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European Bank
for Reconstruction and Development

Corporate Governance in Transition Economies

Tunisia 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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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 Tunisia are the Law No. 2000-93 enacting the Commercial Companies Code; the Law No. 2005-96 on the Strengthening of the Security of Financial Relations; the Law No. 2007-69 on the Stimulation of Economic Initiative; and Law No. 2001-65 on the Establishment of Lending Institutions. In addition, there are specific regulations applicable to banks and to companies listed on the Tunisian Stock Exchange.

In 2008, the Tunisian Centre of Corporate Governance issued the Tunisian Guide of Corporate Governance. The Guide was revised in 2012. Although the Guide promotes practices of higher standards than those required by law, it is merely voluntary, and none of the ten largest listed companies in Tunisia provides a "*comply or explain*" statement with its annual report.

Structure and Functioning of the Board

Companies can be organised under a one- tier or two-tier board system. In the one-tier system, the role of CEO and board chair can be combined, which seems to be a common practice in Tunisia. In the two-tier system the general shareholders' meeting appoints the supervisory board, which in turn appoints the management board. Executives cannot sit on the supervisory board. Only one among the ten largest listed companies is organised under a two-tier system.

Legal entities can be board members and most of the ten largest listed companies do have legal entities on their boards. In companies there are no qualification requirements for board members and in banks the qualification requirements are quite vague. Gender diversity at the board is limited.

Companies are not required, but only recommended, to have independent directors. In banks, boards are required to be composed of at least two independent directors. Disclosure on board members' independence is very limited. Only two companies in our sample - both banks - disclose having independent directors.

Large and listed companies and banks are required to establish audit committees. In companies, it seems that except for the CEO, executive directors may be members of the audit committee, which is a bad practice. Banks are also required to set up a risk committee. In banks, both audit and risk committees must be composed only of non-executive directors and chaired by an independent director. In addition to audit committees, the Corporate Governance Guide for Public Companies recommends boards to set up nomination, remuneration and strategic committees. Nine of the ten largest listed companies disclose having audit committees, but only one discloses its composition. No company discloses having other board committees in place. It was not possible to determine how boards and committees work in practice, as disclosure on board and committees' meetings and activities is rather limited.

None of the surveyed companies discloses undertaking board evaluations, which is required for banks. Only one company – a bank – disclose having a separate company secretary function in place.

Fiduciary duties, directors' liability and conflicts of interest situations are regulated by law and consistent case law on these issues exist.

Transparency and Disclosure

The law does not establish comprehensive requirements for the disclosure of companies' non-financial information. In practice, non-financial disclosures are generally poor.

Joint stock companies and banks are required to prepare annual reports in accordance with a template issued by the Securities Commission, but only banks are required to disclose them. The template does not comprise non-financial information. In practice, only four companies in our sample – three of which are banks – make their annual reports publicly available.

The stock exchange website provides some basic information on corporate governance, including their directors' names, share capital, shareholder variations and identity major shareholders.

Companies are not required to disclose whether they comply with the Corporate Governance Guide and none of the ten largest listed companies does so.

Information on the board and audit committee members' qualifications and activities is very limited. None of the companies discloses the minutes of the general shareholders' meeting or their Articles of Association online. Companies' websites do not seem to be regularly updated.

The legal framework requires companies to prepare and disclose their financial statements with the auditor's opinion. All companies in our sample comply with this requirement. However, companies and banks are not required to prepare their financial statements in line with IFRS.

External auditors are forbidden to both prepare and audit the accounts for the same company, but there is no prohibition to provide other non-audit services for their clients. Disclosure on this matter is very limited. This should be carefully monitored, as it may undermine the external auditor's independence.

Internal Control

Companies and banks are required to establish an internal audit function. Banks are also required to establish a compliance function. All companies in our sample disclose having an internal audit function, but it is not clear if banks have set up a standalone compliance function.

Companies are required to have their financial statements audited by an independent external auditor, appointed by the general shareholders' meeting. Banks, insurance companies and large companies are required to have two external auditors. This seems to enhance the auditors' independence, but it bears a cost.

External auditors are forbidden to prepare and audit the accounts for the same company, but there is no prohibition to provide other non-audit services for their clients. The audit committee is in charge of ensuring the external auditor's independence, but no evidence of this activity is disclosed. Large and listed companies and banks are required to set up an audit committee. Nine of the ten largest listed companies disclose having an audit committee in place, but only one of these companies disclose its composition and activities. Thus, it is not possible to assess how the audit committees contribute to ensuring external and internal auditors' independence and effectiveness.

Companies are recommended, while banks are required, to adopt a code of ethics, but no company discloses having one in place.

Related party transactions and conflicts of interest are regulated by law. There is no whistle-blowing regulation in place.

