

QUESTION	ANSWER	CITATION	COMMENT
<b>The Responsibilities of the Board</b>			
<i>Regulatory Framework</i>			
Please provide accurate historical description and analysis of the evolution and content of the regulatory framework			
1. What are the principal normative acts and other sources of guidelines that make up the corporate-governance framework for Board responsibilities and structure?			
1.1. Laws	1. Company law of Mongolia (CLM) 2. Law on State and local property (LSLP) 3. law of Mongolia prohibiting unfair competition 4. Civil service law (CSL)	CLM-Article 75, 76, 77, 78, 79 LSLP-Article	
1.2. Regulations	None		
1.3. Other normative acts	Charter of a Company		
1.4. Exchange Rules			
1.5. Codes of Conduct			
1.6. Other			
2. How is the term "director" defined?	There is no legal definition of the “director” in Mongolia. The “director” is a member of the Board.		
3. Does the regulatory framework stipulate positive qualifications for a person to be appointed as a director? If yes, what are these qualifications?	None		
4. Does it stipulate conditions under which a person cannot be appointed as a director? If yes, what are these conditions?	There are very limited conditions under which a person can not be appointed as a director. The only condition is that a civil servant is not allowed to be appointed as a director.	CSL-Article 15.1	According to Civil service law
5. What is the required board structure?	1. The board of Open or Joint Stock Company should consist of more than 9 people. 2. The board of Closed or limited Liability Company should be determined by the Charter of a Company.	CLM-Article 75.2 Article 75.3	

	The Chapter of a Company should decide whether Board is needed. If the Board will exist then there is no lower and upper limits on the number of Board members.		
6. Does your company law prescribe a unitary or dual board structure consisting of a supervisory and a management board/director?	The Company law prescribe a dual board structure. A shareholders meeting shall have exclusive authority to consider and decide: a/election of members of the Board of Directors and termination of their powers prior to the expiration of their terms; b/election of members of the Supervisory Board and termination of their powers prior to the expiration of their terms;	CLM-Article 63.1.7 Article 63.1.8	
7. If the company law prescribes a dual board structure, or if this is common practice in the articles of association, please respond to the following questions:			
7.1.Is a dual board structure compulsory or not?	1. It is compulsory for open or joint stock company. 2. It should be regulated by the Charter of a company. 3. It is not compulsory for closed or limited liability company.	CLM-Article 75.2 Article 95.1	
7.2.If not compulsory, can the use of a dual board structure be established in the articles of association?	If closed companies wish to have dual board structure, then it can be done according to the Charter of a company.		
7.3.If so, is this option commonly used?	No		
7.4.What are the duties of the supervisory board?	A company's supervisory board shall: monitor compliance of the company's management with the provisions of the Company's charter and the implementation of resolutions adopted at meetings of the company's shareholders; submit to each regular shareholders meeting a report with respect to its review of the activities of the company's management and financial statements for the preceding fiscal year; review specified financial activities of the company at the demand of shareholders; and perform such other duties as provided in this Law and in the company's charter.	CLM-Article 92.2	

