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**European Bank**  
for Reconstruction and Development

## **Corporate Governance in Transition Economies**

### **Mongolia Country Report**

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

If you believe that the information has changed or is incorrect, please contact Gian Piero Cigna at [cignag@ebrd.com](mailto:cignag@ebrd.com)

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

## Foreword

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

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

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

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

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

## Methodology

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

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

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

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

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

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

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

more than one subsection was rated “weak” or “very weak”, the resulting average was decreased by 0.5. This is because if just one component is not fitting well with the others, then all others are weakened. Similarly, the overall strength diminishes if there are more weak components.

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

Key areas were then rated according to the same criteria.

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

**Rating:**

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

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

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

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

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

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

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 Mongolia are the Company Law; the Banking Law; and the Law on Securities Market.

A Corporate Governance Code was adopted in 2007 by the Financial Regulatory Commission of Mongolia, and it was recently reviewed in 2014. Listed companies are recommended to include a corporate governance report about their compliance with the Code, but this practice does not seem to be well implemented.

### **Structure and Functioning of the Board**

Companies are organised under a one-tier board system, and the law prohibits companies from combining the roles of CEO and chair of the board. Boards are well-sized, but the minimum board size required by law (nine members) seems excessive. Legal entities cannot be board members. Board gender diversity is very low.

The law requires that at least one thirds of the board be composed of independent directors. Most companies in our sample seem to comply with this requirement. Neither the definition of independence provided by the law nor that provided by the Corporate Governance Code includes any “*positive criteria*” (i.e., what it is expected in practice from independent directors).

The law includes qualification requirements for board members of banks and state-owned companies. In practice, boards do not seem to have a diversified mix of skills.

The law requires public companies to establish audit, nomination and remuneration committees, which should be made up of at least two thirds of independent directors. Only one of the ten largest listed companies discloses their board and committee activities online, too few to allow an analysis of their functioning.

The law does not explicitly assign to the board all its fundamental functions. In particular, it is not entirely clear if the board has authority to approve strategy, budget and the risk profile of the company, which seem to rest with the management. In contrast, the law on banks assigns to the board all its core functions.

Companies are required to appoint a company secretary and companies seem to comply with this. Board evaluations should be undertaken by the nomination committee and take place once a year. However, only one company in our sample discloses having such committee. None of the ten largest listed companies discloses carrying out board evaluations. Fiduciary duties, directors’ liability and conflicts of interests are regulated by law.

### **Transparency and Disclosure**

The framework does not ensure high levels of transparency and disclosure of financial and non-financial information. Boards are required to prepare annual reports (AR) containing information on the company’s business and organisation, but the law does not require ARs to be made publicly available. In practice, only two of the surveyed companies post their AR online.

Except for the minutes of the shareholders’ meeting and information on share capital and major shareholders (which are generally well disclosed), disclosure of non-financial information is patchy. Only a small minority of the ten largest listed companies disclose their directors’ qualifications, and their articles of association. No company seems to disclose any information on their board and committee activities, transactions with company’s shares by directors or their compliance with the Corporate Governance Code. Moreover, companies’ websites are not much informative.

Companies are required to prepare their financial statements in line with IFRS and to disclose them; however, apart from the case of banks, it is not clear whether financial statements and auditors’ opinions should be disclosed. Most companies seem to disclose only their balance sheets online and, therefore, we could not verify whether companies are all following IFRS requirements and whether financial statements have indeed been audited by an independent auditor.

The provision of non-auditing services by the external auditor is allowed, but none of the surveyed companies discloses having any policy to ensure auditors’ independence or information on non-auditing services provided by their auditors.

Breach of disclosure obligations is subject to sanctions, but the fines do not seem high enough to discourage violations.

### ***Internal Control***

The framework supporting internal control does not appear to be well developed. Companies are recommended, while banks are required, to establish an internal audit function. However, according to our survey, having an internal audit function is not a common practice among Mongolian companies.

There are no requirements for banks to establish a standalone compliance function.

Listed companies and banks are required to appoint an independent external auditor to review the financial results being reported in their financial statements. As disclosure of information regarding auditors is very limited, we could not verify whether this practice is well implemented.

Audit firms are required to rotate every five years, and the provision of certain non-auditing services is restricted.

Joint stock companies and banks are required to set up an audit committee which should be made up of two thirds of independent directors and chaired by one of them. The audit committee should be responsible for the external auditor's nomination. Nonetheless, only one of the surveyed companies (the only bank in our sample) discloses having an audit committee in place, without disclosing any information on its activities.

