REPORT ON THE OBSERVANCE OF STANDARDS AND CODES (ROSC)

Corporate Governance Country Assessment

Moldova

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This Corporate Governance Assessment was completed as part of the joint World Bank-IMF program of Reports on the Observance of Standards and Codes (ROSC). It benchmarks the country's observance of corporate governance against the 1999 OECD Principles of Corporate Governance. This assessment was prepared by Alexander Berg of the Investment Climate Unit (CICIC). The assessment of corporate governance in Moldova was conducted in May 2004 as part of the Financial Sector Assessment Program for of Moldova, for which a review of corporate and financial sector governance was prepared by Sue Rutledge of the Europe and Central Asia Region. The corporate governance ROSC was based on a corporate governance template-questionnaire drafted by Turcan and Turcan Law Firm. The assessment reflects technical discussions with National Securities Commission, the Moldova Stock Exchange, the National Depository of Securities, commercial banks, issuers, and numerous market participants. The ROSC assessment was cleared for publication by the NSC on September 30, 2004.

EXECUTIVE SUMMARY

This report provides an assessment of Moldova's corporate governance framework—its legal and policy framework, as well as enforcement and compliance practices. The report makes policy recommendations where appropriate, and provides investors with a benchmark to compare corporate governance with the 1999 OECD Principles of Corporate Governance.

Moldova is beginning to upgrade its legal and regulatory framework to meet international corporate governance standards. The report suggests that the main challenges will be to: (1) strengthen the legal requirements for shareholders to disclose their ultimate ownership and control positions, remove the authority of boards to increase capital without shareholder approval; establish clear liability and duties for board members, and require annual independent audits for joint stock companies; (2) increase the resources available to the NSC, and focus its enforcement efforts on transparency and disclosure, especially the disclosure of ownership, and the NSC's own transparency and accountability; (3) draft a corporate governance code to build awareness of corporate governance and to further clarify the responsibilities of the board; and (4) establish a training program on corporate governance to assist in building a shareholder culture in Moldova.

I. CAPITAL MARKETS AND INSTITUTIONAL FRAMEWORK

Moldova's capital markets and corporate ownership structure is a legacy of the mass privatization program of the mid-1990s. Mass privatization was followed by a wave of consolidation and struggles for control in many Moldovan companies, which have resulted in control by a variety of owners, including the former privatization investment funds (FINNs), management, and new local investors. Foreign strategic investors are rare. In those companies where consolidation resulted in competing interests trying gain control, a variety of corporate governance abuses were used to gain advantage, including share dilutions and inadequate notification of shareholder meetings. The top five investors in the top ten listed companies now control an average of 71 percent of capital.[1]

The Moldova Stock Exchange (MSE) was founded in 1994 and began trading in 1995. Twenty-five companies have signed contracts with the exchange and meet certain criteria; these issues are considered to be "listed." All other open joint stock companies must by law also be admitted to trading at the exchange.[2] As of April 30, 2004, 1,014 issues were admitted to trading at the exchange; there is little or no liquidity in most of these issues. Six of the ten most actively traded listed firms on the MSE are banks. Companies have an incentive to list as this exempts them from the requirement to buy out minority shareholders in the event of conversion from open to closed form (see Principle IIA below). Due to infrequent share trading, the MSE does not calculate market capitalization. No Moldovan firms are listed abroad or have issued ADRs/GDRs. Transactions executed on the exchange are usually settled at the National Depository of Securities. However, off-exchange "gray market" trading is substantial; over half of all transactions are executed between counterparties off-exchange, and settled in person at the

[1] Information collected by World Bank, as of December 31, 2003. In some cases shareholder data includes obvious nominee holders (e.g. National Depository of Securities).

[2] To avoid confusion, this report will refer to the 25 companies as "listed" and the 1,014 companies as "admitted to trading," or as "quoted."

registrar.

The Joint Stock Companies Law[3] (JSC Law) sets the rules that apply to joint stock companies; many corporate governance provisions reflect those in Russia's original 1996 joint stock company law. The Securities Market Law (1999) sets the basic rules for the equity market. The most widely used and modern company forms are the limited liability company (SRL), selected by most Moldovan firms, and joint stock company (JSC).[4] Only a JSC may issue shares. JSCs may be closed (with less than 50 shareholders) or open.[5] All JSCs with over 50 shareholders must be admitted for trading at the MSE. There are about 3,600 JSCs, of which about 1,700 are open, and about 1,039 are quoted on the exchange. The JSC Law has been updated since 1997 to attempt to remedy weaknesses in the original structure but has recently been weakened by the removal of provisions that mandated an independent audit for all JSCs.

The National Securities Commission (NSC) is the capital market regulator. It regulates new issues of securities, licenses and supervises the activities of securities intermediaries (including the MSE, National Depository, registrars, securities brokers and other investment service providers, custodians, and investment funds), enforces disclosure requirements and insider trading laws, and oversees takeovers. It does not include the protection of shareholders as part of its mission statement. As an independent agency, NSC reports to Parliament, and may issue legally binding regulations. NSC is fully funded by market participant fees, and had 2002 revenues of 2.9 million Lei (about USD 240,000), of which about 63 percent is covered by fees charged for the registration of capital increases.[6] Its staff of 80 are poorly paid relative to other government bodies (for example, the National Bank and the Tax Inspection service). The NSC has relatively strong authority over supervised and licensed entities (brokers), but limited authority over issuers. It has recently begun to work for improved corporate governance in Moldova. In 2003, the NSC issued warning letters to 345 companies that violated disclosure regulations, and issued a statement on the importance of corporate governance.[7] The NSC is also preparing to draft a corporate governance code.

The only institutional investors are the 14 remaining investment funds (FINNs). Originally created during the privatization process, the funds hold shares in many Moldovan companies, and are themselves the most widely-held issuers (some with over 100,000 shareholders). As a result of "swapping" and share sales that occurred after mass privatization, the funds hold majority stakes in many of their portfolio firms. Some stronger funds are actively overseeing the companies as owners. Current plans within the government call for further transformation of the funds into holding companies or mutual funds, or for self-liquidation. Most of the funds are expected to liquidate, leaving three-five holding companies or other corporate structures.[8]

An independent "National Association for the Promotion of Transparency" has been formed, with the goal of protecting minority investors.

