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European Bank
for Reconstruction and Development

Corporate Governance in Transition Economies

Kyrgyz Republic Country Report

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The report is based on information available at the end of April 2015.

If you believe that the information has changed or is incorrect, please contact Gian Piero Cigna at cignag@ebrd.com

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The team is grateful for the assistance provided by all parties involved in this exercise.

Finally, the Legal Transition team would like to express its thanks and appreciation to Gabrielle Cordeiro and David Risser from Nestor Advisors Ltd for the assistance provided in relation to the analysis of countries and the drafting of the reports.

This Report – along with all other country reports prepared within this initiative – is available at: http://www.ebrd.com/what-we-do/sectors/legal-reform/corporate-governance/sector-assessment.html

Foreword

As part of its Legal Transition Programme, the European Bank for Reconstruction and Development ("EBRD") has been assessing the state of legal transition in its countries of operations. These assessments provide an analysis of the progress of reform and identify gaps and future reform needs, as well as strengths and opportunities.

In 2012, the Legal Transition team within the EBRD Office of the General Counsel (LTT) developed with the Assistance of Nestor Advisors a methodology for assessing corporate governance frameworks and the governance practices in the EBRD countries of operations. This assessment was implemented in 2014-2015 (the "Assessment").

The Assessment aims at measuring the state of play (status, gaps between local laws/regulations and international standards, effectiveness of implementation) in the area of corporate governance

The Assessment is meant to provide for (i) a comparative analysis of both the quality and effectiveness of national corporate governance legislation (including voluntary codes); (ii) a basis to assess key corporate governance practices of companies against the national legislation; (iii) an understanding whether the legal framework is coupled with proper enforcement mechanisms (e.g., sanctions) and/or with authorities able to ensure proper implementation; (iv) a support to highlight which are the major weaknesses that should be tackled by companies and legislators for improving the national corporate governance framework; and (v) a tool which will enable the EBRD to establish "reference points" enabling comparison across countries.

This country report is part of a series of 34 country reports. A general report synthesising all countries will close the Assessment.

Methodology

This Assessment is based on a methodology designed to measure the quality of legislation in relation to best practices requirements and the effectiveness of its implementation as evidenced by companies' disclosure, also taking into consideration the capacity of the institutional framework (e.g., courts, regulators) to sustain quality governance. The analytical grid developed for assessing the governance framework is based on international recognised best-practice benchmarks (e.g., OECD Corporate Governance Principles, Development Financial Institutions, EBRD, IFC and World Bank ROSC governance methodologies). The methodology is applied identically across all the countries reviewed. The process for gathering, analysing and reporting information is applied identically for each of the countries assessed, which allows comparing countries to each other across a long a set of benchmarking points.

For the purpose of the Assessment, the corporate governance framework and the practices were divided in five key areas: (i) Structure and Functioning of the Board; (ii) Transparency and Disclosure of company information; (iii) Internal Control; (iv) Rights of Shareholders; and (v) Stakeholders and Institutions. Each of these key areas is further divided in sections (for instance, the area "Structure and Functioning of the Board" is divided in five sections: Board composition; Gender diversity at the board; Independent directors; Board effectiveness; and Responsibilities of the board). Each section is further divided in subsections (for instance, the section "Independent Directors" is divided in three subsections: "Requirement to have independent directors"; "Definition of Independence"; and "Disclosed practices").

The assessment started by sending a questionnaire to law firms, audit firms, national regulator(s), ten largest (listed) companies, and stock exchange(s) in each country. Questions were different according to the respondents, which were asked to provide information on the legislation and on how they believe the legislation is implemented.

Responses were assigned to the corresponding subsection(s) and validated by the EBRD corporate governance specialists by looking at the applicable framework and at the disclosure offered by the ten largest (listed) companies in each country. In this respect, the working hypothesis was that the ten largest listed companies are those offering the best disclosure in each country. As such, we presumed that when certain practices were not disclosed by them, they were unlikely to be disclosed by smaller or unlisted companies. The ten largest companies were identified according to their market capitalisation. When a country did not have a stock exchange, there were less than ten listed issuers or there were no data on capitalisation of issuers, the ten largest companies were identified according to their revenues and size of the labour force. In case the largest companies were mostly of one sector (e.g., financial institutions), then the sample of ten companies was corrected to reflect other sectors of the economy.

The validation of responses was undertaken by the corporate governance specialists within the Legal Transition Team through desktop research. This research was conducted both on legislation and on the practices disclosed by the largest (listed) companies (e.g., companies' websites, annual reports, stock exchanges database etc.). In addition, the relevant reports by international financial institutions (e.g., IMF, World Bank, IFC, Transparency International, etc.) were analysed and taken into consideration. Answers received by respondents that were not grounded by specific references to legislation or consistent with the disclosed practices were not taken into consideration.

Following the validation process, each subsection was compiled by adding specific references to legislation and practices. Conclusions were then formulated for each subsection, each rated as per their adherence to international governance standards. The score ranges from 1 (very weak) to 5 (strong). The rating for each section was then calculated by averaging the ratings of the subsections.

