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European Bank
for Reconstruction and Development

Corporate Governance in Transition Economies

Romania Country Report

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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 Romania are the Companies Law; the Accounting Regulation; the Capital Markets Law; the Government Emergency Ordinance on Credit Institutions and Capital Adequacy; and the Government Emergency Ordinance 109/2011 on state owned enterprises[1].

In 2008, the Bucharest Stock Exchange (BSE) adopted a corporate governance code addressed to listed companies, to be implemented as "*comply or explain*". The Code was revised in 2015 and a new Code entered into force in January 2016. Along with the Code, the Bucharest Stock Exchange also published a Compendium of Corporate Governance Practices and a Manual for Reporting Corporate Governance in order to assist companies to implement the Code. The BSE has committed to have a leading role in monitoring the Code's implementation.

Structure and Functioning of the Board

Companies can choose between the one-tier and the two-tier system. The large majority of the ten largest listed companies are organised under a one-tier system. In the two-tier system the supervisory board appoints the executives. Except for state-owned companies, there is no requirement for the CEO to be separated from the chair of the board in the one-tier system. The Corporate Governance Code is also silent on this. Boards are generally well-sized. Legal entities can be board members – a solution that raises doubts - however none of the ten largest listed companies in the country appears to have any corporation on its board. Gender diversity at the board is limited. In banks, the law provides for qualification requirements for board members. In companies, if the audit committee is established, it should have at least one member with experience in accounting or auditing. The Corporate Governance Code recommends board and committee members to have the necessary qualifications and experience. The majority of the largest listed companies disclose the qualifications of their board members. Boards appear to have a diversified mix of skills, but only in few cases audit committee members have qualifications relevant for the work of the committee.

There are at least two definitions of independent directors, one in the law and one in the Code, which does not help clarity. The definition in Corporate Governance Code is more comprehensive and includes some positive criteria (i.e., what it is expected in practice from independent directors). This is a step in the right direction. In practice, it appears that only a minority of companies have independent directors on their board and committees. Fiduciary duties are detailed in the law but there has been little clarity and guidance by courts on the concept.

Transparency and Disclosure

All companies and banks are required by law to prepare and publish an annual report, which should include financial and non-financial information; the large majority of the largest listed companies appear to formally comply with this requirement.

Financial disclosure appears generally sound; however the quality of non-financial disclosure is lagging behind.

Listed companies are required by an Order of the Ministry of Finance to include in their annual reports a chapter dedicated to corporate governance, with a "comply or explain" statement. Seven of the companies in our sample disclosed a "comply or explain" statement; however, the quality of explanations is often poor. To be noted that the disclosure being analysed in this report is precedent to the entry into force of the new Corporate Governance Code. We expect non-financial disclosure to improve substantially in the following years.

[1] This ordinance was amended by Law 111/2016.

Internal Control

Companies whose annual financial statements are subject to audit are required to establish an internal audit function, with direct access and reporting to the board or audit committee. Seven among the ten largest listed companies disclosed having an internal audit function in place.

State-owned companies are required to create an audit committee made of non-executive directors/supervisory board members while other companies are recommended to do so. When established, the audit committee must include at least one independent director. Six among the ten largest listed companies disclosed having established an audit committee, but only in one it is made by a majority of independent members.

Large companies and banks must be subject to an independent external audit. Provision of non-auditing services by external auditors is allowed. This can undermine the independence of the auditors and should be carefully assessed. The law does not seem to regulate conflicts of interests or to require any specific approval of related party transactions. However, in line with IFRS related party transactions need to be disclosed in the financial statements.

Rights of Shareholders

Basic shareholders rights are detailed in legislation and appear to be well implemented. Minority shareholders can call a general shareholders' meeting (GSM), propose items to the GSM agenda, ask questions at the meeting and nominate board members. Cumulative voting is available upon request of shareholders representing at least 10 % of share capital.