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[3] Joint Stock Companies Law of the Republic of Moldova no. 1134–XIII of April 2, 1997.
[4] Joint stock companies are abbreviated "S.A." in Romanian.
[5] Open JSCs can have any number of shareholders, and their charters can impose no restrictions on share transfers. Company type or form can be changed through amendments to the company charter.
[6] Source: NSC Annual Report and World Bank analysis.
[7] Regulation on Adoption of Concept of Corporate Governance of Enterprises in the National Economy, No. 22 of January 16, 2003 (MO, No. 3-5 of January 21, 2003)
[8] The necessary legislation and regulation for this process have not been finalized.

II. REVIEW OF CORPORATE GOVERNANCE PRINCIPLES

This section assesses the Moldova's compliance with each of the OECD Principles of Corporate Governance. Policy recommendations may be offered if a Principle is less than fully observed.[9] Note that the OECD Principles relate only to open/publicly traded companies, although the recommendations may be helpful for all joint stock companies.

Section I: The Rights of Shareholders

Principle IA: The corporate governance framework should protect shareholders' rights. Basic shareholder rights include the right to: (1) secure methods of ownership registration; (2) convey or transfer shares; (3) obtain relevant information on the corporation on a timely and regular basis; (4) participate and vote in general shareholder meetings; (5) elect members of the board; and (6) share in the profits of the corporation.

Assessment: ***Partially observed***

Description of practice: **Secure methods of ownership registration.** Companies are responsible for maintaining the shareholders' register. Companies may keep the register themselves or use a specialized registrar. Companies with more than 50 shareholders, however, must use one of 18 licensed specialized registrars.[10] In practice, licensed registrars serve most open and closed JSCs (about 3,000 in total). Nominee ownership is allowed under the law, which may contribute to the lack of transparency of ownership (see below).

Convey or transfer shares. By law, shares in open JSCs are freely transferable, although in practice some company charters allow the board of directors the right to approve new shareholders.[11] The National Depository of Securities carries out the clearing and settlement of MSE-executed transactions on a delivery-versus-payment (DVP) T+3 basis. However, the shareholder recordkeeping structure is considered expensive by market participants, because most shareholders maintain their shares in the registry and not in the depository, and must re-register into and out of the depository each time they trade on the exchange.

Obtain relevant information on the corporation on a timely and regular basis. Information on companies is available (in principle) from a number of sources, including required periodic disclosure and directly from the company (see below).

Participate and vote in general shareholder meetings. The holders of common shares have clear legal rights to participate and vote in the Annual General Shareholders' Meeting (AGM). For additional information, see Principle IC.

Elect members of the board. The board of directors is elected by shareholders. Minority shareholders with more than 5 percent of voting shares may nominate candidates. Companies with more than 50 shareholders must use cumulative voting.[12]

Share in the profits of the corporation. Annual dividends are approved by the AGM, following

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[9] **Observed** means that all essential criteria are met without significant deficiencies. **Largely observed** means only minor shortcomings are observed, which do not raise questions about the authorities' ability and intent to achieve full observance in the short term. **Partially observed** means that while the legal and regulatory framework complies with the Principle, practices, and enforcement diverge. **Materially not observed** means that, despite progress, shortcomings are sufficient to raise doubts about the authorities' ability to achieve observance. **Not observed** means no substantive progress toward observance has been achieved.

[10] Article 17, JSC Law. About 3,000 JSCs use independent registrars; many closed companies find it cheaper to use independent registrars than to carry out the function themselves.

[11] Provisions establishing pre-emptive rights of an open company or its shareholders to purchase shares from other shareholders are outlawed by JSC Law Article 2(2).

[12] Article 66, Law on JSCs.

a proposal of the board.[13] The AGM cannot increase the board's proposal. Interim (quarterly or semi-annual) dividends can be set by the company board. Dividend decisions must be published within 15 days.

Policy recommendations: All open JSCs should be required by law to use an independent registrar. Regulators (or the stock exchange) should review company and bank charters and require the removal of any provisions that restrict the free transfer of shares of open JSCs.

To increase independence, reduce expenses, and improve ownership transparency, consideration should be given to the creation of a central registry to maintain the ownership records of open JSCs, and to removing the nominee ownership concept from the law.

Principle IB: Shareholders have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes, such as: (i) amendments to the governing documents of the company; (ii) the authorization of additional shares; and (iii) extraordinary transactions that in effect result in the sale of the company.

Assessment: ***Materially not observed***

Description of practice: Shareholders participate in most fundamental corporate decisions. The AGM has the exclusive authority to amend the corporate charter, elect directors, fix their remuneration, appoint the auditor, change the company form, restructure or liquidate.[14] Decisions on large transactions (where the property value exceeds 50 percent of company assets) must also be referred to a majority vote at a shareholder meeting. Decisions on property totaling 25 to 50 percent of company assets must be adopted by unanimous decision of the board, excluding the votes of "interested" members. If the board's decision is not unanimous, or if more than one half of the board members are "conflicted," the decision must also be referred to shareholders.[15]Most fundamental decisions require a 2/3 majority vote of shareholders.

However, the board of directors has the authority to increase authorized capital, and to issue shares.[16] These powers have reportedly been used to dilute minority shareholders during the process of shareholder consolidation. Minority shareholders have some protection, because they enjoy pre-emptive rights to subscribe to new shares in proportion to their shareholding. However, the ability of the board to legally increase authorized capital by 50 percent without a shareholder vote is a serious violation of the OECD Principles, and is an invitation for majority shareholders to dilute the minority. The reliance of the NSC on fees from these capital increases also potentially creates a conflict of interest situation.

Policy recommendations: All increases in authorized capital should require the approval of the shareholders' meeting. The thresholds for shareholder approval of large-scale transactions should be reduced (e.g., requiring a shareholder vote at 25 percent of assets) particularly if the sale is to a related party.

Principle IC: Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern them. (i) Shareholders should be furnished with sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting. (ii) Opportunity should be provided for shareholders to ask questions of the board and to place items on the agenda at general meetings, subject to reasonable limitations. (iii) Shareholders should be able to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.

[13] Law on JSCs, Article 49.
[14] Law on JSCs, Article 50.
[15] Law on JSCs, Article 83(1).
[16] Law on JSCs, Article 43 (2). The board can increase authorized capital by up to 50 percent of its value (as of the last AGM).

Assessment: ***Partially observed***

Description of practice: The procedures for preparing and holding a shareholder meeting are set by company charter. The ordinary AGM must be held between one and two months after the publication of the company's annual report.[17] A notice must be sent at least 30 days before the meeting to every registered shareholder and must be published twice (with an interval of ten days) in a newspaper.[18] The company must provide its shareholders with an opportunity to review relevant materials at least ten days before the meeting.[19] The notification of shareholders represents a significant expense for many companies, especially investment funds.