Because understanding corporate governance requires a "holistic perspective", where each component needs to have a place in the overall picture – pretty much like a puzzle - in case one of the subsection was rated "weak" or "very weak", the resulting average was decreased by 0.2; in case more than one subsection was rated "weak" or "very weak", the resulting average was decreased by

0.5. This is because if just one component is not fitting well with the others, then all others are weakened. Similarly, the overall strength diminishes if there are more weak components.

Conversely, in order for the framework to be strong, all components need to be well fitting with each other. Hence, in case all subsections were scored “moderately strong” or “strong”, then the resulting average was increased by 0.5. However, this “positive” adjustment was used with some care as the assessment looked at the top ten largest companies in the country, hence findings tended to be often overly optimistic.

Key areas were then rated according to the same criteria.

The ratings are presented through the colours detailed in the box below and they demonstrate the adequacy or need of reform in respect to each governance area and section.

Rating:

“Strong to very strong” (DARK GREEN) - The corporate governance framework / related practices of companies are fit-for-purpose and consistent with best practice.

“Moderately strong” (LIGHT GREEN) - Most of the corporate governance framework / related practices of companies are fit-for-purpose but further reform is needed on some aspects.

“Fair” (YELLOW) - The corporate governance framework / related practices of companies present some elements of good practice, but there are a few critical issues suggesting that overall the system should be assessed with a view of reform.

“Weak” (ORANGE) - The corporate governance framework / related practices of companies may present few elements of good practice, but overall the system is in need of reform.

“Very weak” (RED) - The corporate governance framework / related practices of companies present significant risks and the system is in need of significant reform.

We believe corporate governance cannot be captured and measured simply by numerical values. Hence, alongside the “quantitative” assessment obtained according to the methodology described above, a “qualitative” assessment was also undertaken, by classifying our findings for each section as “strengths” and “weaknesses”. Because understanding corporate governance requires a “holistic perspective”, when the “quantitative” assessment was finalised, the assessment team compared it with the “qualitative” assessment, and when any inconsistency (i.e. material weaknesses or strengths) was noticed, the average scores of the sections were adjusted by up to ±0.5.

A preliminary version of the Assessment was made public for consultation. The comments and corrections received during the process were analysed by the corporate governance specialists. When confirmed, the corrections were reflected in the final ratings and in this Assessment.

Overview

Legislative framework

The primary sources of corporate governance legislation in the Kyrgyz Republic are the Law On joint stock companies; the Law on Banks and Banking Activity; the Law on Securities Market; the Administrative Code and the Resolution N32/7 of the National Bank on Principal Requirements for the Audit Committee.

A National Corporate Governance Code was enacted in December 2012 and approved by the Order of the Executive Council of the State Service for Regulation and Supervision of the Financial Market in the Kyrgyz Republic. The Code is voluntary and does not seem to be taken as a reference.

Structure and functioning of the board

Joint stock companies are organised under a two-tier board system, where members of the executive body cannot sit on the board. Companies with less than 50 shareholders can decide not to establish a supervisory board. The boards of the ten largest companies are small, with an average of 4.8 members. Evidence shows that smaller boards tend to perform better, provided there is sufficient support and diversity of skills, but this does not seem to be the case in the Kyrgyz Republic. Gender diversity on the boards is also very limited.

There are no qualification requirements for board members of companies. As far as banks are concerned, only a few qualification requirements are specified in the banking law.

Only banks are required to have independent directors, but the definition of independence is not comprehensive. Even banks do not disclose having independent directors on their boards.

In companies, there is no requirement to have “board” committees. Companies are required to have an “audit committee” but this body is appointed by the general shareholders’ meeting and cannot include board members. In practice, this committee cannot be accurately classified as a “board” committee and we have doubts about its effectiveness. In banks, the framework is clearer and the audit committee must be made of independent board members. However, only one bank in our sample discloses having an audit committee in place, but its composition is not disclosed. Other board committees are only recommended and they seem to be rare.

The law requires companies to have a corporate secretary function and most companies seem to comply, but the actual role played by corporate secretary is merely administrative. There is no developed practice of board evaluation.

The Law on joint stock companies does not refer to all the key functions that should be performed by the board. The law explicitly mentions the approval of strategy and oversight of management; however, the board is not clearly assigned with the authority to approve the budget, the company’s risk profile and key governing policies. The banking law is more comprehensive, as it assigns all these roles to the banks’ board.

The legal framework on directors’ duties is not developed. Liability of board members and conflict of interest are regulated by law; nevertheless, legislation does not seem to be comprehensive. Also the judicial practice and case law in this area are limited.