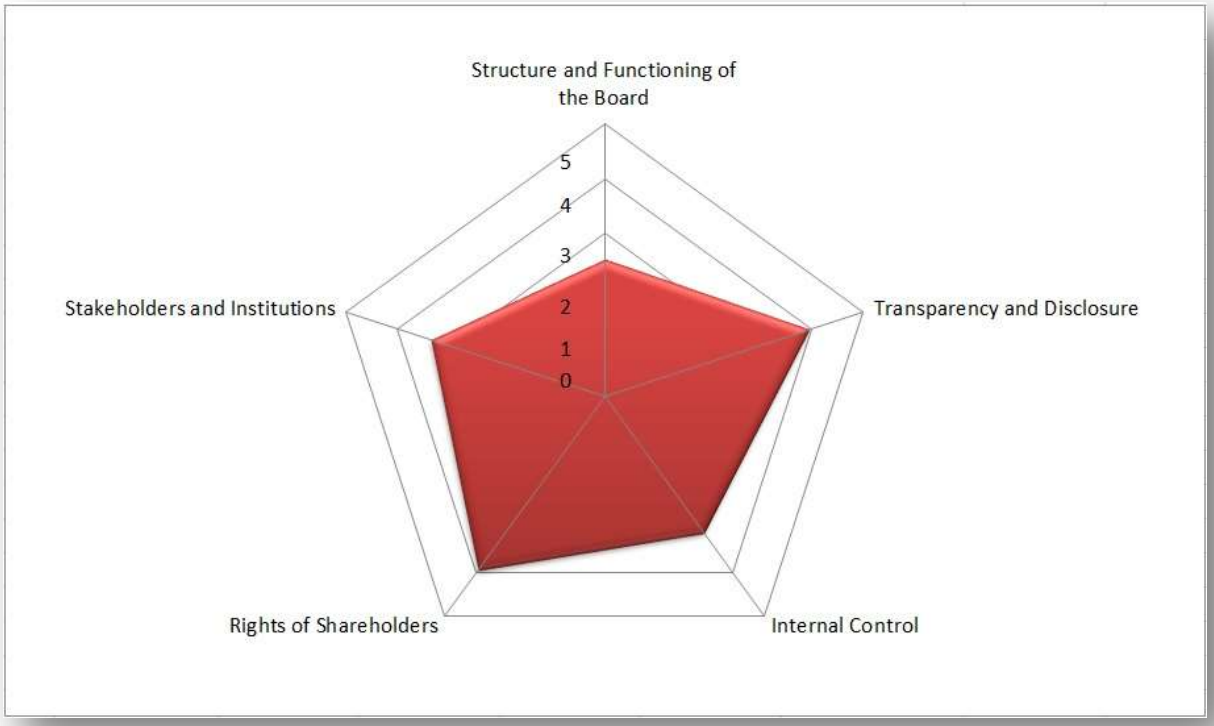
Major corporate changes require qualified majority, however the quorum are quite limited. Pre-emptive rights are granted to existing shareholders and can only be waived upon majority vote of ¾ of the capital. Insider trading seems to be comprehensively regulated by law and enforced. Registration of shareholding seems to be reliable and well established in Romania. Regulation on self-dealing has room for improvement.

Stakeholders and Institutions

Both the right framework and the institutions are present in Romania to ensure the promotion of good corporate governance. The Bucharest Stock Exchange (BSE) appears to have limited capitalisation, but it is active in promoting good quality disclosure by listed companies. Trading is organised in different tiers. The Premium Tier has enhanced corporate governance requirements. The stock exchange's website is well informative.

There are a number of inconsistencies in the corporate governance legislation especially when considering the framework of private companies vs state- owned enterprises. Because some of the largest listed companies are state-controlled, this causes an uneven playing field. A new Corporate Governance Code has recently been enacted, and the BSE has expressed commitment to have a leading role in monitoring its implementation. Much will depend on how this will be translated into practice.