The agenda for the general meeting (GM) is set by the board of directors, and the meeting cannot change the agenda nor adopt decisions on matters not included in the agenda. Shareholders with more than 5 percent of voting shares may force items onto the agenda (but only before its first publication).[20]

The quorum for any shareholder meeting is 50 percent of voting shares.[21] If a repeated meeting is necessary, the required quorum is 1/3 of voting shares (50 percent for extraordinary meetings), and the meeting must be held between 20 and 60 days from the date of the original meeting.[22] Those shareholders who are registered shareholders on the date of the meeting are eligible voters.[23] Voting can be by open or secret ballot, according to a decision of the meeting, or by posted ballot according to special regulations.[24] Shareholders may appoint any person to be their proxy. To reach quorum, investment funds (some with about 100,000 shareholders) arrange for special powers of attorney from shareholders. These can commonly be granted by local authorities on behalf of local shareholders (i.e. a mayor can notarize a power of attorney for the shareholders in his village), and are valid for several years.

One problem that has emerged is the existence of significant numbers of shareholders who can no longer be located. Most are individuals who received shares during mass privatization but have since moved abroad, changed address, or died. By some estimates, the registry entries of at least 20 percent of shareholders (especially of the investment funds) are no longer valid.

Policy recommendations: Policymakers should consider reducing quorum requirements for investment funds, to make shareholder meetings more workable (and to reduce the incentive to abuse the collection of powers of attorney). Legal experts should review the Civil Code to

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[17] Companies having over 5,000 shareholders must hold regional general meetings, if the quorum was not represented at two previous meetings. The meeting invitation must include a schedule (time, date and location) for the regional meetings. Separate lists of shareholders are prepared based on their registered addresses. The agenda for all meetings is the same. All regional meetings must have a vote counting commission, as well as a centralized vote counting commission that includes a representative from each regional meeting commission. Detailed procedures for holding regional meetings are described in Articles 68-76 of the Regulation on Preparing and Holding General Meetings of Shareholders of Opened JSC Companies, of September 19, 2000

[18] Law on JSCs, Article 55.

[19] The materials that must be presented include the shareholder list, the annual financial statements, the annual report, the report of the revision commission, the audit report (if applicable), information about nominees the board and revision commission, and draft revisions to the charter.

[20] Law on JSCs, Article 52 (1).

[21] Law on JSCs, Article 58. The company articles can provide for a bigger quorum.

[22] For extraordinary meetings, quorum for repeated meetings is 50 percent of voting shares, and resolutions must be adopted by at least 1/3 of the voting shares.

[23] This system is possible because the National Depository and registrars continuously update the original list of eligible shareholders with the transactions made between the time of the meeting announcement and the meeting date.

[24] Law on JSCs, Article 61. Voting results are recorded in the minutes signed by the members of the counting commission and by the revision commission, and are attached to the minutes of the general meeting of shareholders.

remove the ability of third parties to grant powers of attorney for shareholders without their specific approval.

Principle ID: Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed.

Assessment: ***Materially not observed***

Description of practice: The company charter lays out the voting rules regarding the company's capital structure. Companies can to issue ordinary and preferred shares. Common shares carry one vote.[25] Preferred shares in most cases are non-voting, are limited to 25 percent of total capital, but are rare in practice.[26] Shareholder agreements are not addressed in the law and need not be disclosed. Information on the rights attached to different share classes is set out in the corporate charter, the prospectus, and in company annual reports (which are often difficult to obtain in practice).

The law requires disclosure of significant ownership by companies and shareholders. Shareholders passing the 25 percent direct or indirect ownership threshold must make a material event disclosure within five days. Companies must disclose all direct 5 percent shareholders in the annual report. However, beneficial ownership and control disclosure is a key concern. Current practice appears to be disclosure to the first level of nominee ownership, with offshore shell companies often used to hide ultimate shareholder identities. Shareholder disclosure at the 25 percent level is reportedly rare. Market participants agree that it is difficult or impossible for investors to obtain official information on ultimate equity ownership. A review of corporate governance in the financial sector under the Financial Sector Assessment Program indicated the presence of significant cross-holding relationships among listed firms and the financial sector.

Policy recommendations: Disclosure of ultimate ownership and control structures is an important issue for improving corporate governance in Moldova. Legislation should be clarified and should require that all direct and indirect ownership positions be publicly disclosed at the levels required to meet international standards (10 percent as in the EU). Policymakers should establish that improvements to the disclosure of ownership and control structures are a top regulatory priority, develop an action plan, and investigate alternative approaches to require the disclosure of ownership and control positions. These could include the creation of a central registry and the removal of the right to hold shares in nominee name (see Principle IA, above). The disclosure of shareholder agreements should also be required.

Principle IE: Markets for corporate control should be allowed to function in an efficient and transparent manner.

Assessment: ***Not observed***

Description of practice: The market for corporate control functions poorly and is not transparent. The JSC Law requires that a person (or group of affiliated persons) who has acquired more than 50 percent of an open JSC must (within one month) make a tender offer to buy all outstanding shares.[27] However, the company charter (or general shareholder meeting) can exempt the company from this requirement. In addition, because of opaque ownership structures, bidders can break up their shareholdings into smaller pieces and effectively exempt themselves from the

[25] Article 59, Law on JSCs. Some experts consider cumulative voting to be a deviation from one-share / one-vote.
[26] On April 30, 2004, the 21 issues of preferred shares quoted at the MSE accounted for about 0.2 percent of total nominal value.
[27] The tender price is the larger of the weighted average price in the previous six months and the valuation of the company made by an expert evaluation firm.

mandatory bid requirement. There are no "squeeze-out" provisions that allow investors with 90 or even 97 percent of the shares to oblige the remaining small shareholders to sell their shareholdings. Such provisions give strategic investors the option of purchasing all the shares of a company in order to gain full control and avoid the minority shareholder protection of the JSC Law, and allow companies to efficiently "go private." A key issue in squeeze-out provisions is the establishment of a market price for the small shareholders.

Policy recommendations: Companies should not be able to exempt themselves from the tender offer requirement. Effective ownership disclosure is the key to improving the transparency of the market for corporate control – see recommendations for Principle ID above. Longer-term, the NSC should work to refine takeover law in line with EU practice, provide strategic investors with the option of buying out small shareholders (through squeeze-out provisions), and establish enforcement mechanisms to ensure compliance with the legislation..

Principle IF: Shareholders, including institutional investors, should consider the costs and benefits of exercising their voting rights.