Transparency and Disclosure

The law requires companies to prepare and disclose their annual report, which should include both financial and non-financial information. The corporate governance section in the annual reports is very limited though and disclosure is often limited to the names of board members and management. Disclosure on boards’ and committees’ (when present) qualifications, meetings and activities is also very limited. Companies do not disclose transactions in company’s shares undertaken by executives or board members. Despite the requirement to have financial information in line with IFRS, not all of the largest companies do so.

Companies and banks are required to have an external audit and to disclose the auditors’ name and report, and most companies seem to comply with this requirement. Auditors are allowed to provide non-auditing services. This should be carefully monitored as it might undermine the auditor’s independence. Unfortunately, no company seems to disclose any information on that.

Internal Control

Only banks are required to establish an internal audit function. There is no requirement for banks to create a standalone compliance function.

Companies are not required to have board level audit committees. Banks are required to have an audit committee composed of three independent board members. However, in our sample, only one bank discloses having such committee in place. Companies are required to establish a “revision commission”, appointed by the general shareholders meeting and reporting to it. The effectiveness of this body is questionable.

In banks, the external auditor is appointed by the general shareholders meeting; whilst in companies it is appointed by the board, which is not in line with best practices. There is no rotation requirement for external auditors. The law requires the external auditor to be independent, but it is not clear who should run the “*independence test*”. Provision of non-auditing services by the external auditor is allowed, which can negatively affect auditors’ independence.

There is no requirement for the adoption of a code of ethics and none of the largest companies discloses having one. There is no comprehensive whistleblowing legislation in place.

Related party transactions and conflicts of interests are regulated by law; however, it is not clear how the law is implemented and enforced in practice, especially if there is no requirement to establish an independent audit committee.

Rights of Shareholders

Shareholders representing at least 1% of the shares may nominate candidates to the board and include additional items on the agenda of the general shareholders’ meeting (GSM). Shares carry voting rights in proportion to their value.
Shareholders have cumulative voting rights and the right to access corporate documentation. Derivative claims are regulated by the Joint Stock Company Law. Supermajority is required for major corporate decisions. Shareholders owning at least 20% of the company’s shares can call a general shareholders’ meeting. This threshold seems excessively high.
Pre-emptive rights in open joint stock companies are granted only if provided by the articles of association.
Cumulative voting is foreseen by law and it appears to be widely used in practice. There is, however, no disclosure or case law in this area.
Insider trading is regulated by law. There is no evidence, however, that insider trading regulation is well enforced in practice.
Related party transactions are regulated by law and in all cases of related party transaction, the auditor must be informed and a comparison with the market value of the transaction must be provided. Information on related party transactions should be included in the annual reports. However, disclosures on this matter are limited.
Significant ownership variations must be disclosed. Shareholder agreements are not regulated by law. Registration of shareholding by an independent registry is required by law. Free transferability of shares of open joint stock companies cannot be restricted.

Stakeholders and Institutions

The institutional framework supporting good corporate governance needs improvement.
The stock exchange has limited capitalisation and liquidity.
International law firms and international rating agencies have limited presence in the country, whilst the largest audit firms have their offices in the country. These firms usually provide some contribution to enhancing good corporate governance.
There is no information on local organizations, such as Institute of Directors, active in the promotion of good corporate governance.
A Corporate Governance Code exists since 2012. The Code recommends companies to adopt their own corporate governance code taking into consideration the Code’s recommendations. In practice, there is no evidence of the Code’s implementation.
Indicators by international organisations show a framework under an urgent need for reform, where corruption is still perceived as a critical problem.

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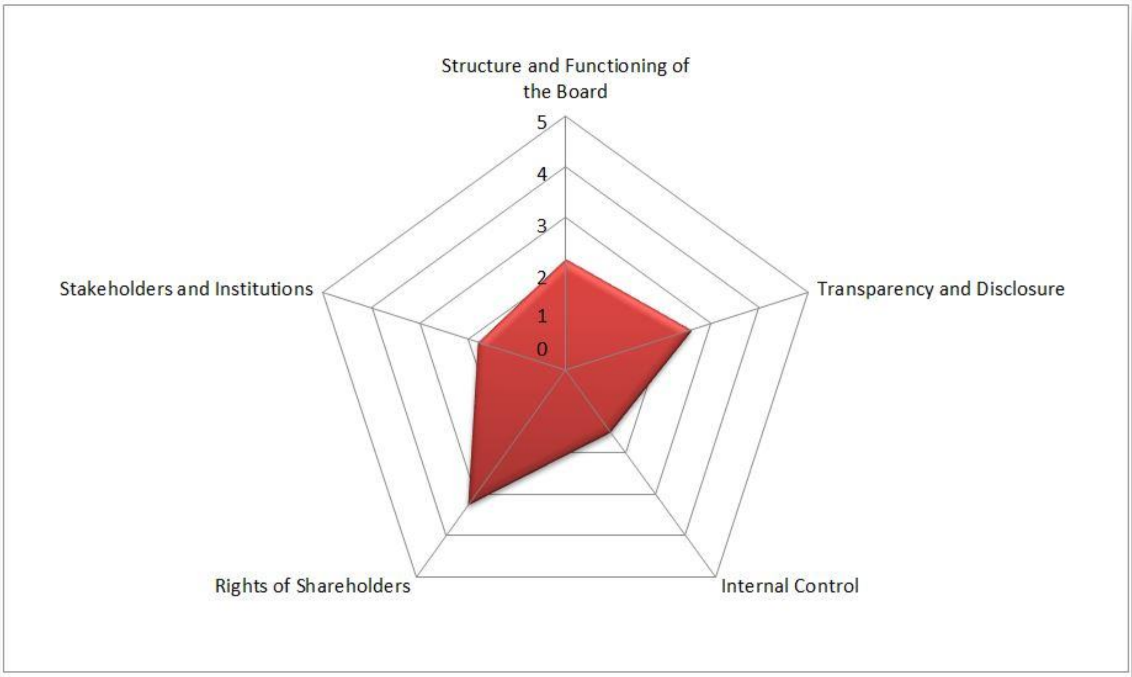
Corporate Governance Legislation and Practices in the Kyrgyz Republic



