising the professional standards and bringing the operations of the real estate market closer to international best practices.

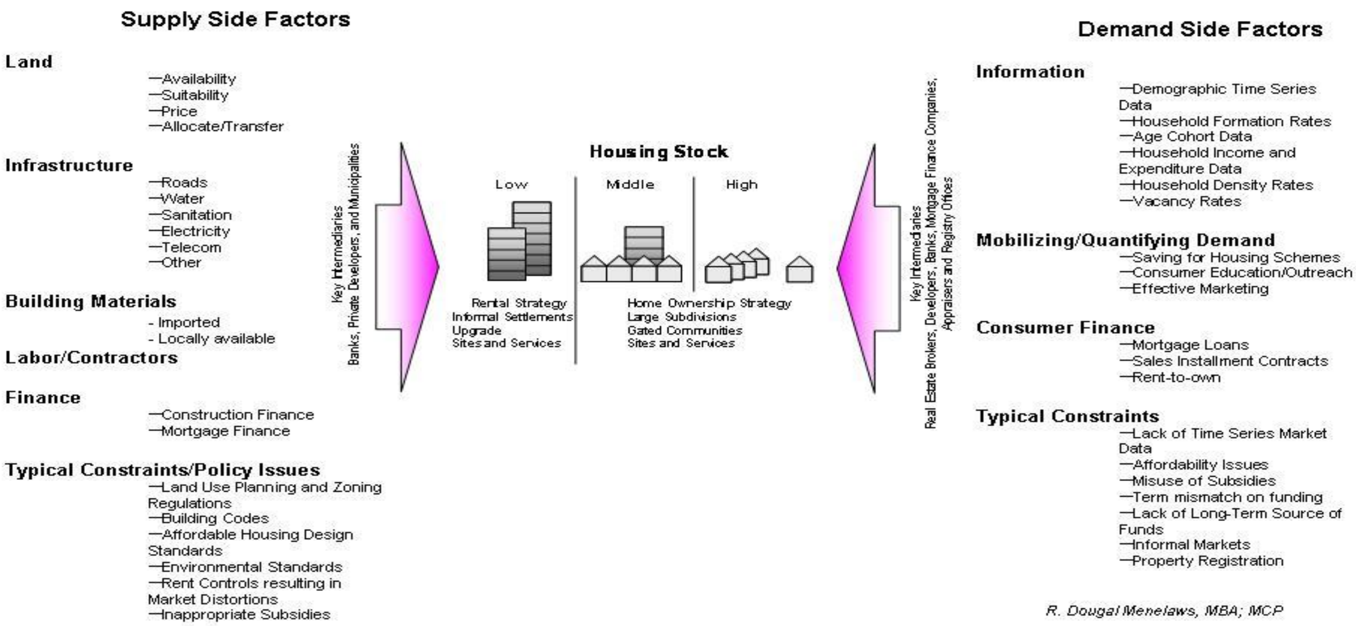
GOVERNMENT SPONSORED HOUSING PROGRAMS

The Mission has also been informed of the Government's planned program to build one million new urban residences through a series of newly formed integrated town sites, over the next 4 years. At this point nearly 700,000 of these units are contemplated to be completed through a (yet to be finalized) program of credits and grants to individuals to build their own homes involving the use of government funds through an investment fund. This fund will cover costs for infrastructure development, housing construction, and home purchase. It appears that another 150,000 units are reserved for government employees with the remaining 150,000 units to be built and financed entirely by the private sector. Apparently this latter sub-program is to incentivize the private sector to build affordable housing units as well as the more profitable high end of the market.

The 2011 mission has no additional information regarding this proposed legislation. In redesigning this housing program the government should readdress its position regarding the use of government funds and/or subsidies as regards wealth transfers and direct financial intermediation. The degree to which the government is willing to provide for the free transfer of land title and reduce its income from import duties and fee generating transaction charges; will be a determining factor in creating a truly dynamic and affordable housing market which incentivizes active participation from the banking sector.

It is further recommended that the government readdress the overall structure of this program taking into account the fundamental principles of supply and demand as illustrated in the following chart:

Diagram 1: Housing Production – Supply and Demand



Discussion of Factors Affecting Housing Development

The following section provides a brief description of the myriad of issues and factors that are in play in the development of a dynamic and sustainable real estate market. It is easy to infer that the current state of housing development and real estate finance in Angola requires that the government be aware of the concepts discussed below. The BNA should assist other government agencies in this effort and advocate financial controls that encourage appropriate public and private sector actions as necessary to change the market structure from its current 'boom-bust' cycle to one that takes full advantage of the funds available in the Angolan economy.

SUPPLY SIDE FACTORS

Supply side inputs include land, infrastructure, building materials, labor, finance and entrepreneurial skills. Housing production costs depend largely on the cost and availability of inputs such as land, labor, building materials, construction equipment, public infrastructure, and construction finance, as well as professional and entrepreneurial resources.

However, it is important to note that productivity among housing suppliers can differ substantially even when unit input costs among different projects are relatively the same. The single most important factor in production efficiency is the entrepreneurial skill set of the real estate developer or the builder/owner.

Factors that inhibit efficient production and restrict supply of affordable housing include high land prices, overly complex planning controls, building standards and land development codes. Restrictions on the supply of land and the density of residential development greatly affect land costs.

Often design standards are set to accommodate the upper income tier of the market and inhibit the design and delivery of housing affordable to middle and lower income households. In particular design standards that control density by requiring minimum lot size, setbacks, building to plot coverage ratios, building height, vehicular access and off street parking prevent innovative design and introduction of affordable low cost housing.

The timing and provision of infrastructure affects the spatial pattern of development and land values. Because infrastructure is a complementary input to the production of housing, the amount, type, and price of infrastructure will influence the demand for complementary housing inputs, which will in turn affect the type of housing supplied in different locations, residential densities, and land and housing prices. These, in turn, may be reflected in commuting times, wages, the costs of goods and services, and the productivity of enterprises.

Government intervention in the provision of serviced land should be encouraged as policy. In fact, without government intervention critical public facilities such as parks, open spaces, major infrastructure and urban services, which the private sector cannot profitably produce and sell, will not be provided. These services are essentially "public goods" in that they are indivisible, difficult to price and users often cannot be excluded.

Therefore setting the structure for future urban development by building key infrastructure is the most effective public policy tool for promoting sound urban development. Finding the appropriate balance and division of labor between the public and private sector is the solution to effective and productive urban land development management.

The single greatest factor in reducing the price of housing is the provision of serviced land and major infrastructure. Simply stated if you build a road, provide access to water, electricity and sanitation in the right location, housing will follow.

The building materials industry is another important contributor. In some countries staple building materials are not produced locally and have to be imported. Key imported materials such as plywood, sheet rock, copper piping and electrical wiring introduce currency exchange and supply risk into the production cost equation for developers. In countries that have no prior experience in producing housing at scale additional investment in local building material companies is required to increase capacity and quality of production.

Another major impediment to producing housing at scale is lack of construction finance. Without access to financing, owner/builders utilize savings and current income to build housing in what becomes an informal market. Construction often occurs incrementally as funds become available over time. This can result in a proliferation of partially completed buildings and urban blight. Such building patterns are often found in developing countries and reflect and demonstrate the lack of an efficient housing finance system.

When construction finance is available, however, ready capital transforms the construction process. Professional developers become more efficient, project building cycles are shortened and more housing is produced at lower cost.