Assessment: ***Partially observed***

Description of practice: The only current institutional investors are the former privatization investment funds (FINNs). After the consolidation of ownership in Moldova, many of these are behaving more like holding companies than typical investment funds, and have taken control of a large portion of their portfolio. The very limited number of foreign portfolio investors include the EBRD, Western NIS Fund, and some Romanian investors, all of whom have played a major role in the corporate governance in the firms and financial institutions in which they have invested.

Policy recommendations: Policymakers revising the investment funds law should consider introducing requirements for licensed institutional investors to disclose voting policies, in line with the revised OECD Principles.

Section II: The Equitable Treatment of Shareholders

Principle IIA: The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights. All shareholders of the same class should be treated equally. (i) Within any class, all shareholders should have the same voting rights. All investors should be able to obtain information about the voting rights attached to all classes of shares before they purchase. Any changes in voting rights should be subject to shareholder vote. (ii) Votes should be cast by custodians or nominees in a manner agreed upon with the share's beneficial owner.

Assessment: ***Materially not observed***

Description of practice: In principle, the corporate governance framework provides equitable treatment of all shareholders and an opportunity for effective redress. Shareholders may approve changes to their basic rights, and shareholders of the same class must be treated equally.

Shareholders have several ways to defend their rights. An individual or shareholder group with 25 percent or more of voting shares can call an extraordinary shareholder meeting (EGM) - a threshold which is very high by international standards. Any shareholder may challenge shareholder resolutions in court.[28] Generally, this has been the most common form of shareholder action, and some actions have been successful. However, most observers agree that

[28] Law on JSCs, Article 59(5). According to the law, decisions can be challenged if: (a) proper meeting notification rules were not followed; (b) the shareholder was not allowed to participate in the general meeting without lawful reasons; (c) the meeting was held without quorum; (d) the issue was not included in the agenda of the general meeting; (e)the shareholder voted against the decision that infringed on his/her rights and legal interests; (f) shareholder rights were otherwise significantly violated.

the efficiency of the legal proceedings is often compromised by inefficiency and corruption within the legal system.

Shareholders may also demand that the company purchase ("redeem") their shares in the event of significant decisions taken by the company.[29] The shareholder must have voted against the decision, or have been prevented from participating in the AGM, and must demand redemption within two months. The redemption of the company's shares is carried out at their market price, or according to company articles. However, the redemption provisions do not apply to listed companies. This has reportedly been a great incentive for companies to obtain listed status and eliminates an otherwise helpful shareholder right.

Shareholders can also complain to the regulators (NSC). Regulators may begin administrative proceedings and fine offending companies. However, the NSC lacks sufficient statutory authority and the ability to impose material fines. Maximum fines that can be imposed by the NSC are about MDL 3,600 (USD 300), which cannot be expected to influence corporate behavior.[30] The Commission's decisions are generally published, but not always the reasoning behind them.

Voting by custodians and nominees must follow the instructions of their clients. A nominal holder of securities (including a custodian) may only vote with a power of attorney, which must be formalized in accordance with Civil Code requirements.

Policy recommendations: The JSC law should be modified to lower the threshold to call an extraordinary meeting from 25 percent to 10 percent (or even 5 percent). In addition, the exemption of listed companies from the redemption rules should be removed.

NSC authority and powers should be increased to support shareholder rights. The NSC should add the protection of shareholders to its mission statement, work to increase salaries to the level of comparable organizations (e.g. the Central Bank), and work to increase its investigation and enforcement powers over issuers. The level of fines and other administrative penalties should be greatly increased. At the same time, a critical factor in building investor confidence in the capital markets is a transparent, coherent and fair system of enforcing laws and regulations. Measures should be put in place to increase the NSC's transparency and accountablility. In particular, all NSC decisions should be published. The public information should include not only the final decision taken by the NSC, but also the reasoning behind the decision.

Principle IIB: Insider trading and abusive self-dealing should be prohibited.

Assessment: ***Partially observed***

Description of practice: Insider trading is prohibited by law, but there have been no penalties or prosecutions for insider-trading matters.[31] Insider trading is enforced by the NSC, but no

[29] Law on JSCs, Article 79. Redemption triggers in the law include: (a) the company converts from open to closed form; (b) other changes to the changes to the company charter are introduced that limit shareholder rights; (c) a large transaction is completed (at least 25 percent of company assets), or (d) the shareholders' meeting approves a reorganization of the company.

[30] The maximum is set under the legislation on administrative sanctions and applies to all regulatory agencies.

[31] Law on Securities Market, Article 60. Under Article 59, insiders include: (a) members of the Board of Directors, the revision commission, and management; (b) persons that control the issuer; (c) persons that "by virtue of their position, or under an agreement, or due to the confidence of the issuer or other its insider" have access to the inside information of the specified issuer; and (d) individuals who within the last six months were insiders as defined above. Insiders cannot make transactions that benefit from confidential information, with the issuer's securities or with the securities of a third party involved in transactions with the

enforcement actions have been taken to date, and the legal definitions of insiders (and affiliated parties) are weak. Administrative sanctions can include a fine of up to 100 minimum wages (a maximum of about USD 150), and the transaction's reversal.[32] Damages inflicted by a violation of the laws regulating the operation of the securities market must be repaired in the manner provided for by civil legislation.

Open JSCs must disclose to the NSC a list of insiders and information on insider trading. Members of the board, management, revision commission and other management bodies must submit a quarterly report to the issuer on the total number of the issuer's securities they hold.[33] This information is also published in the annual report.

Shareholders with conflicts of interests may not vote on the transactions in which they have an interest.[34] However, there are no specific requirements for shareholder approval of related party transactions (unless they are considered "large transactions;" see Principle IB above). All related party transactions must be approved by a unanimous board vote, excluding those members with a conflict. If unanimity can not be reached or more than half the directors are conflicted, then a resolution must be made by the AGM. If the board is not properly informed about related party transactions and later discovers them, they can be cancelled by management. Companies cannot make loans to directors or managers.

However, there is little evidence that this process works in practice. There is no vetting of transactions by independent board members (or an audit committee).

Policy recommendations: International experience suggests that prosecuting insider trading is difficult and expensive, and that enforcement efforts should focus on disclosure of insider holdings and trading activities and active administrative enforcement of violations. Administrative sanctions should be greatly increased to effectively deter insider trading.

Policymakers should review international experience on related party transaction approval. At a minimum, the definition of insiders should include all significant (i.e. 5 or 10 percent level) shareholders. Policymakers should consider introducing a requirement for shareholder approval of related party transactions, at a low threshold (e.g. in Russia this is 2 percent of assets).

Principle IIC: Members of the board and managers should be required to disclose any material interests in transactions or matters affecting the corporation.