Source: EBRD, Corporate Governance Assessment 2016

Note: The extremity of each axis represents an ideal score, i.e., corresponding to the standards set forth in best practices and international standards (e.g., OECD Corporate Governance Principles). The fuller the 'web', the closer the corporate governance legislation and practices of the country approximates best practices.

Key: Very weak: 1 / Weak: 2 / Fair: 3 / Moderately Strong: 4 / Strong to very strong:

Key Areas and Rating	Strengths and Weaknesses
1. Structure and Functioning of the Board *Weak*	*Joint stock companies are organised under a two-tier board system, where members of the executive body cannot sit on the board. Companies with less than 50 shareholders can decide not to establish a supervisory board, if so provided by the articles. The boards of the ten largest companies are small, with an average of 4.8 members. Evidence shows that smaller boards tend to perform better, provided there is sufficient support and diversity of skills, but this does not seem to be the case in the Kyrgyz Republic. Gender diversity on the boards is very limited.* *There are no qualification requirements for board members of companies. As far as banks are concerned, only a few qualification requirements are specified in the banking law.* *Only banks are required to have independent directors, but the definition of independence is not comprehensive. Even banks do not disclose having independent directors on their boards.* *In companies, there is no requirement to have "board" committees. Companies are required to have an "audit committee" but this body is appointed by the general shareholders' meeting and cannot include board members. In practice, this committee cannot be accurately classified as a "board" committee and we have doubts about its effectiveness. In banks, the framework is clearer and the audit committee must be made of independent board members. However, only one bank in our sample discloses having an audit committee in place, but its composition is not disclosed. Other board committees are only recommended and they seem to be rare.* *The law requires companies to have a corporate secretary function and most companies seem to comply, but the actual role played by corporate secretary is merely administrative. There is no developed practice of board evaluation.* *The Law on joint stock companies does not refer to all the key functions that should be performed by the board. The law explicitly mentions the approval of strategy and oversight of management; however, the board is not clearly assigned with the authority to approve the budget, the company's risk profile and key governing policies. The banking law is more comprehensive, as it assigns all these roles to the bank boards.* *The legal framework on directors' duties is not developed. Liability of board members and conflict of interest are regulated by law; nevertheless, legislation does not seem to be comprehensive. Also the judicial practice and case law in this area are limited.*
1.1. Board Composition *Weak*	***Strengths:*** • *Large joint stock companies are organised under a two-tier board system. In joint stock companies executive directors cannot sit on the board.* • *The law does not specify if legal entities cannot serve as board members. However, none of the ten largest listed companies has legal entities as board members.* • *Banks are required to have audit committees made up of three independent board members appointed by the general shareholders' meeting. The Corporate Governance Code recommends companies to set up a strategic planning, audit, human resources, remuneration and ethic committees. All committees should be composed of qualified board members and ensure the presence of independent directors. The remuneration committee is expressly recommended to be made up of a majority of independent directors.* ***Weaknesses:*** • *Boards are generally small and evidence has shown that smaller boards tend to perform better; however, an average of 4.8 members seems to be too low to accommodate the mix of skills required for boards of large companies to duly perform their role.* • *Only the law on banks requires the majority of board members to be independent, but the definition of independence is not comprehensive, as it only defines independence in negative "non-affiliation" terms.* • *The Corporate Governance Code recommends companies to have independent directors. In practice however, none of the ten largest listed companies, including banks, disclosed having independent directors.* • *The law does not provide for qualification requirements of board members. Only the Corporate Governance Code recommends that they should have appropriate qualifications. There are limited qualification requirements for board members in banks. The banking law states that "members of the board may be specialists with the professional experience in the field of banking, financial, economic or legal issues". The law assigns to the charter of a bank "to determine the competence of the board and the regulations of its activity".* • *Except for banks, there is no requirement to have board committees. The Law on joint stock companies requires companies to have an audit committee appointed by the general shareholders' meeting among shareholders, unless provided otherwise by the charter. In practice, this is a "revision commission". The*

