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European Bank
for Reconstruction and Development

Corporate Governance in Transition Economies

Kazakhstan Country Report

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With the assistance of:
Nestor Advisors

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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 Kazakhstan are the Law on Joint Stock Companies, the Law on Accounting and Financial Reporting, the Law on Securities Market and the Law on Banks and Banking Activity. A Code on Corporate Governance was adopted by the Council of Issuers and the Council of the Association of Financiers (Financial Institutions' Association) in 2005 and amended in 2007. The Code is voluntary and applies to Kazakhstan listed companies, which are recommended to incorporate the provisions of the Code in their own codes and bylaws. While the majority of companies formally incorporate the Code in their corporate documents, in practice the implementation of the Code's principles remains weak.

Structure and functioning of the board

Joint stock companies (JSCs) are organised under a one-tier system. Although the CEO is the only executive director allowed to be a board member, he/she is not permitted to chair both the board and committees. The law seems to be excessively prescriptive in requiring all JSCs (of any size and business activity, listed or not) to have independent directors and committees (however they are not necessarily board committees, as they might include *"outsiders", i.e. non-board members*). The committees dealing with strategy planning, personal and remuneration, internal audit and social issue must be chaired by independent directors; however, outsiders, executives and the CEO may be members of board committees. In practice, it does not appear that all companies have committees in place.

Neither the law nor the Corporate Governance Code requires listed companies' committees to be made up of a majority of independent directors and, neither is such practice common among companies. Boards appear to be small and legal entities cannot serve as board members. Despite the lack of legal requirement regarding board members' qualification (except for banks), boards appear to have a diversified mixed of skills. Gender diversity on boards is very limited.

The law does not refer to key functions that should be performed by the board such as, such as oversight of the management, budget approval and risk management. The fact that the general shareholders' meeting can overturn any board decisions is a major shortcoming. There is no practice of board evaluation and company secretary function, in practice, seems to be mainly administrative. Board and committee meetings commonly occur in absentia. Liability of board members, fiduciary duties and conflict of interests are detailed in the law; however it appears that there is no case law or judicial practice on these matters.

Transparency and Disclosure

Companies do not seem to be required by law to disclose non-financial information in their annual report. Disclosure on the activities of the board and committees is limited. However, most of the ten largest companies provide a fair amount of information on their website or on the stock exchange (KASE) website, including the board members' names and qualifications, constitutional documents, information on their share capital and important announcements.

Financial information is in line with IFRS, and all ten largest listed companies seem to publish their financial statements in line with IFRS. Companies are required to have external audit appointed by the GSM and to disclose external auditor's name, and companies seem to comply with these requirements. The only issue of concern is the provision of non-auditing services, which is not regulated by law and might undermine the auditor's independence.

Listed companies do not disclose their compliance with the Corporate Governance Code, and only half of the largest listed companies disclose their corporate governance code – which is a legal requirement. It does not appear that there is much monitoring being carried out by the exchange and the regulator on the quality of non-financial disclosure.

Internal Control

The internal control framework seems to be developing. Companies are recommended to create an internal audit function, while for banks this is a legal requirement. Companies are also required to have external audit and an internal audit committee headed by an independent director. However, there are still issues to be tackled. Internal audit practices need improvements, and it is not clear if internal audit – where it exists – is independent and reporting to the board or internal audit committee. We have doubts as to whether it is necessary to require all companies to have an internal audit committee, but if the law requires so, the implementation of this requirement should be monitored as it is key to ensure a proper internal control framework. Only five among the ten largest listed companies disclose having an audit committee in place chaired by an independent director made by a majority of independent directors. External audit seems to be a well-established practice and in line with IFRS. They are also required to be independent; however, it is not clear who is in charge of this 'independent test', external auditors are allowed to perform non-auditing services and are not required to be rotated. Disclosure on these matters is limited.

The law should require listed companies to have a board committee to deal with the external audit. These issues need to be carefully assessed, as they can weaken the auditor's independent. Related party transactions and conflicts of interest are regulated by law; however, it is not clear how the law is implemented and enforced in practice. At the moment it appears that there is no comprehensive whistleblowing legislation.