<p>7.5.What are the duties of the management board?</p>	<p>The Board of Directors is the governing body of a company between shareholders meetings. The Board of Directors shall have authority with respect to the following matters:</p> <ul style="list-style-type: none"> <li>determination of the management and policies of the company;</li> <li>the holding of regular and special shareholders meetings;</li> <li>determination of the agenda for shareholders meetings, the record date for determining shareholders having the right to participate in such meetings, and other matters with respect to the holding of such meetings;</li> <li>the issuance of shares within the limits of the company's authorized but unissued shares;</li> <li>the issuance of securities related to common shares and other securities as specified in the company's charter;</li> <li>determination of the market value of property and property rights in accordance with Article 56;</li> <li>acquisition and redemption of its shares and other securities;</li> <li>election and modification of the company's executive body and determining its authority;</li> <li>establishment of the terms of contracts to be concluded with members of the executive body, the amount of bonuses to be granted to such members, and their respective liabilities and obligations;</li> <li>selection of the company's auditor and establishment of the terms of the contract to be concluded with such auditor;</li> <li>preparation of the company's annual report of business operations and financial statements;</li> <li>unless otherwise provided in the company's charter, determination of the amount of dividends to be paid with respect to the company's shares and the procedures for payment of such dividends;</li> <li>approval of the rules of procedure to be followed by the company's Board of Directors and executive body;</li> <li>creation of branches and representative offices</li> </ul>	<p>CLM-Article 75.1 Article 76.1</p>	
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	<p>of the company;</p> <p>preparation of resolutions with respect to reorganization of the company for submission to a shareholders meeting for approval and implementation of such reorganization;</p> <p>approval of the conclusion of a major transaction in accordance with Chapter 11;</p> <p>approval of the conclusion of a conflict-of-interest transaction in accordance with Chapter 12;</p> <p>and</p> <p>other matters specified in this Law and in the company's charter.</p>		
8. Are there any legal requirements as to the composition of the board(s). If yes what are these requirements:			
8.1. in terms of size?	<p>1. The board of Open or Joint Stock Company should consist of more than 9 people.</p> <p>2. The board of Closed or limited Liability Company should be determined by the Charter of a Company. The Chapter of a Company should decide whether Board is needed. If the Board will exist then there is no lower and upper limits on the number of Board members.</p>	<p>CLM-Article 75.2</p> <p>Article 75.3</p>	
8.2.in terms of qualifications?	None		
8.3.in terms of seats designated to specific shareholders or constituents, including labour representatives?	If the case of company with state ownership participation, the State Property Committee is to appoint the representatives of state ownership to the Board in proportion to state ownership	<p>CLM -Article 2.4</p> <p>LSLP- Article 21.2.1</p> <p>Article 21.2.2</p>	
9. Does the legislation prescribe the use of independent directors?	No		
9.1.If yes, how is independence defined?			
9.2.What are the exact provisions regarding their appointment?			
9.2.Is a concrete number or percentage of independent directors required?			
10. Is a distinction made between non-executive directors and independent directors? If yes, please describe.	No		
11. Is there a limit as to how many boards an individual can be	There is no a limit. However, according to LMPUC, persons on management or governing positions in	LMPUC-Article 8.1	

represented on?	dominating business entities are prohibited from assuming management or governing positions in other competing business entities.		
12. What are the rules and procedures for			
12.1. nominating,	<p>1. The Board has authority to nominate.</p> <p>2. No less than forty-five (45) business days prior to any regular meeting of a company's shareholders, holders of more than five percent (5%) of the company's common shares may nominate candidates for election to the Board of Directors or appointment to the executive body. Nominations of candidates for election to the Board of Directors or appointment to the executive body must be in writing and contain a statement of the name of each candidate and, if the candidate is a shareholder of the company, the number and class of shares held by such shareholder, the name of the shareholders nominating the candidate, and the number and class of shares held by each such shareholder. The statement may also include the reasons for the nominations. If the Board of Directors refuses to include a proposed candidate in the list of candidates, it shall deliver a notice on the reasons for such refusal to the shareholders who submitted the nominations within three (3) business days following the date of such decision. Such decision may be appealed to a court.</p>	<p>CLM -Article 76.1.3</p> <p>CLM -Article 67</p>	
12.2. electing and	Members of the Board of Directors shall be elected at a regular shareholders meeting pursuant to the procedures established by this Law and the company's charter. In the event of early termination of any members of the Board of Directors, new members may be elected at a special shareholders meeting. Unless otherwise provided in the company's charter, the authority of members of the Board of Directors shall expire on the date of the next regular shareholders meeting. Members of the Board of Directors may be reelected at any such meeting.	CLM -Article 77.1	
12.3. removing board members?	The shareholders at a special shareholders meeting may terminate the authority of a member of the	CLM -Article 77.2	