Key Areas and Rating	Strengths and Weaknesses
	effectiveness of this body is questionable (see below).
1.2. Gender Diversity at the Board (7.3%) *Very weak*	• *All ten largest listed companies disclose the names of their directors. Two companies have two women on their boards. Among these companies, the average of female representation amounts to 36.67%.* • *When counting all the ten companies in our sample, the average of female directors per board falls to 7.3%.*
1.3. Independent Directors *Very weak*	***Weaknesses:*** • *Only banks are required by law to have independent directors on their boards; however, it is not clear the extent to which this requirement is implemented in practice. No company among the ten largest listed (which include banks) disclosed having any independent board member.* • *The Corporate Governance Code recommends companies to have independent directors, but the Code is generally not implemented.* • *It appears that there are two definitions of independence: one in the Law on Banks and Banking and one in the Corporate Governance Code. Only the Code's definition is comprehensive, as independence is not only defined in negative "non-affiliation" terms, but it is also recommended that directors should be able to maintain their independent analysis and express independent judgement at all times. The Corporate Governance Code, however, is voluntary and there is no evidence of its implementation and monitoring.*
1.4. Board Effectiveness *Weak*	***Strengths:*** • *The Joint Stock Company law requires companies to have a corporate secretary function and most companies seem to comply with this requirement. The corporate secretary seem however to be limited to formalistic and administrative aspects such as producing meeting minutes.* • *The banking law requires banks to create an audit committee made of three independent board members appointed by the general shareholders' meeting.* • *The Corporate Governance Code recommends companies to set up strategic planning, audit, human resources, remuneration and ethic committees. Now, we do not believe that companies should necessarily establish all these committees, but it is good to have some guidance on these issues.* ***Weaknesses:*** • *Companies are required to establish an audit committee, but this is not a board committee, as it report to and is appointed by the general shareholders' meeting. In reality, this is a "revision commission". We have doubts about this body's ability to support the board with its activities (see below).* • *Only one of the ten largest listed companies (a bank) disclosed having an audit committee in place. None of the companies discloses having any other board committees.* • *There is no practice of board evaluation, despite the recommendations of the Corporate Governance Code for companies' human resources committee to lead board evaluation.* • *No companies disclosed the number of board meetings, board committees' or revision commission's meetings per year, hence it is not possible to assess if they are playing a strategic role in the company.*
1.5. Responsibilities of the Board *Weak*	***Strengths:*** • *The banking law is clear in assigning to the board key strategic functions and defining the board's responsibilities.* ***Weaknesses:*** • *Except for banks, the law does not clearly assign to the board all its key functions. The Law on joint stock companies explicitly mentions setting up and monitoring the implementation of the strategy, and electing an executive body and its head as board functions. It does not, however, mention the approval of budget, the company's risk profile/appetite and key governing policies.* • *The concepts of directors' duty of care and duty of loyalty are not well developed by law. Only the Corporate Governance Code recommends that directors act reasonably and in good faith in the best interests of the company.* • *Liability of board members and conflict of interest are regulated by law, however the legislation does not seem to be comprehensive. Also judicial practice and case law in this area are limited.*