Rights of Shareholders

Basic shareholder rights seem to be adequately regulated by law and major corporate changes require supermajority at the general shareholders' meeting. Shareholders representing 10% of the capital may call a shareholder meeting but there is no clear shareholder right to ask question at the meeting. Cumulative voting is in place, but this does not seem to apply in case a single director resigns. This can mine the whole concept of minority representation, provided by cumulative voting.

Shareholders have pre-emptive-rights in case of capital increase. Shares provide equal rights to shareholders and registration of shareholding is required by law.

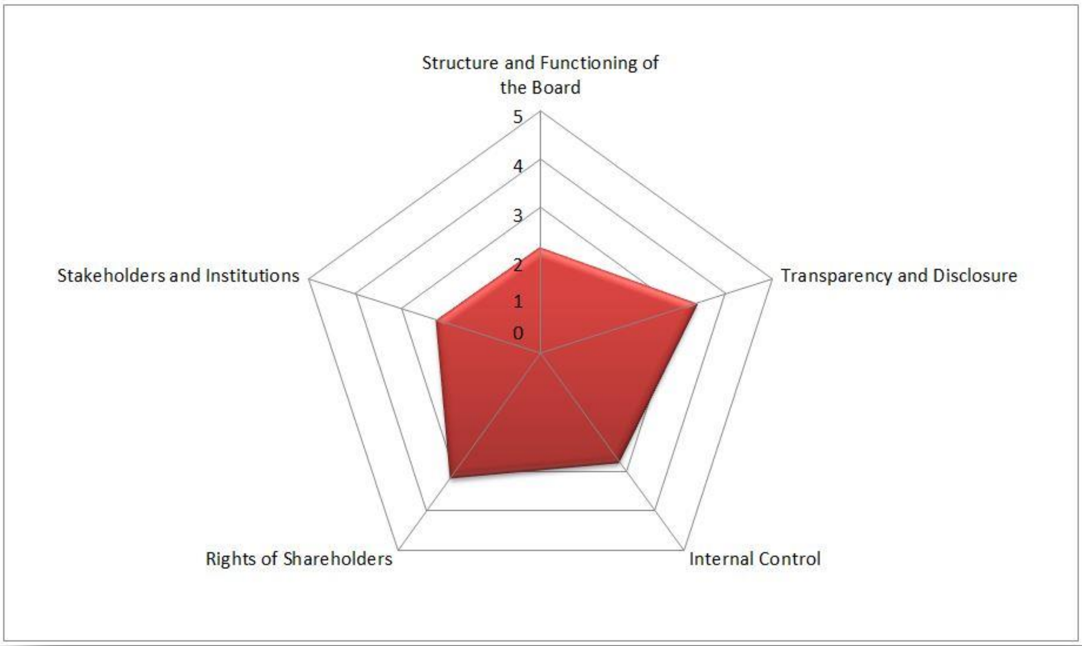
The law provides for the possibility (for the State) to exercise a golden share right, which is not in line with international standards. Shareholders have the right to access corporate documentation and most companies provide a fair amount of information on their or on KASE's website. Disclosure of non-financial information, however, is not required by law and lacks quality. Significant share acquisitions must be previously approved by the anti-monopoly authority. Related party transactions and conflicts of interests are regulated by law. Some doubts exist as regards enforcement of insider trading legislation, since no information is provided on how many cases have been investigated and closed. The law does not restrict or impose disclosure on directors' dealings with the company's shares. Shareholders are provided with judicial mechanisms to enforce their rights, but no case law seems to exist.

Stakeholders and Institutions

The institutional framework supporting good corporate governance needs improvement. It seems that much effort is made when it comes to legislation, but more attention should be paid to monitoring. International audit, law and rating firms are present in Kazakhstan and all together undoubtedly provide some contribution to enhancing corporate governance. Also, Samruk-Kazyna seems to be committed to the cause of good governance in SOEs.

However, the stock exchange and the regulator do not seem to be very active in promoting good corporate governance or in monitoring companies' practices. The Corporate Governance Code, approved in 2005 and reviewed in 2007, lacks proper implementation mechanism and seems to be out-dated. Listed companies are required to adopt and disclose their own codes, which shall be shaped upon the stock exchange's model; however, only half of the largest listed companies disclose complying with such obligation. Rulings of regulatory agencies are documented, publicly available and easily accessible. It seems that case law is not very timely aggregated, but is fairly easily accessible to parties and the public. Inconsistencies between different laws and regulations are reported. Indicators by international organisations clearly point out how corruption is a perceived concern.