Rights of Shareholders

The Companies Code was amended in 2009 and one of the main purposes of this reform was to reinforce the rights of minority shareholders. Despite some improvement, some fundamental rights are not yet granted by law.

Minority shareholders can call a general shareholders' meeting (GSM) and add items to the agenda. Shareholders have inspection rights and are provided with judicial mechanisms to enforce their rights. Supermajority is required to approve major corporate changes. However, a 15 day-notice of the GSM is not in line with best practices, which recommend at least 21 days. Furthermore, shareholders do not enjoy cumulative and pre-emptive rights, which raises concerns considering listed companies' high ownership concentrations.

Shareholders can benefit from comprehensive financial disclosure – even if not in line with IFRS - and the stock exchange's website provides a fair amount of financial information; however, non-financial disclosure is very limited and does not enable stakeholders to have a comprehensive view of the company's organisation and structure.

Significant ownership variations must be disclosed and listed shares must be registered with a private custodian. In listed companies, shareholder agreements must be disclosed.

Related party transactions and conflicts of interests are regulated by law. Regulation on insider trading and self-dealing exists, but it is not clear that they are well-implemented.

Stakeholders and Institutions

It appears that the institutional framework supporting good corporate governance in Tunisia has improved over the past decade, but space for further reform exists.

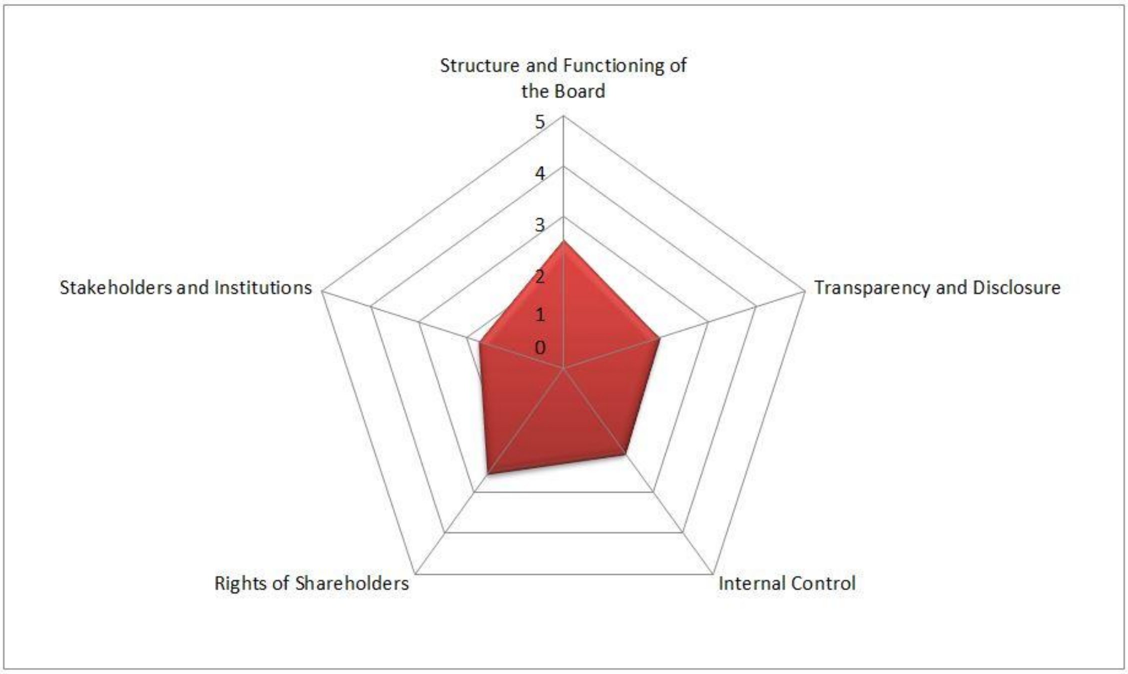
The Tunisian Stock Exchange (TSE) is the main local stock exchange in Tunisia. Its market capitalisation seems to be relatively high at USD 19 billion and the market is relatively liquid. There are two listing tiers at the TSE: the Main Market and the Alternative Market. Companies wishing to be part of the Main Market are not required to uphold higher corporate governance standards than those in the Alternative Market.

In 2008, the Tunisian Centre of Corporate Governance issued the Tunisian Guide of Corporate Governance. Although the Guide promotes practices of higher standards than those required by law, it is merely voluntary, and none of the ten largest listed companies in Tunisia provides a "*comply or explain*" statement with its annual report.

The TSE, the Financial Market Council and the Central Bank of Tunisia are all involved in the oversight of corporate governance. Nevertheless, it seems that companies' compliance with the provisions of the Corporate Governance Guide is not monitored.