Related party transactions and conflicts of interest are regulated by law. None of the ten largest listed companies discloses related party transactions in their financial reports; therefore, we have no assurance that these rules are fully observed in practice. The Central Bank of Mongolia has, however, launched in 2015 a project to help bank managing their related party transactions.

Companies are recommended to adopt a code of ethics, but only one of the top listed companies discloses having one. The legal framework does not provide protection to whistle-blowers.

### ***Rights of shareholders***

A number of basic shareholder rights are provided by the legal framework. Minority shareholders are entitled to call a general shareholders' meeting (GSM), to add items to the agenda and to nominate candidates to the board. Shareholders are provided with timely notification, agenda and material for the GSM online. Furthermore, shareholders have general inspection, cumulative and pre-emptive rights, and they may file a derivative suit against directors and officers. Supermajority is required to approve major corporate changes. However, the law allows the issue of "golden shares". Dividends are approved by the board, rather than by shareholders.

In general, disclosure of financial and non-financial information is very poor and does not enable shareholders to express informed decisions at the GSM.

Shareholder agreements are regulated by law, but they are not subject to any specific disclosure obligations.

Related party transactions, conflicts of interests and self-dealing are regulated by law, and insider trading is prohibited. However, we are not convinced that these rules are well-implemented in practice.

Share register of listed companies must be maintained by an independent registry institution.

### ***Stakeholders and Institutions:***

Despite recent efforts, the institutional environment promoting corporate governance in Mongolia would benefit from further reforms. The Mongolian Stock Exchange (MSE) is the main local stock exchange market in Mongolia. Although the MSE was the world's best-performing stock market in 2010, currently its market capitalization is relatively low at 20% of GDP and volume of trades is very low.

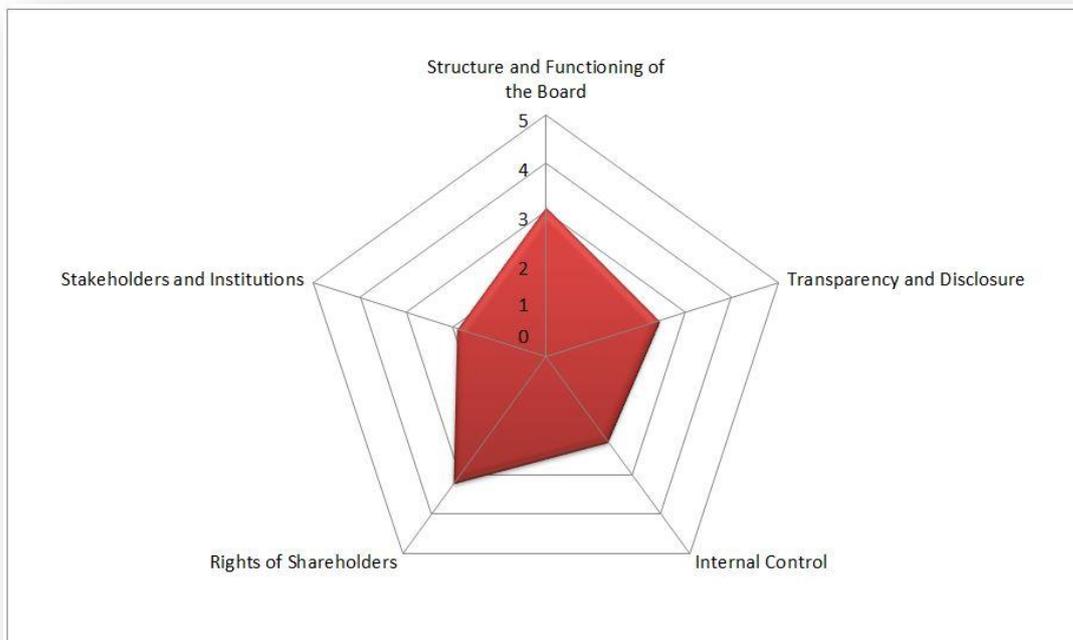
A Corporate Governance Code was adopted in 2007 by the Financial Regulatory Commission of Mongolia (FRC), and it was recently reviewed in 2014. The new Code proposes less detailed recommendations than the previous one, and omits many important regulatory aspects. Listed companies are encouraged to include a corporate governance report about their compliance with the Code, but none of the ten largest listed companies in Mongolia included any information on that in its latest annual report. There seem to be no authorities monitoring the Code's implementation.