Rent controls uniformly inhibit production of housing. International experience suggests that rent control, in conjunction with legal frameworks that are favorable to tenants against landlords, will result in the decease of supply of rental housing by the private sector. Rent controls lower costs for sitting tenants but they have the unintended consequence of reducing the value of the housing stock and deter further investment in rental housing.

Existing units suffer from lack of maintenance, since landlords have no incentive to invest in maintenance, and due to difficulties in evicting bad tenants landlords prefer to keep units vacant rather than re-renting them under rent control.

DEMAND SIDE FACTORS

Demand for housing is driven by demographics, particularly new household formation rates, and household income and employment levels. Palestine for example has a young population and household rate formation is very high.

Stable employment and household income underpins demand for mortgage finance. Typically we find tiered markets in developing countries where only the top 5% to 10% of the market are housed through the formal sector, where:

- units are professionally designed and built;
- building permits are issued;
- property is registered; and,
- most of the units are mortgaged.

Developers and owner/builders serve this market first due to lower perceived risk and higher profit margins.

The next tier is often un-served households in the 50^{th} to 90^{th} income percentile range that can qualify for finance but require an affordable product range to be built first by developers. This requires developers to build units with appropriate design standards that can be afforded by households in this income range. Without this, these households will continue to access housing supplied through informal markets in which consumer protection and legal safeguards are often lacking.

However, the single most important obstacle to producing more housing is getting market players to truly understand affordability. To serve this large market and next tier developers are required to introduce and apply innovative site layout and house design standards that increase density, lower prices and return profit to investors.

Not every household can qualify for home ownership and indeed the rental market serves an important complementary function in housing markets. Homeowners in waiting and young households need access to rental housing as they save to qualify for home ownership.

Finally, lower income groups typically cannot be served by the private sector without the provision of government subsidies. Programs that target and benefit the very poor require careful design of subsidies that do not distort markets. Typically such schemes involve the provision of upgraded infrastructure services such as water, sanitation and electricity to high density low income neighborhoods and rental assistance vouchers.

THE IMPORTANCE OF MORTGAGE FINANCE

Housing is the principal asset of the household and housing finance has a major impact on the financial or non-financial form these savings may take. When introducing mortgage finance for the first time as financial products nothing is more important than educating households on the benefits derived from a mortgage loan. Extensive mass consumer education and outreach campaigns allow the public to learn and understand what the new financial product offers to include full disclosure of their benefits and risks.

The establishment of a primary mortgage market is a critical factor in generating demand. Because a housing unit normally costs a multiple of annual household income, mortgage financing is essential in making the purchase of a home affordable. Yet mortgage financing in developing countries is often limited. Home purchases financed by the formal financial sector in many countries typically account for less than 15% of the annual value of housing investment. Home purchases as a result are usually financed by a combination of household cash savings, current income, loans from relatives and loans from moneylenders.

It is important to understand that the makeup of available financing determines the pattern of investment as well as the type and quality of housing that is built. Informal methods of financing housing predate the development of the formal financial sector. Because informal financing is lumpy, irregular and risky, incremental housing is often the result and the lack of regular housing finance programs often create large inventories of unfinished construction.

Housing finance also encourages the growth of the financial services sector, which studies have also shown to be a key factor in economic development. If consumers begin to save for down payments this increases both the assets available to the financial services sector, and the demand for more financial services. Additionally, financial markets and intermediaries act as a lubricant in well-functioning economies. They perform the crucial task of mitigating information and transactions costs and provide a needed bridge and filter between economic agents of information that otherwise would not be shared. This enables firms to allocate their resources more effectively and increase their productivity, resulting in greater overall economic growth.

Where housing is produced informally it is not uncommon for end purchasers to enter into private sales purchase agreements with independent property developers. Typical terms are 10% to 30% down with the balance due over five to seven years. Under this arrangement the end purchaser essentially leases to own and if the property is registered, it is in the name of the owner/builder until such time the note is fully paid. In highly speculative markets developers tend to concentrate only on the very high end of the market and prices and purchase terms can be even more onerous.

Mortgage loans have utility because they allow households to distribute patterns of saving, investment, and consumption in a more efficient way. Housing finance can also contribute to the deepening of the formal financial sector and a decrease in the size of informal markets. In countries where financially sound mortgage finance systems are in place, demand for mortgage loans often is so high that mortgage lending becomes the most rapidly growing segment in the financial portfolios of lending institutions.

In countries with large informal employment markets, mortgage finance not only assists qualified low and middle income households to become homeowners but also enables these households to transform accumulated housing equity into a source for financing small business activities. The following chart lists the key components and prerequisites for developing a dynamic and sustainable housing finance system:

Key Prerequisites for an Effectual and Robust Housing Finance System

- ❖ Macroeconomic stability which enhances housing affordability through lower and more stable mortgage interest rates, the adoption of consumer friendly mortgage instruments and a choice of fixed or adjustable interest rate mortgages. The national macroeconomic environment must include transparent government policies for the control of inflation, stable exchange rates, equitable taxation and private ownership of property.

- ❖ Adequate laws, titling systems, and judicial processes that allow households to establish ownership and pledge property as collateral. The enforceability of the lender's security interest is a major determinant of the attractiveness of mortgage lending. If liens are not enforceable, there is little to distinguish mortgage loans from unsecured debt. Lack of enforceability causes mortgage lending to be perceived as a high risk and unprofitable area for lending in many developing countries.

- ❖ Robust and dynamic markets for the sale and resale of new and existing housing. The presence of numerous buyers and sellers, transparent and accurate information on prices and sales characteristics, an accurate and timely title registration system and the lack of discriminatory or onerous taxes (e.g., stamp duties, high property taxes) are all necessary to foster growth in housing markets and make houses safer collateral for finance.

- ❖ Sufficient supply levels of housing units, both in volume and in price range, consistent with the national distribution of household income. Such supply characteristics implies having an efficient production process capable of generating property sales with infrastructure and services, quick license and permit approval mechanisms, short production cycles and easy access to ample acquisition finance. Formal market-based credit facilities should be predominant with government subsidy programs implemented only when necessary to stimulate participation from certain low income sectors of society.

- ❖ Competitive and efficient primary mortgage markets represented by a wide range of mortgage finance programs. Competition stimulates innovation and the adoption of cost-saving processes and technology. As markets expand and deepen, greater efficiencies in lending can offset the higher costs of small loan size for affordable housing. The ability to price for risk and the development of risk-sharing mechanisms like mortgage insurance can expand the supply of credit to low and moderate income households.

- ❖ Mortgage products that meet the needs of borrowers and lenders. A robust housing finance system generates a wide range of products to meet consumer needs and protects consumers against rogue lenders or products incompatible with their ability to repay. In addition finance must be available for housing construction and renovation, increasing the efficiency of the building process.

- ❖ An infrastructure for information for assessing collateral and credit risk. This is particularly important to address the complexities of underwriting and servicing small loans to individuals with typically undocumented and potentially unstable sources of income. The lack of, or high cost of, obtaining information, vetting it for credibility, and fitting it into established financial forms and delivery channels is a substantial impediment to mortgage-based housing finance.

- ❖ Adequate levels of household domestic savings relative to the size of the economy providing a pool of resources that can support the credit needs of households. Household savings should supply a core deposits base in the banking system.