Some important corporate governance issues are not thoroughly regulated. It seems that case law is fairly inaccessible to the general public. Legal practitioners have a slightly easier access to case law collections, but databases are generally incomplete and out-dated. International indicators rank Tunisia relatively poorly with regard to competitiveness, corruption and investor protection perceptions.

Corporate Governance Legislation and Practices in Tunisia



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: 5

Key Areas and Rating	Strengths and Weaknesses
1. Structure and Functioning of the Board *Weak*	*Companies can be organised under a one- tier or two-tier board system. In the one-tier system, the role of CEO and board chair can be combined, which seems to be a common practice in Tunisia. In the two-tier system the general shareholders' meeting appoints the supervisory board, which in turn appoints the management board. Executives cannot sit on the supervisory board. Only one among the ten largest listed companies is organised under a two-tier system* *Legal entities can be board members and most companies in our sample do have legal entities on their boards. In companies there are no qualification requirements for board members and in banks the qualification requirements are quite vague. Board gender diversity is limited. Companies are not required, but only recommended, to have independent directors. In banks, boards are required to be composed of at least two independent board members. Disclosure on board members' independence is very limited. Only two companies in our sample (both banks) disclose having independent directors.* *Large and listed companies and banks are required to establish audit committees. In companies, it seems that except for the CEO, executive directors may be members of the audit committee, which is a bad practice. Banks are also required to set up a risk committee. In banks, both audit and risk committees must be composed only of non-executive directors and chaired by an independent director. In addition to audit committees, the Corporate Governance Guide for Public Companies recommends boards to set up nomination, remuneration and strategic committees. Nine of the ten largest listed companies disclose having audit committees, but only one discloses its composition. No company discloses having other board committees in place. It was not possible to determine how boards and committees work in practice, as disclosure on board and committees' meetings and activities is rather limited.* *None of the surveyed companies discloses undertaking board evaluations, which is required for banks. Only one company in our list – a bank - disclosed having a separate company secretary function in place.* *Fiduciary duties, directors' liability and conflicts of interest situations are regulated by law and consistent case law on these issues exist.*
1.1. Board Composition *Weak*	***Strengths:*** • *Boards are well-sized, with an average of 8 board members. Evidence has shown that small boards tend to perform better provided that they have the necessary mix of skills and support (e.g., corporate secretary).* • *Bank boards are required to be made up of at least two independent directors and a maximum of one executive director.* • *In banks, audit and risk committees must be composed of board members with expertise in the fields of finance, accounting and risk management and must be chaired by an independent director. Executive directors are not allowed to be members of these committees.* • *The Corporate Governance Guide for Public Companies recommends boards to set up audit, nomination, remuneration and strategic committees which should preferably be made up of independent directors.* ***Weaknesses:*** • *In the one-tier system, the roles of the chair of the board and CEO may be combined. The Corporate Governance Guide recommends companies to separate the roles; however, combining the roles seems to be a common practice in Tunisia.* • *Legal entities may serve as board members. This solution raises some concerns, since it weakens board members' fiduciary duties and does not ensure that these members are fit for purpose. Seven out of the ten largest listed companies have corporations represented by individuals sitting on their board.* • *There are no requirements for (non-banking) companies to have independent directors on their boards. The Corporate Governance Guide recommends that boards should be composed of at least one third of independent directors, but in practice its recommendations do not seem to be followed. Furthermore, disclosure on the board members' independence is very limited (see below).* • *The Corporate Governance Guide recommends that board members' competence should be as large as possible, cover many fields and include experience in senior positions. In banks, board members are required to have sufficient skills and adequate understanding of banking activities, which seems to be a quite vague requirement. In practice, none of the ten largest listed companies discloses its board members' qualifications.* • *In large and listed companies, the CEO cannot be a member of audit committees, but it seems that other executive directors may serve on this committee. This is a major shortcoming as this committee deals with areas that have a high potential for conflicts of interests.*