International law firms have a limited presence in the country, and rating agencies seem to be altogether absent. There are a few inconsistencies in the law and some key corporate governance issues are not regulated.

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These shortcomings are evidenced by international indicators, which rank Mongolia poorly in terms of competitiveness and corruption.

### Corporate Governance Legislation and Practices in Mongolia



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
<p><b>1. Structure and Functioning of the Board</b> Fair/Moderately Strong</p>	<p>Companies are organised under a one-tier board system, and the law prohibits companies from combining the roles of CEO and chair of the board. Boards are well-sized, but the minimum board size required by law (nine members) seems excessive. Legal entities cannot be board members. Board gender diversity is very low.</p> <p>The law requires that at least one thirds of the board be composed of independent directors. Most companies in our sample seem to comply with this requirement. Neither the definition of independence provided by the law nor that provided by the Corporate Governance Code includes any “positive criteria” (i.e., what it is expected in practice from independent directors).</p> <p>The law includes qualification requirements for board members of banks and state-owned companies. In practice, boards do not seem to have a diversified mix of skills.</p> <p>The law requires public companies to establish audit, nomination and remuneration committees, which should be made up of at least two thirds of independent directors. Only one of the ten largest listed companies discloses their board and committee activities online, too few to allow an analysis of their functioning.</p> <p>The law does not explicitly assign to the board all its fundamental functions. In particular, it is not entirely clear if the board has authority to approve strategy, budget and the risk profile of the company, which seem to rest with the management. In contrast, the law on banks assigns to the board all its core functions.</p> <p>Companies are required to appoint a company secretary and companies seem to comply with this. Board evaluations should be undertaken by the nomination committee and take place once a year. However, only one company in our sample discloses having such committee. None of the ten largest listed companies discloses carrying out board evaluations.</p> <p>Fiduciary duties, directors’ liability and conflicts of interests are regulated by law.</p>
<p><b>1.1. Board Composition</b> Fair</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• Companies are organised under a one-tier board system and the law mandates the separation of the roles of board chair and CEO. In the majority of the companies in our sample, there are executives sitting on the board, but in none of them the CEO and board chair roles are combined.</li> <li>• Boards are well-sized, with an average of 9 board members. However, the minimum board size required by law (of 9 members) seems excessive.</li> <li>• Legal entities cannot serve as board members.</li> <li>• The law requires that at least one third of board members of public and state-owned companies should be independent. Most companies in our sample comply with this requirement.</li> <li>• The law provides for qualification requirements for board members of banks and state-owned companies. The new Corporate Governance Code, recently published (2014), also recommends that the board should have highly skilled and experienced members.</li> <li>• Boards of public companies are required to set up audit, remuneration and nomination committees. These committees must be composed of at least two-thirds of independent directors. Further, the chair of the audit committee must be independent. The Corporate Governance Code also recommends that the chairs of the other committees be assigned to independent directors.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>• Only two of the ten largest listed companies disclose their directors’ qualifications. These boards appear to have a limited mix of skills (mostly industry/sector expertise) and do not seem to have any expertise in the field of audit, accounting or risks, which would allow board members to adequately perform their functions within audit committees.</li> <li>• The Corporate Governance Code does not foresee any qualification requirements for the audit committee members. It should be noted that the previous Code recommended that at least one member of the audit committee should have financial and accounting education and relevant experience.</li> <li>• Disclosure on board committees is very limited and none of the companies in our sample discloses their composition. Therefore, we could not verify whether the composition requirements are well implemented.</li> </ul>
<p><b>1.2. Gender Diversity at the Board (3.33%)</b> Very Weak</p>	<ul style="list-style-type: none"> <li>• All ten largest listed companies disclose the board composition.</li> <li>• Three companies have women sitting on their boards. Among these companies, the average of female representation amounts to 11.11%.</li> <li>• In total, there are 3 women among 93 board members.</li> <li>• The average of female representation on boards of the largest listed companies is 3.33%. One of the lowest in the EBRD region.</li> </ul>