	Board of Directors before the expiration of his or her term. If the members of the Board of Directors have been elected by cumulative voting, a shareholders meeting may only terminate the authority of all members of such Board.		
13. Does the regulatory framework stipulate a maximum election term?	<p>1. Unless otherwise provided in the company's charter, maximum election term may be 1 year between regular annual shareholders meeting. Members of the Board of Directors may be re-elected at any such meeting.</p> <p>2. If the case of company with state ownership participation, the State Property Committee is to appoint the representatives of state ownership to the Board for undefined term.</p> <p>3. Provided in the company's charter, it can be any number of years.</p>	CLM -Article 77.1 LSLP- Article 21.2.1	
14. For how long are board members generally elected?	1 year and more		
15. Are all board members re-elected at the same time or are staggered terms allowed?	Staggered terms for board members are not required.	CLM -Article 77.1	
16. Does the regulatory framework specify the role of the Chairman? If so, what are the main duties of the Chairman?	<p>Yes.</p> <p>Unless otherwise provided in a company's charter, the chairman of the Board of Directors shall organize the activities of the Board, convene and preside at its meetings, and supervise the preparation and retention of minutes of such meetings.</p> <p>Subject to the provisions of the procedures governing the activities of a company's Board of Directors, and the authority of its members, the chairman of the Board may act on behalf of the company without a power of attorney, including the conclusion of transactions in the company's name and otherwise representing the company's interests.</p>	CLM -Article 78.2 Article 78.4	
17. Does it require the separation of Chairman and Chief Executive Officer?	<p>Yes.</p> <p>In the case of a joint stock company, the executive body may be a member of the company's Board of Directors, but not the chairman of the Board.</p>	CLM -Article 80.3	
18. Does the regulatory framework prescribe the formation of any	No		

special purpose committees within the board:			
18.1. audit committees?	No		
18.2. remuneration committees?	No		
18.3. or nomination committees?	No		
19. If so, what are the requirements for such special purpose committees?			
19.1. audit committees?			
19.2. remuneration committees?			
19.3. or nomination committees?			
20. And what are their respective functions:			
20.1. audit committees?			
20.2. remuneration committees?			
20.3. or nomination committees?			
21. For example, are there provisions concerning the size of board remuneration and the possibility to offer stock options to board members?	No		
22. How is the form and level of board remuneration decided?	A shareholders meeting shall have exclusive authority to approving the amount of salaries and bonuses to be given to members of the Board, unless otherwise provided in the company's charter;	CLM -Article 63.1.14	
23. Is this done by the general meeting or through other procedures?	At a shareholders meeting.	CLM -Article 63.1.14	
24. To whom is the board primarily responsible?	To a shareholders meeting.	CLM -Article 63.1.10	
25. Is it clearly stipulated that the board's duty is to serve in the interest of all shareholders?	No. However, the board shall act in good faith and in the company's interest.	CLM -Article 81.2	
26. What is the's field of competence and how is it expressed in the regulatory framework? (For example: "The board is responsible for the organisation of the company and management of its affairs, while the managing director is responsible for the day-to-day business").	<b>The Board of Directors</b> shall have authority with respect to the following matters: determination of the management and policies of the company; the holding of regular and special shareholders meetings; determination of the agenda for shareholders meetings, the record date for determining shareholders having the right to participate in such meetings, and other matters with respect to the	CLM -Article 76.1	

	<p>holding of such meetings;  the issuance of shares within the limits of the company's authorized but unissued shares;  the issuance of securities related to common shares and other securities as specified in the company's charter;  determination of the market value of property and property rights;  acquisition and redemption of its shares and other securities;  election and modification of the company's executive body and determining its authority;  establishment of the terms of contracts to be concluded with members of the executive body, the amount of bonuses to be granted to such members, and their respective liabilities and obligations;  selection of the company's auditor and establishment of the terms of the contract to be concluded with such auditor;  preparation of the company's annual report of business operations and financial statements;  unless otherwise provided in the company's charter, determination of the amount of dividends to be paid with respect to the company's shares and the procedures for payment of such dividends;  approval of the rules of procedure to be followed by the company's Board of Directors and executive body;  creation of branches and representative offices of the company;  preparation of resolutions with respect to reorganization of the company for submission to a shareholders meeting for approval and implementation of such reorganization;  approval of the conclusion of a major transaction;  approval of the conclusion of a conflict-of-interest transaction</p> <p><b>A company's executive body</b> shall manage the company's day-to-day activities within the scope of the authority established by the company's charter and the contract concluded between the executive</p>		
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	body and the Board of Directors. Subject to limitations with respect to the authority of the executive body established in the contract with the Board of Directors, the executive body may act on behalf of the company without a power of attorney, including concluding transactions, entering into agreements and otherwise representing the company.	CLM -Article 80.1 Article 80.6	
27. Is the division of power between the board and the management clearly specified in the regulatory framework? If yes, how?	Yes. Power of the Board is specified in the separate article of the law. The executive body shall act within the scope of authority set forth in a contract concluded with the Board of Directors. The contract shall establish the rights and duties of the body, the extent of its responsibilities, circumstances warranting release from any such responsibilities, and the salaries and bonuses of members of the body.	CLM -Article 76.1 Article 80.5	
28. What are the general board responsibilities?			
28.1. Are boards responsible for the appointment of the key executive positions of the company	Yes	CLM -Article 76.1.8	
28.2. Are boards responsible for supervising and reviewing their performance and remuneration?	Yes	CLM -Article 76.1.9	
28.3. Are boards required to periodically report to shareholders the status of the company affairs?	Yes	CLM -Article 63.1.10	
29. Does the regulatory framework specify the fiduciary duties of the board?	Yes		
30. Are specific duties of the board prescribed vis-à-vis:			
30.1. the shareholders?	Yes. The board's duties are to organise regular and special shareholders meetings, to determine the amount of dividends to be paid and the procedures for payment of such dividends	CLM -Article 76.1.2 Article 76.1.12	
30.2. the company as such or	Yes.	CLM-Article 76.1.4-11 Article 76.1.13-18	
30.3. or society at large?	No		
31. Does the regulatory framework	No		