Key Areas and Rating	Strengths and Weaknesses
1.2. Gender Diversity at the Board (7.61%) *Very Weak*	• *All ten largest listed companies disclose the board composition. It appears that there are women in six of the ten largest listed companies reviewed, with one woman in each of these six boards (making an average of 13.2%).* • *Overall, when counting all the ten companies in our sample, there are six women out of 84 board members. The average of female directors per board falls to 7.61%.*
1.3 Independent Directors *Weak*	***Strengths:*** • *In banks, boards are required to be made up of at least two independent directors. Audit and risk committees must be chaired by an independent director. Executive directors are not allowed to be a member of these committees.* • *The Corporate Governance Guide recommends audit, nomination, remuneration and strategic committees to be made up preferably by independent directors.* • *The definition of independence provided for banks' independent board members is comprehensive and board members as a whole are required to continuously satisfy the conditions of integrity, impartiality and honesty which are necessary to assure the board's credibility and objectivity. Independent bank directors are limited to two mandates (i.e., six years in total); beyond this term, they are not considered independent. Similarly, the definition provided by the Corporate Governance Guide is fairly comprehensive and requires that the director's independence guarantees his impartiality.* ***Weaknesses:*** • *Except for banks, there are no requirements for companies to have independent directors on their boards.* • *The Corporate Governance Guide recommends that boards should be composed of at least one third of independent directors, but in practice, its recommendations do not seem to be followed.* • *Only two of the ten largest listed companies – both banks – disclose having independent board members. One of them discloses having 4 out of 10 board members and the other discloses having 2 out of 12 board members.*
1.4. Board Effectiveness *Weak*	***Strengths:*** • *Large and listed companies and banks are required to set up audit committees. Banks are additionally required to set up risk committees. Both bank committees must be chaired by an independent director and may not include any executive directors. It seems that a requirement for banks to set up a remuneration committee has been recently introduced.* • *Nine companies in our sample disclose having audit committees.* • *The Corporate Governance Guide recommends boards to set up nomination, remuneration and strategic committees which should be made up preferably by independent board members. It appears that this recommendation is not implemented in practice.* • *The Corporate Governance Guide recommends boards to meet at least once a quarter. Both the Corporate Governance Guide and the banking regulation require that the number of board and committee meetings should be provided in the annual report.* ***Weaknesses:*** • *In large and listed companies, the CEO may not be a member of audit committees, but it seems that other executive directors may serve on this committee. This is a major shortcoming as this committee deals with areas that have a high potential for conflicts of interests.* • *Only two of the surveyed companies disclose the number of their board meetings. Their boards met between 4 and 11 times per year. Only one of the companies that declare having an audit committee provides information on its composition and activities.* • *None of the ten largest listed companies discloses having any other standing board committees in place (in addition to audit committees).* • *There is no clear obligation for companies and banks to perform board evaluations. The Corporate Governance Guide and the regulation on banks recommend boards to undertake annual evaluations. In practice, none of the companies in our sample discloses doing so.* • *The Corporate Governance Guide recommends companies to appoint a company secretary. The law is silent on this issue. Only one of the companies the ten largest listed companies disclosed having a company secretary.*
1.5. Responsibilities of the Board *Fair*	***Strengths:*** • *Conflicts of interests are regulated by law; any member of the board who has a conflict of interest is required to abstain from voting at the meeting where the issue giving rise to the conflict of interest will be discussed.* • *Directors may be held liable for acts which go against the articles and/or laws and over the past years, strong jurisprudence has built on this subject.* • *Fiduciary duties are comprehensively defined in the legal framework and case law on this matter exists.* • *The law entrusts the board with the power to supervise the activities of the management board and examine the annual accounts of the company, proposing the use and/or distribution of the profits and other assignments. The law also establishes that the board appoints and dismisses the members of the management body and the CEO.* ***Weaknesses:*** • *The law does not explicitly assign to the board the responsibilities to approve the budget and strategy, which may weaken the board role within companies. The Corporate Governance Guide recommends that the board "should carry out some major tasks, notably (…) fix, evaluate and reconsider on a regular basis: - the major orientations, strategies and values of the company; - the annual budgets, activities' plans and company's financing priorities; - the company's risk level', but the Guide does not seem to be well-implemented.*