Bank Lending in Real Estate—Current Situation in Angola

The Mission was able to perform a rough analysis of the consolidated financial statements for the banking sector in an attempt to gain insight as to the overall exposure of commercial banks to the real estate sector. This was not the normal simple task as the chart of accounts used by the BNA does not provide a breakdown of loans by sector or industry[1]. Therefore the analysis level sought was achieved through a process of deduction.

Based on the statistics available for year-end 2009[2] (there did not appear to be a significant increase in 2010 but specific information was not available) the total assets of the banking sector were the approximate equivalent of $34 billion. The total capital of the banking sector was reported to be approximately $3.4 billion or approximately 10% of total assets. Total loans outstanding as of year-end were reported at $10.8 billion (31.2% of total assets), with total deposits mobilized (both Kwanza and foreign currency) of $27 billion. The overall credit exposure of the Angolan bank outstanding to the private sector (due from) totals only $5.8 billion and is equal to approximately 54% of total loan assets. As the majority of bank credits to the private sector are known to be short-term (one year or less); it is imputed therefore that banking sector exposure to the national real estate market (construction loans and property purchase credits) is less than 10% of total loan assets outstanding—approximately $1 billion.

System-wide the commercial banks exhibit a relatively low lending rate of ≤51% of deposits. This implies that there is sufficient liquidity in the system to support new credits to the real estate sector, particularly for smaller individual mortgage loans. The banks are notably reluctant to lend in this area. Rationale for this risk adverse position can be attributed to a number of systemic issues such as:

- Demand for collateral by banks in an environment without mechanisms for perfecting liens.
- Uncertainty in the legal basis for land ownership and titling instruments.
- A weak judicial system with little or no legal precedence for debt resolutions through the bankruptcy process.
- The lack of an efficient central registry or credit bureau operation
- Caution in relation to an inflated market.

Since the end of the civil war in 2002, the banks have concentrated their activities and earned their profits primarily from transactions in short-term trade financing, and investments in high-interest government bonds. The banks have supported the real estate construction boom only marginally, financing only certain mid-level phases of a construction project on a short-term basis. In many cases these credits have been further supported by the corporate guarantees of the major offshore construction companies. It is reported that even this minimal level of lending is winding down as the impact of the end of the construction bubble begins to take effect.

The record shows that the majority of the real estate development in Angola has taken place in and around Luanda and has been dominated by speculative transactions targeted at the high end of the market only. While this has proven to be very profitable approach in the recent past, it has also created an unsustainable pricing bubble that has already shown signs of a collapse as of 2011.

[1] This shortfall is to be corrected with the new chart of accounts currently being developed for the BNA by a group of consultants from the Central Bank of Brazil

[2] See Annex D(N/A 2011), attached for a schedule of the consolidated loan outstanding for the Angolan banks as of 12/31/09

The Mission is somewhat concerned that several banks have already launched off-shore real estate investment companies that are operating as joint ventures. In this respect the line between traditional risks in bank construction financing and equity participation in funds depending on sales to return investment is becoming blurred at the risk of loss to the banks should projects not perform. There is need for a more careful analysis of supply and demand within the real estate market; taking into account the need for a market which serves the more moderate income levels and provides affordable financing for the development of new communities.

RISK OF MONEY LAUNDERING ACTIVITY IN THE REAL ESTATE SECTOR

The real estate sector provides numerous opportunities for criminal abuse. The amount of money to be made in both residential and commercial real estate creates temptations for fraud and money laundering. It is clear that the Angolan economy is not immune to exploitation of weaknesses in money laundering oversight.

The best defense against money laundering activities has proven to be a strong anti-money laundering (AML) policy, supported by the government and implemented through the banking system and its reporting requirements on large cash and suspicious transactions. In most countries the central bank, or a separate Financial Intelligence Unit (FIU) act as an overseer of the process of gathering and analyzing financial data that may allow for the detection of money laundering activities. As money laundering is usually a cross-border activity, an international network of cooperating FIUs has been established as shared information has proven to be an effective AML tool.

It should be noted that money laundering activities can easily occur outside formal banking channels, it is necessary to implement policies and procedures which will institute elements of anti-money laundering (AML) compliance to the real estate sector. These elements can be directed toward those with knowledge or, or involvement by, those professions who serve as "gatekeepers", i.e. attorneys, real estate brokers, building contractors, developers, notaries, registrars, building inspectors, moneychangers, owner/builders and similar professions/entities, who although may or may not handle funds per se, are closely involved in the process to the extent that they can be obligated to report on unusual or suspicious activity**.**

It is not within the scope of this Mission to review or comment on the efficacy of AML policies or programs in Angola. However, the Mission was disappointed to learn that to date no formal AML program for the commercial banking sector has been created nor has an FIU been established. The Mission learned that Angola is not a member of the internationally recognized Financial Action Task Force (FATF) and is in fact listed in the annual US State Department report to Congress as a 'Jurisdiction of Concern'.

Given the structure, excessive pricing and high volatility of the real estate sector noted by the Mission, it is concluded that the risk of money laundering activity occurring through real estate transactions is quite high and it is recommended that the BNA consider this issue as well in its ongoing efforts to provide a structured environment for normal housing finance and leasing operations.

PRÉCIS OF BANK LENDING TO THE ANGOLAN REAL ESTATE SECTOR

The 2010 Mission met with the management of several of the larger commercial banks operating in Angola and queried regarding their approach to and total credit exposure to the local real estate sector. Responses basically confirmed the conclusion that currently there are no publicly offered mortgage programs by any bank in Angola. While there are a handful of individual loans extended for the purpose of purchasing property being offered by three banks: BIC, BESA, and BFA, these have been structured only with multiple forms of guarantee in addition to any mortgage instrument.

Until the collateral can be effectively accessed in the event of default the banks will likely continue to require credit enhancements. These credit enhancements include corporate guarantees, individual co-obligors and alternative cash assets deposited with the bank. There is empirical evidence that in only a small percentage of cases has a recorded lien on the property been filed with the public registry. By some accounts as little as 10% of the buyers of the housing and condominium units being financed are planning to live in the units--thus making non-owner occupied (i.e. speculators) property as much as 90% of the market. The common consensus is that buyers have been attracted to this market primarily for the perceived profits to be gained from the extremely high levels of rental income that have been charged since early 2004.

The reality in 2011 is that the vast majority of the real estate sales in the local market have been the result of developer financing schemes and the banks, not traditional housing finance loans from the banks. For all practical purposes there is still no bank-led mortgage market of any magnitude but Banco BIC has begun to publish loan terms on their website for the first time.

Total residential financing exposure to banks for construction financing and "mortgages" is less than $1 billion for probably no more than a few thousand mortgage-backed loans. According to the BNA Chart of Accounts Residential Financing as reported by the banks in November 2011 is approximately $400 million dollars in total. Total long term loan assets reported by banks are approximately $4 billion dollars. It is estimated that the average size of these loans is approximately $200,000 which effectively excludes all but the very elite within the Angolan economy.

Banco BIC appears to have one of the larger "mortgage" portfolios reported by bank management at more than USD$100 million. They state that to date, they have not had a single default nor have they initiated any formal foreclosure proceedings. It is believed that this is more a reflection of the immaturity of the market (no long term history of loan repayments as yet), and the impact of the additional collateral being held, than any true reflection of the quality of these loans. It is feared that the near term effect of collapse of this market will lead to a significant rise in loan arrears and possibly an abandonment of some unfinished construction projects. The 2011 mission verified that Banco BIC is offering mortgages according to their website of up to 35 year amortization, up to 100% of the transaction value or 90% of appraised value and the borrower cannot be older than 60. These conditions violate the age restriction set by the presidential decree and likely several other criteria to which they have not yet adapted.