prescribe specific duties of skill? If yes, please describe.			
32. Or fiduciary duties? If yes, please describe.			
33. Are any administrative duties of directors specified? If yes, please describe.	No		
34. Are there any provisions on consequences of breach of duty?	Yes.		
35. Are:			
35.1.Criminal	No		
35.2.Administrative or	No		
35.3.Civil liabilities for breach of duty imposed?	A governing person of a company, which includes board members, shall be personally liable for any loss caused to the company, its shareholders and creditors by his or her unlawful actions.	CLM -Article 81.3 Article 82.1 Article 82.2	
36. Are there legal provisions mandating the representation of stakeholders on boards? If yes, please describe.	No.		
37. How is the directors access to information regulated:			
37.1.Do directors have the explicit right to inspect corporate accounts?	There are no such legal provisions. However it is not prohibited by the law.		
37.2.What other rights are specified in this respect?	No		
38. What are the requirements in terms of board meetings?			
<b><i>Practical viewpoint on Boards</i></b>			
Please respond and illustrate by using case studies, brief examples and board statistics, as available.			
39. How important is the board in corporate governance in your country?	Very important.		The board organises shareholding meeting, appoints and does modification of the company's executive body and determining its authority, makes decision of acquisition and redemption of its shares and other securities and etc.
40. Is the existing legal framework	In general, the existing laws and regulations		

successfully put into practice?	successfully put into practice. However, the legal provisions that related with holding shareholders meetings.		
41. Are board members enabled to carry out their duties in a professional and informed manner?	Not sufficient.		
42. Do boards fulfil their strategy setting and monitoring functions properly?	Not properly.		
43. Do the boards and board members operate in a transparent fashion, consistent with the intentions of the Assembly General Meeting?	Not that transparent.		
44. The latter question also targets the nomination and remuneration of directors?	Not sufficient.		Nomination of directors. In all corporations, the board decides whom to nominate in a closed manner. Remuneration. The most of the companies the board decides it according to companies charter.
45. Are boards truly independent from management and major or controlling shareholders?	Not at all.		In practice, major or controlling shareholders are majority in the board. Therefore, boards are not independent from major or controlling shareholders.
46. Is cumulative voting used and does it have an impact on enhancing board independence?	Cumulative voting is used, but it does not improve board independence.		
47. Do boards play an effective role with respect to conflicts of interest, related party or major transactions?	No		In practice, management body usually handle this issue.
48. Do companies have a sufficient number of independent directors?	No		
49. Do board committees exist and if so, do they fulfil their role?	No		
50. Are they instrumental in enhancing board effectiveness?	No		
51. Do they have sufficient power and resources at their disposal?	No		
52. Do board members possess adequate qualities and competencies?	In varies from company to company.		
53. How do companies identify, select and recruit competent directors?	For the companies with state property participation, civil servants are eligible for this position and State		