Assessment: ***Partially observed***
Description of practice: Related parties "…shall submit to the board no less frequently than once a year a written statement with the information sufficient for timely revelation of transactions

issuer or intending to become involved in such transactions, nor exert influence over the conclusion of transactions by third parties with the issuer's securities. Insiders cannot transmit confidential information to any person who might use such information for the completion of transactions with the issuer's securities.

[32] Administrative Tort Code, Article 162/6. Fines are up to fifty minimum wages for "citizens" and up to a hundred for officers. Criminal sanctions (based on the non-performance or undue performance by an officer of his/her service duties as a consequence of negligence or bad faith, if this has caused "large-scale damages" to the public interest or to the legal rights and interests of natural or legal persons) can include a fine in the amount of up to 500 minimum wages, or by a three-year prison term, a possible banning from right to fill certain positions or to practice certain activities for up to three years (Article 329 of the Criminal Code).

[33] Securities Market Law, Article 59.

[34] Law on JSCs, Article 85. Parties with a potential conflict of interest are defined as 25 percent shareholders, directors, managers, their family. They must also be a transaction counterpart or a substantial owner (10 percent) or counterpart representative.

with a conflict of interest…" and shall "…in writing inform the company management whose terms of reference include such transactions of its interest."[35] National Accounting Standard 24 appears to require information similar to IAS 24 (on related party transactions), but the lack of audit requirements and published financial statements means that, in practice, related party transactions are not disclosed in the financial statements or annual report.

Policy recommendations: See recommendations on disclosure below. Related party transactions above a certain level should also be considered "material events" and disclosed immediately.

Section III: Role of Stakeholders in Corporate Governance

Principle IIIA: The corporate governance framework should recognize the rights of stakeholders as established by law and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises. The corporate governance framework should assure that the rights of stakeholders that are protected by law are respected.

Assessment: ***Materially not observed***

Description of practice: Employees have the right to participate in the administration of the company in order to protect their interests, especially during the insolvency process. According to the new Labor Code, employees are entitled to participate in the drafting of internal regulations in the social and economical areas, in the settlement of disputes and problems concerning the rights and interests of the employees, and to collaborate with company management. Employees can serve on the board (but not as a majority), and the company can establish other mechanisms of employee participation in corporate governance. During insolvency procedures, employees delegate a representative to uphold their rights with the committee of the company's creditors.

Former employees and management are powerful stakeholders in Moldova. The level of awareness of corporate social responsibility is relatively low. There are no voluntary codes of practice or recommendations on relations with stakeholders developed by either business or NGOs. The enforcement of creditor rights in Moldova is not effective.[36] Many court decisions in favor of creditors have proven to be impossible to enforce.

Policy recommendations: Measures to strengthen the rights of shareholders will also be helpful in supporting the rights of other stakeholders.

Principle IIIB: Where stakeholder interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights.

Assessment: ***Materially not observed***

Description of practice: Any stakeholder whose constitutional rights have been violated may appeal to the court for redress. However, the judiciary system is considered to be slow and less than fully transparent in resolving commercial disputes.

Principle IIIC. The corporate governance framework should permit performance-enhancement mechanisms for stakeholder participation.

Assessment: ***Partially observed***

Description of practice: Performance-enhancement mechanisms (e.g. profit sharing and stock options) are uncommon in Moldova. Many bank employees receive shares as compensation.

Principle IIID: Where stakeholders participate in the corporate governance process, they should have access to relevant information.

[35] Law on JSCs, Article 85(3).
[36] Doing Business Indicators 2004 – Creditor Rights; http://rru.worldbank.org/DoingBusiness/.

Assessment: ***Materially not observed***
Description of practice: Stakeholders generally have limited access to the same company information as shareholders; this includes, for example, access to the information in the commercial court register and in the register of the NSC.

Section IV: Disclosure and Transparency

Principle IVA: The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and the governance of the company. Disclosure should include, but not be limited to, material information on: (1) The financial and operating results of the company. (2) Company objectives. (3) Major share ownership and voting rights. (4) Members of the board and key executives, and their remuneration. (5) Material foreseeable risk factors. (6) Material issues regarding employees and other stakeholders. (7) Governance structures and policies.

Assessment: ***Not observed***
Description of practice: The law requires issuers to make substantial disclosures to the NSC and shareholders. Open JSCs must submit annual reports to the NSC that must include financial statements, and lists of: insiders and their securities transactions, members of the board (and their share holdings), significant (5 percent) shareholders, 25 percent holdings of other companies, information on share classes, and dividends. A summary of this information is published in the *Capital Market* newspaper published by the NSC. Quarterly reports (which were previously mandated by law) are no longer required.

However, in practice, most of this information does not appear to be available to shareholders or the public. Typical financial statements do not comply with applicable standards, and do not include the required notes and supporting statements. There is no management discussion or any kind of analysis of company objectives or risks. Major share ownership appears to be reported, but is often at the level of nominees, and does not give a clear picture of ownership. Information about the board is limited to the name of the board members, if available at all. There is no disclosure of board remuneration, the structure of governance bodies, or stakeholders.

Issuers are also required to disclose material information within five days.[37] Material information must be published in the press and directly disclosed to the NSC. However, compliance with this rule appears to be particularly weak. Review of the content of disclosure by the NSC appears to be very limited.

By law, companies are also required to disclose various useful information directly to shareholders and creditors, including the company charter, minutes of shareholder and board meetings, and opinions of the "revision commission."[38] The full shareholder list is available at the time of the shareholder meeting. However, in practice and in spite of legal requirements, many companies usually claim that most information is a "commercial secret" and is not made available. Obtaining information from companies often requires lengthy correspondence and threats of lawsuits, and the process may last months.

Commercial banks make significantly better disclosures, because of the active oversight of the National Bank of Moldova.

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[37] Material information includes: issuer reorganization, decisions and information on securities issues/public offers, dividends, identity of new direct 5 percent shareholders, general meeting decisions, changes in registrar or auditor and execution of large transactions.
[38] Law on JSCs, Article 92.

Policy recommendations: The NSC should initiate a long-term program (with foreign technical assistance) to improve disclosure. (1) All significant direct and indirect shareholders should be obliged to publicly disclose their shareholdings and control positions of traded companies. (2) NSC should work to revise the annual report format, and requiring disclosure of all items recommended by the OECD Principles. The format should include clear and distinct disclosure guidelines for different types of companies (e.g. listed, large, and small open companies). (3) The NSC should then increase its review and enforcement of disclosure content. In the short term, the NSC should focus on disclosure compliance of listed companies and investment funds, and on the completeness of select non-financial information (ownership disclosures and related party transactions).