<table>
<tr><th>Key Areas and Rating</th><th>Strengths and Weaknesses</th></tr>
<tr><td>2. Transparency and Disclosure
Weak</td><td>The law requires companies to prepare and disclose their annual report, which should include both financial and non-financial information. The corporate governance section in the annual reports is very limited though and disclosure is often limited to the names of board members and management. Disclosure on boards' and committees' (when present) qualifications, meetings and activities is also very limited. Companies do not disclose transactions in company's shares undertaken by executives or board members. Despite the requirement to have financial information in line with IFRS, not all of the largest companies do so. Companies and banks are required to have an external audit and to disclose the auditors' name and report, and most companies seem to comply with this requirement. Auditors are allowed to provide non-auditing services. This should be carefully monitored as it might undermine the auditor's independence. Unfortunately, no company seems to disclose any information on that.</td></tr>
<tr><td>2.1. Non-Financial Information Disclosure
Weak</td><td>Strengths:
Companies are required to publish their annual reports, which should include financial and non-financial information.
The large majority of companies in our sample (nine out of ten) disclosed information on their major shareholders and the minutes of their general shareholders meetings.
Weaknesses:
The quality of non-financial disclosure is generally poor.
Only two companies disclosed on their websites their capital, and only one the number of shares.
Short annual reports for all ten largest listed companies can be found on the stock exchange website, but corporate governance information is very limited. Disclosure is often limited to the names of board members and management.
Compliance with the Corporate Governance Code is voluntary. In practice, there is no evidence of the Code's implementation.
Only a minority of companies (four out of ten) posted their articles of association on their websites.
Disclosure on boards' and committees', qualification of members, meetings and activities is very limited.
None of the ten largest companies discloses having a code of ethics or transactions involving company's shares by executives or board members.</td></tr>
<tr><td>2.2. Financial Information Disclosure
Fair</td><td>Strengths:
Companies are required to prepare and publish financial information. Most companies seem to comply with this requirement.
Financial information needs to be in line with IFRS.
Weaknesses:
Only seven of the largest listed companies appear to have their financial statements in line with IFRS.</td></tr>
<tr><td>2.3. Reporting to the Market and to Shareholders
Weak/Fair</td><td>Strengths:
Even though there is no specific requirement to disclose the minutes of the general shareholders' meeting, they are often disclosed since they include "material events". Pursuant to the law, material facts include changes to the board of directors, executive body, shareholding (more than 5%), transactions with values that exceeds 10% of the company's assets; merger, acquisition and should be disclosed to the securities market regulator, stock exchange, and public via the mass media.
Weaknesses:
All ten largest listed companies have a short report published on the stock exchange website, but information on corporate governance is very limited.
Listed companies' websites are not very informative. Information posted is often incomplete.
Sanctions for breach of disclosure requirements are very low.</td></tr>
<tr><td>2.4. Disclosure on the External Audit
Weak</td><td>Strengths:
Companies and banks are required to have their accounts audited by an external audit firm and most companies disclose the auditors' name and report in their annual reports.
Weaknesses:
It appears that the board of companies has the authority to appoint the auditor. As the auditor is accountable to shareholders, we believe that this authority should belong to the general shareholders' meeting. This is the case for banks.
Auditors are allowed to provide non-auditing services. This should be carefully monitored as it might undermine the auditor's independence. Unfortunately, no company seems to disclose any information on that.
The law requires the external auditor to be independent but it is not clear who should run the "independence test".
In some cases, it appears that the auditor report is signed with by the natural person with the name of the firm, which is a legal nonsense.</td></tr>
</table>

Key Areas and Rating	Strengths and Weaknesses
3. Internal Control *Weak*	*Only banks are required to establish an internal audit function. There is no requirement for banks to create a standalone compliance function.* *Companies are not required to have board level audit committees. Banks are required to have an audit committee composed of three independent board members. However, in our sample, only one bank discloses having such committee in place. Companies are required to establish a "revision commission", appointed by the general shareholders meeting and reporting to it. The effectiveness of this body is questionable.* *In banks, the external auditor is appointed by the general shareholders meeting; whilst in companies it is appointed by the board, which is not in line with best practices.* *There is no rotation requirement for external auditors. The law requires the external auditor to be independent, but it is not clear who should run the "independence test". Provision of non-auditing services by the external auditor is allowed, which can negatively affect auditors' independence.* *There is no requirement for the adoption of a code of ethics and none of the largest companies discloses having one. There is no comprehensive whistleblowing legislation in place.* *Related party transactions and conflicts of interests are regulated by law; however, it is not clear how the law is implemented and enforced in practice, especially if there is no requirement to establish an independent audit committee.*
3.1. Quality of the Internal Control Framework *Weak/Very Weak*	***Strengths*** • *Banks are required to create an audit committee made up of three independent board members appointed by the general shareholder meeting. However, it is not clear whether banks comply with this in practice, as only one bank in our sample (out of four) discloses having such committee in place (without disclosing its composition).* ***Weaknesses*** • *Only banks are required to have internal audit function. None of the ten largest listed companies - including the four banks - disclosed having this function in place.* • *The Corporate Governance Code recommends companies to establish an audit committee but the Code is voluntary and generally disregarded.* • *The Law on Banks and Banking is silent on the requirement to establish a standalone compliance function for banks.* • *Companies are required to establish a revision commission. We have doubts about the effectiveness of this body (see below).* • *There is no requirement to have a code of ethics in place and none of the largest companies discloses having one in place.* • *There is no comprehensive whistleblowing legislation in place.*
3.2. Quality of Internal and External Audit *Weak*	***Strengths*** • *In banks, the external auditor is to be appointed by the general shareholders' meeting. Being the auditor in charge of auditing the financial statements to be approved by the shareholders, we think this is the right approach.* ***Weaknesses*** • *For companies, the board has the authority to appoint the auditor. We have concern with this approach. Instead, we believe that the authority to appoint the external auditor should belong to the body to which the external auditor is accountable to. It is generally accepted that auditors' primary role is to express an independent opinion on whether management has fairly presented the information in the financial statements. Financial statements are presented to shareholders for approval. We therefore believe that authority to appoint external auditors should belong to shareholders. This is in fact the case in many jurisdictions, where appointment is made upon nomination by an "independent" audit committee.* • *The law requires external auditors to be independent, but it is not clear who should run the "independence test" in practice. The Corporate Governance Code recommends establishing an audit committee to ensure auditor's independence; however, only one of the ten largest listed companies disclosed having an audit committee in place.* • *There is no rotation requirement for external auditor.*
3.3. Functioning and Independence of the Audit Committee *Very Weak*	***Strengths*** • *The Law on Banks and Banking requires banks to create an audit committee made up of three independent board members appointed by the general shareholders' meeting.* ***Weaknesses*** • *There is no legal requirement for (non-banking) companies to establish audit committees.* • *Companies are required to establish audit committees, but this committee is not a "board" committee, since it cannot comprise board members and it is appointed by the general shareholders' meeting. In reality, this is more alike to a "revision commission" (i.e., a corporate body appointed by shareholders*

