Kazakhstan

RISK & COMPLIANCE REPORT

DATE: March 2018

JERSEY TRUST COMPANY

Executive Summary - Kazakhstan	
Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering Assessment Non - Compliance with FATF 40 + 9 Recommendations Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score)
Medium Risk Areas:	Weakness in Government Legislation to combat Money Laundering

Major Investment Areas:

Agriculture - products:

Grain (mostly spring wheat and barley), potatoes, vegetables, melons; livestock

Industries:

Oil, coal, iron ore, manganese, chromite, lead, zinc, copper, titanium, bauxite, gold, silver, phosphates, sulfur, uranium, iron and steel; tractors and other agricultural machinery, electric motors, construction materials

Exports - commodities:

Oil and oil products, natural gas, ferrous metals, chemicals, machinery, grain, wool, meat, coal

Exports - partners:

Italy 16.8%, China 16.8%, Netherlands 8.2%, Russia 7.3%, Austria 5.4% (2012 est.)

Imports:

Country comparison to the world: 58

Imports - commodities:

Machinery and equipment, metal products, foodstuffs

Imports - partners: Russia 37.9%, China 17.2%, Ukraine 6.7%, Germany 5.1%, US 4.8% (2012 est.)
Investment Restrictions: Kazakhstan has made significant progress toward the creation of a market economy since it gained independence in 1991, and the European Union (2000) and the U.S. Department of Commerce (March 2002) have granted it market economy status. Kazakhstan also has attracted significant foreign investment since independence. As of September 30 2012, foreign investors had placed a total of $177.7 billion in Kazakhstan, primarily in the oil and gas sector. Kazakhstan is widely considered to have the best investment climate in the region. Although no sectors of the economy are legally closed to investors, restrictions exist, such as a 20% ceiling on foreign ownership of media outlets and a 49% limit for foreign ownership in the telecommunications sector, which does not apply to mobile operators. The government has indicated that the restriction in the telecommunications sector will be removed following Kazakhstan's accession to the World Trade Organization (WTO). No constraints on the participation of foreign capital in the banking and insurance sectors exist, but there is a ban on foreign bank and insurance company branches operating in Kazakhstan. Foreign companies in the banking and insurance sector may instead form a local joint stock company under parent company ownership. Restrictions also exist on foreign ownership of land in Kazakhstan

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Section 1 - Background

Ethnic Kazakhs, a mix of Turkic and Mongol nomadic tribes who migrated into the region in the 13th century, were rarely united as a single nation. The area was conquered by Russia in the 18th century, and Kazakhstan became a Soviet Republic in 1936. During the 1950s and 1960s agricultural "Virgin Lands" program, Soviet citizens were encouraged to help cultivate Kazakhstan's northern pastures. This influx of immigrants (mostly Russians, but also some other deported nationalities) skewed the ethnic mixture and enabled non-ethnic Kazakhs to outnumber natives. Non-Muslim ethnic minorities departed Kazakhstan in large numbers from the mid-1990s through the mid-2000s and a national program has repatriated about a million ethnic Kazakhs thus far back to Kazakhstan. These trends have allowed Kazakhs to become the titular majority again. This dramatic demographic shift has also undermined the previous religious diversity and made the country more than 70 percent Muslim. Kazakhstan's economy is larger than those of all the other Central Asian states largely due to the country's vast natural resources. Current issues include: developing a cohesive national identity; managing Islamic revivalism; expanding the development of the country's vast energy resources and exporting them to world markets; diversifying the economy outside the oil, gas, and mining sectors; enhancing Kazakhstan's economic competitiveness; developing a multiparty parliament and advancing political and social reform; and strengthening relations with neighbouring states and other foreign powers.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF Status:

Kazakhstan is not currently identified by FATF as having substantial money laundering and terrorist financing (ML/TF) risks or having strategic AML/CFT deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Kazakhstan was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Kazakhstan was deemed Fully Compliant for 1 and Largely Compliant for 12 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2011):

Introduction, in 2000, of Article 193 “Legalization of Illegally Obtained Funds or Other Property” in the Criminal Code of Kazakhstan laid the foundation for further development of the AML/CFT legal system in the country. In 2004, Kazakhstan was one of the countries that established the Eurasian Group on Combating Money Laundering and Financing of Terrorism. The first practical step for establishing the national AML/CFT system in Kazakhstan was creation, in 2008, of the financial intelligence unit – the Financial Monitoring Committee of the Ministry of Finance of the Republic of Kazakhstan (RK MoF FMC). On August 28, 2009, Law No.191-IV “On Counteracting Legalization (Laundering) of Illegally Obtained Proceeds and Financing of Terrorism” was adopted and came into force on March 9, 2010. Law No.192-IV “On Amendments to Certain Legislative Acts of the Republic of Kazakhstan on Combating Legalization (Laundering) of Illegal Proceeds and Financing of Terrorism”, adopted along with the AML/CFT Law, introduced the appropriate amendments and modification into 26 legislative acts of the country that regulated the activities of the entities subject to financial monitoring, their industry regulators and government agencies. At the time of the on-site mission, the AML/CFT system in the country was functioning for less than one year, which made it impossible to judge on its effectiveness (in particular, in regard to the powers vested in the supervisory authorities). The existing gaps in the system of preventive measures (customer due diligence, record keeping, internal control, etc.) applied to financial institutions and designated non-financial businesses and professions (DNFBP) raise certain concerns.

The main sources of criminal proceeds in Kazakhstan are crimes related to fraud and abuse of public office.

Kazakhstan is the sovereign, unitary, secular and democratic republic with a presidential form of government. In 2009, Kazakhstan's GDP was equal to182.044 billion US dollars. The country's banking system, made up of 39 banks, is the most developed part of the financial sector, which also includes 225 credit societies, 6 mortgage companies, 1,780 micro credit organizations as well as 152 professional securities market participants, 40 insurance (reinsurance) companies and 13 insurance brokers. In addition to banks, the money and value transfer services may also be provided by the stock exchange, the Central Depository, brokers and (or) dealers authorized to maintain customers' accounts and acting as nominee holders (subject to appropriate license) as well as by credit societies (for their members), the E-Government Payment Gateway system operator and the national postal service operator – KazPost. The Designated Non-Financial Businesses and Professions are represented by notaries, lawyers, audit institutions and gambling and lottery organizers.

US Department of State Money Laundering assessment (INCSR)

Kazakhstan is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

OVERVIEW

Kazakhstan is a transit country for Afghan heroin and opiates to Europe via Russia and, thus, is vulnerable to drug-related money laundering crimes. Tracking narcotics revenue remains difficult, as payments make use of informal remittance systems, such as hawala, or the QIWI Wallet electronic payment system.

Kazakhstan's AML regime is largely compliant with international standards. Nevertheless, the absence of parallel financial investigations and the resistance of local key stakeholders to a "stand-alone" money laundering concept create challenges. Low numbers of money laundering investigations and convictions suggest that Kazakhstan should strengthen enforcement of its AML regime.

In 2017, Kazakhstan started work on its national risk assessment to identify money laundering vulnerabilities.

In 2017, Kazakhstan completed a capital amnesty program conducted from 2015-2016, resulting in U.S. $17 billion repatriated, including U.S. $2 billion in declared funds held overseas. Beginning in 2020, all citizens of Kazakhstan will be obligated to file income tax returns.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Government corruption, organized crime, and a large shadow economy make the country vulnerable to money laundering. A significant part of Kazakhstan's extractive sector wealth is held in offshore accounts with little public scrutiny or accounting oversight. The major sources of laundered proceeds are graft by public officials, tax evasion, and fraudulent financial activity, particularly transactions using shell companies to launder funds returned in the form of foreign investments. In addition, the smuggling of contraband goods and fraudulent invoicing of imports and exports by Kazakhstani businessmen remain common practices.

Kazakhstan recently established the Astana International Financial Centre (AIFC), intended to serve as a regional financial hub and offshore zone, to be governed by a separate legal system based on British Common Law, overseen by a to-be-established Financial Supervisory Agency.

Casinos and slot machine parlors are located only in selected territories. The Ministry of Culture and Sport is responsible for the regulation of the gaming sector and also issues licenses to gaming businesses. Kazakhstani law prohibits online casinos and gaming. Law enforcement agencies find it challenging to combat online gaming. The vulnerability of these businesses to money laundering and the scope of government oversight are not known.

KEY AML LAWS AND REGULATIONS

The AML/CFT Law adopted in 2009, with amendments made in 2012, 2014, and 2015, creates the legal framework for all preventive measures to be observed by the private sector.

Kazakhstan has a bilateral MLAT with the United States, which entered into force on December 6, 2016. Kazakhstan is also a signatory to relevant multilateral law enforcement conventions that have mutual legal assistance provisions.

Kazakhstan is a member of the EAG, a FATF-style regional body.

AML DEFICIENCIES

Current AML law does not cover financial management firms, travel agencies, or dealers of art, antiques, and other high-value consumer goods. These entities are not required to maintain records, conduct CDD, or report suspicious activity. Enhanced due diligence is required for foreign, but not domestic, PEPs.

Legal persons are not subject to either criminal or administrative liability for money laundering offenses.

ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

During the first nine months of 2017, prosecutors brought 24 money laundering-related cases to trial, resulting in 12 convictions. The FIU demonstrated the capacity to cooperate with domestic law enforcement agencies and foreign FIUs.

The government remains in need of additional resources to implement financial crimes regulations. The government should train local institutions and personnel on further implementation of the AML/CFT law. The government also should ensure due diligence and reporting requirements are applied to all appropriate entities.