There is a high level of new construction in both high rise mixed use buildings that is scheduled to be delivered over the next 18 months to 2 years which could increase supply by several thousand residential units along with mixed use shopping and office product. However, the delivery of these units, coupled with the recent increase in efficiencies and lower prices for raw material imports, will likely accelerate the collapse of the current real estate bubble. There will be a notable readjustment in demand as desperate renters abandon older high rental agreements for new more competitive units. This will subsequently cause speculators to move out of the market further, causing a further increase in supply as speculators try to sell their properties. The Mission estimates that this type of correction could cause prices to cascade by 30% or 40% of their current levels.

There are currently no operating programs offered by the government or any third party funding group that we can determine that can fund or redirect the construction programs and subsequent purchase of any housing for the low income sector.

CREATING A SUSTAINABLE MORTGAGE MARKET

The following section outlines the multiple issues and impediments affecting the development of a sustainable mortgage market in Angola as well as some of the action steps considered necessary to create a residential mortgage market which serves the larger Angolan population.

Private Ownership of Land: After 30 years of civil war and a strong socialist influence the current status of land ownership in Angola remains largely in the hands of the government. There are varying degrees of private control over certain parcels of land through temporary land use grants or other de facto land controls. The Mission's meeting with the director of the Institute for Housing indicated that it is their intention to have people become true owners of their homes and he referred to the constitution which says that everyone has a right to a home. Many people have taken possession of land with an official recognition of their rights of use in the form of a "Derieto de Superfice".

Property Title Process: The process of registering private property is cumbersome and complicated; the vast majority of people appears to not want to bother to register their property or simply can't afford to do so. Included in the following is a description of some of the procedures that seem to be required to take form title to private property. It is not a complete list and a detailed study to document the actuality would be needed, however it identifies several impediments that the Mission recognizes and makes the recommendation to diminish their negative impact.

Judicial order: for an individual to take title to their property it seems that first they are required to have the appropriate certifications for the construction and use permits in addition to a document that declares that they can transition the property to Private property from surface rights. The time and money needed to do this is unknown.

Notary Public: The role of the Notario Publico is needed to document any land transaction including a mortgage. The time it takes depends on the Notario and the fees charged by Notaries are unknown but it has been stated that a Notario Publico has set up office in the public registry in an attempt to consolidate and simplify the process of registration. The 2011 mission did not have time to verify its costs or effectiveness.

Taxes and fees to be paid: the Ministry of Finance out lined the taxes that are to be paid for the transfer of property between parties. The taxes are as follows:

1. 10% of the total value being transferred; and
2. 8% of the 10% tax charged above.

Total fees to be paid are in fact nearly 11% which makes Angola one of the most expensive countries in which to buy and sell real estate. The mission recommends that this transfer tax be changed to a minor fixed fee or eliminated altogether so as to encourage individuals and businesses at all levels to formally register their property. The goal is to have an inclusive society with the vast majority of people participating in the formal economy and adding value to their properties for their own gain.

Registration process and fees: The public registry has an extremely complicated and expensive registration process. First they do not scan documents, they simply accept original hard copy forms and manually record the information. While this information may be accurate, without the original form scanned in and readily available in electronic format, the system lends itself to a less then transparent public registry. Secondly, and most importantly, the cost and complexity of calculating the fees is not a public process and in fact the fees are calculated by hand with no automated transparent matrix.

At this point it is impossible for any individual or business to know their cost based on a simple calculation. The following is a sample of the registration fee for a USD $10,000 piece of land. This calculation was performed in the offices of the Public Registry with the staff personnel in charge of the fee calculation. There is a 7 to 12 step process with extremely complicated calculations. The end result is that the fees to be paid are a total of USD $1,386. This fee includes a 30% tax on the base fees charged by the registry to be paid to the Ministry of Justice. Once the fee is calculated the payment must be made at a local bank branch. The registry does not accept money.

In the case of purchasing the property from the government, which is the case most of the time, then a purchase must be made and the government assigns an appraiser to value the transaction. In the case of most residential transaction there seems to be a relative fee dictated by the government somewhere between USD $8 and USD $30 per m^2.

Total Estimated Fees for Ownership Transfer of a 100m2 Plot of Land-Valued at $10,000

Concept	**Price**
1) Permits to convert land and "purchase" from the government $15/ m^2 (estimated average between range USD $8 to USD $30/ m^2)	$1,500
2) Transfer Tax 10% + (8%of 10%)	$1,080
3) Registration fee (tabela)	$1,386
Total	**$3,416**

The equivalent of 34% of the value of the property, which in most cases the individual is already occupying but does not have ownership rights, is prohibitive. This high cost is a significant impediment to the creation of a formal housing finance market and, if not corrected, will result in a growing market for informal housing finance that will not be eligible for any mortgage finance.

View of private property as a guarantee by banks: The general consensus of all of the banks with whom the Mission had discussions concerning the prospects of mortgage lending and financial leasing; is that the property registry is the first and principal impediment to real estate related financing. The process is costly and complicated. The value of the registry is not yet tested nor do they maintain clear records through a digital registry of scanned documents.

Foreclosure: A key factor that is also untested is that the process of foreclosure has not yet been executed. Not one bank has had to use the court system for a foreclosure and some anecdotal estimations put the time needed to execute a normal foreclosure at five years. This should be reduced to no more than two years.

Banking Incentives to Enter Long Term Mortgage Market: First and foremost there must be a clear distinction between wealth transfer (housing grants or public housing) and direct financial intermediation. Private banks have their own internal funding base to consider when developing a long term lending program of any nature as the majority of their funding is from short-term sources. However, this issue (particularly in a market of low loan to deposit ratios and excess liquidity) should not prevent the private sector financial institutions from participating in and playing a leading role in assisting a government program or a hybrid program. It is not uncommon for a government fund to be used by banks as a form of insurance and/or subsidy for all or part of their funding participation. The 2011 mission learned that apparently a fund has been created to subsidize interest rates for lower income families but this is only available on government approved projects.

It is the view of the Mission that wide spread use of financing as a tool for residential real estate acquisition will not occur until the above mentioned impediments are reduced or eliminated. That being said, the Mission is of the opinion that private banks will only enter into long term (20 to 30 years) Kwanza-based mortgage lending if there is a way to mitigate the bank's exposure to currency risk and assist them in matching short term deposit liabilities with illiquid long term mortgage assets.

Real Estate Financing—Minimum Underwriting Standards: During the Mission's meeting with the Director of the Institute of Housing he indicated that the federal government was creating a fund to assist in the financing of housing. It is not clear what structure this fund will take but serious consideration must be given to the creation of such a vehicle and its ability to incentivize local banks to participate in this financing in some capacity as well.

A key regulatory suggestion is that the entities involved in the act of lending money or offering financial leases on residential property do so within a common framework of loan documentation.