	Property Committee makes final decision. For the other companies, the main shareholders select them from the people they know and they can rely.		
54. Are board members adequately compensated?	Yes		
55. Are there education and training programmes for directors?	Not at all		
56. What are the perceived needs in this respect?	Mongolia started to move to a market economy about 12 years ago. Therefore corporations need more training and education programmes on corporate governance, and study tours to introduce management and decision making skills and etc.		
57. What role do the bilateral and multilateral donors play in assisting such needs?	No serious actions so far taken by donors. EBRD is planning to undertake survey to determine the current level of corporate governance.		
58. What is the profile of board directors? Are there any statistics in terms of their spread among:	There is no such statistics.		
58.1.Financial professionals			
58.2.Legal professionals			
58.3.Retired industry leaders			
58.4.Retired senior government officials			
58.5.Other			
59. Do professional associations exist and what is their role in enhancing professionalism and board ethics?	No		
60. Please provide statistics, as available, or describe trends, regarding:			
60.1.Average size of boards of directors?	9		
60.2.Average number of executive board members.	3-5		
60.3.Average number of non-executive (independent) board members?	There is no such board.		
60.4.Number of companies with:			
- audit committee	0		
- compensation/remuneration committee	0		
- nomination committee	0		

- other committees	0		
60.5.Average size of committees:			
- audit committee	0		
- compensation/remuneration committee	0		
- nomination committees	0		
- other committees	0		
60.6. Attendance of directors meetings?	60-70		
60.7. Average number of directors meetings per year?	4-8		
60.8. Average board remuneration?	No information is available		
60.9. Number of companies with board training programmes?	0		
<b>Stakeholders</b>			
Please provide a description of the regulatory framework together with some empirical illustrations			
61. Please describe which legal acts define the role and rights of stakeholders and in what respective terms:			
61.1.company law	Yes		
61.2.labour law	Yes		
61.3.environmental law	No		
61.4.contract law	There is no such law in Mongolia		
61.5.insolvency law	Yes, Law on bankruptcy (LB)		
61.6.other	Civil code (CC), Banking law (BL),		
62. What concrete provisions ensure the (proper) protection of stakeholder rights:			
62.1.in the company law		CLM-Article 27.8	
62.2.in the labour law		LL-Article 6	
62.3.in the environmental law			
62.4.in the contract law	There is no such law in Mongolia		
62.5.in the insolvency law		LB – Article 8, 9, 10	

62.6.in the other legal acts	Civil code, Banking law,	CC – Subchapter 2 BL – Article 29	
63. Is judicial redress provided for by the existing legal framework? If yes, by which laws and in what terms?	Yes. In Mongolia, the court makes the decision based on relevant existing laws, if there is judicial redress. If there is a case, related with foreign trade it can go to the arbitration, according to Law of Mongolia on Foreign trade arbitration.		
64. Is redress by means of mediation and arbitration provided for in the current legislation on stakeholders?	No. If there is a case, related with foreign trade it can go to the arbitration, according to Law of Mongolia on Foreign trade arbitration.		
65. Do internal redress procedures for employee rights exist and if yes, please describe?	Yes. The company and employee should establish the labour contract according to the Labour law of Mongolia. Also, employee rights are reflected on Company's chapter.		
66. Could you provide examples of cases related to stakeholder right violation?	There are many cases that occurred between commercial banks and corporations. Here we would like to provide the case of Trade and Development Bank of Mongolia and Dornod Carpet company. Dornod Carpet company borrowed quite large amount of money and did not paid it back.  Also, there are number of cases where companies violate the labour contract with its employees, for example, some textile companies do not pay overtime work.		
67. Could you provide examples of cases of legal redress related to such violations or lack thereof?	The above case was circulating at different levels of courts and after about 5 yearsthe Supreme Court made a final decision. Now all property of Dornod Carpet transferred to the bank.		
68. Do performance enhancing mechanisms exist for stakeholder participation in corporate governance, such as:			
68.1.employee participation in corporate boards,	No		
68.2.employee stock ownership plans or other profit sharing mechanisms,	No		
68.3.creditor involvement in governance in the context of insolvency proceedings?	No		
69. How are the stakeholder rights	Good		

applied in practice?			
70. Does the corporate governance framework recognise the rights of stakeholders as established by law?	Yes. Many corporations do care about own reputation and they do try to be good partner of the their stakeholders.		
71. What are the main current pitfalls in addressing their rights by the corporate governance framework?	There are no serious pitfalls in the corporate governance framework. However, there is a need to improve implementation of the existing laws and regulations into practice.		
72. At this stage of development of the corporate sector, which are the most important stakeholder groups in your country?	Commercial banks Employee		
73. Are institutional investors important stakeholders in the corporate governance landscape of your country?	No yet		
74. Is there a practice by boards of disclosing how the interest of stakeholders are being protected?	No		