Starting January 1, 2018, a new provision will limit law enforcement’s ability to confiscate property illegally obtained or purchased with illicit funds. Whereas the current law permits seizure of all property of anyone convicted for predicate offenses related to money laundering or drug trafficking, the new provision will force law enforcement to prove fraud or criminal intent led to the purchase of each individual item.

Kazakhstan lacks a mechanism to share with other countries assets seized through joint or trans- border operations.

All reporting entities subject to the AML/CFT Law are inspected by their respective regulatory agencies, but these agencies lack resources and expertise to properly ensure compliance. In addition, all reporting entities, except banks, have difficulties in implementing a risk-based approach to CDD, so they mostly employ a blanket approach. Regulatory agencies, in coordination with the FIU, should ensure the ability of non-bank reporting entities to implement a risk-based AML approach that will lead to improved STR reporting.

There is a two-tier AML/CFT Certification Program for private sector representatives that includes both national and international components. Ninety percent of Kazakhstani banks have at least one certified compliance specialist.

A pool of instructors delivers training to law enforcement and state officials in accordance with the National Financial Investigations and Asset Recovery Program on a regular basis.

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Kazakhstan does not conform with regard to the following government legislation: -

- Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

- Criminalised Tipping Off? By law, disclosure of the reporting of suspicious or unusual activity to an individual who is the subject of such a report, or to a third party, is a criminal offense.

EU White list of Equivalent Jurisdictions

Kazakhstan is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Kazakhstan is not considered to be an Offshore Financial Centre

Key Findings from other US State Department Reports:

Narcotics

Introduction

Kazakhstan is located on the northern route used to smuggle Afghan heroin and other opiates through Central Asia into Russia and Europe. In addition to growing importation and consumption of synthetic drug from Russia, China and Europe, there is significant cultivation and trafficking of cannabis within the country. Wild cannabis grows on 138,000 hectares in the Chu valley of the Zhambyl region on the southern Kazakhstani border with Kyrgyzstan. The annual harvest of hemp from this region has a potential yield of 100,000 metric tons (MT) of marijuana or nearly 3,500 MT of hashish.

In keeping with a common trend seen across most of Central Asia, the volume of heroin seized within Kazakhstan and along its borders declined in 2016, for undetermined reasons. The reported street-price of heroin increased to $18,000-$20,000 per kilogram within the country in 2016, a six-fold increase from 2008. Kazakhstani law enforcement asserts that drug traffickers are increasingly turning to alternative routes to international markets, such as through Southern Asia and the Balkans. Kazakhstani authorities have also credited the country's efforts to strengthen interdiction efforts along its southern border.

Conclusion

Kazakhstan remains concerned about regional drug trafficking trends linked to illicit drug production in Afghanistan. To confront an increasing synthetic drug threat, Kazakhstan is taking steps to assess the situation, and conduct relevant demand reduction campaigns, including measures to more effectively identify drug users. The government is seeking to expand its drug control cooperation with international partners, and is also taking steps to combat existing and emerging public health and national security threats posed by drug trafficking and addiction.

Trafficking in Persons

Kazakhstan is classified a Tier 2 country - A country whose governments does not fully comply with the Trafficking Victims Protection Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards

Kazakhstan is a destination and, to a lesser extent, a source and transit country for men, women, and children subjected to sex trafficking and forced labor. Domestic trafficking is a consistent problem, accounting for most identified victims. Kazakhstani women and girls are subjected to sex trafficking in the Middle East, Europe, and the United States. Women and girls from neighboring Central Asian and Eastern European countries, as well as from rural areas in Kazakhstan, are subjected to sex trafficking in Kazakhstan; in most cases, traffickers target young girls and women, luring them with promises of employment as waitresses, models, or nannies in large cities. Some children are forced to beg and others may be coerced into criminal behavior. The relative economic prosperity in the government capital

Astana, the financial capital Almaty, and the western oil cities Aktau and Atyrau, attract large numbers of Kazakhstanis from rural villages, some of whom become victims of labor trafficking and sexual exploitation. Chinese, Kazakhstani, and other Central Asian citizens, in particular Uzbekistani men and women, are subjected to forced labor in domestic service, construction, and agriculture in Kazakhstan. Many victims of trafficking in Kazakhstan indicate they were lured through fraud and deceit, sometimes by friends or acquaintances, and, at times, exploited by small organized criminal groups in Kazakhstan.

The Government of Kazakhstan does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government significantly increased its funding for and implementation of awareness campaigns, as well as its victim identification and case investigation efforts. The government also significantly increased its funding for victim assistance and continued its robust partnership with international organizations and NGOs to protect victims and raise awareness of trafficking crimes. The government adopted legislation that will allow funding for long-term shelters, as well as standards for the provision of services to trafficking victims. However, convictions of traffickers decreased significantly, in part attributed to insufficient resources and high turnover rates for police. Media continued to report allegations of police officers' complicity in human trafficking, but the government reported no investigations or prosecutions of police or other government officials suspected of trafficking crimes.

Terrorist Financing 2016:

Overview: Kazakhstan experienced two violent attacks in 2016, the first major deadly attacks since 2011. Government leaders classified both events as acts of terrorism and blamed external influence, although law enforcement investigations found no evidence of direct association with foreign terrorist organizations. Kazakhstan expressed interest in expanding counterterrorism cooperation with the United States, particularly in countering violent extremism (CVE). The government has long feared the potential return of foreign terrorist fighters from Iraq and Syria, but the June and July attacks re-focused government attention on home-grown violent extremists. The government amended counterterrorism legislation to better counter the threat, although analysts argued the government's repressive approach to CVE could backfire. Kazakhstan participated in the C5+1 regional cooperation framework between the United States and the Central Asian countries (Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan), which includes a CVE-related program.

2016 Terrorist Incidents: On June 5, militants in the western city of Aktobe stormed a gun store and attempted to break into the armory at the National Guard barracks. The government said the attackers killed five civilians and three members of the National Guard. On July 18, a lone gunman attacked a police station in Almaty and a nearby office of the Committee on National Security (KNB), Kazakhstan's main security and intelligence agency, killing eight law enforcement officials and two civilians. The government was quick to identify both attacks as acts of terrorism and blamed the incidents on followers of Salafism. Government forces killed 18 alleged Aktobe attackers and detained nine others. Some of those initially sought by law enforcement as suspects were later cleared, and characterized as cases of mistaken identity. The government initially said the group was inspired by ISIS, although later reports suggested the influence was limited to online videos and propaganda. In November, the

Almaty attacker told a court he committed the attack because “they do not live according to the laws of Allah.”

Legislation, Law Enforcement, and Border Security: Kazakhstan has a comprehensive legal counterterrorism framework that includes provisions focused on CVE and foreign terrorist fighters. Provisions make it illegal for citizens to fight in foreign wars. The government takes a two-pronged approach to the few returning foreign terrorist fighters, pursuing rehabilitation for some, while arresting and prosecuting others. Alongside its regional partners, Kazakhstan participated in multilaterally-supported regional engagements to further develop standard operating procedures to counter emerging terrorist threats.

President Nazarbayev signed into law amendments to five legal codes and 19 laws on counterterrorism and extremism on December 22, 2016. Some of the amendments provide additional powers to security and law enforcement bodies, including simplifying procedures for conducting special search operations, granting security agencies increased control of visas and residency permits, and limiting the use of encrypted communications. Almost a fifth of the amendments simply add two years to sentencing rules in the criminal code. The amendments broadened restrictions on gun ownership and increased liability for gun store owners. An analysis from the Organization for Security and Cooperation in Europe’s Office of Democratic Institutions and Human Rights, requested by the Parliament during discussion on the amendments, noted Kazakhstan’s broad and vague legal definitions of extremism, which the new legislation failed to clarify, could lead to the arrest and prosecution for offenses not considered criminal by international standards. Local analysts criticized amendments that required homeowners to register guests who stay more than 10 days and a provision giving the government an internet and mobile phone network “kill switch” in the event of an “emergency,” defined as everything from terrorist attacks to unapproved public rallies. Other amendments require government approval for production and dissemination of all religious literature and informational material and narrowed the personal use exemption for imported religious materials. They also call on Ministry of Religious and Civil Society Affairs to regulate religious tourism and oversee participation in the Hajj.

Law enforcement units demonstrated a strong capacity to detect, deter, and respond to terrorist incidents. The government responded to both attacks in 2016 quickly and prioritized protection of civilians in efforts to arrest the attackers. The government’s counterterrorism plan allowed for enhanced interagency cooperation, coordination, and information sharing, but the extent to which this actually occurred remained unknown. There were four special counterterrorism detachments under the Ministry of Internal Affairs, and one under the KNB. In advance of EXPO 2017 in Astana, security services have bolstered resources and capacity to protect soft targets.

Kazakhstan’s Border Guard Service (BGS), part of the KNB, uses specialized passport control equipment, allowing officers to check for fraudulent documents. BGS officers received training by the State Department’s Export Control and Related Border Security program to identify traffickers and terrorists, as well as K-9 unit training for counterterrorism operations. Kazakhstan remained a partner nation in the Department of State’s Antiterrorism Assistance program. In recent years, Kazakhstan has strengthened security on its southern border by adding radar systems, inspection equipment and vehicles, and specialized mobile inspection groups. The government proactively worked to prevent Kazakhstanis from traveling to fight abroad in Syria and Iraq, although authorities did not release specific numbers of total fighters it arrested in 2016.

Courts delivered numerous sentences for promotion of "extremism" and terrorism, militant activities in Syria, and recruitment and plotting terrorist acts. While the government does not release annual statistics of counterterrorism-related arrests, the deputy chairman of the KNB told Parliament in September the government had thwarted 64 terrorist plots in the past five years and convicted 445 terrorists, including 33 who had returned from conflict zones.