Key Areas and Rating	Strengths and Weaknesses
2. Transparency and Disclosure *Weak*	*The law does not establish comprehensive requirements for the disclosure of companies' non-financial information. In practice, non-financial disclosures are generally poor.* *Joint stock companies and banks are required to prepare annual reports in accordance with a template issued by the Securities Commission, but only banks are required to disclose them. The template does not comprise non-financial information. In practice, only four companies in our sample – three of which are banks – make their annual reports publicly available.* *The stock exchange website provides some basic information on corporate governance, including their directors' names, share capital, shareholder variations and identity of major shareholders.* *Companies are not required to disclose whether they comply with the Corporate Governance Guide and none of the ten largest listed companies does so.* *Information on the board and audit committee members' qualifications and activities is very limited. None of the companies discloses the minutes of the general shareholders' meeting or their Articles of Association online. Companies' websites do not seem to be regularly updated.* *The legal framework requires companies to prepare and disclose their financial statements with the auditor's opinion. The companies in our sample seem to comply with this requirement. However, companies and banks are not required to prepare their financial statements in line with IFRS.* *External auditors are forbidden to both prepare and audit the accounts for the same company, but there is no prohibition to provide other non-audit services for their clients. Disclosure on this matter is very limited. This should be carefully monitored, as it may undermine the external auditor's independence.*
2.1. Non-Financial Information Disclosure *Weak*	***Strengths:*** • *The website of the stock exchange (http://www.bvmt.com.tn) includes for each company a "Stock Guide" which is a summary of the company's basic financial and non-financial information.* • *All ten largest listed companies disclose, via the stock exchange's website, their directors' names, as well as information on their share capital, shareholding variations, and identity of major shareholders; however, information on directors' qualifications and on beneficial owners is not provided.* • *The Corporate Governance Guide recommends companies to disclose information on their board and committee activities in their annual reports; banks are required to do so.* ***Weaknesses:*** • *Joint stock companies and banks are required to prepare annual reports in accordance with a template issued by the Securities Commission. However, this template does not include disclosure of non-financial information.* • *Companies are not required to disclose their annual reports to the public. This requirement applies only to banks. In practice, only four companies in our sample – three of which are banks – publish their annual reports on their websites.* • *Five of the ten largest listed companies provide information on their board activities. Disclosure on board and committee number of meetings and members' qualifications is very limited.* • *Companies are not required to disclose their compliance with the Corporate Governance Guide.* • *Joint stock companies are required to file their updated articles of association with the company register, but access to this document is subject to fees and information is not available in English. None of the ten largest listed companies publishes their articles on their websites.* • *None of the companies in our sample disclosed having a code of ethics.*
2.2. Financial Information Disclosure *Fair*	***Strengths:*** • *All companies are required to disclose their audited financial statements, and all ten largest listed companies comply with this requirement by publishing their financial statements on their websites and in the company register.* • *The stock exchange's website provides a fair amount of financial information, including annual financial statements, auditors' reports, and financial activities indicators.* ***Weaknesses:*** • *Companies and banks are not required to prepare their financial statements in accordance with IFRS.*
2.3. Reporting to the Market and to Shareholders *Weak*	***Weaknesses:*** • *Companies are not required to disclose their annual reports to the public. This requirement applies only to banks. In practice, only four companies in our sample – three of which are banks – publish their annual reports on their websites.* • *Annual reports are not required to include non-financial information.* • *It seems that there is no sanction for failing to comply with disclosure obligations.* • *Companies are only recommended to make the minutes of the general shareholders' meeting available to shareholder by posting them on their websites and/or by mailing the minutes to them. None of the ten largest listed companies discloses them online.*

Key Areas and Rating	*Strengths and Weaknesses*
	• *Issuers of securities are required to disclose information on significant material events, but the law does not provide much guidance on which events are considered 'significant', nor does it set a timeframe for such disclosure. We could not find any evidence that companies comply with this obligation.* • *The websites of the ten largest listed companies do not seem to be regularly updated.*
2.4. Disclosure on the External Audit *Fair*	***Strength:*** • *Companies are required to disclose their financial statements with the auditor's opinion.* • *All ten largest listed companies disclose their auditors' names and opinions on their financial statements, and declare that their auditor is independent.* ***Weakness:*** • *External auditors are forbidden to both prepare and audit the accounts for the same company, but there is no prohibition to provide other non-audit services for their clients. Disclosure on this matter is very limited. This should be carefully monitored, as it may undermine the external auditor's independence.*