Key Areas and Rating	Strengths and Weaknesses
<p><b>1.3. Independent Directors</b> Moderately Strong</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>The law requires that at least one third of the board members of public and state-owned companies should be independent, and the Corporate Governance Code recommends that the chair of the board should be an independent director.</li> <li>The law also requires that board committees be composed of at least two thirds of independent directors.</li> <li>Seven among the ten largest listed companies disclose on the stock exchange's website (<a href="http://www.mse.mn">http://www.mse.mn</a>) having independent members on board, one third on average. One company discloses that its board is made up of a majority of independent directors.</li> <li>The nomination committee is responsible for reviewing and monitoring the directors' independence.</li> <li>Pursuant to the law, two independent directors have the right call the general shareholders' meeting.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>There are two definitions of independence: one in the Company Law and one in the Corporate Governance Code. The Code provides a more comprehensive definition, however neither definitions detail what should be required in practice from independent directors (e.g., independent state of mind and judgement). Instead, both definitions are limited to "non-affiliation criteria". 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 characteristic that should be demonstrated, disclosed and explained in practice. It is to be noted that the law provides for specific responsibilities of independent directors, which on one side might fill the gap in the independence definition, but on the other side it might create the impression that the board as whole is not responsible for some tasks and may harm board's effectiveness and cohesion.</li> <li>The presence of two definitions of independence might be confusing. In practice, none of the ten largest listed companies disclosed which definition is taken into account when naming directors as independent.</li> </ul>
<p><b>1.4. Board Effectiveness</b> Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>The law requires boards to appoint a corporate secretary, nominated by the chair of the board. Seven among the ten largest companies in the country disclosed having a corporate secretary in place.</li> <li>The law requires boards to meet at least monthly.</li> <li>The law details the functions to be exercised by committees.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Boards of joint stock companies are required to set up audit, remuneration and nomination committees. These committees must be composed of at least two thirds of independent directors and should be chaired by one of these directors. At first look, this can be considered a strength, however we tend to think that such a requirement is excessive. Companies should be left free to decide whether to create committees, and do so if this adds value to the board's work and performance. The value of committees is in their functioning, not in their number. The risk exists that committees might become a window dressing exercise, without adding much value in practice. This seems to be confirmed by the practice, as only a minority of companies disclose having these committees in place. A better solution would be to limit this requirement to public interest companies only, while for all other companies, it should be a "comply or explain" exercise.</li> <li>The Company Law requires the nomination committee to evaluate the activities of the board and of the executive body. The Corporate Governance Code recommends that board evaluation should be undertaken every year. However, only one company discloses having a nomination committee in place and no company disclosed performing regular board evaluation.</li> <li>None of the ten largest listed companies discloses the number of board and committees' meetings per year or their activities, hence it is not possible to gauge if they are playing a strategic role in the company.</li> </ul>
<p><b>1.5. Responsibilities of the Board</b> Fair/Moderately Strong</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Duties and liability of board members are provided by law.</li> <li>The law details the functions and responsibilities of committees.</li> <li>Conflicts of interests and related party transactions are regulated by law – board members must avoid conflicts of interest and notify the board of any conflict. The decision is to be taken by those members who are not conflicted. Under certain situations, the decision is to be taken at the general shareholders' meeting by those shareholders who have no conflicts of interest. In addition, the audit committee monitors and assesses transactions involving conflicts of interest.</li> <li>The Law on Banking provides for restrictions of loans to board members.</li> <li>In banks, the board is assigned with all its key functions.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>The law specifically defines shareholders' and boards' authority. However, in relation to board authority, it does not precisely include the authority to approve the strategy, budget and risk profile, which seem to rest with the management. Assigning the approval of the overall strategy to the management weakens the strategic and supervisory role of the board within companies.</li> <li>The Company Law established additional obligations and responsibilities for independent board members (such as ensuring compliance with relevant laws), compared to other board members. While this might enhance the role of independent directors, it might create the impression that the board as whole is not responsible for those tasks and may harm board effectiveness and cohesion.</li> </ul>