A major obstacle to improving compliance with disclosure requirements is the large number of companies that are required to file (1,600 open companies) and report (over 3,000 open and closed companies) to the NSC. A strategy should be developed to reduce the NSC's regulatory and processing burden, by reducing the number of companies that fall under its supervision. This will require a re-evaluation of the proper definition of an "open" company (that is, a company that is required to make public disclosures and receive some oversight from the NSC), and establishing procedures to allow companies to efficiently convert into other legal forms (see Principle IE).

Principle IVB: Information should be prepared, audited, and disclosed in accordance with high quality standards of accounting, financial and non-financial disclosure, and audit.

Assessment: ***Materially not observed***

Description of practice: All Moldovan firms must prepare accounts per National Accounting Standards (NAS), which are translations of International Financial Reporting Standards (IFRS). However, many IASs have not been translated. More serious is the fact that most companies do not comply with existing national accounting standards (see above). Auditing standards are translations of International Standards on Auditing (ISA). However, not all ISAs have been translated, and some are outdated.

Policy recommendations: See recommendations from the Accounting and Auditing ROSC.

Principle IVC: An annual audit should be conducted by an independent auditor in order to provide an external and objective assurance on the way in which financial statements have been prepared and presented.

Assessment: ***Not observed***

Description of practice: An annual audit is not required for JSCs, and audits are now optional.[39] Banks and insurance companies are legally required to provide audited financial statements. Ten percent shareholders can demand a special company audit (at their expense).[40] The removal of a mandatory audit provision reportedly resulted from powerful lobbying on the part of company managers and major shareholders. Their arguments were based on the low quality of audit services rendered by local audit companies. Audits were considered expensive and ineffective – many local auditors are considered to be unqualified, and managements could easily "convince" auditors to avoid the mention of any problems or violations. At the same time, shareholders do not demand a local audit, do not regard auditors as "allies," and consider audit costs to be

[39] Audits are required for banks and other specialized firms. Until 2001, the Law on JSCs required annual external audits for JSCs with over 50 shareholders. The threshold was raised to 300 shareholders, and then the requirement was removed entirely.
[40] JSC Law.

unjustified. International network firms are present in Moldova, and audit commercial banks and companies with foreign investors. The liability of auditors (especially to third parties, such as investors or creditors) is unclear, and there appear to have been no lawsuits. Oversight of the audit is performed by the Ministry of Finance, but is in a very preliminary stage.

The "revision commission" (sometimes translated as "auditing commission") also plays a governance role. It is separately elected by shareholders; it oversees company's finances on behalf of shareholders. In practice, the commissions are reportedly selected by controlling shareholders (or are employees) and do not play an independent role in protecting minority shareholders. This commission has recently been abolished in Romania, in favor of external auditors. There is no legal requirement for a board audit committee to oversee the audit.

Policy recommendations: Policymakers should re-impose an annual audit requirement on all large enterprises, irrespective of the shareholding structure, in line with the EU regulation (please see the Accounting and Auditing ROSC for detailed recommendations).

The role, responsibilities and powers of the revision commission should be reviewed, and policymakers should consider abolishing it (as has been recently done in Romania). Although the commission may sometimes play a complementary role in protecting minority shareholder interests, it is no substitute for a well-functioning audit committee in overseeing the adequacy of a company's internal control systems and the integrity of its independent external audit.

Principle IVD: Channels for disseminating information should provide for fair, timely, and cost-effective access to relevant information by users.

Assessment: ***Not observed***

Description of practice: Information dissemination is a significant concern in Moldova. Shareholders and the public can obtain information from various sources, including the NSC's *Capital Market* newspaper, the company, and the State Registration Chamber. By law, companies must provide a large amount of potentially useful information at the request of shareholders and creditors, for minimal cost.[41] However, in practice, most companies reportedly reject these requests, based on exemptions for "commercial secrets." The State Registration Chamber is also a potentially valuable source of information. However, obtaining copies of company legal documents from the Chamber has been historically difficult.

Policy recommendations: See Principle IVA above. Regulation should be developed to specifically exclude statutory disclosure requirements from the definition of "commercial secrets."

In the short term, the NSC should set up a central location (like a public reading room in the NSC building) where shareholders or any interested party can read and photocopy all information on open JSCs that is required by law to be disclosed. Longer-term (three-five years), the NSC should design and build a simple electronic disclosure system with a goal of making public the complete statutory annual reports, including all non-financial information and the full financial statements

[41] Law on JSCs, Article 92. Information that must be provided by law includes the company charter, articles and all amendments; contracts with the registrar and auditor; minutes of AGMs and voting results; minutes of board meetings; the list of officers (including board members); lists of related parties (per the law); the prospectus (and amendments); data on the monthly volumes and average prices of the share transactions; financial, statistical and specialized statements; reports of the auditor and the revision commission; the annual report of the board; correspondence with shareholders.

(with notes and audit reports).

Section V: The Responsibility of the Board

Principle VA: The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders. Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and the shareholders.

Assessment: ***Materially not observed***

Description of practice: Moldovan company law calls for a two-tier board. The board of directors (*consiliu de administratie*) is the supervisory board, elected (by cumulative voting in large companies) by the shareholder meeting. Companies also have a management board ("the executive body"). The executive body is either directly appointed by the board of directors, or (if specifically allowed in the charter) elected by shareholders.[42] By law, members of the executive body can serve on the board of directors, but cannot be a majority. The chairman of the board can be separately elected by the shareholder meeting, or elected by the board (depending on the charter). The chief executive officer (head of the executive body) cannot be board chairman. The "revision commission" also plays a governance role (see Principle IVC).

A brief survey of the top ten company boards indicates that they vary in size between five and 11 members, with an average size of between six and seven.

Policy recommendations: Policymakers should reconsider existing legal provisions that allow shareholders to directly elect the executive body. This removes a key power of the board of directors, and weakens it considerably.

To allow the board to obtain meaningful results from cumulative voting, a minimum board size requirement should be added to the JSC law. The NSC (together with a range of stakeholders and international experts, including ones from neighboring countries) should draft a code of corporate governance. The code should provide a detailed framework for boards of directors in Moldova, including duties, legal responsibilities, functions, and independence requirements. (The code process could also result in detailed legal recommendations for modifications to the Law on JSCs.) A director training program should also be made available, with support from the MSE, government, and private sector. Training will give directors an understanding of their role and duties and educate them in financial, business, and industry practices.

Principle VB: Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly.