Key Areas and Rating	Strengths and Weaknesses
3. Internal Control *Fair*	*Companies and banks are required to establish an internal audit function. Banks are also required to establish a compliance function. All companies in our sample disclose having an internal audit function, but it is not clear if banks have set up a standalone compliance function.* *Companies are required to have their financial statements audited by an independent external auditor, appointed by the general shareholders' meeting. Banks, insurance companies and large companies are required to have two external auditors. The added value of this requirement is not clear.* *External auditors are forbidden to both prepare and audit the accounts for the same company, but there is no prohibition to provide other non-audit services for their clients. The audit committee is in charge of ensuring the external auditor's independence, but no evidence of this activity is disclosed. Large and listed companies and banks are required to set up an audit committee. Nine of the ten largest listed companies disclose having an audit committee, but only one of these companies disclose its composition and activities. Thus, it is not possible to assess how the audit committees contribute to ensuring external and internal auditors' independence and effectiveness.* *Companies are recommended, while banks are required, to adopt a code of ethics, but no company discloses having one in place.* *Related party transactions and conflicts of interest are regulated by law. There is no whistle-blowing regulation in place.*
3.1. Quality of the Internal Control Framework *Fair*	***Strengths:*** • *Companies and banks are required to establish an internal audit function which should report directly to the board. All companies in our sample disclose having an internal audit department in place.* • *Large and listed companies and banks are required to set up audit committees, and nine of the surveyed companies disclosed having one.* • *In banks, audit committees must be chaired by an independent director and may not include any executive directors.* • *For banks, external auditors have to assess the strength of internal controls (its work is not limited to controls over financial reporting) and present a report to the audit committee.* ***Weaknesses:*** • *In companies, the CEO cannot be a member of the audit committee, but it seems that there is no prohibition for other executives' membership, which is a major shortcoming.* • *Disclosure on audit committees' composition and activities is very limited (see below).* • *Banks are required to establish a compliance function. Disclosures by banks do not allow ascertain whether banks comply with this requirement though.* • *Companies are recommended to have a code of ethics; whereas banks are required to do so, and additionally to have their own code of corporate governance and to report on its implementation. None of the companies in our sample disclosed having either of these codes.* • *There is no regulation addressing whistleblowing in Tunisia.*
3.2. Quality of Internal and External Audit *Fair*	***Strengths:*** • *Companies and banks are required to establish an internal audit function which should report directly to the board. All companies in our sample disclose having an internal audit department in place.* • *The Corporate Governance Guide dedicates an entire chapter to "The Necessity of the Internal Audit Function" with three separate sections on "internal audit function", the "internal audit prerequisites" and the "internal audit functioning".* • *Joint stock companies are required to have an independent external auditor, appointed by the general shareholders' meeting, and to submit their annual financial statements to its review. All ten largest listed companies disclosed the auditors' names and opinions on their financial statements, and declare them to be independent. The majority is audited by international audit firms.* • *Audit committees are responsible for assessing external auditors' independence. Also independence is part of professional duties of external auditors as defined by the Tunisian Association of chartered accountants.* • *External audit firms and individual external auditors are required to rotate every 15 and 9 years respectively. This rotation period seems too long though.* ***Weaknesses:*** • *Banks, insurance companies and large companies (assets exceeding TND 100 million and total debt liabilities exceeding TND 25 million) are required to have two external audit firms conducting the external audit. Seven of the ten largest listed companies disclose having two external auditors producing a joint report. This requirement is not necessarily a weakness – and indeed can be considered a strength - as it seems to be driven by the necessity to improve transparency in auditing financial statements and ensuring auditor's independence. This approach seems to be modelled upon the French experience for large companies publishing consolidated accounts. In Tunisia, every auditor though must independently audit the financial statements and cross check the findings. The auditors'*

Key Areas and Rating	Strengths and Weaknesses
	report must then be co-signed by the appointed auditors. This system ensures more reliable information to the market, but also involves an extra-cost for companies – even if auditors' fees are capped - for which the added value is yet to be demonstrated. • *External auditors are forbidden to both prepare and audit the accounts for the same company, but there is no prohibition to provide other non-audit services for their clients. Disclosure on this matter is very limited. This should be carefully monitored, as it may undermine the external auditor's independence.*
3.3. Functioning and Independence of the Audit Committee *Weak*	***Strengths:*** • *Large and listed companies and banks are required to set up audit committees, appointed either by the board or the general shareholders' meeting. The Corporate Governance Guide recommends that these committees should preferably be made up of independent directors.* • *In banks, audit committees must be chaired by an independent director and may not include any executive directors. Members are further required to uphold experience in finance and accounting.* • *Nine of the ten largest listed companies affirm having set up an audit committee.* • *By law, audit committees in banks should meet 6 times per year.* ***Weaknesses:*** • *In large and listed companies, the CEO may not be a member of audit committees, but it seems that other executive directors may serve on this committee. This is a major shortcoming as this committee deals with areas that have a high potential for conflicts of interests.* • *The law is silent as regards the frequency of audit committee meetings in companies. The Corporate Governance Guide recommends and the banking law request that this information should be provided in the annual reports.* • *Only one company in our sample (a bank) disclosed the activities of its audit committee in the annual report. The description of activities appears comprehensive. The committee met 5 times in 2012.* • *Only one company in our sample (a bank) disclosed the composition of its audit committee. In this committee, only the chair is named to be independent.*
3.4. Control over Related Party Transactions and Conflict of Interest *Fair*	***Strengths:*** • *Conflicts of interests are regulated by law – a member of the board or a shareholder who has a conflict of interests regarding any issues under discussion must abstain from voting.* • *Related party transactions (RPT) can be invalidated by court and related parties can be held jointly liable for losses caused to the company by a transaction that was concluded with the violation of legal requirements.* • *All ten largest listed companies disclose their RPT in their financial statements.* ***Weaknesses:*** • *Agreements between the company and controlling shareholders, directors or managers (Related Party Transactions) are overseen by the board subject to prior approval of the non-conflicted board members. The members of management must inform the auditors of these agreements, which must also be submitted for the approval of the general shareholders' meeting. However, the definition of RPT is too vague and it is not clear why audit committees do not play a role in overseeing these transactions.* • *It appears that there is extensive case law and judicial practice regarding related party transactions, but this is not accessible to the public.*