Corporate Governance Legislation and Practices in Kazakhstan



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	Joint stock companies (JSCs) are organised under a one-tier system. Although the CEO is the only executive director allowed to be a board member, he/she is not permitted to chair both the board and committees. The law seems to be excessively prescriptive in requiring all JSCs (of any size and business activity, listed or not) to have independent directors and committees (however they are not necessarily board committees, as they might include "outsiders", i.e. non-board members). The committees dealing with strategy planning, personal and remuneration, internal audit and social issue must be chaired by independent directors; however, outsiders, executives and the CEO may be members of board committees. In practice, it does not appear that all companies have committees in place. Neither the law nor the Corporate Governance Code requires listed companies' committees to be made up of a majority of independent directors and, neither is such practice common among companies. Boards appear to be small and legal entities cannot serve as board members. Despite the lack of legal requirement regarding board members' qualification (except for banks), boards appear to have a diversified mixed of skills. Gender diversity on boards is very limited. The law does not refer to key functions that should be performed by the board such as, such as oversight of the management, budget approval and risk management. The fact that the general shareholders' meeting can overturn any board decisions is a major shortcoming. There is no practice of board evaluation and company secretary function, in practice, seems to be mainly administrative. Board and committee meetings commonly occur in absentia. Liability of board members, fiduciary duties and conflict of interests are detailed in the law; however it appears that there is no case law or judicial practice on these matters.
1.1. Board Composition Fair	**Strengths:** • Boards appear to be small, with an average of 5.8 members. • Legal entities cannot serve as board members. • The CEO cannot be the chair of the board and of its committees. • The law requires all companies to set up committees to deal with strategy planning, personnel and remuneration, internal audit and social issues. Companies may also create additional committees. Five among the ten largest companies declared that they have committees for each of these four areas. • Most companies disclose the qualifications of their board members. • Board members of banks are required to hold a university degree and the chair to have banking industry expertise. The Corporate Governance Code recommends the board to be comprised of highly skilled professional. The law is silent in this respect though. Boards appear to have a diversified mix of skills. Six chairs in our sample demonstrate industry expertise and previous chairmanship experience. **Weaknesses:** • The CEO is the only executive director allowed to be a member of the board. • The law requires the chair of the strategic planning, resource and remuneration, internal audit and social issues committees to be an independent director, but it seems that this requirement is not well implemented (only in three companies it appears that all committees are chaired by independent members). • Neither the law nor the Corporate Governance Code requires listed companies' committees to be made up of a majority of independent directors. • The law allows the CEO and "outsiders" (i.e., non-board members) to be members of the committees. • The internal audit committee of only four out of the ten largest listed companies has members with audit risk or accounting education or experience.
1.2. Gender Diversity at the Board (9.9%) Very Weak	• Both the law and the Corporate Governance Code are silent on gender diversity at the board. • All ten largest listed companies disclose the board composition. Five out of the ten largest companies have between one and two women in their boards (average of 19.80% in these boards). • In total, there are 6 women among 58 board members. The average of female representation on the boards of the ten largest companies is 9.9 %. This very close to the threshold between "very weak" and "weak" rating.
1.3. Independent Directors Weak	**Strengths:** • All JSCs are required to have at least 30% of independent board members. Eight of the ten largest listed companies state they comply with this requirement. • The definition of independence (non-affiliation) is included in the law, however It is made of a long list of negative criteria for non-affiliation only. There are no positive criteria or requirements on what independent directors should do in practice to exercise their independence (see further below). **Weaknesses:**