Corporate Governance Legislation and Practices in Romania



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 *Fair*	*Companies can choose between the one-tier and the two-tier system. The large majority of the ten largest listed companies are organised under a one-tier system.* *In the two-tier system the supervisory board appoints the executives. Except for state-owned companies, there is no requirement for the CEO to be separated from the chair of the board in the one-tier system. The Corporate Governance Code is also silent on this.* *Boards are generally well-sized. Legal entities can be board members – a solution that raises doubts - however none of the ten largest listed companies in the country appears to have any corporation on its board. Gender diversity at the board is limited.* *In banks, the law provides for qualification requirements for board members. In companies, if the audit committee is established, it should have at least one member with experience in accounting or auditing. The Corporate Governance Code recommends board and committee members to have the necessary qualifications and experience. The majority of the largest listed companies disclose the qualifications of their board members. Boards appear to have a diversified mix of skills, but only in few cases audit committee members have qualifications relevant for the work of the committee.* *There are at least two definitions of independent directors, one in the law and one in the Code, which does not help clarity. The definition in Corporate Governance Code is more comprehensive and includes some positive criteria (i.e., what it is expected in practice from independent directors). This is a step in the right direction. In practice, it appears that only a minority of companies have independent directors on their board and committees.* *Fiduciary duties are detailed in the law but there has been little clarity and guidance by courts on the concept.*
1.1 Board Composition *Fair*	***Strengths:*** • *Companies can choose between the one-tier and the two-tier system. In the two-tier system the supervisory board appoints the executives. The Corporate Governance Code recommends that the majority of the members of the board should be non-executive.* • *Boards are generally well-sized (average 6.1) and evidence has shown that smaller boards tend to perform better, provided that they have the necessary mix of skills and support (e.g., corporate secretary).* • *In banks, the law provides for qualification requirements for board members. In companies, if the audit committee is established, it should have at least one member with experience in accounting or auditing. The Corporate Governance Code further recommends board and committee members to have the necessary qualification and experience. Eight among the ten largest listed companies disclose the education and qualifications of their (supervisory) board members. Four chairs appear to have both industry expertise and previous chairmanship experience.* • *State-owned companies are required to establish "board" committees, while the law and the Code recommend other companies to establish such committees. When established, the law requires that at least one member of each committee is an independent non-executive director.*[2] • *The members of the audit and remuneration committee can only be non-executive directors. The Corporate Governance Code further recommends that in Standard Tier companies at least one member of the board and of the audit committee is independent. In Premium Tier companies, the board should have at least two independent directors and the majority of the audit committee should be independent. In all cases, the audit committee should be chaired by an independent non-executive member. Six among the ten largest listed companies declared having established the audit committee; two companies established the remuneration committee; and two a combined nomination and remuneration committee.* ***Weaknesses:*** • *Except for in state-owned companies, there is no requirement for the CEO to be separated from the chair of the board in the one tier system. The Corporate Governance Code is also silent on this.* • *Legal entities can serve as board members. This solution raises some doubts.* • *Only four among the ten largest listed companies disclose having independent board members (in two companies there is one independent and in the other two companies there are two independent directors). The other six companies do not disclose this information. Only three companies among the six that disclosed having an audit committee disclose having independent members on the audit committee (in two companies there is one, and in one company there are two independent members).* • *Only in two companies among the six that disclose having an audit committee at least one member of the audit committee has auditing, risk, or accounting education or experience.*

[2] Recent amendments to the Government Emergency Ordinance 109/2011 prescribe that for "Regii autonome" form of companies, all members of the audit committee must be independent directors, while other state-owned companies must have at least one independent member in each committee.