Key Areas and Rating	Strengths and Weaknesses
4. Rights of Shareholders *Weak/Fair*	*The Companies Code was amended in 2009 and one of the main purposes of this reform was to reinforce the rights of minority shareholders. Despite some improvement, some fundamental rights are not yet granted by law.* *Minority shareholders can call a general shareholders' meeting (GSM) and add items to the agenda. Shareholders have inspection rights and are provided with judicial mechanisms to enforce their rights. Supermajority is required to approve major corporate changes.* *However, a 15 day-notice of the GSM is not in line with best practices, which recommend at least 21 days. Furthermore, shareholders do not enjoy cumulative and pre-emptive rights, which raises concerns considering listed companies' high ownership concentrations.* *Shareholders can benefit from comprehensive financial disclosure – even if not in line with IFRS - and the stock exchange's website provides a fair amount of financial information; however, non-financial information is generally poor and does not enable stakeholders to have a comprehensive view of the company's organisation and structure.* *Significant ownership variations must be disclosed and listed shares must be registered with a private custodian. In listed companies, shareholder agreements must be disclosed.* *Related party transactions and conflicts of interests are regulated by law. Regulation on insider trading and self-dealing exists, but it is not clear that they are well-implemented.*
4.1. General Shareholders' Meeting (GSM) *Weak/Fair*	***Strengths:*** • *Shareholders representing 5% of the share capital of unlisted companies, and those representing 3% of the share capital of listed companies are entitled to call a GSM; while shareholders representing 5% may request items to be added to the agenda.* • *All ten largest listed companies publish notifications of GSM on the Tunisian Stock Exchange's and brokers' websites.* • *The GSM has the exclusive authority to decide upon dividends.* ***Weaknesses:*** • *Shareholders must be notified of the GSM's agenda 15 days before the meeting (best practices recommend at least 21 days).* • *Voting by proxy is provided by law. Nevertheless, voting by post and electronic voting are not allowed by law.* • *The right to nominate board members at the GSM seems to be available only for shareholders representing a simple majority at the GSM.* • *Shareholders can express their opinion and ask question related to the GSM agenda, but only shareholders representing at least 5% can address the board with concerns involving the company's interest which are not in the agenda.* • *The law does not provide cumulative voting or proportional representation mechanisms. Not even the Corporate Governance Guide recommends their use.*
4.2. Protection against Insider Trading and Self-dealing *Fair*	***Strengths:*** • *Conflicts of interest and related-party transactions are regulated by law.* • *Shareholders of the company who have conflicting interests to those of the company's in a deal are prevented from voting at the meetings where the deal-related conflict of interests is discussed and approved.* ***Weaknesses:*** • *The lack of independent directors does not ensure that related party transactions and conflicts of interest are objectively dealt with.* • *Insider trading is prohibited and may be punished with administrative and criminal sanctions. However, these sanctions are only triggered by the trading of shares upon disclosure of privileged information. This raises some concern, as we believe insider trading should be triggered by the simple disclosure of insider information.* • *We could not find any evidence that insider trading is being investigated or punished by the Securities Commission.*
4.3. Minority Shareholders Protection and Shareholders' Access to Information *Weak/Fair*	***Strengths:*** • *Shareholders have the right to call a general shareholders' meeting, to add items to the GSM agenda and to access major corporate and financial documents.* • *Major corporate changes require 2/3 majority at the general shareholders' meeting. Minority shareholders may block major corporate changes with a 33%+1 vote.* • *Since 2009, shareholders have been given the right to file a derivative suit against the company's directors or managers for compensation of any losses. It appears that a significant number of derivative claims have been brought before courts.* • *Shares carry proportional voting rights ('one-share, one-vote principle').* ***Weaknesses:*** • *Cumulative voting, proportional representation or similar devices are not provided in the law. These procedures which aim to make minority shareholders able to pool their votes for certain board candidates are not even recommended by the Corporate Governance Guide.* • *Shareholders have pre-emptive rights only if explicitly provided in the articles of association. This is a major*

Key Areas and Rating	Strengths and Weaknesses
	weakness. • *It seems that the right to nominate board members are available only for shareholders representing a simple majority at the GSM.* • *Financial information is largely available; however, disclosure of non-financial information is generally poor.*
4.4. Registration of Shareholdings *Fair*	***Strengths:*** • *The free transferability of shares cannot be restricted for publicly traded companies.* • *Shareholding variations of 5% or more must be disclosed by listed companies.* • *Shareholders' agreements have been formally recognized after the amendment to the Company Law in 2009 and are enforceable. In practice, companies take part to the shareholders agreement as a contracting party in order to best ensure their enforceability. In listed companies, shareholder agreements must be disclosed to the company, to the regulator and to the stock exchange. A template for disclosure of shareholders' agreement is available on the regulator's website (http://www.cmf.tn/sites/default/files/pdfs/documentation/formulaires/declaration%20APE.pdf)* ***Weaknesses:*** • *Joint stock companies' share registers are maintained by private registry. In practice, brokers maintain the share registry for their clients. There is no requirement for independent registry of shares.*