<table>
<tr><th>Key Areas and Rating</th><th>Strengths and Weaknesses</th></tr>
<tr><td></td><td>
The requirement that all JSCs have independent members seems excessively prescriptive. This should be limited to public interest companies only (e.g., listed companies, banks and insurance companies).
The law limits to 50% the numbers of directors “representing” shareholders. This is major weakness as directors should not representing shareholders. They should only represent the company (see more on fiduciary duties below). In addition, this also restricts the membership of independent directors.
The definition of independence is not comprehensive as it does not demand that independent members present an independent state of mind, judgement. It should be pointed out that the concepts of “non-affiliation” and “independence” are different. While non-affiliation can be established by negative criteria, independence necessarily needs objectivity of mind and character, which is a positive character that should be demonstrated, disclosed and explained in practice. Only one company discloses the criteria adopted to consider its members as independent.
The law requires the chair of the strategic planning, resource and remuneration, internal audit and social issues committees to be an independent director, but only in three companies it appears that all committees are chaired by independent members.
Neither the law nor the Corporate Governance Code requires the key committees to be made up of a majority of independent directors. Five companies affirm that a majority of the committee members are independent directors.
</td></tr>
<tr><td>1.4. Board Effectiveness
Weak</td><td>Strengths:
The law expressly assigns to the board the authority to monitor the effectiveness of the corporate governance practice in the company.
The law requires companies to have a corporate secretary and he/she cannot be a member of the board or executive body.
Weaknesses:
The law does not clearly assign to the boards all of its key functions (such as oversight of the management, budget approval and risk management).
It appears that the law “micromanages” the distribution of power between boards and management.
The General Shareholders Meeting (GSM) can overturn any board decisions, which a major weaknesses.
Board committees do not seem to add much value to the board functioning and effectiveness.
Only five out of the ten largest listed companies disclose having a company secretary position and the function seems mainly administrative.
There is no practice of board evaluation. Only three companies disclose performing board evaluation.
It seems that boards discuss and decide a very high number of issues in absentia (12 times more issues in absentia than in person).
Internal audit committee meetings are overall infrequent and decisions are commonly taken in absentia.
</td></tr>
<tr><td>1.5. Responsibilities of the Board
Weak</td><td>Strengths:
Liability of board members is well detailed in the law, but it appears there is little (if any) judicial practice involving liability of board members.
Conflicts of interest are regulated by law, and “related-party transactions” must be approved by a majority of disinterested board members.
Weaknesses:
The law does not expressly assign to the boards all of its key functions and allows the GSM to overrule the board decisions. This is a major weakness.
The law refers to directors as “representatives of shareholders” which clashes with the concept of fiduciary duties.
</td></tr>
</table>

Key Areas and Rating	Strengths and Weaknesses
2. Transparency and Disclosure *Fair*	*Companies do not seem to be required by law to disclose non-financial information in their annual report.* *Disclosure on the activities of the board and committees is limited. However, most of the ten largest companies provide a fair amount of information on their website or on the stock exchange (KASE) website, including the board members' names and qualifications, constitutional documents, information on their share capital and important announcements.* *Financial information is in line with IFRS, and all ten largest listed companies seem to publish their financial statements in line with IFRS.* *Companies are required to have external audit appointed by the GSM and to disclose external auditor's name, and companies seem to comply with these requirements. The only issue of concern is the provision of non-auditing services, which is not regulated by law and might undermine the auditor's independence.* *Listed companies do not disclose their compliance with the Corporate Governance Code, and only half of the largest listed companies disclose their corporate governance code – which is a legal requirement.* *It does not appear that there is much monitoring being carried out by the exchange and the regulator on the quality of non-financial disclosure.*
2.1. Non-Financial Information Disclosure *Weak*	***Strengths:*** • *On average, the ten largest listed companies have reasonably informative and updated website; however information is often difficult to find.* • *Disclosure on directors' qualification is requested within the documentation for the shareholder meetings and most companies disclose this information on their websites or annual reports.* • *The law requires companies to publish the GSM minutes on the company's website, which seems to be a well-implemented practice.* • *Listed companies must periodically provide KASE (stock exchange) with information on its share capital and significant shareholders (more than 5%). The ten largest listed companies disclose on their website and/or on the stock exchange's website information related to their share capital and major shareholders.* • *The ten largest listed companies disclose their related-party transactions in line with the IFRS standards.* ***Weaknesses:*** • *Companies are required to provide KASE (stock exchange) with an annual report on their activities, but they are not required to disclose it – except for the financial statements. Overall, there is little non-financial information in the annual reports and only five of the ten largest companies publish their annual reports.* • *Disclosure on the activities of board and committee meetings is limited.* • *Companies do not disclose their compliance with the Corporate Governance Code, and only half of the largest listed companies disclose their corporate governance code – which is a legal requirement.* • *It appears that there is not much monitoring being carried out by the exchange and the regulator on the quality of non-financial disclosure.*
2.2. Financial Information Disclosure *Strong*	***Strengths:*** • *All joint stock companies and banks are required to prepare their financial statements using IFRS accounting standards, and all ten largest listed companies seem to publish their financial statements in line with IFRS.* • *Nine out of the ten largest listed companies are audited by a "big four".*
2.3. Reporting to the Market and to Shareholders *Weak/Fair*	***Strengths:*** • *Shareholders and the market can rely on a fair amount of information being disclosed.* • *It appears that all ten largest listed companies keep their websites up-to-date with the most recent announcement.* ***Weaknesses:*** • *Disclosure of non-financial information is not of a good quality.* • *Companies are not required by law to disclose their annual reports, but only their financial reports.* • *The law requires disclosure of price sensitive information; however, issuers may take up to 15 days to disclose such information.*
2.4. Disclosure on the External Audit *Moderately strong*	***Strengths:*** • *Companies are required to have external audit appointed by the GSM and to disclose external auditor's name, and companies seem to comply with these requirements.* ***Weaknesses:*** • *Auditors are required to be independent, but it is not clear who is in charge of this "independence test".* • *The law does not address the problems arising from the provision of non-auditing services by auditing firms.*