The Mission recommends the following as a set of minimum acceptable standards:

- Appraisals should be uniform and done by qualified professionals
- Transaction documents should be uniform and standardized across the market for both mortgages and lease purchase contracts. This includes:
    - Property sales contracts
    - Standardized promissory note with built-in mortgage lien
    - Industry approved format for Lease Agreements
- Disclosures for both transactions should be standardized clearly informing the buyer / lessee of the risks and obligations
- Income documentation should be standardized to include
    - Bank account records over time-- 12months, 24 months etc.
    - Verification of Employment
    - Employment pay stubs
    - Tax Returns
- Expense / Debt Documentation
    - Credit Report (increase usage of the Angolan Credit Bureau)
        - Where no credit history is available direct banking relationship inquiries must be made to investigate if any formal debt exists that could impede the borrower's ability to make the monthly payment
    - Borrower Disclosure of monthly debt payments and total liability

- Debt to Income ratios at the monthly level should be calculated and recorded in a common format so that all loans and leases can be viewed in a common risk analysis of the entire loan / lease portfolio
- A commonly accepted ratio of total monthly Debt Payments to Monthly Income (DTI) in mortgage or lessee payments is between 25% and 40%

These are considered common underwriting standards and it is critical to the future growth of the industry that they be adopted as generally accepted best practices by all groups offering real estate financing. It does not necessarily mean that all loans must meet these criteria but if the government is going to offer any guarantees or subsidies to banks or leasing companies in this segment it should only do so as it relates to loans or leases that meet the specified criteria[3].

While there is currently great potential for developing a residential mortgage market in Angola, there remain a number of political, demographic, organizational, and legal issues that must be addressed before a dynamic real estate sector with both commercial and individual home ownership components can be established. In particular, substantial policy, regulatory, and institutional advances must be made if mortgage finance is to successfully stimulate the supply and financing of affordable housing.

A major objective of the Government of Angola's financial sector reform program is the development of a program to stimulate the expansion of access to credit. BNA, as the country's central bank, considers the provision of regulatory oversight and supervision for real estate finance and real estate services to be an important step in this development process.

THE CASE OF FINANCIAL INSTITUTIONS PROVIDING HOUSING FINANCE

In the housing sector, banks and other specialized financial institutions such as thrifts, mortgage societies, primary mortgage institutions, or mortgage banks often offer the same products. Those institutions face similar risks, including credit risk exposure to the borrowers, liquidity risk from the possible loss of short-term funding, and market risk at the time of maturity.

The conditions under which deposits can be withdrawn from those institutions are often mentioned as differentiating factors between banks and specialized housing finance institutions and are viewed as justification to impose different prudential rules (such as MCR). The general rule, however, is that when specialized housing finance institutions solicit deposits directly from the public and when those institutions' deposits are guaranteed implicitly or explicitly by the government, those institutions must be regulated at least to the standards of banks.

Given that the risks of specialized housing finance institutions are sometimes greater than those of banks, which have more diversified balance sheets, there is a case for stricter regulation of those institutions. The concentration of lease assets deriving their cash flows wholly from in housing and real estate finance means that their risks may be highly concentrated, and a large overconcentration can be the source of systemic failures.

However, with the direct or implied support of the government (including the central bank) towards the development of a viable housing finance program, understanding of this hazard can be improved and measures taken to mitigate the risk of systemic failure. Eventually, the availability of a mortgage-backed securities market may help lending institutions manage their risk profile and minimize the concentration of exposures.

This has now been changed to reflect a Debt to Income Ratio "Taxa de Esforco"

In some countries, building societies—which are very similar to banks in terms of the range of financial services offered—are grouped together with other nonbank financial institutions (NBFIs) and are supervised separately, even though they need to be regulated with standards similar to those of banks.

The purpose of proposing standardized documentation and lessee criteria for residential financial leasing is to allow for increased liquidity in the housing market. The BNA or a designated Fund of the government or even a specialized NGO operation can use the standardization to facilitate investments into the housing sector. There is a certain caution in using a mandate of documentation to be used rather than an incentive to leasing and mortgage companies. The preference should be toward an incentive rather than a mandate as an order to finance only specific types of borrowers based on general criteria such as Debt to Income (DTI) ratios and employment and payment history. The BNA can act as the primary driver and coordinator for the promotion of a standardized documentation régime through a series of Avisos to the financial institutions that it supervises.

Specific Recommendations

The following section provides specific recommendations to the BNA and other related government entities to facilitate investment into the housing sector:

The consultant recommends the integration of three primary loan characteristics that are monitored by each bank and by the BNA:

1) Loan to Value (LtV)
2) Debt to Income (DTI)
3) Borrower Credit History in some numeric form.

The Decree states the Maximum Debt to Income of 40% but appears to have left it to the banks to establish Loan to Value limits and borrower credit history.

Banks are currently lending up to 100% of the property value if there exists substantial credit enhancements or guarantees. Prudent lending standards would recommend that once banks begin to build a substantial portfolio of loans that are actually collateralized by the underlying property, the BNA should monitor the average LtV and be aware of shifts above 80%. It is specifically recommended that the average transaction value be monitored and that year on year real increases (i.e. inflation adjusted) of those values be tracked to identify bubbles. If there is a significant increase year on year then the BNA may look at intervention of LtV limits to mitigate the expansion of the bubble.

The Consultant advises that at this early stage of the development of the mortgage market what is most important is to establish a transparent and healthy environment in which information is clearly communicated to the borrowers and the Banks are regularly informing the BNA of their loan products, origination pipeline and performance of its portfolio of loans. The approach focuses on two areas of concern:

1) Disclosure requirements of loan terms and the impact of different loan structures to borrowers so that they can make informed decisions.
2) The reporting by banks to the BNA of their origination activity and loan portfolio performance, with particular attention to the following:
    a. Loan to Value within the pool;
        i. Loan to Value exposure in periods of abnormal rising residential housing prices. An affordability index could be used as a benchmark for excessive

risk in certain geographic areas as well as an historic point of reference for pricing year on year.

b. Debt to Income Ratio (periodic audits by BNA inspector should ensure documentation compliance. Various practices of income proof are recommended in the development of regulations or "Avisos");
c. Credit histories. While credit reports or scoring do not yet exist independent of each individual bank it is recommended that focus be provided first to ensure the appropriate roll out of the public credit bureaut and that emphasis is placed to facilitate the entrance of private credit rating agencies into the market to demonstrate borrower credit history. It is well established that poor credit history correlates highly with deficiency and default rates; and
d. It is recommended that the BNA require and review monthly or quarterly information provided from the banks regarding the number and quality of pre-applications that each bank receives and whether they are accepted or declined. If they are declined then a reason why should be given. This is critical if the BNA is going to evaluate whether the banks are meeting the needs of the people or not.

It is these two tools by which the BNA can first protect the interests of borrowers and later after a significant pool has been originated the BNA can begin to monitor the bank's exposure to any possible systemic risks.

There is significant moral hazard that exists when loan programs are encouraged or subsidized by governments; however, as there is currently no secondary market, and given the fact that it is highly unlikely that one will come into existence within the next few years, the BNA has some time to prepare the framework for further supervision while banks carry these loans on the balance sheets. The ability of banks to sell all or part of their loans in the future must be addressed and how ongoing loan servicing would be managed is critical.

The Basel II framework has been supplanted by Basel III which has yet to be implemented. Basel II allowed banks to use Internal Risk Based assessments which proved to be inadequate as bankers consistently under estimated the risk of their loans and will likely be revised to a more specific and higher capital ratio for mortgage loan portfolios. Regardless of future Basel recommendations the critical factor for the BNA is to receive the necessary information from the banks to make their own evaluations about bank risk and any systemic impact that might exist.