Key Areas and Rating	Strengths and Weaknesses
1.2. Gender Diversity at the Board (11.97%) *Weak*	• *The Corporate Governance Code recommends that "the board and its committees should have an appropriate balance of skills, experience, gender diversity, knowledge and independence to enable them to effectively perform their respective duties and responsibilities".* • *All ten largest listed companies disclose the board composition. Seven out of the ten largest listed companies have women on their boards: one in each board (average in these boards: 17.1%)* • *In total, there are 7 women among 61 board members in the ten largest listed companies, with an average of 11.97 %.*
1.3. Independent Directors *Fair*	***Strengths:*** • *The law requires the audit committee as well as other committees - when established - to be composed of at least one independent director. The Corporate Governance Code further recommends that in Standard Tier companies at least one member of the board and of the audit committee is independent. In Premium Tier companies, the board should have at least two independent directors and the majority of the audit committee should be independent. In all cases, the audit committee should be chaired by an independent non-executive member.* • *There are two definition of independence: one in the law and one in the Corporate Governance Code. The definition in the Code is more comprehensive and includes some positive criteria (i.e., what it is expected in practice from independent directors).* ***Weaknesses:*** • *The presence of two different definitions of independence might be confusing. Companies should clearly disclose which definition applies.* • *Only four among the ten largest listed companies disclose having independent board members (in two companies there is one independent and in the other two companies there are two independent directors). The other six companies do not disclose this information. Only three companies among the six that disclosed having an audit committee disclose having independent members on the audit committee (in two companies there is one, and in one company there are two independent members). Only in one case, the audit committee appears to be made of a majority of independent directors.*
1.4. Board Effectiveness *Weak*	***Strengths:*** • *The law assigns to the (supervisory) board the authority to perform the general management of the company, determine the main directions of the company's activity and development, appoint and dismiss the management board and oversee its activities.* ***Weaknesses:*** • *The law does not assign to the board the authority to approve the company's budget and is silent on risk profile/appetite. Further, under the law the authority for approving the budget rests with the general shareholders meeting. This is unusual and undermines the role of the board, since the responsibility for deciding on the way resources are deployed to achieve strategic objectives is given to shareholders* • *There is limited practice on board evaluation. Only one company discloses undertaking it.* • *The Corporate Governance Code recommends companies to appoint a board secretary responsible for supporting the work of the board, however none of the ten largest listed companies disclose having this function in place.* • *The law requires the (supervisory) board to meet at least quarterly. Five among the ten largest listed companies disclosed the number of board's meetings per year. The frequency of board of directors meetings in person per year varies from 5 to 30 meetings. The high frequency of meetings is often a sign of the board dealing with operational issues. This could not be checked, as disclosure on board activities is extremely limited.* • *Only two out of the ten largest listed companies disclose the number of their audit committee meetings, it being 2 and 3. In contrast with the high frequency of board meetings, the audit committee does not seem to meet even quarterly. As at minimum, the audit committee should validate the quarterly financial statements being published and discuss the progress reports by the internal auditor on the implementation of the audit plan.*
1.5. Responsibilities of the Board *Fair*	***Strengths:*** • *Liability of board members and conflicts of interest are regulated by law.* • *The Corporate Governance Code dedicates an entire chapter to the responsibilities of the board; among others, it recommends companies to define specific internal documents to define board's responsibilities and functions.* ***Weaknesses:*** • *As mentioned above, the law does not clearly confer to the board some of its key functions.* • *The concept of directors' duty of care for (supervisory) board members is not extensively defined by law. It appears that the law provides for a duty of loyalty to the company but there has been little clarity and guidance by courts on the matter (for further information, see: http://ec.europa.eu/internal_market/company/docs/board/2013-study-reports_en.pdf)*