Key Areas and Rating	Strengths and Weaknesses
	and reporting to them). We have doubts about this body's ability to support the board with its activities. We believe it is important that the audit committees include only board members if the functions delegated to the committee are typical board functions. Secondly, it is essential that those members sitting in the committee and recommending specific actions to the board follow up on such recommendations and vote on the committee's recommendations at the board meeting, therefore reinforcing their positions and the board "objective judgement". Further, we believe that audit committee's members should have a full vision of the business of the company in order to express their determinations – while outsiders might only have a partial understanding. Finally, committees that include "outsiders" (i.e., non-board members) might create problems with confidentiality and accountability issues, since such "outsiders" might not be bound by duties of loyalty and care required to board members. While it is legitimate that the audit committee might need external advice or expertise on specific issues, it should be able to request such advice, but it should not allow the advisor(s) to replace the committee in its determinations and recommendations. In our sample, seven companies disclosed having a revision commission in place, but there is no report of the revision commission on the companies' websites, but it seems that shareholders are to receive a report for the general shareholders' meeting. • *The definition of independence in the Law on Banks and Banking is not comprehensive, and therefore, there is no assurance that independent directors composing audit committees are independent.* • *There are no qualification requirements for members of audit committees in the banking sector.* • *One (a bank) among the ten largest listed companies – which include four banks – disclosed having an audit committee at board level, without disclosing its composition. Hence it is not possible to conclude that this provision is well implemented.*
3.4. Control over Related Party Transactions and Conflict of Interest *Fair*	***Strengths*** • *The Law on joint stock companies regulates conflicts of interest and related party transactions (RPT). The law requires related parties (including board members, shareholders owning more than 20% of shares and company officials) to inform the board, the revision commission and the auditor about their holding and prospective transactions. The Law on joint stock companies requires decisions about RPTs to be adopted either by a majority vote of non-conflicted board members or, in certain cases, by a two-thirds majority of non-conflicted shareholders at the general shareholders' meeting. To note that conditions for effectiveness of the transaction are the confirmation of its adherence with market price and validation by the auditor.* • *The Corporate Governance Code recommends establishing a committee for oversight of RPT.* ***Weaknesses*** • *We have found no evidence of enforcement over these matters.* • *The lack of independent directors at the board raises doubt about the object approval process of RPTs and conflict of interests.*

<table>
<tr><th>Key Areas and Rating</th><th>Strengths and Weaknesses</th></tr>
<tr><td>4. Rights of Shareholders
Fair</td><td>Shareholders representing at least 1% of the shares may nominate candidates to the board and include additional items on the agenda of the general shareholders' meeting (GSM). Shares carry voting rights in proportion to their value.
Shareholders have cumulative voting rights and the right to access corporate documentation. Derivative claims are regulated by the Joint Stock Company Law. Supermajority is required for major corporate decisions. Shareholders owning at least 20% of the company's shares can call a general shareholders' meeting. This threshold seems excessively high.
Pre-emptive rights in open joint stock companies are granted only if provided by the articles of association.
Cumulative voting is foreseen by law and it appears to be widely used in practice. There is, however, no disclosure or case law in this area.
Insider trading is regulated by law. There is no evidence, however, that insider trading regulation is well enforced in practice.
Related party transactions are regulated by law and in all cases of related party transaction, the auditor must be informed and a comparison with the market value of the transaction must be provided. Information on related party transactions should be included in the annual reports. However, disclosures on this matter are limited.
Significant ownership variations must be disclosed. Shareholder agreements are not regulated by law. Registration of shareholding by an independent registry is required by law. Free transferability of shares of open joint stock companies cannot be restricted.</td></tr>
<tr><td>4.1. General Shareholders' Meeting (GSM)
Moderately strong</td><td>Strengths:
Shareholder(s) representing at least 1% of the shares may include additional items on the GSM agenda and nominate candidates to the board.
Notification with the GSM agenda should be sent at least 20 days before the meeting in open joint stock companies and 10 days in closed companies.
The law allows shareholders to participate at the GSM not only in person, but also on the basis of a power of attorney and by post.
Shares carry voting rights in proportion to their value.
Weaknesses:
Shareholders owning at least 20% of the company's shares can call a GSM. The threshold seems too high.
It is unclear if shareholders have a right to ask questions at the GSM.</td></tr>
<tr><td>4.2. Protection against Insider Trading and Self-dealing
Weak</td><td>Strengths:
Insider trading is prohibited by law and can be punished with fine and imprisonment.
As above, the law details rules for disclosure and approval of related party transactions. In certain cases, transactions are to be approved by the general shareholders' meeting. In all cases, the auditor must be informed of the transaction and a comparison with the market value of the transaction must be provided.
Weaknesses:
Information on related party transactions must be included in the annual reports. When investigated, we found that information on this matter is very limited.
Because companies do not have independent directors at the board, the approval of related party transaction might be driven by the controlling directors.
There is no evidence that insider trading regulation is well enforced in practice, as there is no evidence of insider trading cases investigated in the past five years.
None of the ten largest companies discloses transactions involving company's shares undertaken by executives or board members.</td></tr>
<tr><td>4.3. Minority Shareholders Protection and Shareholders' Access to Information
Fair</td><td>Strengths:
A supermajority is required for major corporate decisions, such as changes in the company's capital, merger, reorganisation, winding-up, voluntary liquidation and to amend the articles. Minority shareholders may block these changes with a 33%+1 vote.
Shareholders have a general right to inspect all corporate documents. The law provides for sanctions in case of a breach of these provisions.
Shareholders can sue the official of the company for damages caused (derivative suit).
The law provides for "one share one vote" and does not allow the issuance of shares with multiple voting rights. The law does not allow for voting caps limiting the number of votes that a shareholder can exercise.
Cumulative voting is foreseen by law and it appears that it is widely used. There is, however, no disclosure in this area.
Weaknesses:
The law requires companies to publish the annual reports and short annual reports for all ten largest</td></tr>
</table>