Assessment: ***Materially not observed***

Description of practice: A major weakness in the legal and regulatory framework is the absence of any legal provisions that define the duties of the board of directors (and the executive body) to shareholders to the company, and of any requirements that the board of directors should treat all shareholders equally. In practice, board members are responsibly to the shareholders that appoint or nominate them. However, the concepts of acting reasonably and in good faith are not clearly grounded in law, which tends to provide detailed prescriptions of required actions.

Ten percent shareholders can initiate lawsuits against managers or members of the board who have failed to act in the interests of the company or reasonably or in good faith. Class action suits

[42] Moldovan two-tier boards differ from German two-tier boards in that (i) the management board can be appointed directly by shareholders, and (ii) members of the management board can serve simultaneously on the supervisory board.

are not permitted. However, there do not appear to have been any shareholder lawsuits brought against its directors on the basis of the relevant provisions of the JSC Law.

Policy recommendations: Board members should have a clear "duty of loyalty" to all shareholders and should be legally required to treat all shareholders equally. See recommendations in VA.

Principle VC: The board should ensure compliance with applicable law and take into account the interests of stakeholders.

Assessment: ***Materially not observed***
Description of practice: There are no specific requirements for the board to take the interests of stakeholders into account.

Policy recommendations: See recommendations in Principle VA.

Principle VD: The board should fulfill certain key functions, including (1) Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance and overseeing major capital expenditures, acquisitions and divestitures. (2) Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning. (3) Reviewing key executive and board remunerations, and ensuring a formal and transparent board nomination process. (4) Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related-party transactions. (5) Ensuring the integrity of the corporation's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for monitoring risk, financial control, and compliance with the law. (6) Monitoring the effectiveness of the governance practices under which it operates and making changes as needed. (7) Overseeing the process of disclosure and communications.

Assessment: ***Materially not observed***
Description of practice: The board of directors has limited definition in the law.[43] It has clear responsibility for appointing management and setting its remuneration. Responsibility for strategic and succession planning appears to be concentrated more in controlling shareholders and management. The board plays a major role in resolving conflicts of interest (see IIB and IIC), but is not responsible for financial reporting, and in practice does not appoint the auditor.

Policy recommendations: See recommendations under Principle VA.

Principle VE: The board should be able to exercise objective judgment on corporate affairs independent, in particular, from management: (1) boards should consider assigning a sufficient number of non-executive board members capable of exercising independent judgment to tasks where there is a potential for conflict of interest. Examples of such key responsibilities are financial reporting, nomination, and executive and board remuneration. (2) board members should devote sufficient time to their responsibilities.

Assessment: ***Materially not observed***
Description of practice: There are no requirements for independent directors, and no requirements for (or practice of) board committees. Non-executive directors must be a majority on the board. The requirement for cumulative voting appears to result in some independent representation on boards.

Board members can serve on a maximum of five boards. The board must meet at least quarterly.

Policy recommendations: See recommendations in Principle VA.

Principle VF: In order to fulfill their responsibilities, board members should have access to accurate, relevant and timely information.

Assessment: ***Materially not observed***

[43] Law on JSCs, Article 65. According to the law, the "exclusive competence" of the board include: (a) convening the AGM; (b) deciding on certain large transactions (see Principle IB); (c) hiring and firing management; (d) appointing the company's registrar; (e) certain capital increases (see IB); (e) proposing dividends to the AGM; (f) approving employee remuneration.

Description of practice: Directors have no specific right to inspect the company's accounting records and may have limited access to company information. In practice, the ability of non-executive/independent directors to obtain relevant information on time depends on the behavior of company top and senior management.

Policy recommendations: The board should have broad access to company information, records, documents and property where needed to make informed decisions on matters within the authority of the supervisory board. Directors should also be able also take independent professional advice at the company's expense.

III. SUMMARY OF POLICY RECOMMENDATIONS

This section sets out recommendations to improve compliance with the OECD Principles of Corporate Governance. The wide variety of recommendations suggests that Moldova could profit from an integrated, broad-based technical assistance project, along the lines of the International Finance Corporation's work in Ukraine and Russia.

The key recommendations are to:

Legislative reform: The report recommends changes to the company and securities laws, including requirements for annual audits, removal of board authority to increase capital, and a reduction in the percent of capital required to call an extraordinary meeting. It also recommends an increase in the NSC's authority, and a significant increase in maximum fines for administrative violations. These recommendations could be implemented as part of a general legal review, accompanied by the creation of a code of corporate governance. *Priority:* ***high***

Institutional strengthening: Other recommendations do not require legal changes, but rather changes in focus and priority. NSC should focus on corporate governance issues, and staff resources should be provided to review basic disclosure content. Regular staff training and exchange programs with other securities regulators should include exposure to corporate governance issues.

The large number of quoted companies will remain a difficult problem for the NSC for many years. The report's basic recommendation is that all open companies should remain under the NSC's jurisdiction, and that the NSC should work to protect shareholder rights in all open companies. The natural process of conversion of open companies to closed could be accelerated by technical assistance, training, and outreach. Some companies will be convinced to upgrade their disclosure and shareholder-friendliness and become truly "public," and others will be persuaded make buyouts of minority shareholders and go private. *Priority:* ***high***

Voluntary/private initiatives: Several new initiatives should be pursued by the NSC and the private sector, supported by technical assistance. First, the public and private sector should jointly draft a corporate governance code, to begin the discussion of good corporate governance in Moldova and develop best practice recommendations on board composition, independence, functionality, and procedures. Board effectiveness would be enhanced through director training. *Priority:* ***high***