Key Areas and Rating	Strengths and Weaknesses
2. Transparency and Disclosure *Fair/Moderately strong*	*All companies and banks are required by law to prepare and publish an annual report, which should include financial and non-financial information; the large majority of the largest listed companies appear to formally comply with this requirement.* *Financial disclosure appears generally sound; however the quality of non-financial disclosure is lagging behind.* *Listed companies are required by an Order of the Ministry of Finance to include in their annual reports a chapter dedicated to corporate governance, with a "comply or explain" statement. Seven of the companies in our sample disclosed a "comply or explain" statement; however, the quality of explanations is often poor. To be noted that the disclosure being analysed in this report is precedent to the entry into force of the new Corporate Governance Code. We expect non-financial disclosure to improve substantially in the following years.*
2.1. Non-Financial Information Disclosure *Fair*	***Strengths:*** • *All companies and banks are required by law to prepare and publish an annual report, which should include financial and non-financial information. The annual reports of nine among the ten largest listed companies are available online.* • *Listed companies are required by an Order of the Ministry of Finance to include in their annual report a chapter dedicated to corporate governance, with a "comply or explain" statement.* • *The Corporate Governance Code recommends listed companies to have a dedicated Investor Relations section on their website, both in Romanian and English, with all relevant information of interest for investors, including their Articles of Association. Seven among the ten largest listed companies disclose their Articles and the terms of references of their corporate bodies on their websites.* • *Listed companies are required to disclose on their websites the names of board members and all companies in our sample appear to comply. Seven companies also disclosed the qualifications of their board members.* • *Nine among the ten largest listed companies provide information on their capital and shares on their websites and one on the Bucharest Stock Exchange's website.* • *Nine among the ten largest listed companies post the minutes of their general shareholders' meeting on their websites.* ***Weaknesses:*** • *Only five among the ten largest listed companies provide some information about their strategy in their annual reports or websites.* • *Seven among the ten largest listed companies provided a "comply or explain" statements in their annual reports. The quality of explanations is generally poor and only four companies in our sample disclose the activities of the board in their annual reports (which in most cases is just a "copy and paste" from the company bylaws). Disclosure on committees' activities is extremely limited.* • *In general, the Information posted on the websites' of the ten largest listed companies' websites is easy to access but often incomplete.* • *Five companies disclosed the number of board's meetings per year and only two disclose the number of their audit committee's meetings. In some cases, the frequency of board meetings seems very high, which might be a sign that the board deals with operational issues. On the contrary, the number of meetings of the audit committee is limited.* • *All ten largest listed companies disclose the names of their major shareholders, but only three seem to go in detail and disclose the names of their beneficial owners.* • *There is no requirement to adopt a code of ethics and only two among the ten largest listed companies disclose having adopted one.* • *Only one of the ten largest listed companies appears to disclose transactions in company's shares of supervisory and management boards members.*
2.2. Financial Information Disclosure *Strong*	***Strengths:*** • *Since 2012, listed companies and banks are required to prepare and disclose their financial statements in line with IFRS and all ten largest listed companies published their financial statements in line with IFRS on their websites.*
2.3. Reporting to the Market and to Shareholders *Fair/Moderately strong*	***Strengths:*** • *Nine among the ten largest listed companies published their annual reports with information on governance and ownership structures, with seven of them along with "comply or explain" statements.* • *Nine among the ten largest listed companies disclose the minutes of the general shareholders' meeting on their own websites. Failure to disclose the annual report is subject to fine and the regulator has confirmed that it monitors compliance with disclosure rules.* • *The law requires companies to disclose price sensitive information. Eight companies among the ten largest listed companies seem to keep their websites up-to-date with the most recent announcements being less than 2 months old. The stock exchange provides a website page with all regulatory submissions*

Key Areas and Rating	Strengths and Weaknesses
	by listed companies. ***Weaknesses:*** • *The quality of non-financial information is not always of good quality. Explanations provided in the "comply or explain" statements are often not related to the practices and generally not convincing.*
2.4. Disclosure on the External Audit *Moderately strong*	***Strengths:*** • *Large companies and banks are required to disclose detailed information on the external auditor. All ten largest listed companies have appointed an external auditor and disclose its name. The majority of auditors are international audit firms. Nine among ten largest listed companies disclose the auditors' reports.* • *The law assigns the general shareholders' meeting the exclusive authority to appoint the external auditors.* • *The law requires the external auditor to be independent. The Corporate Governance Code recommends the audit committee to ensure the integrity of financial reporting and of the internal control system, including the internal and external audit processes.* ***Weaknesses:*** • *Provision of non-audited services by the external auditor is allowed. Disclosure on this matter is very limited. There is a risk that uncontrolled provision of non-auditing services can undermine the auditors' independence.*