Key Areas and Rating	Strengths and Weaknesses
<p><b>2. Transparency and Disclosure</b> Weak</p>	<p>The framework does not ensure high levels of transparency and disclosure of financial and non-financial information.</p> <p>Boards are required to prepare annual reports (AR) containing information on the company's business and organisation, but the law does not require ARs to be made publicly available. In practice, only two of the surveyed companies post their AR online.</p> <p>Except for the minutes of the shareholders' meeting and information on share capital and major shareholders (which are generally well disclosed), disclosure of non-financial information is patchy. Only a small minority of the ten largest listed companies disclose their directors' qualifications, and their articles of association. No company seems to disclose any information on their board and committee activities, transactions with company's shares by directors or their compliance with the Corporate Governance Code. Moreover, companies' websites are not much informative.</p> <p>Companies are required to prepare their financial statements in line with IFRS and to disclose them; however, apart from the case of banks, it is not clear whether financial statements and auditors' opinions should be disclosed. Most companies seem to disclose only their balance sheets online and, therefore, we could not verify whether companies are all following IFRS requirements and whether financial statements have indeed been audited by an independent auditor.</p> <p>The provision of non-auditing services by the external auditor is allowed, but none of the surveyed companies discloses having any policy to ensure auditors' independence or information on non-auditing services provided by their auditors.</p> <p>Breach of disclosure obligations is subject to sanctions, but the fines do not seem high enough to discourage violations.</p>
<p><b>2.1. Non-Financial Information Disclosure</b> Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Listed companies are required to send the minutes of the general shareholders' meeting to the stock exchange which makes them publicly available. All companies in our sample appear to comply with this requirement.</li> <li>All ten largest listed companies provide up-to-date information on their major shareholders (those who own 5% or more of the capital), their shares and capital on the exchange's website. Five of them disclose information on beneficial ownership.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Boards are required to prepare an annual report (AR) which should include information on the company's structure, organisation, assets and business activities and to deliver it to shareholders. However, only two companies in our sample publish their ARs on their website. ARs contain very limited disclosure on the companies' practices, and only one company discloses a forward-looking strategic statement.</li> <li>Only the balance sheets of all ten largest listed companies are available on the stock exchange website, and in Mongolian only.</li> <li>The Financial Regulatory Commission – the market regulator - has recently approved a new Corporate Governance Code, and encourages listed companies to include a corporate governance report in their ARs regarding their compliance with its recommendations. However, as for now no company discloses any information on that matter.</li> <li>On average, the information disclosed on the websites of the ten largest listed companies is incomplete and quite difficult to find. Online disclosure of non-financial information, especially on directors' qualifications, board and committee activities, and transactions in company's shares, is particularly limited.</li> <li>Companies must register their Articles and any amendments with the 'state registration', but they are not required to make them publicly available. Only one company in our sample discloses its articles on its website.</li> <li>Only one of the top ten listed companies discloses having a code of ethics in place.</li> </ul>
<p><b>2.2. Financial Information Disclosure</b> Fair/Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Joint stock companies are required to submit their financial statements to regulators (i.e., the Financial Regulatory Committee, and if banks, also to the Central Bank of Mongolia) and to the stock exchange.</li> <li>Banks are required to disclose to the public, through the media, their audited annual financial statements and quarterly financial statements.</li> <li>Listed companies, banks and state-owned/controlled entities are required to prepare their financial statements in line with IFRS.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Only one company in our sample clearly prepares its financial statements in line with IFRS. The other companies disclosed only their balance sheets online, which makes it impossible to understand whether IFRS are implemented.</li> </ul>

<b>Key Areas and Rating</b>	<b>Strengths and Weaknesses</b>
<p><b>2.3. Reporting to the Market and to Shareholders</b> Fair</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• Boards are required to prepare their ARs including information on the company’s structure, organisation, assets and business activities and to deliver them to shareholders.</li> <li>• Listed companies are required to send the minutes of the general shareholders’ meeting to the stock exchange and companies seem to comply with this requirement.</li> <li>• Listed companies are required to make timely disclosures of price sensitive events and of the start of insolvency or restructuring process.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>• Breach of disclosure obligations is subject to sanctions. Nevertheless, the fines are not significant enough to discourage violations.</li> <li>• The Corporate Governance Code recommends companies to post their ARs on its official website. However, the law does not require so, nor does it require ARs to be submitted to regulators and to the stock exchange. In practice, only a small minority of companies seem to publish their ARs which contain very limited disclosure on these companies’ practices.</li> </ul>
<p><b>2.4. Disclosure on the External Audit</b> Weak</p>	<p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>• Listed companies and banks are required to appoint an independent external auditor to review their financial statements; however, the law does not require the auditors’ reports to be made publicly available.</li> <li>• Only two among the ten largest listed companies disclosed their auditor’s opinions online and declared their auditor to be independent.</li> <li>• None of the ten largest listed companies disclose information either on non-auditing services provided by external auditors or on their policies to regulate this issue.</li> </ul>