During the assignment the consultant worked with the BNA working group to analyze the Presidential Decree and specifically define certain concepts for the banks such as proof of family income, debt to income ratios and loan to value limits that could be considered international best practices. It is also important to emphasize the consultant's recommendation that a system for individual credit histories to be scored and integrated into the bank reporting process in addition to reforms in the Public Registry, Property Rights, Judicial Processing, Foreclosure Processing, and Bankruptcy clarification/simplification.

In addition to the above recommendations there are the following technical recommendations that are NBFI related:

- Eliminate the transfer tax of 10% + (8% of 10%).
- The Public Registry of "Registro Publico" fees should be reduced to one fee per recording and not based on an inverse graduated scale. The public registry is for the transparency and

protection of all parties involved and should encourage individuals and entities at all levels to participate. The costs of recording to not vary by the value of what is being recorded.

- The government should actively promote the benefits to the community to register their properties as Private Property and encourage the transition from rights of use or "dereito de superfice".
- The establishment of an extra-judicial foreclosure process.

In total, this paper provides guidelines for best practices in how real estate financing (direct mortgage lending) *ought to be developed* and supervised in Angola. It is important to note that the paper includes a number of subject-related annexes which are considered as essential to the value of the report as well as the scope of the Mission's purpose. It is recommended that the annex papers be reviewed by all parties for not only a better understanding of the concepts brought forward in this study but also by those interested in the goal of developing a dynamic and broad residential housing sector within Angola.

ANNEX I: LIST OF CONTACTS AND PERSONS VISITED (2010)

Banco Nacional de Angola (BNA)-Administration and Mission 'working group'
Laura M.P. de Alcântara Monteiro—Vice Governor
Dra. Beatriz Ferreira de Andrade dos Santos, General Manager, Bank Supervision
Pedro Ntima, Bank Examiner
Domingos Major, Bank Examiner
Maria ___. Bank Examiner
Falvio Antonio Garrido, Auditor, Banco do Brasil
João Alberto Magro, Consultant/Auditor, Banco do Brasil

USAID/ US EMBASSY
Randall Peterson, USAID Mission Director
Vic Duarte, USAID Supervisory General Development Officer
Domingos Menezes, USAID Development Officer
Jeffery Izzo, Chief of Political Economic Section, US Embassy

Central Registry Office -Registro Predial
Dra. Beatriz Soarez, General Manager

Ministry of Finance
Abilio Costa, Head of Normas Tributarias (Taxes)

Ministry of Housing and Urbanism-National Institute of Housing
Eugénio da C. Alexandre Correia – General Manager

BancoBIC
Graça Pereira – Administradora
José Carlos Silva – Director Central

Banco Espírito Santo Angola
Antonio de Silva Inácio, Executive Administrator--Credit

Banco de Poupança e Credito (BPC) – State-owned Savings Bank
Antonino da Silva Inácio – Executive Director
Joao Handanga, Director General Real Estate Lending
Filipe Gonçalves, Senior Consultant

Associação de Bancos de Angola
João Fonseca Administrador Executivo and President of the Association
José Carlos CA. Marques – Director Executivo
Present in meeting were representatives from:
Banco Totta, BFA, BCA, BancoBIC, BAE and Banco Keve

ESCOM Imobiliária—Subsidiary of Banco Espirito Santo and principal developer of a 150 Condominium Development in Luanda Sul
Jorge Gonçalves – Supervising Sales Manager

Associação dos Profissionais Imobiliários de Angola (APIMA)
Branca Neto do Espírito Santo - Presidente de Direcção

World Bank Group
Ricardo Gazel, Senior Economist, Angola

ANNEX II: AVISO

Aviso do Banco Nacional de Angola Dec 2011

A Instrução nº _____ consagrou no ordenamento jurídico nacional os procedimentos mais relevantes da Recomendação da Comissão nº______, que procurou harmonizar a informação prestada pelas instituições de crédito previamente à celebração de contratos de crédito à habitação.

Não obstante o contributo das suas disposições para o aumento da transparência nas condições de acesso ao crédito à habitação, considera-se agora necessário rever os requisitos mínimos de informação que as instituições de crédito devem prestar aos clientes, face à crescente diversidade e complexidade dos produtos de crédito comercializados, as alterações legislativas entretanto introduzidas e as conclusões retiradas da fiscalização ao funcionamento do mercado de crédito à habitação que o Banco Nacional de Angola tem vindo a desenvolver no desempenho das suas funções de supervisão comportamental.

Através do presente Aviso o Banco Nacional de Angola reforça os deveres de informação das instituições de crédito na negociação e celebração de contratos de crédito à habitação e estabelece deveres de informação na vigência desses contratos. Incrementa-se, assim, a transparência, qualidade e rigor da informação a ser prestada aos clientes bancários e promove-se a comparabilidade entre diferentes alternativas de financiamento..

Ao abrigo das regras consagradas no presente Aviso, as instituições de crédito estão obrigadas a disponibilizar aos seus clientes uma ficha de informação normalizada logo no momento da simulação do crédito à habitação.

Posteriormente, com a aprovação do empréstimo, as instituições de crédito devem entregar aos clientes, além da respectiva ficha de informação normalizada, uma minuta do contrato a celebrar.

Define-se ainda um conjunto mínimo de elementos sobre as condições financeiras do empréstimo que obrigatoriamente devem constar do contrato de crédito à habitação e estabelece-se o dever de prestação de informação periódica sobre a evolução do empréstimo durante a vigência do respectivo contrato.

Por força do disposto no ________________, que veio estender o regime do crédito à habitação aos denominados «contratos de crédito conexo», as instituições de crédito devem também cumprir os deveres de informação previstos no presente Aviso no âmbito da negociação, celebração e vigência dos contratos de crédito em que a garantia hipotecária incida, total ou parcialmente, sobre um imóvel que, simultaneamente, garanta um crédito à habitação por elas concedido.

Artigo 1.º

Objecto

O presente Aviso estabelece os deveres mínimos de informação a observar pelas instituições financeiras autorizadas pelo Banco Nacional de Angola, na negociação, celebração e vigência de contratos de crédito à habitação.

Artigo 2.º

Âmbito

O presente Aviso aplica-se a todas as instituições financeiras sujeitas à jurisdição e supervisão do Banco Nacional de Angola nos termos da Lei n.º 13/05, de 30 de Setembro – Lei das Instituições Financeiras;

Artigo 3.º

Definições addicionais a os do Decreto Presidencial do 30 de Setembro

Para efeitos do presente Aviso, entende-se por:

a) «Crédito à habitação»: os contratos de crédito para aquisição, construção e realização de obras em habitação própria permanente ou secundária, bem como para aquisição de terrenos para construção de habitação própria;
b) «Empréstimo»: qualquer contrato de crédito à habitação comercializado numa base regular, que configura, face a opções de financiamento alternativas, a modalidade mais simples, com taxa de juro fixa ou variável indexada à Luibor, à qual acresce o spread base atribuído ao cliente, reembolsado, desde o início, em prestações constantes de capital e juros;
c) «Aprovação do empréstimo»: decisão da instituição financeira de proceder à concessão do empréstimo, na sequência da análise dos elementos necessários a essa concessão, incluindo o resultado da avaliação do imóvel;
d) «Comissões»: as prestações pecuniárias exigíveis aos clientes pelas instituições financeiras como retribuição pelos serviços por elas prestados, ou subcontratados a terceiros, no âmbito da negociação, celebração e vigência dos empréstimos;
e) «Despesas»: os demais encargos suportados pelas instituições financeiras, que lhe são exigíveis por terceiros, e repercutíveis nos clientes, nomeadamente os pagamentos a conservatórias, cartórios notariais, seguradoras ou que tenham natureza fiscal;
f) «LUIBOR»:a taxa de juro de referência de acordo com o Aviso n.º 12/2011, de 20 de Outubro;
g) «TAN»: a taxa de juro anual nominal;
h) «Taxa de juro fixa»: a taxa de juro determinada pela instituição financeira para os empréstimos abrangidos pelo regime de taxa fixa;
i) «Taxa de juro fixa contratada»: a taxa de juro determinada pela instituição financeira para os empréstimos abrangidos pelo regime de taxa fixa, em resultado da existência de vendas associadas facultativas, condições promocionais ou outras situações susceptíveis de afectar o custo do empréstimo;
n) «*Spread* base»: a margem aplicada sobre o indexante, em regime de taxa de juro variável, ou sobre a taxa de referência, em regime de taxa de juro fixa, se aplicável, atribuída ao cliente após avaliação do seu risco de crédito e das garantias oferecidas para cumprimento do empréstimo;
o) «*Spread* contratado»: a margem aplicada sobre o indexante, em regime de taxa de juro variável, ou sobre a taxa de referência, em regime de taxa de juro fixa, se aplicável, atribuída ao cliente em resultado da existência de vendas associadas facultativas, condições promocionais ou outras situações susceptíveis de afectar o custo do empréstimo;
p) «Suporte duradouro»: qualquer instrumento que permita armazenar informações sobre o cliente de modo a que, no futuro, se possa ter acesso fácil às mesmas durante um período de tempo adequado aos fins a que essas informações se destinam e, bem assim, reproduzi-las de forma integral e inalterada.
q) Rendimento anual bruto do agregado familiar: Toda a renda familiar deve ser documentado com recibos de pagamento, as declarações fiscais uo, extratos bancários e deve ser dividida em quantidades mensais e em comparação com o custo esperado mensal da hipoteca, seguro e impostos predias.
h) Taxa de esforco: A referida na alinea h) do artigo 2.do Decreto Presidencial de 30 de Setembro, o BNA recomenda como boa pratica uma taxa de esforco nao superior a 27%.

i) Rendimento do Empresario A referida na alinea 2 do artigo 15 do Decreto Presidencial de 30 de Setembro. O rendimento dos trabalhadores independentes os candidatos e os proprietários do negócio é geralmente mais difícil de verificar, e que muitas vezes exige que o segurador faca um julgamento sobre a viabilidade de longo prazo de interesse do requerente de negócios.

Para verificar o auto-emprego e de renda para apoiar uma avaliação de quanto de renda em curso a partir de fontes como provavelmente estarão disponíveis para satisfazer os pagamentos da hipoteca, o subscritor deverá reunir os seguintes documentos em relação a cada fonte de auto-emprego renda que é reclamada sobre o pedido:

Declarações de imposto de renda de relatórios de cada fonte de auto-emprego para os últimos três anos, como disponível.

. Demonstrações financeiras para os últimos três anos para cada empresa que está gerando renda alegou auto-emprego. Quando disponíveis, essas declarações deveriam ter sido certificadas para a precisão por um auditor, que é independente do negócio.

. Extratos bancários demonstrando depósitos regulares na verificação do requerente ou conta poupança nos últimos 12 meses.. O último depósito não deve ser superior a 30 dias.

O mutuário deve apresentar as demonstrações financeiras de empresas nos últimos três anos e cópia dos lucros da empresa e as demonstrações de fluxo de caixa dos últimos três meses.

Artigo 3.º

Dever de informação

1 - As instituições financeiras devem informar os clientes sobre os diferentes elementos caracterizadores dos empréstimos que comercializam, bem como sobre os diversos encargos a suportar pelos clientes.

2 - A informação a prestar pelas instituições financeiras no âmbito da negociação, celebração e vigência de contratos de crédito à habitação deve ser completa, verdadeira, actual, clara, objectiva e apresentada de forma legível.

3- O BNA recomenda que uma programa de educação do comprador deve ser implementadas em cada banco, a fim de mitigar o risco de crédito dos mutuários. An outline for this program is included in the Anexo.

Artigo 4.º

Informação pré-contratual

1 - Com a simulação das condições do empréstimo, realizada aos balcões das instituições financeiras, através dos seus sítios na Internet ou por qualquer outro meio de comunicação, as instituições financeiras devem disponibilizar aos clientes a ficha de informação normalizada elaborada com base nos elementos informativos por estes apresentados.

2 - Em simultâneo com a comunicação da aprovação do empréstimo, as instituições de crédito devem entregar aos clientes uma ficha de informação normalizada que incorpore as condições do empréstimo aprovadas.

3 - Sem prejuízo do disposto noutras normas legais ou regulamentares em vigor, a informação a prestar pelas instituições de crédito, nos termos dos números anteriores, deve incluir, nomeadamente:
a) TAN;
b) TAE;

d) Descrição das características do empréstimo;
e) Custos do empréstimo; e
f) Planos financeiros do empréstimo para a taxa de juro nominal na data da simulação ouaprovação, para a taxa de juro nominal agravada em um e dois pontos percentuais e para o empréstimo
padrão.
4 - O Banco Nacional de Angola fixa, por Instrução, o modelo e a informação a prestar através da ficha de informação normalizada a que se referem os números anteriores do presente artigo.
5 - O disposto no presente artigo não preclude a faculdade de as instituições poderem prestar aos seus clientes elementos informativos adicionais relativos às condições do empréstimo,

designadamente através da disponibilização de uma ficha de informação normalizada em momento
prévio ao da aprovação desse empréstimo, a qual deve respeitar o modelo a definir em Instrução.
Artigo 5.º
Entrega de minuta do contrato
1 - Sem prejuízo do cumprimento de outras obrigações legais e do disposto no nº 2 do artigo 4.º do
presente Aviso, com a comunicação da aprovação do empréstimo, as instituições de crédito devem
também entregar aos clientes a minuta do contrato a celebrar.
2 - A minuta de contrato referida no número anterior deve conter os elementos indicados no artigo
6.º do presente Aviso e reflectir as condições do empréstimo descritas na respectiva ficha de
informação normalizada.
Artigo 6.º
Informação a prestar no contrato
Sem prejuízo do disposto na lei, o contrato de empréstimo deve especificar os seguintes elementos:
a) Montante do empréstimo;
b) Finalidade do empréstimo;
c) Regime de taxa de juro aplicável;
d) Indicação da TAN, suas componentes e forma de cálculo, incluindo a taxa de juro fixa, a taxa de
juro fixa contratada, o *spread* base e o *spread* contratado, se aplicáveis;
e) Indicação da TAE;
f) Descrição das condições promocionais, se aplicáveis;
g) Identificação dos produtos e serviços financeiros adquiridos pelo cliente, de forma facultativa,

em associação ao empréstimo, descrição dos efeitos dessa aquisição nos custos do empréstimo e
explicitação das condições de manutenção e de eventual revisão desses efeitos, se aplicável;
i) Outras situações susceptíveis de afectar o custo do empréstimo e explicitação das respectivas condições de aplicação, manutenção e possibilidade de revisão, se aplicável;
j) Condições de reembolso do empréstimo:
i) Modalidade de reembolso;
ii) Regime das prestações;
iii) Prazo do empréstimo;
iv) Número e periodicidade das prestações;
v) Montante das prestações a vigorar até à primeira revisão da taxa de juro, sempre que determinável, e sem prejuízo de, no caso de contrato de crédito à habitação enquadrado no regime de crédito bonificado, esse montante depender de posterior confirmação pela entidade competente; e
vi) Data de vencimento das prestações;
k) Identificação das garantias do empréstimo;
l) Identificação e quantificação das comissões que, à data de celebração do contrato, são aplicáveis ao empréstimo e em que condições estas poderão ser revistas no futuro; e
m) Identificação dos encargos aplicáveis em caso de incumprimento, bem como das condições em que os mesmos poderão ser revistos no futuro.