Key Areas and Rating	Strengths and Weaknesses
3. Internal Control *Fair*	*Companies whose annual financial statements are subject to audit are required to establish an internal audit function, with direct access and reporting to the board or audit committee. Seven among the ten largest listed companies disclosed having an internal audit function in place.* *State-owned companies are required to create an audit committee made of non-executive directors/supervisory board members while other companies are recommended to do so. When established, the audit committee must include at least one independent director. Six among the ten largest listed companies disclosed having established an audit committee, but only in one it is made by a majority of independent members.* *Large companies and banks must be subject to an independent external audit.* *Provision of non-auditing services by external auditors is allowed. This can undermine the independence of the auditors and should be carefully assessed. The law does not seem to regulate conflicts of interests or to require any specific approval of related party transactions. However, in line with IFRS related party transactions need to be disclosed in the financial statements.*
3.1. Quality of the Internal Control Framework *Moderately strong*	***Strengths:*** • *Companies whose annual financial statements are subject to financial audit are required by law to establish an internal audit function, with direct access and reporting to the board or audit committee. Seven among the ten largest listed companies disclosed having an internal audit function in place.* • *Banks are required to establish a compliance function; however it is not clear if it should be a standalone function.* • *State-owned companies are required to create an audit committee made of non-executive directors/supervisory board members. Other companies are recommended to do so. When established, the law requires the audit committee to have at least one independent director. The Corporate Governance Code recommends that in Premium Tier companies the audit committee is made by a majority of independent directors. In all cases, the audit committee should be chaired by an independent non-executive member.* • *There is a comprehensive whistle blowing legislation in place.* • *The Corporate Governance Code dedicates an entire chapter to risk management and internal control system.* ***Weaknesses:*** • *Six out of the ten largest listed companies disclosed having an audit committee, but only one discloses that it is made of a majority of independent members. Two other companies disclose having one independent member in their audit committee (in both cases a minority).* • *There is no requirement to adopt a code of ethics and only two among the ten largest listed companies disclose having adopted one.*
3.2. Quality of Internal and External Audit *Fair*	***Strengths:*** • *Large companies and banks must be subject to an external audit. All ten largest listed companies have appointed an external auditor and disclose its name. When looking at the auditors opinions on the financial statements of the ten largest listed companies we have noticed that in all cases, the auditing has been made in accordance with the International Standards on Auditing.* • *The law assigns the general shareholders' meeting the exclusive power to appoint the external auditors.* • *The law requires the external auditor to be independent. The Corporate Governance Code recommends the audit committee to ensure the integrity of financial reporting and of the internal control system, including the internal and external audit processes.* • *Large companies and banks are required by law to establish an internal audit function with direct access and reporting to the board or audit committee. Seven among the ten largest listed companies disclosed having an internal audit function in place.* • *The Romanian Institute of Internal Auditors is member of the Institute of Internal Auditors.* • *The audit committee is a board committee, made only of board members. The Corporate Governance Code recommends that in Premium Tier companies the audit committee is made by a majority of independent directors. In all cases, the audit committee should be chaired by an independent non-executive member. Six among the ten largest listed companies disclosed having established an audit committee. However, only three companies appear to have independent members in their audit committees.* • *The Government Emergency Ordinance on Credit Institutions and Capital Adequacy requires banks to "periodically replace the financial auditor" or the person performing the audit, while investment firms, investment management companies, investment and voluntary pension funds, insurers and reinsurers and various other actors in the capital market are required to rotate their auditor every five years.* ***Weaknesses:***

Key Areas and Rating	Strengths and Weaknesses
	• *Only one company disclose that the audit committee is made by a majority of independent directors.* • *Provision of non-audited services by the external auditor is allowed. Disclosure on this matter is very limited. There is a risk that uncontrolled provision of non-auditing services can undermine the auditors' independence.* • *There is no requirement to rotate the external auditor for listed companies.*
3.3. Functioning and Independence of the Audit Committee *Weak*	***Strengths:*** • *The Companies Law foresees that when an audit committee is established, at least one member should be independent and have experience in accounting or financial audit. Members of the audit committee can only be non-executive directors.* • *The Corporate Governance Code recommends that in Premium Tier companies the audit committee is made by a majority of independent directors. In all cases, the audit committee should be chaired by an independent non-executive member.* ***Weaknesses:*** • *Only in state-owned companies, the setting up the audit committee is mandatory.* • *Six out of the ten largest listed companies disclosed having an audit committee, but only in one it is made by a majority of independent members.* • *Only in two companies - among the six that disclose having an audit committee - at least one member has auditing, risk, or accounting education or experience.* • *Only two out of the six companies that have an audit committee disclose the number of their audit committee's meetings. Disclosure on the activities of the audit committee is very limited.*
3.4. Control over Related Party Transactions and Conflict of Interest *Fair*	***Strengths*** • *The Corporate Governance Code recommends the audit committee to review related party transactions. The Code also recommends the board to adopt a policy ensuring that any transaction of the company with any of the companies with which it has close relations that is equal to or more than 5% of the net assets of the company should be approved by the board following an obligatory opinion of the audit committee and disclosed.* • *Related party transactions must be disclosed in the financial statements. When looking at the websites of the ten largest listed companies, we found that all of them disclose some information on related party transactions.* ***Weaknesses*** • *There is no comprehensive legislation on conflict of interests.* • *The approval procedure for related party transactions is not detailed in the law.*