Key Areas and Rating	Strengths and Weaknesses
3. Internal Control *Fair*	*The internal control framework seems to be developing. Companies are recommended to create an internal audit function, while for banks this is a legal requirement.* *Companies are also required to have external audit and an internal audit committee headed by an independent director. However, there are still issues to be tackled. Internal audit practices need improvements, and it is not clear if internal audit – where it exists – is independent and reporting to the board or internal audit committee.* *We have doubts as to whether it is necessary to require all companies to have an internal audit committee, but if the law requires so, the implementation of this requirement should be monitored as it is key to ensure a proper internal control framework.* *Only five among the ten largest listed companies disclose having an audit committee in place chaired by an independent director made by a majority of independent directors.* *External audit seems to be a well-established practice and in line with IFRS. They are also required to be independent; however, it is not clear who is in charge of this 'independent test', external auditors are allowed to perform non-auditing services and are not required to be rotated. Disclosure on these matters is limited.* *The law should require listed companies to have a board committee to deal with the external audit. These issues need to be carefully assessed, as they can weaken the auditor's independent.* *Related party transactions and conflicts of interest are regulated by law; however, it is not clear how the law is implemented and enforced in practice.* *At the moment it appears that there is no comprehensive whistleblowing legislation.*
3.1. Quality of the Internal Control Framework *Weak*	***Strengths:*** • *All JSCs are recommended by law to establish internal audit services (departments), while this is mandatory for banks and public companies. Six among the ten largest listed companies disclosed have set up internal audit departments.* • *The law requires that, if created, the internal audit function shall be directly subordinated to the board of directors and report to it with regard to its activities.* ***Weaknesses:*** • *There is no established practice to periodically review the effectiveness of the internal audit system.* • *Obtaining professional certifications and qualifications (e.g., the Certified Internal Auditor designation and other designations offered by professional organizations) is not a common practice by internal auditors.* • *It is not clear if internal audit (where it exists) is independent and effectively reporting either to the board or to the internal audit committee (existence of which is mandatory).* • *Only five among the ten largest listed companies disclose having an internal audit committee in place, made by a majority of independent directors. Only three of them disclosed that the committee is chaired by an independent director.* • *The role and independence of the internal audit committees seem to be limited.* • *It has been reported that most banks have a compliance function in place, but there is little disclosure evidencing this.* • *There is no comprehensive whistleblowing legislation.*
3.2. Quality of Internal and External Audit *Fair*	***Strengths:*** • *Companies are recommended to create an internal audit function and are required to have external audit.* ***Weaknesses:*** • *Auditors are required to be independent – and the auditors of all ten largest companies declare to be independent – , but it is not clear who is in charge for this "independence test" and it is not clear why the law does not assign such responsibility to the internal audit committee – which should be renamed audit committee.* • *External auditors are allowed to perform non-auditing services and are not required to be rotated. Disclosure on these matters is limited.*
3.3. Functioning and Independence of the Audit Committee *Weak*	***Strengths:*** • *The law requires that the internal audit committees shall be headed by an independent director.* • *The five companies that disclose having established an audit committees disclose that they are chaired by an independent director and made up of a majority of independent directors.* ***Weaknesses:*** • *The law requires all companies to have internal audit committees – which may be excessively prescriptive – and compliance with this requirement is limited (only five companies disclose having such committee). The implementation of these committees should be monitored as it is key to ensure a proper internal control framework.* • *By limiting the role of this committee to internal audit, the law misses an opportunity to address the problems*