Countering the Financing of Terrorism: Kazakhstan belongs to the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG), a Financial Action Task Force (FATF)-style regional body. Kazakhstan's unregulated financial sector is relatively small. In 2016, Kazakhstan made improvements in compliance with FATF standards for the criminalization of money laundering and terrorist financing and was removed from the EAG's "enhanced monitoring procedures" list.

The government has passed legislation that criminalizes terrorist financing in accordance with international standards, mandating financial institutions to freeze known terrorist assets without delay. Kazakhstan's legal and regulatory framework does not explicitly detail freezing procedures for financial institutions.

The government monitors and regulates money/value transfer and other remittance services and requires the collection of data for wire transfers (i.e. requires originator and recipient name, address, and account number). Following passage of amendments to the Law on Payments in August, NGOs must submit financial reports on all foreign funds and assets received, as well as the activities they conducted with those funds. Additionally, authorities routinely distributed the UN Security Council ISIL (Da'esh) and al-Qa'ida sanctions list to financial institutions.

International Sanctions

Kazakhstan is not currently subject to any International Sanctions

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	31
World Governance Indicator – Control of Corruption	21

Companies report corruption as the number one constraint for doing business in Kazakhstan. Corruption is rampant throughout the country's political circles, and networks of patronage and clientelism negatively affect the country's business environment. Furthermore, challenging bureaucracy and vague legislation restricts foreign investment. Navigating the public administration is also challenging for businesses, as petty corruption is endemic. Facilitation payments and bribery are illegal in the public and the private sector according to the country's Criminal Code, but the state bodies that are responsible for combating corruption are ineffective, unreliable, and fail to hold high-level officials responsible for corruption, abuses of office, and conflicts of interest. A weak judicial system further compromises Kazakhstan's otherwise extensive legal framework for dealing with corruption. **Information provided by GAN Integrity.**

US State Department

Although the Kazakhstani Criminal Code contains special penalties for accepting and giving bribes, corruption is common throughout Kazakhstan. The President issued an anti-corruption decree in April 2009 that provides whistle-blower protection, punishes state officials who fail to report corruption cases, and tries to prevent conflicts of interests. Amendments to the anti-corruption law were signed on December 7, 2009 which increased punishments for corruption, instituted mandatory asset forfeitures, broadened the definition of corruption to include fraud committed by government officials, and criminalized the acceptance of bribes on behalf of a third party. The law also extended the definition of a government official to include managers of companies in which the government stake exceeds 35%.

Corruption and Government Transparency - Report by Global Security

Kazakhstan has experienced significant economic growth in recent years due to its large oil deposits. The benefits of this boom has virtually been monopolised by the political elite to their success. As a result, Kazakhstan is also listed as one of the most competitive economies in Central Asia. The government has stressed the need for economic reforms, and trade liberalisation and privatisation of former state assets have made relatively good progress. Nonetheless, business surveys generally indicate that corruption in Kazakhstan is a major obstacle for conduction business in the country, and there are considerable opportunities for corruption on a grand scale, especially when it comes to oil production. However, administrative corruption and red tape in the form of long delays, unwieldy bureaucracy, unofficial business inspections, and the absence of explanatory information are reportedly also significant factors deterring business growth.

Positive developments in relation to corruption and investment:

- Foreign direct investment flows have remained strong over recent years, highlighting the fact that Kazakhstan is an attractive investment country, despite the increased likelihood of companies encountering corruption.
- The conditions for developing transparent relations between companies and the government are slowly improving in Kazakhstan. Public officials are trained in anti-corruption, and a code of ethics exists for public officials. Furthermore, an anti-corruption policy was adopted by the Kazakhstani government in early 2009, which includes salary increase of 15% for public servants.
- The government has held competitive examinations for lower and middle-ranking officials, who are have more frequent contact with companies, in order to encourage transparency.
- In recent years, a number of both junior and senior civil servants have been arrested, and in some instances convicted, including ministers and mayors.
- The country's anti-corruption agency, the Financial Police, has published a new Strategic Anti-Corruption Plan 2010-2014 (in Russian), which aims at reducing corruption at all levels in Kazakhstan.
- In 2011, the Kazakhstani government initiated a new Sectorial Anti-Corruption Program 2011-2015, to improve its anti-corruption legislation, lower the time and financial resources required to open and register a business in Kazakhstan, and qualify for GRECO membership.

Risks of corruption:

- Corruption is most pervasive in the judiciary, police, customs, the sphere of property rights, land registration, and within construction projects, according to recent sources.
- Exporting and importing in Kazakhstan requires considerable time and paperwork to clear goods at the border, and the process is plagued by corruption and bribery.
- The most widespread form of corruption in Kazakhstan is administrative, including routine extortion and shadow control of companies by officials, which is believed to have fuelled inflation.
- The President has denounced corruption in the lower levels of government administration and has instructed lower level officials not to obstruct the operations of SMEs, but little in this regard has translated into practice.

Political Climate

Having held the top office since 1989, President Nursultan Nazarbayev has continued to build a strong and personalised presidential system by extending his patronage over the country's key political institutions, media, judiciary, administration and business. The privatisation process saw much of the country's wealth monopolised in the hands of an inner circle consisting of the President's family, friends and business partners. Today, this inner circle controls vital economic resources and access to political office. In these networks of patronage relationships, President Nazarbayev has created a centralist and authoritarian state with little leverage for the development and activity of civil society. Kazakhstan has experienced an annual economic growth rate of around 10 per cent in recent years thanks to its large oil deposits. The political elite has been successful in virtually monopolising the benefits of this boom. State reform has been hampered by substantial elite corruption and by difficult centre relations, as reported by the Bertelsmann Foundation 2012. In the April 2011 presidential elections, President Nazarbayev was re-elected for a third term after accumulating 95 per cent of votes. The Organization for Security and Co-operation in Europe (OSCE) monitors criticised the election, pointing to a lack of transparency and competition in the vote, according to a 2011 article by The Associated Press.

President Nazarbayev's relatives have seen their political roles weakened following the January 2008 sentencing of the President's former son-in-law, Rakhat Aliyev, to 20 years in prison and confiscation of property on charges of running an organised criminal network of businesspeople, theft and kidnapping. Today, the Nazarbayev relies heavily on long-standing loyalists and his ability to dismiss Parliament, which provides him with a buffer from political accountability against corruption-related charges and failed policies. Despite this, recent years have witnessed a weakening of the ties between Nazarbayev and his loyalists, as well as an increase in political willingness to punish high-level officials implicated in corruption, as indicated by the US Department of State 2011. However, the President's anti-corruption surge has also been viewed as politically motivated and targeted at the opposition and critics.

There are ample opportunities for corruption on a grand scale in Kazakhstan, due to the country's enormous oil and mineral wealth, coupled with the lack of transparency in the privatisation of state-owned assets. Corruption in Kazakhstan is systemic, even within the country's anti-corruption agency, and no public office is free from executive interference, according to Freedom House 2012 and Global Integrity 2010. Long delays, unwieldy bureaucracy, weak business law, short deadlines, employee discontent and the absence of explanatory information all breed corruption. Although Kazakhstani law provides criminal penalties for official corruption, it is not implemented effectively, and officials frequently engage in corrupt practices with impunity, as stated by the US Department of State 2012. According to the US Department of State 2013, corruption is highest in the judiciary, police, customs, the sphere of property rights, land registration and within construction projects. The volume of corruption at the administrative level reportedly accounts for 7% of Kazakhstan's budget. Nevertheless, as emphasised by the Bertelsmann Foundation 2010, despite rampant corruption, Nazarbayev's administration seems to have made some progress in terms of anti-corruption efforts. For instance, in 2009, former Environment Minister Nurlan Iskakov was sentenced to four years of imprisonment; charged with financial manipulation and embezzlement, a former aide to the President Serik Burkitbayev was sentenced to six years in prison for committing economic crimes; Deputy Defence Minister Kazhimurat Mayermanov was sentenced to 11 years in prison for abuse of power in defence procurement, while the head of the state uranium company, Mukhtar Dzhakishev, was sentenced to 14 years of hard labour on charges of abuse of office. Given a political environment rife with corruption, business executives surveyed in the World Economic Forum's Global Competitiveness Report 2013-2014 reveal that the level of public trust in politicians is low.

Business and Corruption

President Nazarbayev has repeatedly stressed the need for economic reforms over political reforms, and in this climate, trade liberalisation and privatisation of former state assets have progressed relatively well. In principle, foreign trade and ownership have been liberalised, but there are some exceptions in industries that are of strategic importance, such as media, telecommunications and oil. Moreover, foreign investors have reported feeling increasingly threatened over the past year as the President publicly criticised previous privatisation processes, which he thought were executed too quickly and bypassed domestic companies.

Business surveys generally indicate that corruption in Kazakhstan is a major obstacle for conducting business in the country. For instance, in the World Economic Forum's Global Competitiveness Report 2013-2014, companies rank corruption as the greatest constraint on business operations in Kazakhstan, and companies still consider the occurrence of irregular payments and bribes in the country as fairly common. Victims of corruption in Kazakhstan have few means for effective recourse, as state and local elite interests are given de facto precedence in courts. Foreign investors can complain to the ombudsman, but this office has limited power. The US Department of State 2013 reports that, in some cases over the last few years, Kazakhstan has legislated to the benefit of domestic companies and has challenged contractual rights, raising questions concerning the government's respect of contract sanctity. Tax evasion is common and the informal economy in Kazakhstan is substantial. President Nazarbayev has denounced corruption in the government administration and has instructed lower level officials not to obstruct the operations of SMEs, but little in this regard has translated into practice. Based on the above, companies are recommended to develop, implement and strengthen integrity systems, as well as conduct extensive due diligence when planning to do or are already doing business in Kazakhstan.