Key Areas and Rating	Strengths and Weaknesses
4. Rights of Shareholders *Moderately strong*	*Basic shareholders rights are detailed in legislation and appear to be well implemented. Minority shareholders can call a general shareholders' meeting (GSM), propose items to the GSM agenda, ask questions at the meeting and nominate board members. Cumulative voting is available upon request of shareholders representing at least 10 % of share capital. Major corporate changes require qualified majority, however the quorum are quite limited. Pre-emptive rights are granted to existing shareholders and can only be waived upon majority vote of ¾ of the capital.* *Insider trading seems to be comprehensively regulated by law and enforced.* *Registration of shareholding seems to be reliable and well established in Romania.* *Regulation on self-dealing has room for improvement.*
4.1. General Shareholders' Meeting (GSM) *Moderately strong*	***Strengths:*** • *Shareholders representing 5% of the shares can call a GSM and can propose new items to the GSM agenda.* • *By law, notification with the agenda of the GSM needs to be sent to the shareholders at least 30 calendar days before the meeting. Listed companies should post on their websites at least 30 days before the meeting all documents relevant for the GSM. Nine among the ten largest listed companies posted the GSM notifications on their websites, in addition to seven of them which also posted relevant documents.* • *Shareholders can ask questions at the GSM.* • *Shareholders representing at least 10 % of share capital may request the company that the board election is made through cumulative voting.* • *The voting at the GSM is made according to the one-share one-vote principle.* • *Shareholders have the right to nominate board members.*
4.2. Protection against Insider Trading and Self-dealing *Fair*	***Strengths:*** • *Insider trading is regulated and prohibited by law and appear to be well enforced in practice.* • *All ten largest listed companies disclose related party transactions within the notes to the financial statements. However, in some cases disclosure is general and vague.* • *The Code recommends the audit committee to review related party transactions.* ***Weaknesses:*** • *Related party transactions are not comprehensively regulated by law.* • *The regulation on self-dealing does not provide for an appraisal by an independent evaluator to establish if the price paid is fair or equal to market value.* • *Only very few among the ten largest companies disclose on their websites transactions in company shares by directors and executives.*
4.3. Minority Shareholders Protection and Shareholders' Access to Information *Moderately strong*	***Strengths:*** • *Nine among the ten largest listed companies publish their annual reports on their websites, including corporate governance and ownership structures information. Seven companies also publish "comply or explain" statements. However, the quality of non-financial information is not always good.* • *Two thirds qualified majority vote at the GSM is required to make changes in the capital of the company and to decide major issues as merger, take-over, reorganisation, and winding up or voluntary liquidation of the company.* • *Existing shareholders have pre-emptive rights in all cases of capital increase. Pre-emptive rights can only be waived by simple majority at the GSM, with a quorum of at least 3/4 of all shares being present (i.e., 37.5%+1 provided that 75% of the capital is present).* • *Shareholders representing at least 10 % of share capital may request the company that the board election is made through cumulative voting.* • *Shareholders representing at least 5 % of share capital may start a derivative suit.* ***Weaknesses:*** • *Even if qualified majority is required for major corporate changes, the quorum is only 25 % of the voting shares in the first call of the GSM and 20 % of the other meetings.*
4.4. Registration of Shareholdings *Moderately strong*	***Strengths:*** • *Shareholders agreements are considered enforceable among the parties, provided that they are concluded with the observance of contract validity requirements and in full compliance with the mandatory law provisions and company's Articles. However, it appears that shareholders agreements stating how the voting rights should be exercised at the general shareholders' meeting are void under the law and not enforceable. In case of the violation of shareholders agreements, case law shows that the claimant may only claim damages, but not the annulment of the resolutions, acts or transactions adopted in violation of the existent shareholders agreements.* • *Listed companies are required to maintain their share register by authorised central depository.* • *Significant shareholding variations must be disclosed.*