Key Areas and Rating	Strengths and Weaknesses
	that may arise from the relationship between the company and external auditors which may compromise their independence. The law should recommend that listed companies have a board committee to deal with external audit. • *It appears that "outsiders", executives and the CEO can be members of the internal audit committee. This solution raises some concerns. We believe it is important that the audit committee includes only board members if the functions delegated to the committee are typical board functions. Secondly, it is essential that those members sitting in the committee and recommending specific actions to the board follow up on such recommendations and vote on the committee's recommendations at the board meeting, therefore reinforcing their positions and the board "objective judgement". Further, we believe that audit committee members should have a full vision of the business of the company in order to express their determinations – while outsiders might only have a partial understanding. Finally, committees that include outsiders might create problems with confidentiality and accountability issues, since such "outsiders" might not be bound by duties of loyalty and care required to board members. While it is legitimate that the audit committee might need external advice or expertise on specific issues, it should be able to request such advice, but it should not allow the advisor(s) to replace the committee in its determinations and recommendations.* • *The law does not regulate the functions, responsibilities and reporting lines of the committees.* • *In only four companies, the audit committee has members with auditing, risk, or accounting education or experience.* • *Internal audit committee meetings are overall infrequent and decisions are commonly taken in absentia.*
3.4. Control over Related Party Transactions and Conflict of Interest *Moderately strong*	***Strengths:*** • *Related party transactions and conflicts of interest are regulated by law.* ***Weaknesses:*** • *It is not clear how the law is implemented and enforced in practice.*

<table>
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<tr><td>4. Rights of Shareholders
Moderately strong</td><td>Basic shareholder rights seem to be adequately regulated by law and major corporate changes require supermajority at the general shareholders’ meeting.
Shareholders representing 10% of the capital may call a shareholder meeting but there is no clear shareholder right to ask question at the meeting.
Cumulative voting is in place, but this does not seem to apply in case a single director resigns. This can mine the whole concept of minority representation, provided by cumulative voting.
Shareholders have pre-emptive-rights in case of capital increase.
Shares provide equal rights to shareholders and registration of shareholding is required by law.
The law provides for the possibility (for the State) to exercise a golden share right, which is not in line with international standards.
Shareholders have the right to access corporate documentation and most companies provide a fair amount of information on their or on KASE’s website. Disclosure of non-financial information, however, is not required by law and lacks quality.
Significant share acquisitions must be previously approved by the anti-monopoly authority.
Related party transactions and conflicts of interests are regulated by law.
Some doubts exist as regards enforcement of insider trading legislation, since no information is provided on how many cases have been investigated and closed.
The law does not restrict or impose disclosure on directors’ dealings with the company’s shares.
Shareholders are provided with judicial mechanisms to enforce their rights, but no case law seems to exist.</td></tr>
<tr><td>4.1. General Shareholders’ Meeting (GSM)
Moderately strong</td><td>Strengths:
• Basic shareholder rights are provided by law.
• Shareholders representing 10% of the shares are entitled to call a general shareholders’ meeting and to request items to be added to the GSM agenda.
• Shares carry voting rights in proportion to their value.
• The law provides for cumulative voting; however, it does not apply in case a single director resigns.
Weaknesses:
• The law provides for the possibility (for the State) to exercise a golden share right.
• There is no clear shareholder right to ask question at the GSM; however, the law does not prohibit it.</td></tr>
<tr><td>4.2. Protection against Insider Trading and Self-dealing
Fair</td><td>Strengths:
• Insider trading is regulated by law.
• Related party transactions and conflicts of interests are regulated by law.
Weaknesses:
• There is no evidence that insider trading regulation is well enforced in practice.
• The law does not restrict or impose disclosure on directors’ dealings with the company’s shares. None of the ten largest listed companies disclose on this matter.</td></tr>
<tr><td>4.3. Minority Shareholders Protection and Shareholders’ Access to Information
Moderately strong</td><td>Strengths:
• Shareholders representing 10% of the shares are entitled to call a general shareholders’ meeting and to request items to be added to the GSM agenda.
• Shareholders are granted pre-emptive rights.
• Qualified majority is required for major corporate changes (there is no defined blocking minority shareholding for major corporate changes).
• Shares carry voting rights in proportion to their value.
• Shareholders have a general right to inspect the corporate documents.
• Shareholders holding at least 5% are entitled to pursue a derivative suit and any shareholder has the right to challenge in court a board decision that breaches the law or articles of association. There is no case law on these matters though.
Weaknesses:
• The law does not require companies to prepare and disclose their annual reports including non-financial information.
• As already mentioned above, the law provides for cumulative voting; however, it does not apply in case a single director resigns.</td></tr>
</table>