In some economic sectors of strategic importance, such as oil and gas, electricity and railroads, state companies still play an important role, making frequent purchases of initial public offerings and receiving preferential treatment from anti-monopoly authorities. Nevertheless, the conditions for developing transparent relations between companies and the government are slowly improving. Public officials are trained in anti-corruption and a code of ethics exists for public officials. Another positive development is the competitive examinations held for lower and middle-ranking officials that have more frequent contact with companies. Furthermore, in early 2009, an anti-corruption policy was adopted by the government, which included 25 per cent salary increases for public servants, according to the Bertelsmann Foundation 2010. However, positions in the higher levels of government are still not awarded on merit-based criteria. As emphasised by Global Integrity 2010, companies continue to report that bribes are frequently required in relations with state officials. However, foreign direct investment flows have remained strong over recent years, highlighting the fact that Kazakhstan is still an attractive destination for investment, despite the reported risks of encountering corruption.

Regulatory Environment

Despite Kazakhstan's competitive edge over other countries in the region, the regulatory burden on companies is considerable. According to the World Economic Forum's Global Competitiveness Report 2013-2014, the surveyed business executives perceive government administrative requirements to be quite burdensome. Moreover, business executives also report that government policy-making is fairly opaque and that government officials usually favour well-connected companies and individuals when deciding on policies and contracts. Commercial regulations can be ambiguous and inconsistent, and the lack of transparency increases startup and overall operational costs. In addition, the US Department of State 2013 reports that government officials sometimes interfere in business decisions or use governmental powers to exert pressure on companies for political reasons.

Kazakhstan passed a new investment law in 2003 that supercedes and consolidates past legislation governing foreign investment. The law provides for dispute settlement through negotiation, judicial processes and international arbitration. However, according to companies and investors, the law has not improved on previous laws. There are concerns regarding the law's narrow definition of investment disputes that ignores disputes between private entities, a lack of contract, and property rights protection and a lack of clear provisions for access to international arbitration dispute resolution. Kazakhstan is party to several conventions and treaties on international commercial arbitration and its arbitration law gives precedence to international arbitration agreements. Hence, the US Department of State 2013 indicates that all awards rendered by a foreign or international arbitral tribunal (eg, the International Centre for the Settlement of Investment Disputes, etc) should be recognised and enforced in Kazakhstan. The Committee on Investments of the Ministry of Industry and Trade should be consulted before entering into any contract with government bodies, as the agencies authorised to act on the government's behalf may change. For a dispute to be considered an investment dispute, and hence qualify for international arbitration, the contracting state entity itself must have been authorised to act or contract.

The new Land Code came into effect in 2003, allowing Kazakhstani citizens for the first time to privately own agricultural, industrial, commercial and residential land. However, foreign individuals and companies may still only lease agricultural land for up to 10 years, although the wording of the law is unclear regarding the purchase of agricultural land by locally registered entities that can be wholly foreign-owned or joint ventures. Reportedly, Kazakhstani authorities often require that a foreign company agree to contribute to social programmes for local communities in its ownership contract with the government. Critics have complained that the state will violate property rights to pursue a political agenda, and that the Land Code primarily benefits wealthy Kazakhstanis with close ties to public officials, according to Freedom House 2011. Access the Lexadin World Law Guide for a collection of legislation in Kazakhstan.

Section 3 - Economy

Kazakhstan, geographically the largest of the former Soviet republics, excluding Russia, possesses substantial fossil fuel reserves and other minerals and metals, such as uranium, copper, and zinc. It also has a large agricultural sector featuring livestock and grain. The government realizes that its economy suffers from an overreliance on oil and extractive industries and has embarked on an ambitious diversification program, aimed at developing targeted sectors like transport, pharmaceuticals, telecommunications, petrochemicals and food processing.

Kazakhstan's vast hydrocarbon and mineral reserves form the backbone of its economy. Kazakhstan is landlocked and depends on Russia to export its oil to Europe. In 2010, Kazakhstan joined Russia and Belarus to establish a Customs Union in an effort to boost foreign investment and improve trade. The Customs Union evolved into a Single Economic Space in 2012 and the Eurasian Economic Union (EEU) in January 2015.

The economic downturn of its EEU partner, Russia, and the decline in global commodity prices have contributed to an economic slowdown in Kazakhstan, which is experiencing its slowest economic growth since the financial crises of 2008-09. Kazakhstan devalued its currency, the tenge, by 19% in February 2014, and in November 2014, the government announced a stimulus package to cope with its economic challenges. In spring 2015, Kazakhstan embarked on an ambitious reform agenda to modernize its economy and improve its institutions. In the face of further decline in the ruble, oil prices, and the regional economic slowdown, Kazakhstan announced in August 2015 that it would cancel its currency band in favour of a floating exchange rate that sparked further devaluation of the tenge. In 2015, Kazakhstan's president signed into law a new Entrepreneurial Code and a new Labour Code, both aimed at improving the business environment. Despite some positive institutional and legislative changes, investors remain concerned about corruption, bureaucracy, and arbitrary law enforcement, especially at the regional and municipal levels.

Agriculture - products:

grain (mostly spring wheat and barley), potatoes, vegetables, melons; livestock

Industries:

oil, coal, iron ore, manganese, chromite, lead, zinc, copper, titanium, bauxite, gold, silver, phosphates, sulfur, uranium, iron and steel; tractors and other agricultural machinery, electric motors, construction materials

Exports - commodities:

oil and oil products, natural gas, ferrous metals, chemicals, machinery, grain, wool, meat, coal

Exports - partners:

China 15.1%, Russia 12.3%, France 9.2%, Germany 7.9%, Italy 6.7%, Greece 4.1% (2015)

Imports - commodities:

machinery and equipment, metal products, foodstuffs

Imports - partners:

Russia 32.9%, China 25.9%, Germany 4.2% (2015)

Banking

Kazakhstan has a two-tier banking system. The top (first) tier, represented by the National Bank, is the central bank of Kazakhstan and reports to the President of the country. The second tier includes 38 private commercial banks and one state-owned bank. The National Bank and the Financial Supervision Agency (FSA) are charged with overall bank supervision.

In the pre-crisis period, the international financial community considered Kazakhstani banks the most dynamic and developed in Central Asia. From 2002-2007, the share of banking sector assets in Kazakhstan's GDP increased from 25.1% on January 1, 2002 to 87.8% on January 1, 2008. From 2004-2007, Kazakhstan's relatively high sovereign rating provided its banks with easy access to global capital markets. A favourable macroeconomic environment and high demand for credit fueled domestic banks' external borrowing, which encouraged rapid development, particularly in construction and real estate, and led to "price bubbles." At the end of 2007, a sudden freeze in global financial markets and the loss of capital inflows to Kazakhstani banks caused a credit crunch and severe liquidity constraints on banks. The subsequent and sharp fall of oil and commodity prices in 2008 aggravated the economic situation, and Kazakhstan plunged into recession. One of the most challenging years for Kazakhstan's banking sector was 2009. At the end of that year, Kazakhstan's total external debt was $111.7 billion or 104% of GDP.

Following the restructuring of BTA bank and Alliance bank, Kazakhstan's banks appear set for recovery (see Chapter 6 for details). In 2010 assets grew by 4.2% and reached 12,038 billion tenge (about $82 billion); total banks' equity capital amounted to 1,322.7 billion (approximately $9 billion) as of January 1, 2011 whereas that value was negative by the end of 2009: -914.6 billion (or -$6.2 billion). Deposits of both legal entities and individuals also grew in 2010 by 13.7%, totaling 6,825 billion tenge (or $46.3 billion)

Kazakhstan's banking sector is highly concentrated. BTA bank, Kazkommertsbank, and Halyk Bank remain the largest commercial banks and controlled 53.6% of Kazakhstan's total banking assets at the end of November 2010. The top ten banks in Kazakhstan control 90% of the country's banking assets.

Foreign banks are active in Kazakhstan. As of December 2010, 29 foreign banks had representative offices in Kazakhstan. Under existing legislation, foreign banks and foreign insurance companies cannot have branches in Kazakhstan but may establish subsidiaries, joint ventures, and representative offices. By law, foreign investors and Kazakhstani investors are treated equally, and amendments to banking legislation in 2005 lifted restrictions on the participation of foreign capital in the banking sector. No individual may own more than 10% of the shares of a bank (unless that bank is a subsidiary of another bank) without permission from the FSA.

At the end of 2010, 20 banks had foreign participation (i.e., a minimum of one-third of shares are owned by non-residents). The global financial turmoil appears to have increased the attractiveness of the Kazakhstani banking sector for potential foreign investors. A number of foreign stockholders entered the Kazakhstani banking market in 2008-2010, including Russia's Sberbank, Israel's Bank Hapoalim, South Korea's Kookmin Bank, the Arab investment company Alnair Capital, Russia's VTB, and Islamic Al-Hilal bank from the UAE. However, according to official statistics from 2009, the share of banks with foreign participation does not exceed 20% of Kazakhstan's total banking sector assets. After selling 30% of its shares to Kookmin Bank, CenterCredit bank became the largest foreign bank in Kazakhstan and the fourth largest bank by asset size. ATF–UniCredit Bank is the second largest foreign bank in Kazakhstan and the fifth largest by asset size. Citibank and HSBC established subsidiaries in Almaty in 1998. Citibank Kazakhstan offers a wide range of products and services for foreign and local corporate clients, including cash management, working capital and trade finance, electronic banking, foreign exchange and money market products, card services, and personal banking for corporate employees. Chinese and Russian banks have established 100% subsidiaries in Kazakhstan, and several Dutch and Turkish banks have established joint ventures.