Artigo 7.º

Informação a prestar ao durante a vigência do contrato

1 - Durante a vigência do contrato, as instituições de crédito devem disponibilizar aos clientes um extracto mensal, que inclua, pelo menos, os seguintes elementos:
a) Identificação do empréstimo e do montante do capital em dívida à data de emissão do extracto;
b) Número e data de vencimento da prestação subsequente à data de emissão do extracto;
c) Montante da prestação subsequente à data de emissão do extracto, com desagregação das
respectivas componentes de capital e juro;
d) TAN aplicável à prestação subsequente à data de emissão do extracto, com identificação das suas componentes;
e) Indicação do escalão e montante de bonificação de juro aplicável à prestação subsequente à data de emissão do extracto, no caso de contrato de crédito à habitação enquadrado no regime de crédito bonificado;
f) Identificação e montante de eventuais comissões e despesas a pagar pelo cliente na data de vencimento da prestação subsequente à data de emissão do extracto;
g) Montante total a pagar pelo cliente na data de vencimento da prestação subsequente à data deemissão do extracto, em resultado do disposto nas alíneas *c)*, *e)* e *f)* do presente número;

2 - Sem prejuízo do disposto no número anterior, quando o extracto mensal não for enviado com uma antecedência mínima de 15 (quinze) dias relativamente ao vencimento da prestação subsequente, as instituições devem, em caso de alteração da taxa de juro do empréstimo nos termos contratualmente previstos, comunicar aos clientes, com uma antecedência mínima de 15 (quinze) dias relativamente à data de vencimento da prestação subsequente a essa alteração, os seguintes elementos:
a) Número, data de vencimento e montante da prestação subsequente a essa alteração; e

b) TAN aplicável à prestação subsequente, com identificação das suas componentes.
3 - Sempre que, nos termos do contrato, seja conferido à instituição de crédito o direito de modificar por sua iniciativa as condições contratuais com reflexo no valor da prestação, que não resultem de alterações da taxa de juro nos termos contratualmente previstos, deve a mesma comunicar aos clientes o teor dessas alterações, com uma antecedência mínima de 30 (trinta) dias relativamente à data pretendida para a sua aplicação, sem prejuízo de outros prazos legal ou regulamentarmente fixados.
4 - A informação referida no número anterior deve ser prestada, sempre que possível, através do extracto mensal referido no nº 1 do presente artigo.
5 - No caso de comunicações relativas ao incumprimento de obrigações contratuais, as instituições de crédito devem informar o cliente sobre as prestações ou outros valores em dívida à data de emissão dessa informação, bem como os montantes devidos a título de mora, com identificação da respectiva taxa e base de cálculo.
Artigo 8.º
Cumprimento dos deveres de informação
1 - As instituições de crédito podem cumprir os deveres de informação previstos no presente Aviso mediante a prestação de informação em papel ou noutro suporte duradouro, excepto se o cliente solicitar, de forma expressa, a prestação de informação em papel.
2 - No caso dos empréstimos existentes à data da entrada em vigor do presente Aviso, a informação prevista no artigo 7.º deve ser prestada ao cliente através do suporte e do meio de comunicação contratualmente acordado, ou, na ausência de disposição contratual, através do suporte e do meio habitualmente utilizado, salvo se o cliente autorizar, de forma expressa, a alteração do suporte e do meio de comunicação a ser utilizado para o efeito.
3 - Compete às instituições de crédito a prova da disponibilização aos clientes da informação prevista no artigo 3.º, no nº 2 do artigo 4.º e nos artigos 5.º, 6.º e 7.º do presente Aviso.
Artigo 9.º
Regime sancionatório
A violação do disposto no presente Aviso é punível nos termos do Regime Geral das Instituições de Crédito e Sociedades Financeiras.
Artigo 10.º
Norma revogatória
É revogada a Instrução nº 27/2003, publicada no Boletim Oficial do Banco Nacional de Angola de 17 de Novembro de 2003.
Artigo 11.º
Aplicação no tempo
1 - O disposto no presente Aviso aplica-se aos empréstimos que venham a ser celebrados após a sua entrada em vigor.
2 - Aos empréstimos já celebrados à data de entrada em vigor do presente Aviso, é aplicável o disposto no nº 2 do artigo 3.º e o disposto nos artigos 7.º a 9.º do presente Aviso.

Artigo 12.º

1. O Dever de Prover Informacao ao BNA sob Originacao:

#	Topico	Comentario

1	Número de aplicativos ou Empréstimo	
2	Data de Aplicação	
3	Tipo de Empréstimo	
4	Tipo de Imóvel	
5	Finalidade do Empréstimo	
6	Proprietário Mora en o Imovil	
7	Valor do Empréstimo	
8	a pré-aprovação	
9	Medidas tomadas	
10	Data de Ação	
11	Localização do Imóvel	
12	Sexo do Mutuário	
13	Renda Mutuário (s) (Bruta Anual)	
14	Dívida à relação da renda	
15	Empréstimo) ao Valor da Propriedade	
16	Fixa ou Variável	
17	A partir TAE (taxa anual)	
18	Índice	
19	Spread do Índice	
20	Período para ajuste anterior (ie 1,3,5 anos)	
21	Freqüência de Ajustes (ou seja, mensal, anual)	
22	Termo de Empréstimo (anos 5-30)	
23	Historial do Credito (por norma Clasificacao do Risco)	

Consulte o formulário em anexo, que poderá ser entregue até 15 dias após o encerramento de cada trimestre por e-mail ao regulador BNA para o seu bairro ..

2. O Dever de Prover Informacao ao BNA sob o Cartera de Emprestimos Hipotecarios :

#	**Topico**	**Comentario**
1	Número de aplicativos ou Empréstimo	
2	Data de Aplicação	
3	Tipo de Empréstimo	
4	Tipo de Imóvel	
5	Finalidade do Empréstimo	
6	Proprietário Mora en o Imovil	
7	Valor do Empréstimo	
8	Valor do Imovil	
9	Ratio Emprestimo / Imovil	
10	Dívida à relação da renda	
11	Localização do Imóvel	
12	Fixa ou Variável	
13	A partir TAE (taxa anual)	
14	Índice	
15	(Spread) do Índice de	
16	Período para ajuste anterior (ie 1,3,5 anos)	
17	Freqüência de Ajustes (ou seja, mensal, anual)	
18	Termo de Empréstimo (anos 5-30)	
19	Historial Crediticia (por definir)	
20	A cartera com moro de 30, 60, 90 dias	
21	Cartera em Default	
22	Montos recuperados de “Foreclosure”	

23	Total de Dias en “Foreclosure”	

ANNEX III: FED RESERVE OF PHILADELPHIA – MORTGAGE BANK EXAMINATION PROCEDURES

ANNEX IV: FED RESERVE LOAN REPORTING FORM