Key Areas and Rating	Strengths and Weaknesses
<p><b>3. Internal Control</b> Weak</p>	<p>The framework supporting internal control does not appear to be well developed. Companies are recommended, while banks are required, to establish an internal audit function. However, according to our survey, having an internal audit function is not a common practice among Mongolian companies.</p> <p>There are no requirements for banks to establish a standalone compliance function. Listed companies and banks are required to appoint an independent external auditor to review the financial results being reported in their financial statements. As disclosure of information regarding auditors is very limited, we could not verify whether this practice is well implemented.</p> <p>Audit firms are required to rotate every five years, and the provision of certain non-auditing services is restricted.</p> <p>Joint stock companies and banks are required to set up an audit committee which should be made up of two thirds of independent directors and chaired by one of them. The audit committee should be responsible for the external auditor’s nomination. Nonetheless, only one of the surveyed companies (the only bank in our sample) discloses having an audit committee in place, without disclosing any information on its activities.</p> <p>Related party transactions and conflicts of interest are regulated by law. None of the ten largest listed companies discloses related party transactions in their financial reports; therefore, we have no assurance that these rules are fully observed in practice. The Central Bank of Mongolia has, however, launched in 2015 a project to help bank managing their related party transactions.</p> <p>Companies are recommended to adopt a code of ethics, but only one of the top listed companies discloses having one. The legal framework does not provide protection to whistle-blowers.</p>
<p><b>3.1. Quality of the Internal Control Framework</b> Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• Joint stock companies and banks are required to set up an audit committee composed of two thirds of independent directors and chaired by one of them.</li> <li>• Companies are recommended, while banks are required, to establish an internal audit department.</li> <li>• The Institute of Internal Auditors is present in the country.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>• None of the ten largest listed companies discloses having an internal audit department in place, or any other information on their internal controls.</li> <li>• Neither banks nor companies are required to establish a compliance function; it appears that in the few cases where such function is in place, it is mostly tackling money laundering matters and not necessarily ‘compliance risk’.</li> <li>• The Corporate Governance Code recommends companies to approve and enforce a code of ethics. However, only one of the ten surveyed companies discloses having one.</li> <li>• There is no specific whistleblowing regulation in Mongolia.</li> </ul>
<p><b>3.2. Quality of Internal and External Audit</b> Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• Listed companies, banks and state-owned/controlled companies are required to have their financial information reviewed by an independent external auditor.</li> <li>• The new Auditing Law (2016) prohibits audit firms to audit the financial statements of entities for which non-auditing services were provided during the period audited.</li> <li>• Audit firms are required to rotate every five years.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>• Only banks are required to establish an internal audit department, and none of the ten largest listed companies discloses having such department in place, or any other information on their internal controls.</li> <li>• The law provides for the board, rather than for shareholders, to appoint external auditors. This is a major shortcoming as external audit is accountable to shareholders and it is an important mechanism to assure shareholders that financial statements produced by the management present a fair view of the company’s financial results.</li> <li>• The Corporate Governance Code recommends that the audit committee should nominate and present the external auditor to the board, but neither the law nor the Code expressly defines who should make sure that his is independent.</li> </ul>

<b>Key Areas and Rating</b>	<b>Strengths and Weaknesses</b>
<p><b>3.3. Functioning and Independence of the Audit Committee</b> Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• Joint stock companies are required to set up an audit committee composed of at least two thirds of independent directors and chaired by one of them.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>• There is no requirement or recommendation regarding the frequency of audit committee meetings.</li> <li>• Only one of the surveyed companies discloses having an audit committee; however, it does not disclose its composition or activities.</li> </ul>
<p><b>3.4. Control over Related Party Transactions and Conflict of Interest</b> Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>• The Company Law regulates related party transactions (RPT) and conflicts of interest in detail. RPT must be approved by non-conflicted board members, the audit committee is responsible for monitoring and assessing such transactions and the financial statements must include a list of all RPT. In cases of conflicts of interest, conflicted directors or shareholders must abstain from voting on the decision in which they have any personal interests.</li> <li>• Failure to comply with the rules foreseen by the law may result in the RTP being invalidated and in the conflicted person being held liable for the losses caused to the company.</li> <li>• The definition of RPT transaction is mostly in line with the international best practices (particularly the IAS 24).</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>• None of the ten largest listed companies seem to disclose information on their RPT neither on their financial statements nor on their websites.</li> <li>• RPTs seem to be frequent practice and the management of such transactions, from identification to approval, appears weak.</li> </ul>