Stock Exchange

In operation since 1993, the Kazakhstani Stock Exchange (KSE) is an insignificant source of investment, as reaffirmed by the crisis. Decreased capitalization and diminished transaction volumes at KSE have not impacted the overall economic situation or financial markets.

Trading on the KSE is dominated by block trades, and the spreads are extremely wide, with the bulk of KSE trade in forex operations. In 2010, forex transactions amounted to 51.8% of total annual trade at KSE, and transactions with government papers accounted for 42% of KSE trade. In November 2010, the total capitalization of the KSE was $53 billion, or 40.5% of GDP; there are 354 listed companies.

Section 4 - Investment Climate

Executive Summary

Kazakhstan has made significant progress toward creating a market economy since it gained independence in 1991 and has achieved considerable results in its efforts to attract foreign investment. As of December 31, 2015, total foreign investment in Kazakhstan reached $198.5 billion. Of that total, net Foreign Direct Investment (FDI) constituted $125.1 billion, with portfolio and other investments comprising the remaining $73.3 billion. The majority of foreign investment is in the oil and gas sector and the United States is one of the leading sources of investment capital with around $23.2 billion invested in Kazakhstan as of September 30, 2015.

- The country's vast hydrocarbon and mineral reserves continue to form the backbone of the economy, and foreign investment continues to flow into these extractive sectors. However, the government is making incremental progress toward its goal of diversifying the country's economy by improving the investment climate. Kazakhstan's efforts to remove bureaucratic barriers has resulted in the improvement of its ranking on the annual World Bank "Doing Business" report from 53 to 41 out of 189 in 2016.
- The government maintains an active dialogue with international investors. President Nazarbayev chairs the Foreign Investors Council, the Prime Minister has regular meetings with foreign investors in cooperation with the American Chamber of Commerce, and the Investment Ombudsman addresses complaints from foreign investors on a case by case basis. In 2015, Nazarbayev signed into the law a new Entrepreneurial Code and a new Labor Code, both aimed at improving the business environment. The Government established a "single window" for investors - special offices around the country where investors receive a wide range of government services such as business registration and work permits. Kazakhstan joined the WTO at the end of 2015 and started to lift local content requirements that contradict the WTO Agreement on Trade Related Investment Measures (TRIMs).
- Despite these positive institutional and legislative changes, concerns remain about corruption, bureaucracy, and arbitrary law enforcement, especially at the regional and municipal levels. The government's tendencies to challenge contractual rights, legislate preferences for domestic companies, and attempt to intervene in foreign companies' operations continue to discomfort foreign investors.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	123 of 168	https://www.transparency.org/country/#KAZ
World Bank's Doing Business Report "Ease	2015	41 of 189	doingbusiness.org/rankings

of Doing Business"			
Global Innovation Index	2015	82 of 143	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2014	15,582	BEA/Host government
World Bank GNI per capita	2014	11,850	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Kazakhstan has attracted significant foreign investment since independence. As of December 31, 2015, foreign direct investment in Kazakhstan totalled $125.1 billion, primarily in the oil and gas sector. Kazakhstan is widely considered to have the best investment climate in the region, and numerous international firms have established regional headquarters in Kazakhstan.

Kazakhstan's government has incrementally improved the business climate for foreign investors overall, and national legislation does not discriminate against foreign investors; however, corruption and bureaucracy remain serious obstacles curbing foreign investment.

Other Investment Policy Reviews

Kazakhstan announced in 2011 its desire to join the Organization of Economic Cooperation and Development (OECD). To meet OECD requirements, the government will need to amend its investment legislation. The OECD presented its Investment Policy Review on Kazakhstan in March 2012 (http://www.oecd.org/countries/kazakhstan/kazakhstan-investmentpolicyreview-oecd.htm). In brief, the OECD review recommended corporate governance reforms at state-owned enterprises (SOEs), increased private participation in infrastructure, easier access to agricultural land for foreign investors, and better financing support for small and medium enterprises (SMEs).The OECD started its second Investment Policy Review in September, 2015. The process is ongoing and the final report is expected to be completed by the end of 2016.

Laws/Regulations on Foreign Direct Investment

The following legislation affects foreign investment in Kazakhstan: 1) the 2015 Entrepreneurial Code; 2) the Civil Code; 3) the Tax Code; 4) the 2003 Customs Code and the Customs Code of the Customs Union (in force since July 2010); 5) the Law on Currency Regulation and Currency Control; and 6) the Law on Government Procurement. These laws provide for non-expropriation, currency convertibility, guarantees of legal stability, transparent government procurement, and incentives for priority sectors. Inconsistent implementation of these laws and regulations at all levels of the government, combined with a tendency for courts to favour the government, create significant obstacles to doing business in Kazakhstan.

The new Entrepreneurial Code outlines basic principles for doing business in Kazakhstan and establishes the relationship of entrepreneurs with the government. The Code contains incentives and preferences for government-determined priority sectors, providing customs duty exemptions and in-kind grants detailed in Part 5.2 (Performance Requirements and Investment Incentives). This law also provides for dispute settlement through negotiation, use of Kazakhstan's judicial process, and international arbitration. U.S. investors have expressed concern about the law's narrow definition of investment disputes and its lack of clear provisions for access to international arbitration.

Tax rates are competitive. The tax code that Kazakhstan adopted in 2009 lowered corporate income and value-added taxes (VAT), replaced royalty payments with a mineral extraction tax, and introduced excess profit and rent taxes on the export of crude oil and natural gas. Accordingly, the corporate income tax rate has dropped from 30% to 20%. The government gradually reduced the VAT from 16% in 2006 to 12% in 2009, but is now considering replacing VAT with a sales tax in the near term. The timing and mechanism for the change to a sales tax has not been specified causing anxiety in foreign companies. Kazakhstan applies a flat 11% social tax to employers based on employees' earnings, and a personal income tax rate of 10%. The tax rate for non-residents varies between 5% and 20% depending on the type of income. Subsoil concerns may be subject to additional taxes, such as signing bonuses, commercial discovery bonuses, and historical cost reimbursements.

It is common for Kazakhstan's tax authorities to invoke national Tax Code provisions over International Financial Reporting Standards (IFRS). At times this can lead to double taxation, especially when employing IFRS standards for deducting expenses between a company's home office and its branch office in Kazakhstan (see Section 4 on Dispute Settlement).

In 2001, Kazakhstan adopted transfer pricing legislation which gives tax and customs officials the authority to monitor export-import transactions, and which since 2009 have codified the "arm's length principle" embraced by the OECD. Amendments to the law made in 2010 further clarified the rights and liabilities of government agencies by providing private parties contracting with the government the right to justify applied prices to state agencies and to appeal tax inspection results. According to the law, the Ministry of Finance has the right to monitor companies' transactions by surveying the prices of transactions and analysing companies' reports. Foreign investors have noted the new law is more closely aligned with international standards, but remain concerned that the law will be applied not only to transactions with related parties, but all international transactions.

All laws, decrees of the President and the Government are available in Kazakh and Russian at the website of the Ministry of Justice of the Republic of Kazakhstan: http://adilet.zan.kz/rus

Business Registration

The 2016 World Bank's Doing Business Report ranked Kazakhstan 21 out of 189 in the category "Starting a Business." In the last year, Kazakhstan has eliminated registration fees for small and medium-sized firms, shortened registration times, and eliminated the legal requirement to use a company seal. Foreign investors also have access to "single window" service, which simplifies many business procedures, including business registration. Investors may apply for business registration online through the website arranged by the Investment Committee at: http://isc.baseinvest.kz According to the Committee, business registration usually takes three or four days.

The Investment Committee within the Ministry of Investment and Development is in charge of facilitating investment-related issues and developing an attractive investment climate in the country. The Minister of Investment and Development also serves as the Investment Ombudsman.

An enterprise with less than 50 employees is considered "small"; "medium"-sized enterprises employ from 50 to 250 people; and "large" entities are those that have more than 50 people.

Industrial Strategy

The government's primary industrial development strategies, such as the Concept for Industrial and Innovative Development 2015-2019 and the national program to attract investments, prioritize diversifying Kazakhstan's economy away from its overdependence on extractive industries. The government has announced a set of industries that feature tax waivers and simplified procedures for acquiring visas and work permits. The list of priority sectors includes agriculture, food processing, textiles, oil processing, petrochemical, metallurgy, transport, machinery building, and residential construction. In order to facilitate the work of foreign investors, especially in the industries, the government has approved visa-free travel for citizens of 19 countries, including USA, Germany, Japan, UAE, and France. All information about priority sectors and preferences is available at http://invest.gov.kz or at http://isc.baseinvest.kz. The government maintains a dialogue with foreign investors through the Foreign Investors' Council under the president, the Council for Improving the Investment Climate chaired by the prime minister, and the recently created Investment Ombudsman. In 2016, the Government will introduce "investment advisors" in Kazakhstan's embassies abroad and will establish special investment councils in every region of Kazakhstan for more efficient coordination with the Ministry of Investment and Development.

Limits on Foreign Control and Right to Private Ownership and Establishment

Although no sectors of the economy are legally closed to investors, restrictions on foreign ownership exist, such as a 20% ceiling on foreign ownership of media outlets, a 49% limit in domestic and international air transportation services, and a 49% limit in telecommunications that does not apply to mobile operators. The government has indicated that it will remove restrictions in the telecommunications sector upon Kazakhstan's accession to the World Trade Organization (WTO). There are no limits on the participation of foreign capital in the banking and insurance sectors, but foreign bank and insurance company branches are forbidden to operate in Kazakhstan. The government requires foreign banking and insurance companies to form subsidiaries incorporated in Kazakhstan and also restricts foreign ownership of agricultural land.