Key Areas and Rating	**Strengths and Weaknesses**
	listed companies can be found on the stock exchange website, but corporate governance information is extremely limited. • *Pre-emptive rights in closed companies are granted by law. However, pre-emptive rights in public offerings can be granted only if foreseen by the companies' articles of association.*
4.4. Registration of Shareholdings *Fair*	***Strengths:*** • *Registration of shareholding by an independent registry is required by law.* • *Free transferability of shares of open joint stock companies cannot be restricted.* • *Significant shareholding variations must be notified to the regulator.* ***Weaknesses:*** • *Shareholders agreements are not regulated. They are generally considered enforceable between the parties; however, there is no consolidated case law on the matter.* • *There is no evidence of effective enforcement of disclosure of variation of significant shareholdings.*

Key Areas and Rating	Strengths and Weaknesses
5. Stakeholders and Institutions *Weak*	*The institutional framework supporting good corporate governance needs improvement.* *The stock exchange has limited capitalisation and liquidity.* *International law firms and international rating agencies have limited presence in the country, whilst the largest audit firms have their offices in the country. These firms usually provide some contribution to enhancing good corporate governance.* *There is no information on local organizations, such as Institute of Directors, active in the promotion of good corporate governance.* *A Corporate Governance Code exists since 2012. The Code recommends companies to adopt their own corporate governance code taking into consideration the Code's recommendations. Only two companies in our sample disclosed having their own corporate governance code.* *Indicators by international organisations show a framework under an urgent need for reform, where corruption is still perceived as a critical problem.*
5.1. Corporate Governance Structure and Institutions *Weak*	***Strengths:*** • *The Stock exchange website (http://www.kse.kg) provides for some disclosure of listed companies including short periodic reports with some limited basic information.* • *The website of the National Bank hosts all major legislation in English (http://www.nbkr.kg/index1.jsp?item=40&lang=ENG). This is an excellent example to follow.* ***Weaknesses:*** • *The Kyrgyz Stock Exchange is the main local stock exchange in Kyrgyz Republic. KSE's market capitalization is around 2.5% of the country's GDP. The liquidity and daily trading volumes are very low.* • *The stock exchange listing is divided into segments. The "International Listing" segment requires listed companies to have significantly higher corporate governance standards. However, it appears that no company is listed on this segment.* • *International law firms have limited presence in the country, whilst the largest audit firms are active in the country.* • *International rating agencies are not active in the country.* • *There is no institute of directors or other organisation active in the promotion of good corporate governance.*
5.2. Corporate Governance Code *Weak*	***Strengths:*** • *A Corporate Governance Code exists since 2012.* ***Weaknesses:*** • *The Code has never been revised since its adoption. The Code has not been translated in English and it is quite difficult to locate.* • *The Code recommends companies to adopt their own corporate governance code taking into consideration the Code's recommendations.* • *None of the ten largest listed companies disclosed the extent to which they comply with the Code and only two out of the ten largest listed companies disclosed having a corporate governance code or policy in place.* • *There is no case law referring to the Corporate Governance Code.*
5.3. Institutional Environment *Weak*	***Strengths:*** • *According to the 2015 EBRD Assessment on Accessibility of Court Decisions, it seems that case law is not very timely aggregated, but is fairly easily accessible to parties and the public.* ***Weaknesses:*** • *It appears that there no active players for the promotion of good corporate governance in the country.* • *Indicators by international organisations show a framework under an urgent need for reform, where corruption is still perceived as a critical problem.*