Key Areas and Rating	**Strengths and Weaknesses**
5. Stakeholders and Institutions *Weak*	*It appears that the institutional framework supporting good corporate governance in Tunisia has improved over the past decade, but space for further reform exists.* *The Tunisian Stock Exchange (TSE) is the main local stock exchange in Tunisia. Its market capitalisation seems to be relatively high at USD 19 billion and the market is relatively liquid. There are two listing tiers at the TSE: the Main Market and the Alternative Market. Companies wishing to be part of the Main Market are not required to uphold higher corporate governance standards than those in the Alternative Market.* *In 2008, the Tunisian Centre of Corporate Governance (CTGE) issued the Tunisian Guide of Corporate Governance. Although the Guide promotes practices of higher standards than those required by law, it is merely voluntary, and none of the ten largest listed companies in Tunisia provides a "comply or explain" statement with its annual report.* *The TSE, the Financial Market Council and the Central Bank of Tunisia are all involved in the oversight of corporate governance. Nevertheless, it seems that the implementation of the Corporate Governance Guide is not monitored.* *Some important corporate governance issues are not thoroughly regulated. It seems that case law is fairly inaccessible to the general public. Legal practitioners have a slightly easier access to case law collections, but databases are generally incomplete and out-dated. International indicators rank Tunisia relatively poorly with regard to competitiveness, corruption and investor protection perceptions.*
5.1. Corporate Governance Structure and Institutions *Fair*	***Strengths:*** • *The Tunisian Stock Exchange (TSE) is the main local stock exchange in Tunisia. Its market capitalisation seems to be relatively high at USD 19 billion and the securities market is fairly liquid.* • *The TSE's website provides comprehensive information on listed companies' financial and non-financial information, including annual financial statements, auditor reports, and board compositions.* • *The TSE, the Financial Market Council and the Central Bank of Tunisia have been actively involved in the corporate governance reform process of the country.* • *International audit firms have a significant presence in the country.* • *Rating agencies are active in Tunisia; all ten largest listed companies were assessed by the international rating agencies.* • *The Tunisian Centre of Corporate Governance (CTGE) serves as a centre for training and awareness-raising on governance practices.* ***Weaknesses:*** • *There are two listing tiers at the TSE: the Main Market and the Alternative Market. Companies wishing to be part of the Main Market must have higher financial and capital requirements, but are not required to uphold higher corporate governance practices than those in the Alternative Market. The stock exchange should adopt a pro-active approach in promoting corporate governance.* • *In Tunisia, high concentration of ownership is not coupled with strong corporate governance practices ensuring adequate protection to minority shareholders or attracting new investors. The State remains a significant owner as well.* • *The presence of international law firms is limited.*
5.2. Corporate Governance Code *Weak*	***Strengths:*** • *In 2008, the Tunisian Centre of Corporate Governance (CTGE) issued the Tunisian Guide of Corporate Governance. The Guide was later revised in 2012.* • *The Corporate Governance Guide promotes practices of higher standards than those required by law and is based upon OECD Principles of Corporate Governance.* ***Weaknesses:*** • *The Corporate Governance Guide implements its provisions under a voluntary basis, and encourages companies to comply with its provisions or explain why they deviate from best practices in their annual reports. Nevertheless, companies are not required to do so and none of the ten largest listed companies in Tunisia provides a "comply or explain" statement.* • *Though the TSE, the Financial Market Council and the Central Bank of Tunisia, among others, have been endowed with some oversight duties, it appears there is no body monitoring companies' compliance with the provisions of the Corporate Governance Guide.* • *Banks are required to have their own corporate governance code, but none of the banks in our sample discloses its code.* • *There is no case law referring to the Corporate Governance Guide.*

Key Areas and Rating	Strengths and Weaknesses
5.3. Institutional Environment *Weak*	***Strengths:*** • *There are no significant inconsistencies in corporate governance laws and regulations, but we would point out that some important corporate governance issues are not thoroughly regulated (e.g. audit committee).* ***Weaknesses:*** • *According to the 2015 EBRD Assessment on Accessibility of Court Decisions, It seems that case law is fairly inaccessible to the general public. Legal practitioners have a slightly easier access to case law collections, but databases are generally incomplete and out-dated.* • *International indicators rank Tunisia relatively poorly with regard to competitiveness, corruption and investor protection perceptions.*