Key Areas and Rating	Strengths and Weaknesses
5. Stakeholders and Institutions *Fair*	*Both the right framework and the institutions are present in Romania to ensure the promotion of good corporate governance.* *The Bucharest Stock Exchange (BSE) appears to have limited capitalisation, but it is active in promoting good quality disclosure by listed companies. Trading is organised in different tiers. The Premium Tier has enhanced corporate governance requirements. The stock exchange's website is well informative.* *There are a number of inconsistencies in the corporate governance legislation especially when considering the framework of private companies vs state-owned enterprises. Because some of the largest listed companies are state-controlled, this causes an uneven playing field.* *A new Corporate Governance Code has recently been enacted, and the BSE has expressed commitment to have a leading role in monitoring its implementation. Much will depend on how this will be translated into practice.*
5.1. Corporate Governance Structure and Institutions *Moderately strong*	***Strengths:*** • *The Bucharest Stock Exchange (BSE) has a market capitalisation roughly amounting to 19% of the GDP with an average daily turnover for the year of 2015 of nearly 8 million EUR. In 2015, there were 84 companies listed on the BSE.* • *The BSE appears actively engaged for the promotion of good corporate governance.* • *The BSE website (http://www.bvb.ro/) is informative and includes a dedicated page on issuers with general information and contact information, financial reports and announcements.* • *Trading is organised in different segments. The Premium Tier has enhanced corporate governance requirements.* • *International audit and law firms have a material presence in the country.* • *International rating agencies appear active in the country.* • *It appears that there are some corporate governance training providers in the country.*
5.2. Corporate Governance Code *Fair*	***Strengths:*** • *The Corporate Governance Code was adopted in 2001 and reviewed in 2008 and 2015.* • *Listed companies are required by law to report on their compliance with the Principles (so-called "comply or explain").* • *A new Corporate Governance Code just entered into force and it is expected that the BSE will play a leading role in monitoring implementation. Along with the Code, the BSE has also published on its website a Compendium of Corporate Governance Practices and a Manual for Reporting Corporate Governance in order to assist companies to implement the Code.* • *Seven among the ten largest listed companies published "comply or explain" statements (referring to the old code). In general, the explanations provided at "comply or explain" basis are very formalistic in nature: listed companies appear to disclose the contents of their internal documents regulating the activities of their bodies, but not the corporate governance practices in place.* ***Weaknesses:*** • *It appears that – till now - there is no authority monitoring how the Coode is implemented in practice (no report on this matter is published). The BSE has announced the market that it will take this role, starting from January 2016.* • *We have no evidence of courts referring to the Corporate Governance Code as a source of obligations or rights.*
5.3. Institutional Environment *Fair*	***Strengths:*** • *Indicators by international organisations show a relatively sound framework. The country ranks in the top half of countries in the World Bank Doing Business and in the Transparency International's Corruption Perceptions Index.* ***Weaknesses:*** • *It appears that there are a number of inconsistencies in the corporate governance legislation especially when considering the framework of private companies and state owned enterprises. Because some of the largest listed companies are still state controlled, this causes an uneven playing field.* • *Case law collections appear easily accessible but only by lawyers; further collections are not aggregated in a timely manner. Court decisions published on courts' websites (e.g. High Court of Cassation and Justice) are limited. According to the 2015 EBRD Assessment on Accessibility of Court Decisions, lack of prompt publication of case law remains a major obstacle when it comes to ease of access to court decisions; case law is also reportedly not easily searchable.* • *Even though the relation with stakeholders is improved, there is room for improvement of the investor relation functions of issuers. The new Corporate Governance Code addresses this issue and dedicates a chapter on Building value through investors' relations.*