Key Areas and Rating	Strengths and Weaknesses
<p><b>4. Rights of Shareholders</b> Fair</p>	<p>A number of basic shareholder rights are provided by the legal framework. Minority shareholders are entitled to call a general shareholders' meeting (GSM), to add items to the agenda and to nominate candidates to the board. Shareholders are provided with timely notification, agenda and material for the GSM online. Furthermore, shareholders have general inspection, cumulative and pre-emptive rights, and they may file a derivative suit against directors and officers. Supermajority is required to approve major corporate changes. However, the law allows the issue of golden shares. Dividends are approved by the board, rather than by shareholders.</p> <p>In general, disclosure of financial and non-financial information is very poor and does not enable shareholders to express informed decisions at the GSM.</p> <p>Shareholder agreements are regulated by law, but they are not subject to any specific disclosure obligations.</p> <p>Related party transactions, conflicts of interests and self-dealing are regulated by law, and insider trading is prohibited. However, we are not convinced that these rules are well-implemented in practice.</p> <p>Share register of listed companies must be maintained by an independent registry institution.</p>
<p><b>4.1. General Shareholders' Meeting (GSM)</b> Fair</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Shareholders representing 10% of the capital are entitled to call a GSM, while those representing 5% may propose new items to the GSM agenda, and nominate directors.</li> <li>The GSM announcement and agenda are required to be sent to shareholders at least 35 days before the meeting. Shareholders must be further notified through the media. All ten largest listed companies publish the GSM notifications on the stock exchange's website; three of them also posted GSM materials on their own websites.</li> <li>Cumulative voting is mandatory when electing board members and this practice seems to be well-implemented.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Shares carry proportional voting rights. However, the law allows companies to issue golden shares in the process of privatisation of state-owned companies.</li> <li>Voting by proxy is allowed, but voting by post and electronically is not provided by law.</li> <li>The board has the authority to approve annual dividends unless otherwise stipulated by company's articles. Receiving dividends is a fundamental right of shareholders and this right should not be dependent on another body's decision.</li> <li>The new Corporate Governance Code recommends that shareholders should be enabled to submit questions in advance and to ask them during the GSM; however it is not clear if this is followed in practice and the law is silent in this respect.</li> </ul>
<p><b>4.2. Protection against Insider Trading and Self-dealing</b> Fair</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Insider trading is prohibited and may be punished with fines and imprisonment for up to 2 years.</li> <li>The audit committee is responsible for monitoring and assessing transactions that involve conflicts of interest and the conflicted person is not allowed to take part in the decision-making process regarding the transaction in which he has an interest.</li> <li>Board members and managers must compensate the company for damages arising from insider information being used for their personal interests.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Although insider trading is an issue of concern in the country, few insider trading cases have been investigated in the past years.</li> <li>Board members and executives are not required to disclose transactions with the company's shares and no company in our sample appear to disclose such information on their website.</li> </ul>
<p><b>4.3. Minority Shareholders Protection and Shareholders' Access to Information</b> Fair/Moderately strong</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Shareholders have general inspection rights. Additionally, minority shareholders have the right to call a GSM, add items to the agenda, and nominate board members.</li> <li>Pre-emptive rights are assigned to shareholders in all cases of capital increases, and can only be waived by a two thirds majority vote at the GSM.</li> <li>Cumulative voting is mandatory for the election of board members.</li> <li>Shareholder(s) owning 1% of the shares can file a derivative suit against the company's board members and executives for compensation of any loss caused as a result of breach of their duties. Case law on this matter is, however, limited.</li> <li>Amendments to the articles of association and material transactions, such as M&amp;A and capital increase, require supermajority approval by the shareholders (the blocking minority shareholding for amendments to the articles is 33%+1, and for major corporate changes it is 25%+1).</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Companies are required to prepare an AR and deliver it to shareholders. However, annual reports and non-financial information is hardly available.</li> </ul>

<b>Key Areas and Rating</b>	<b>Strengths and Weaknesses</b>
	<ul style="list-style-type: none"> <li>Shares carry proportional voting rights, but the law allows companies to issue golden shares, with strong veto rights, in the process of privatisation of state-owned companies.</li> </ul>
<p><b>4.4. Registration of Shareholdings</b> Moderately strong</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Share register of listed companies is maintained by the external independent registrar, the Mongolian Securities Clearing House and Central Depository.</li> <li>In joint stock companies, the purchase of shares representing one third or more of the share capital must be approved by the shareholders. Once approved, the acquirer must inform the regulator, the stock exchange and the public, through the shareholder's website, of the acquisition and thereafter of any increases or decreases superior to 5%. Failure to comply with these obligations is subject to penalties.</li> <li>The free transferability of shares cannot be restricted, except for restrictions provided by shareholder agreements.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Shareholder agreements are foreseen by the Company Law, but they are not required to be disclosed.</li> </ul>