Privatization Program

By law, and in practice, foreign investors can participate in privatization projects. The government and parastatal National Welfare Fund “Samruk-Kazyna” (SK) approved a comprehensive plan of privatization for 2016-2020. The priority list for privatization includes 65 subsidiaries of large national companies operating in the energy, mining, transportation, and service sectors. The Government has not yet provided details on how the bidding process will be organized, but has stated that all necessary information will be available at the websites of Kazakhstan’s embassies abroad. SK plans to conduct the "People’s Initial Public Offerings (People's IPO)", which will allow citizens and institutional investors to buy up to 10% of the stock of national companies. Additionally, the Government continues to sell small municipal enterprises through electronic auctions; see: https://e-auction.gosreestr.kz

Screening of FDI

Foreign investors have complained about the irregular application of laws and regulations, and interpret such behavior as efforts to extract bribes. Some investors report harassment by the Financial Police via unannounced audits, inspections, and other methods. At times, the authorities have used criminal charges in civil disputes as a pressure tactic. The protracted period of low oil prices has made the government more responsive to complaints from foreign investors. In one notable instance, when Chinese investors in a high-profile project complained about excessive inspections by the Financial Police and bribe-seeking from government officials, President Nazarbayev “promoted” his son-in-law, whom the investors blamed for the bribe-seeking, from CEO of national gas monopoly KazTransGas to the largely ceremonial and less influential role of Chairman of the Board of Directors. In other instances, oil and gas companies have petitioned for, and received, tax relief for continuing to operate marginal and declining fields.

Many foreign companies say they must vigilantly defend investments from a steady stream of decrees and legislative changes, most of which do not exempt or "grandfather in" existing investments. Foreign investors also complain about arbitrary tax inspections, as well as problems in finalizing contracts, delays and irregular practices in licensing, and land fees. Foreign companies report that the authorities at the local and national level arbitrarily impose environmental fines which are then placed in the general budget, as opposed to directly offsetting any alleged environmental damage. As a result, they argue that environmental fines are assessed to generate additional revenue rather than to punish companies for breaching environmental regulations. In numerous meetings with Washington officials, the government acknowledged its awareness of the skewed system of environmental fines and promised that 80 percent of recommendations made by foreign investors would be introduced into environmental legislation that would meet OECD standards. In March 2016, Kazakhstan’s parliament passed legislation allowing for some relief from these excessive fines, but it will likely be several years before the necessary enabling legislation makes the new law useful to companies.

Competition Law

The Entrepreneurial Code regulates competition-related issues such as cartel agreements and unfair competition. The Committee for regulating natural monopoly and protection of competition under the Ministry of National Economy of the Republic of Kazakhstan is responsible for reviewing transactions for competition related concerns.

2. Conversion and Transfer Policies

Foreign Exchange

Kazakhstan introduced a free floating exchange rate and inflation targeting regime on August 20, 2015. Since that time, the tenge has fallen by almost 100% from 188.38/USD on August 20, 2015 to 345.73/USD on March 20, 2016. The National Bank defined the REPO rate as the key basic rate of the monetary policy which is set at 17% for March-April, 2016.

Despite spending hundreds of millions of dollars propping up the national currency from 2014-2016, Kazakhstan has managed to maintain its international reserves at a sufficient level. Kazakhstan's total international reserves, including the NBK's foreign currency and gold reserves, are $91.3 billion (at current prices). The NBK monitors the currency operations of select subsidiaries or joint ventures of foreign corporations, primarily in the oil and gas, construction, and mining industries on the grounds that such practices improve statistical data on balance of payments and external debt.

Kazakhstan is bound by Article 8 of the International Monetary Fund’s Articles of Agreement, adopted in 1996, which forbids the government to restrict currency conversions or the repatriation of investment profits. No distinction is made between residents and non-residents in opening bank accounts, but all account holders must have a Kazakhstani tax identification number. Money transfers associated with foreign investments, whether inside or outside of the country, are unrestricted. However, in 2015 the NBK introduced a requirement for residents and non-residents to present a currency contract for transfers exceeding $10,000. Article 16 of Kazakhstan’s Law on Currency Regulation and Currency Control (hereafter the “currency law”), has, since June 2005, permitted employers to pay non-residents their wages in foreign currency, and foreign investors may convert and repatriate earnings. The currency law likewise prohibits restrictions on money transfers, and allows individuals to take up to $10,000 in cash out of the country without documenting its origin. The Eurasian Economic Union has further liberalized money transfer rules by removing the requirement for a member state central bank to certify the origin of amounts exceeding $10,000. On January 1, 2007, Kazakhstan eliminated licensing requirements and procedures for foreign currency operations except the licensing of exchange operations. Banks conducting transactions in a foreign currency are still required to notify the NBK of their operations once certain thresholds, $100,000 for capital outflow operations and $500,000 for capital inflow operations, are reached. For foreign exchange transactions, individuals are required to present their ID if the amount they buy exceeds1 million tenge ($2,941 at the current exchange rate).

The NBK's registration regime also governs export-import credits and financial loans exceeding $50,000 with terms longer than 180 days. Banks must register these transactions and notify the NBK before completing them. Legislation stipulates that non-fulfilment of payment obligations related to export-import contracts can trigger administrative or criminal charges. Administrative penalties are applied for non-payment of up to $50,000, above which criminal charges are applied. Following December 2011 legislative amendments to the currency law, the NBK no longer requires so-called transaction passports for export-import operations, but requires commercial banks to issue contract registration numbers for currency imports and exports. A registration number is required for all transactions exceeding $50,000, and the procedure to receive a registration number can take several days.

The currency law allows the government to create a "special currency regime" in the event the country's economic and financial stability are in jeopardy. Measures may include requirements for companies to retain a certain percentage of their foreign currency profits in the NBK or other authorized banks, the mandatory sale of foreign currency earnings, and limits on the use of foreign bank accounts.

Remittance Policies

The U.S. Embassy is not aware of any concerns with regard to remittance policies or the availability of foreign exchange conversion for remittance of profits.

A 2011 Financial Action Task Force (FATF)-style peer review conducted by members of the Eurasian Group on Combatting Money Laundering and Terrorist Finance found Kazakhstan compliant or largely compliant with 13 recommended preventive measures, partially complaint with 18 recommended preventive measures, and not complaint with 16 preventive measures, including recommendations that regulators pay close attention to suspicious or unusual transactions or transactions concerning certain foreign countries deemed to be high-risk for money laundering or terror financing. The report, available at http://www.fatf-gafi.org/countries/j-m/kazakhstan/, recommends that the government further strengthen legislation in order to comply with these recommendations.

3. Expropriation and Compensation

The bilateral investment treaty between the United States and Kazakhstan requires the government to provide compensation in the event of expropriation. The 2003 Law on Investments allows the state to nationalize or requisition property in emergency cases, but fails to provide clear criteria for expropriation or require prompt and adequate compensation at fair market value.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Kazakhstan's Civil Code establishes general commercial law principles. The 2015 Entrepreneurial Code defines an investment dispute as "a dispute ensuing from the contractual obligations between investors and state bodies in connection with investment activities of the investor," and states such disputes can be settled by negotiation, litigation, or international arbitration. Aggrieved investors can seek dispute settlement in Kazakhstan's courts or international arbitration. Although some analysts believe the government prefers litigation to arbitration, courts will enforce arbitration clauses in contracts. Any court of original jurisdiction can consider investment disputes and bankruptcy cases.

Bankruptcy

A 2014 bankruptcy law improves the insolvency processes by permitting accelerated business reorganization proceedings, extending the period for rehabilitation or reorganization, and expanding the powers of insolvency administrators. The law also eases bureaucratic requirements for bankruptcy filings, gives creditors a greater say in continuing operations, introduces a time limit for adopting rehabilitation or reorganization plans, and adds court supervision requirements. In part due to these changes, the World Bank ranked Kazakhstan 47th (up from 63rd place) for ease of resolving insolvency in its latest “Doing Business” report.

Investment Disputes

A number of investment disputes involving foreign companies have arisen in the past several years linked to alleged violations of environmental regulations, tax laws, transfer pricing laws, and investment clauses. Some disputes relate to alleged illegal extensions of exploration schedules by subsurface users, as production sharing agreements with the government usually make costs incurred during this period fully reimbursable. Some disputes involve hundreds of millions of dollars. Problems arise in the enforcement of judgments, and ample opportunity exists for influencing judicial outcomes given the relative lack of judicial independence.

In an effort to encourage foreign investment, the government has developed dispute resolution mechanisms aimed at enabling aggrieved investors to seek redress without requiring them to litigate their claims. The government established an Investment Ombudsman in 2013 to resolve foreign investors’ grievances by refereeing inter-governmental disagreements. According to the Ministry of Investment and Development, from 2015-2016 the Investment Ombudsman successfully addressed 60 investors’ requests.

Kazakhstani law provides for government compensation for violations of contracts that were properly entered into and guaranteed by the government. However, where the government has merely approved or confirmed a foreign contract, the government’s responsibility is limited to the performance of administrative acts (for example, concerning the issuance of a license, granting of a land plot, or mining allotment, etc.) necessary to facilitate the investment activity in question. In such a case, litigation or commercial arbitration may be needed to remedy the alleged violation.

International Arbitration

Despite effective dispute resolution mechanisms for most commercial activity, foreign investors have expressed serious concern about the lack of explicit provisions in the Subsoil

Law for international arbitration. International law firms worry that because the Subsoil Law does not expressly provide for international arbitration, the government might choose not to include such a provision in future subsoil contracts, although the Ministry of Justice does have a special legal department to defend the country's interests in international courts.