Annex A: Summary of Observance of OECD Corporate Governance Principles

Principle		O	LO	PO	MO	NO	Comment
I. THE RIGHTS OF SHAREHOLDERS							
IA	Basic shareholder rights			X			• Companies with > 50 shareholders must use independent registrar and cumulative voting. • Nominee ownership explicit under law.
IB	Rights to participate in fundamental decisions				X		• Fundamental changes must be approved by 2/3 vote. • Board can authorize 50% authorized capital increase. • Large transactions (>50% assets) approved by sh meeting
IC	Shareholders AGM rights		~~X~~	X			• Quorum 50%. • 30 day notice period; must be sent to every shareholder. • Many shareholders cannot be located.
ID	Disproportionate control disclosure				X		• Sh must disclose direct and indirect holding at 25% level. • Company must annually disclose direct 5% holders. Difficult for shareholders to obtain official information on ultimate equity ownership and control positions of open JSCs.
IE	Control arrangements should be allowed to function.					X	• Mandatory bid requirement at 50% threshold. • Companies can exempt themselves from rule. • Poor functioning of market for corporate control, no transparency.
IF	Cost/benefit to voting			X			• Domestic institutional investors often act as holding companies and vote. • Limited shareholder activism, awareness of shareholder rights.
II. EQUITABLE TREATMENT OF SHAREHOLDERS							
IIA	All shareholders should be treated equally				X		• Legal framework provides for equitable treatment and redress for all shareholders. • 25% can call extraordinary meeting. • Sh have redemption rights in event of major changes. • The NSC lacks sufficient statutory authority and ability to impose material fines.
IIB	Prohibit insider trading			X			• Insider trading prohibited, but not enforced. • Detailed rules on conflict of interest / related party transaction approval. • No vetting of r.p.t. by independent audit committee of board.
IIC	Board/Mgrs. disclose interests			X			• Beneficiaries of a transaction must disclose the transaction to the company. • Related party transactions annually disclosed. • Little reported compliance with rules.
III. ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE							
IIIA	Stakeholder rights respected				X		• Employees play limited role in governance (except as managers and shareholders). • Little awareness of corporate social responsibility. • Poor creditor rights.
IIIB	Redress for violation of rights				X		• Stakeholders can appeal to court for redress, but rights for employees are limited and the judicial system ineffective.
IIIC	Performance enhancement			X			• Performance enhancing mechanisms not generally used. • Many bank employees have received shares.
IIID	Access to information				X		• Stakeholders have limited access to the same compan information as shareholders.
IV. DISCLOSURE AND TRANSPARENCY							
IVA	Disclosure standards					X	• Significant disclosure required by law. • In practice, compliance with disclosure very limited. • Companies reject disclosure as commercial secret.
IVB	Standards of accounting & audit				X		• Accounting and audit standards reflect international standards. • Banks file IFRS reports. • All standards not translated or adopted.
IVC	Independent audit annually					X	• Audits not required for all JSC; only banks + insurance co's. • Revision commission (elected by shareholders) intended to oversee company on behalf of shareholders. But, dominated by majority shareholders, and effectiveness limited in practice.
IVD	Fair & timely dissemination					X	• Summary financial statements published in NSC newspaper. • Company information often considered "commercial secret."
V. RESPONSIBILITIES OF THE BOARD							

Principle		O	LO	PO	MO	NO	Comment
VA	Acts with due diligence, care				**X**		• Two-tier board structure ("board" and "executive body"). • Non-employees must be majority on board. • Average board size of top ten companies: six members. • No code or board guidelines.
VB	Treat all shareholders fairly				**X**		• No duties to company or shareholders, and no requirements to treat shareholder equally. • Derivative suits are permitted, but not class action suits. • No suits in practice.
VC	Ensure compliance w/ law				**X**		• No specific requirements for the board to consider the interests of stakeholders.
VD	The board should fulfill certain key functions			~~**X**~~	**X**		• Role of board has limited definition in law.
VE	The board should be able to exercise objective judgment			~~**X**~~	**X**		• No requirements for board composition or board committees. • ~~No legal requirements for board members to devote sufficient time to their responsibilities, but Code recommends sufficient time and board meeting every six weeks.~~Board members can serve on up to five boards; board must meet at least quarterly.
VF	Access to information				**X**		• Directors have no specific right to inspect the accounting records of the company and may have limited access to company information.

Annex B: Summary of Key Policy Recommendations

I. THE RIGHTS OF SHAREHOLDERS		
IA	Basic shareholder rights	• Require all open JSC to use independent registrar. • Require removal of charter provisions that restrict free transfer. • Consider long-term establishment of central registrar, and eliminating nominee ownership.
IB	Rights to participate in fundamental decisions.	• Remove the right of the board to increase authorized capital without sh vote. • Consider lowering the thresholds for large-scale transactions.
IC	Shareholders AGM rights	• Consider reducing quorum requirements for investment funds. • Remove the ability of third parties to grant powers of attorney without shareholder approval. • Carefully monitor shareholder meetings and court cases to detect any emerging loopholes.
ID	Disproportionate control disclosure	• Set ownership disclosure as top priority. • Clarify ownership disclosure rules and regulations; require that all direct and indirect ownership positions be publicly disclosed at international standard levels. • Carefully enforce rules on disclosure of ownership and control structures.
IE	Control arrangements should be allowed to function	• Companies should not be able to exempt themselves from mandatory bid rule. • Carefully enforce rules on disclosure of ownership and control structures.
IF	Cost/benefit to voting	• Consider requiring investment funds to disclose voting policies.
II. EQUITABLE TREATMENT OF SHAREHOLDERS		
IIA	All shareholders should be treated equally	• Lower threshold to call extraordinary meetings (to a maximum of~~at least~~ 10 percent). • Consider removing exemption on share redemption by listed companies. • Ensure maximum fines imposed by NSC are sufficient deterrent to violations of securities law.
IIB	Prohibit insider trading	• Focus enforcement efforts on disclosure. • Review international experience on related party transaction approval.
IIC	Board/Mgrs. disclose interests	~~• Clearly define the concept of "affiliated person" under legislation.~~ • ~~Impose administrative penalties in event of non-compliance.~~Related party transactions above a certain level should be considered "material events" and disclosed immediately. • See also recommendations on disclosure below.
III. ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE		
IIIA	Stakeholder rights respected	NA
IIIB	Redress for violation of rights	NA
IIIC	Performance enhancement	NA
IIID	Access to information	NA
IV. DISCLOSURE AND TRANSPARENCY		
IVA	Disclosure standards	• Develop long-term program to improve disclosure. • Revise annual report format in line with OECD Principles. • Increase review and enforcement of disclosure content. • Develop strategy to reduce burden on NSC by reducing the number of reporting companies.
IVB	Accting & audit standards	• See World Bank Accounting and Auditing ROSC.
IVC	Independent audit annually	• Re-impose audit requirement for all large enterprises. • Review role of revision commission (and consider abolishing it in law). • See World Bank Accounting and Auditing ROSC.
IVD	Fair & timely dissemination	• Short-term: set up public reading room to provide shareholder access to NSC information. • Long-term: design and build simple electronic disclosure system.
V. RESPONSIBILITIES OF THE BOARD		
VA	Acts with due diligence, care	• Draft code of corporate governance. • Provide training to directors.
VB	Treat all shareholders fairly	• Require that board members conduct their duties with due care, due diligence and in the company's interests.
VC	Ensure compliance w/ law	• See Principle VA.
VD	Board functions	• See Principle VA.
VE	Board objective judgment	• See Principle VA.

VF Access to information	• Board should have broad access to company information.