Key Areas and Rating	Strengths and Weaknesses
<p><b>5. Stakeholders and Institutions</b> Weak</p>	<p>Despite recent efforts, the institutional environment promoting corporate governance in Mongolia would benefit from further reforms.</p> <p>The Mongolian Stock Exchange (MSE) is the main local stock exchange market in Mongolia. Although the MSE was the world's best-performing stock market in 2010, currently its market capitalization is relatively low at 20% of GDP and volume of trades is very low.</p> <p>A Corporate Governance Code was adopted in 2007 by the Financial Regulatory Commission of Mongolia (FRC), and it was recently reviewed in 2014. The new Code proposes less detailed recommendations than the previous one, and omits many important regulatory aspects.</p> <p>Listed companies are encouraged to include a corporate governance report about their compliance with the Code, but none of the ten largest listed companies in Mongolia included any information on that in its latest annual report. There seem to be no authorities monitoring the Code's implementation.</p> <p>International law firms have a limited presence in the country, and rating agencies seem to be altogether absent. There are a few inconsistencies in the law and some key corporate governance issues are not regulated.</p> <p>These shortcomings are evidenced by international indicators, which rank Mongolia poorly in terms of competitiveness and corruption.</p>
<p><b>5.1. Corporate Governance Structure and Institutions</b> Weak</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>The stock exchange provides for a website with all regulatory submissions by listed companies, including financial statements, GSM notifications and meeting minutes. Nevertheless, this information is only available in Mongolian.</li> <li>International audit firms have a significant presence in the country.</li> <li>There appear to be a couple of training courses for company directors. The National Council for Corporate Governance, composed of governmental authorities and private sector representatives, provides training, consultation and information services to board directors.</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>The Mongolian Stock Exchange (MSE) is the main local stock exchange market in Mongolia. In 2010, the MSE was the world's best-performing stock market after a 121% increase. The MSE is highly dependent on world commodity prices and on China. Despite its recent growth, the MSE's market capitalization is relatively low at 20% of GDP, and volume of trades is very low.</li> <li>There are three listings tiers at the MSE: Class I, Class II and Class III. To be listed as part of the Class I segment, companies are required to comply with domestic and international corporate governance principles. Companies looking to be listed as part of the Class II segment should disclose a "comply or explain" statement in their annual reports. Nevertheless, we have been unable to verify any evidence of compliance with this requirement.</li> <li>Rulings of regulatory agencies are publicly available but not easily accessible.</li> <li>International law firms have a limited presence in Mongolia, and international rating agencies are not active there; none of the largest ten listed companies was rated by an international rating agency.</li> </ul>
<p><b>5.2. Corporate Governance Code</b> Weak</p>	<p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>The Corporate Governance Code was adopted in 2007 by the Financial Regulatory Commission of Mongolia, and it was recently reviewed in 2014. Nevertheless, the new Code proposes less detailed recommendations than the previous one (for example, as regards the annual report contents), and omits many important regulatory aspects.</li> <li>The Corporate Governance Code is meant to be implemented on a voluntary basis, and we have found no evidence of it is being implemented in practice.</li> <li>There seems to be no authorities monitoring the Code's implementation.</li> <li>There is no case law referring to the Code, and judicial practice on corporate governance issues appears to be limited.</li> </ul>
<p><b>5.3. Institutional Environment</b> Fair</p>	<p><b>Strengths:</b></p> <ul style="list-style-type: none"> <li>Transparency International's Corruption Perceptions Index places Mongolia at a relatively good position.</li> <li>According to the <a href="#">2015 EBRD Assessment on Accessibility of Court Decisions</a>, case law is not aggregated in a timely manner, but is easily accessible by lawyers in the country. Rulings issued by regulatory agencies are publicly available</li> </ul> <p><b>Weaknesses:</b></p> <ul style="list-style-type: none"> <li>Although the Financial Regulatory Commission provides some information on corporate governance seminars, events and research, the low levels of compliance with good governance practices and with disclosure obligations suggest that much work still needs to be done.</li> <li>There are a few inconsistencies in the law and some key corporate governance issues are not regulated.</li> <li>Indicators provided by international organisations rank Mongolia poorly in terms of ease of doing business and competitiveness.</li> </ul>