Key Areas and Rating	***Strengths and Weaknesses***
4.4. Registration of Shareholdings *Moderately strong*	***Strengths:*** • *Registration of shareholding is required by law and the free transferability of shares cannot be restricted.* • *Consent of the anti-monopoly authority is required for significant shareholding acquisitions (shareholding higher than of 25%).* • *The purchase in the secondary market of 30% or more of a company's voting shares shall be preceded by a notice to the company and to the anti-monopoly authority and once executed, it triggers the obligation to carry out a mandatory public offer.* ***Weaknesses:*** • *It is not clear whether shareholder agreements are enforceable in practice as there is no consolidated case law on the matter.*

Key Areas and Rating	***Strengths and Weaknesses***
5. Stakeholders and Institutions *Weak*	*The institutional framework supporting good corporate governance needs improvement.* *It seems that much effort is made when it comes to legislation, but more attention should be paid to monitoring.* *International audit, law and rating firms are present in Kazakhstan and all together undoubtedly provide some contribution to enhancing corporate governance. Also, Samruk-Kazyna seems to be committed to the cause of good governance in SOEs.* *However, the stock exchange and the regulator do not seem to be very active in promoting good corporate governance or in monitoring companies' practices. The Corporate Governance Code, approved in 2005 and reviewed in 2007, lacks proper implementation mechanism and seems to be out-dated. Listed companies are required to adopt and disclose their own codes, which shall be shaped upon the stock exchange's model; however, only half of the largest listed companies disclose complying with such obligation.* *Rulings of regulatory agencies are documented, publicly available and easily accessible. It seems that case law is not very timely aggregated, but is fairly easily accessible to parties and the public.* *Inconsistencies between different laws and regulations are reported.* *Indicators by international organisations clearly point out how corruption is a perceived concern.*
5.1. Corporate Governance Structure and Institutions *Fair*	***Strengths:*** • *International audit, law and rating firms have a significant presence in the country.* • *Kazakhstan has one active stock exchange (KASE), which has more than 100 listed companies, and provides for three listing categories for company's shares with different requirements for issuers.* • *All listed companies are required to have their own code of corporate governance and their financial statements in line with the IFRS.* • *Rulings of regulatory agencies are documented, publicly available and easily accessible.* ***Weaknesses:*** • *There seems to be limited monitoring of corporate governance practices by the exchange and the regulator.* • *The stock exchange website is relatively informative, but not complete.* • *Judicial practice on many corporate governance issues is very limited.*
5.2. Corporate Governance Code *Weak*	***Weaknesses:*** • *A corporate governance code exists since 2005, but it seems to be out-dated (last review in 2007). A review seems to be currently in progress though.* • *Compliance with the Corporate Governance Code is voluntary and it lacks proper implementation mechanisms.* • *Listed companies are required to have and publish their corporate governance code which shall be shaped upon the Model of the Code provided by KASE; however, only half of the largest listed companies disclose their corporate governance code.* • *There is no case law referring to the Corporate Governance Code or to the codes adopted by companies.*
5.3. Institutional Environment *Weak*	***Strengths:*** • *According to the 2015 EBRD Assessment on Accessibility of Court Decisions, it seems that case law is not very timely aggregated, but is fairly easily accessible to parties and the public.* ***Weaknesses:*** • *There are inconsistencies in the law and regulations, and some key corporate governance issues are not regulated (e.g., the composition and responsibilities of committees).* • *The stock exchange, the regulator and issuers do not seem to be very active in promoting good corporate governance.* • *When looking at the indicators provided by international organisations, Kazakhstan seems to perform relatively well in terms of competitiveness, but corruption is still perceived as a critical problem.*