ICSID Convention and New York Convention

Kazakhstan has been a member of the International Center for the Settlement of Investment Disputes (ICSID) since December 2001 and ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1995. By agreement, any international arbitral award rendered by the ICSID, a tribunal applying the UN Commission on International Trade Law Arbitration rules, Stockholm Chamber of Commerce, London Court of International Arbitration, or Arbitration Commission at the Kazakhstan Chamber of Commerce and Industry is enforceable in Kazakhstan.

Duration of Dispute Resolution – Local Courts

Even when investment disputes are eventually resolved in accordance with contractual conditions, the process of reaching a resolution can be very slow and require a considerable investment of time and resources. Many investors therefore elect to handle investment disputes privately, rather than make their cases public.

Additionally, the U.S. Ambassador participates in every meeting of the Prime Minister's Council to Improve the Investment Climate. The Council was created with the goal of paying special attention to questions related to foreign investors, including protection of their rights and interests. The Council has proved to be an efficient forum for foreign companies to raise concerns about doing business in Kazakhstan to the country's ministers and decision makers. In 2012-2016, the Council discussed various issues, including tax administration problems, decriminalization of administrative violations, the rule of law, judicial independence, and the arbitrary application of environmental fines.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Kazakhstan became a member of the WTO on November 30, 2015. Post is not aware of any notification from the national government about measures which are inconsistent with the requirements of the WTO's Trade Related Investment Measures (TRIMs) obligations.

Investment Incentives

The 2015 Entrepreneurial Code and 2009 Tax Code provide for tax preferences, customs duties exemptions, investment subsidies and in-kind grants as incentives for foreign and domestic investment in priority sectors. The Investment Committee under the Ministry of Investment and Development (MID) makes decisions on every type of incentives on a case-by-case basis. The law also allows the government to rescind incentives, collect back-payments, and revoke an investor's operating license if an investor fails to fulfill contractual obligations. Special Economic Zones give investors a wide range of preferences, which are described by a separate law.

The government is using preferences to help diversify its economy away from the extractive sector. Priority sectors include agriculture, agricultural chemistry, agricultural machinery manufacturing, construction materials, metallurgy, chemistry, food production, oil refining, oil and gas machinery manufacturing, transport, electric equipment, and mining. The Investment Committee considers expanding the list of priority sectors, given investors' interests in other sectors like logistics. The government's preference system applies to new and existing enterprises, and the duration of tax preferences increases with the size of investment. More information on preferences and incentives is available at www.invest.gov.kz.

Performance Requirements

Local content requirement is one of the government's major performance requirements, and especially affects the work of foreign investors in the energy and mining industries, as well as suppliers of goods and services to national holding companies like Samruk-Kazyna (SK). The Ministry of Energy, Ministry of Investment and Development, and SK monitor local content compliance. A limitation on using foreign labour is one of the local requirements that is still in effect (please see details in Section 15. *Labour*).

Data Storage

The Government of Kazakhstan does not require foreign IT providers to turn over source code or encryption keys. We are not aware of any rules that require foreign companies to maintain certain amounts of data storage in Kazakhstan.

6. Protection of Property Rights

Real Property

Private entities, both foreign and domestic, have the right to establish and own business enterprises, buy and sell business interests, and to engage in all forms of commercial activity.

Secured interests in property (fixed and non-fixed) are recognized under the Civil Code and the 2003 Land Code. All property and lease rights for real estate must be registered with the Ministry of Justice through its service centres distributed throughout the country. In 2014, Kazakhstan introduced new procedures aimed at expediting property transfer and registration. According to the "Doing Business Report," Kazakhstan ranks 19 out of 189 countries in terms of the ease of registering property.

Kazakhstan's constitution provides that land and other natural resources may be owned or leased by Kazakhstani citizens. The 2003 Land Code allows citizens and Kazakhstani companies to own agricultural and urban land, including commercial and non-commercial buildings, complexes, and dwellings. Amendments to the Labour Code in 2011 permit foreigners to own land to build industrial and non-industrial facilities, including dwellings, with the exception of land located in the frontier zone. Later amendments to the Labour Code allow foreigners to rent, but not own, agricultural land and extend the rent period from 10 to 25 years. The Land Code does not allow private ownership of the following types of land:

- land used for national defence and national security purposes;
- specially protected nature reserves;
- forests, reservoirs (lakes, rivers, canals, etc.), glaciers, swamps, etc.;
- designated public areas within urban or rural settlements, except of land plots, occupied by private building and premises;
- main railways and public roads;
- land reserved for future development and construction of national parks, railways and public roads, subsoil use and power facilities, and social infrastructure.

Intellectual Property Rights

Kazakhstan has not been listed in the Special 301 Report since 2006. To facilitate its WTO accession and attract foreign investment, Kazakhstan continues to improve its legal regime for protecting intellectual property rights (IPR). The Civil Code and various laws, in principle, protect intellectual property. Kazakhstan has ratified 18 of 24 treaties endorsed by the World Intellectual Property Organization (WIPO).
http://www.wipo.int/wipolex/en/profile.jsp?code=KZ).

In 2015, Kazakhstan passed two legislative acts on IPR. The law from April 2015 enhanced the role and transparency of organizations for collective management of copyrights. The law from October 2015 extended the protection period for an original medicine for up to six years. During this period, no new drug can be registered with a reference to the test data and confidential information received by the applicant of the original patent.

In July 2015, the Ministry of Health amended its regulation on state registration of pharmaceuticals in order to avoid distribution of illegal generics. In 2014, new Administrative and Criminal procedures came into force making formerly administrative violations now criminal violations and lengthening jail terms from five years to seven years. Articles 198 and 199 of the new Criminal Code define punishments for violations of copyright and allied rights and for violations of rights for inventions, useful models, industrial patterns, selective achievements, and integrated circuits topographies. The law also permits the government to target internet piracy and shut down websites unlawfully sharing copyrighted material, provided rights holders register copyrighted material with Kazakhstan's IPR Committee. U.S. companies and associated business groups have alleged that 76% of software used in Kazakhstan is pirated, and criticized the government's enforcement efforts.

Resources for Rights Holders

Contact at the U.S. Embassy in Astana: InvestmentClimateKZ@state.gov
Country/Economy resources: The American Chamber of Commerce (AmCham) in Kazakhstan: http://www.amcham.kz

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.
Local lawyers list:
http://kazakhstan.usembassy.gov/uploads/b8/LE/b8LEmttSzlth6cJkiKwuWQ/List-of-attorneys-in-Kazakhstan_June-2009.pdf

7. Transparency of the Regulatory System

Kazakhstan has steadily improved its business environment since independence. It has streamlined bureaucratic practices, provided accelerated business start-up procedures, reduced minimum capital requirements for businesses, and simplified the procedures for registering property and getting construction permits. As a result, the World Bank in 2016 moved Kazakhstan up 9 places to 41 out of 189 countries in its "Doing Business" report.

Still, non-transparent application of laws remains a major problem in Kazakhstan and an obstacle to expanded trade and investment. Foreign investors complain of inconsistent standards and corruption. In spite of the government's efforts to encourage foreign participation in the economy, some foreign investors point out that the government is not always even-handed and sometimes reneges on its commitments. Although the central government has enacted many positive and progressive laws, local authorities may interpret rules in arbitrary ways for the sake of their own interests.

8. Efficient Capital Markets and Portfolio Investment

Kazakhstan has created a sound financial system and a stable macroeconomic framework. Official policy supports credit allocation on market terms and the further development of legal, regulatory, and accounting systems that are consistent with international norms.

A general attitude of authorities toward foreign portfolio investors is positive, though foreign clients may only trade via local brokerage companies or after being registered as members of the Kazakhstan's Stock Exchange (KASE). KASE, which has operated since 1993, is an insignificant source of investment. The number of listed companies dropped from 354 in 2010 to 132 in 2016. The government's 2013 decision to consolidate all pension savings into a single state-owned pension fund practically froze the stock market, as private pension funds, which until that time were Kazakhstan's main institutional investors, ceased to operate. Current trading is dominated by block trades, and the spreads are extremely wide. Traditionally, foreign exchange is the main segment of trades within KASE. In 2016, 55.8% of KASE trades were in foreign exchange, repo transactions comprised a further 42.8%, and government securities trading accounted for roughly 1.2% of KASE volume. In March 2016, the stock market capitalization was $35.9 billion, and bond market capitalization was $25.4 billion. The Single Pension Fund is the sole source of tenge liquidity in the country and has accumulated nearly $17.6 billion by the end of March, 2016. Its largest investment positions are in Kazakhstani government securities (46.2%) and corporate bonds of Kazakhstan-based companies (37.66%). The Single Pension Fund is not listed, and does not trade, on KASE. As KASE is not fully developed, decreased capitalization and diminished transaction volumes have not impacted financial markets or the overall economic situation.

Most domestic borrowers obtain credit from Kazakhstani banks, although foreign investors often find margins and collateral requirements onerous, and it is usually cheaper and easier for foreign investors to use retained earnings or borrow from their home country.

Money and Banking System, Hostile Takeovers

Kazakhstan has 35 commercial banks. As of February 1, 2016, the five largest banks (KazKommertsBank, HalykBank, Tsesna Bank, Sberbank-Kazakhstan and Bank CenterCredit) held assets worth approximately $42.5 billion, or about 58.9% of the banking sector’s total assets. Although Kazakhstan's banking system remains stable, it has experienced hard times for the past several years. Banks' share of non-performing loans declined from 31.2% in January 2014 to 8.3% in February 2016. However, the situation caused by several devaluations may result in NPL growth in 2016. Kazakhstan's high level of dollarization remains a serious challenge and creates an additional burden on banks. The share of retail dollar-denominated deposits reached its record level in February 2016 - 80.3%. The Government is undertaking measures on maintaining the banking sector by injecting money from the National Oil fund and the Single Pension Fund for implementation of various government programs.

As there are relatively few publicly traded firms, few hostile takeovers have occurred in Kazakhstan. Defensive measures against takeovers are not targeted toward foreign investors in particular. The Civil Code requires a company that has purchased a 20% share in another company to publish information about the purchase.

9. Competition from State-Owned Enterprises

Officially, private enterprises compete with public enterprises under the same terms and conditions. In reality, however, SOEs generally enjoy better access to natural resources, markets, credit, and licenses than private entities.

The law on state property defines national companies, national holding companies, and national managing holding companies. A national company is a government-created joint stock company which operates in “fundamental industries” or facilitates regional economic development, and in which the state holds a controlling interest. A national holding company is a government-created entity which holds shares in national companies. A national managing holding company is a government-created entity which manages the government’s interest in national holding companies, national development institutes, and other legal entities. As of February 2016, Kazakhstan had 130 joint stock companies with state participation, including four national holding companies and five national companies. The law requires all SOEs to publish annual reports and submit their books for independent audit.

National Welfare Fund Samruk-Kazyna (SK) is Kazakhstan's largest national holding company, and manages the state-owned companies that dominate the oil and gas, energy, mining, transportation, information and communication sectors. SK has 600 subsidiaries and employs 360 thousand people. By some estimates, SK controls more than half of Kazakhstan's economy, and is the nation's largest buyer of goods and services. Created in 2008, SK's official purpose is to facilitate economic diversification and to increase effective corporate governance. The Prime Minister chairs SK's board of directors, and several other ministers and the Head of the Presidential Administration also serve on the board alongside three independent directors. President Nazarbayev endowed SK with special rights such as the ability to conclude large transactions between members of its holdings without public notification. SK enjoys a pre-emptive right to buy strategic facilities and bankrupt assets and is exempt from government procurement procedures. The government can transfer state-owned property to SK, easing the transfer of state property to private owners. Kazakhstan intends to join the WTO Agreement on Government Procurement (GPA) in 2018. Prior to this, the government has indicated that it plans to bring government procurement rules and procurement of quasi-sovereign companies into compliance with the GPA. To follow this policy, SK approved new procurement rules without direct local content requirements in January 2016.

The government in 2013 created a national managing holding company called Baiterek to provide financial and investment support to non-extractive industries, drive economic diversification, and to improve corporate governance in its subsidiaries. Baiterek is comprised of the Development Bank of Kazakhstan, the Investment Fund of Kazakhstan, the Housing and Construction Savings Bank, National Mortgage Company, National Agency for Technological Development, Distressed Asset Fund and other financial and development institutions. Like SK, the Prime Minister is Chairman of the Board, assisted by several cabinet ministers and independent directors.

Other notable SOEs include KazAgro, which manages state agricultural holdings such as the government's wheat purchasing agent the National Food Contract Corporation, farm equipment subsidy provider KazAgroFinance, the Agrarian Credit Corporation, and an agricultural insurance company. National company Parasat is charged with stimulating domestic scientific research and development in the high-tech sector, and manages several scientific institutions and funds, while holding company Zerde is charged with creating modern information and communication technologies and to stimulate investments in the communication sector.

OECD Guidelines on Corporate Governance of SOEs

To live up to its OECD commitments, Kazakhstan plans to decrease the SOEs' share in the economy to 15% by 2020. For this purpose, the government enacted legislation in 2015 applying Yellow Pages Rules that would limit state participation in the economy. For the same purpose, the government is conducting a large-scale privatization campaign and SK is now in its transformation process. However, the current preferential status of parastatal companies remains unchanged. Although such companies are subject to the same tax burden as the private sector, they enjoy more access to the budget and National Oil Fund money.

Sovereign Wealth Funds

Kazakhstan's sovereign wealth fund is called the National Oil Fund, and was established by presidential decree in 2000. The fund exists to reduce the country's budgetary dependence on fluctuating world oil prices and to accumulate savings to benefit future generations. The Fund receives all direct taxes and a percentage of revenues from the oil sector, revenues from the privatization of state property in the mining and manufacturing industries, proceeds from sales of farmlands, as well as the Fund's investment income. The Ministry of Finance owns the National Fund, while the NBK acts as trustee and selects external administrators from internationally recognized investment companies or banks to oversee the fund. Information on external administrators and the assets they manage is confidential.

In addition to preserving wealth for future generations, the Fund is also used to support the government's political and economic objectives. The Fund extended a $4 billion loan in 2012 to Kazakhstan's state-owned oil company KazMunayGas (KMG) to support its participation in the Kashagan oil field. The Fund also invests in the domestic economy through annual official transfers to the state budget, which currently vary from $6.8 billion to $9.2 billion annually. In 2014-2016, President Nazarbayev decided to direct more than $20 billion as official and special purpose transfers from the Fund for stimulating economic diversification, infrastructure, and small business development. President Nazarbayev has decreed that the Fund should retain a minimum balance of no less than 20% of GDP. As of March 2016, the National Fund's assets totalled $63.5 billion.

Kazakhstan is not a member of the IMF-hosted International Working Group of Sovereign Wealth Funds.

10. Responsible Business Conduct

The Entrepreneurial Code has a special section on social responsibility, which is defined as a voluntary contribution for development of social, environmental and other spheres. The Code underlines that the state creates conditions for social responsibility but also specifies that nobody can force entrepreneurs to take socially responsible actions. The Code considers charity one of key forms of social responsibility and envisions a tax deduction for charitable activity.

President Nazarbayev has repeatedly asked foreign investors and local businesses to implement responsible business conduct projects, to provide occupational safety, pay salaries on time, and invest in human capital. The President presents annual awards for achievements in responsible business conduct. Foreign Investors report that local government officials regularly pressure them to provide social investments in order to achieve local political objectives. These local officials also attempt to exert as much control as possible over the selection of projects and the subsequent allocation of funding. A survey conducted in 2013 found that large companies are better practitioners of responsible business conduct principles than their small and medium-size counterparts, although there is a likely correlation between resources and charitable outlays.

11. Political Violence

There have been no incidents of politically motivated violence against foreign investment projects, and politically motivated civil disturbances remain exceptionally rare. In 2012, Kazakhstan experienced several isolated incidents in which individuals or groups associated with Islamic extremists launched small-scale violent attacks against government offices, with most concentrating on police and national security organs. Foreign investment or foreigners working in Kazakhstan have not been targeted. Kazakhstan enjoys generally good relations with its neighbors, although the government is concerned that the borders with Kyrgyzstan and Uzbekistan are vulnerable to penetration by extremist groups.

Kazakhstan held presidential elections in April 2015, with President Nazarbayev, in office since 1991, winning 97.75 percent of the vote. While the Organization for Security and Cooperation in Europe (OSCE) asserted that the election did not meet Kazakhstan's OSCE commitments or international standards for democratic elections, and opposition groups denounced the election as fraudulent, no significant demonstrations against the results occurred.

12. Corruption

On December 26, 2014, President Nazarbayev signed into law the new anti-corruption strategy for 2015-2025. The document focuses on measures to prevent the conditions that foster corruption. A new Criminal Code came into force on January 1, 2015, toughening criminal liability and punishment for crimes related to corruption. Under the new code, probation is no longer allowed for corruption crimes. A new penalty of a life ban on employment in the civil service was introduced, as well as mandatory forfeiture of title, rank, grade, and state awards.

The statute of limitations does not apply to persons charged with corruption. On November 20, 2015, Nazarbayev signed the new law On Countering Corruption as part of his Five Institutional Reforms program. The law introduces broader definitions of corruption, corruption policy and risks, anticorruption monitoring and analysis. The law toughens financial accountability through declaration of income and assets. The Bureau for Countering Corruption of the Ministry for Civil Service will annually present a national report on countering corruption.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Kazakhstan acceded to the UN Anticorruption Convention in June 2008, but it is not a party to the OECD convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.

Resources to Report Corruption

The Ministry of Interior, Bureau for Countering Corruption of the Ministry for Civil Service, Disciplinary State Service Commission, and Committee for National Security (KNB) are responsible for combating corruption.

Contact information:

-NAME: Kairat Kozhamzharov
-TITLE: Chairman
-ORGANIZATION: National Bureau for Countering Corruption
-ADDRESS: 37 Seyfullin Street, Astana
-TELEPHONE NUMBER: +7 (7172) 90-92-60
-EMAIL ADDRESS: anticorruption@nab.gov.kz

Transparency International (TI) maintains a national chapter in Kazakhstan.

-NAME: Natalya Kovalyeva (Petyaksheva)
-TITLE: Executive Director
-ORGANIZATION: Civic Foundation “Transparency Kazakhstan”
-ADDRESS: 43 A Mynbayev Str.
-TELEPHONE NUMBER: +7 (7273) 79 84 50
-EMAIL ADDRESS: nnm_04@mail.ru

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

The United States-Kazakhstan Bilateral Investment Treaty came into force in 1994, and the United States and Kazakhstan signed an Investment Incentive Agreement in 1992. In 1996, a Treaty on the Avoidance of Double Taxation between the United States and Kazakhstan came into force. Since independence, Kazakhstan has signed treaties on the avoidance of double taxation with 46 countries, and bilateral investment protection agreements with 48 countries (and ratified 32), including Great Britain, Germany, Italy, France, Russia, South Korea, Iran, China, Turkey, Japan and Vietnam. In 2012, Kazakhstan signed investment agreements with Macedonia and Afghanistan, and joined the investment protection agreement of the Eurasian Economic Community (EVRAZES) in 2006. Some foreign investors have charged that Kazakhstani tax authorities are reluctant to refer double taxation questions to the appropriate bi-national resolution bodies.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

The 2011 Law on Special Economic Zones allows foreign companies to establish enterprises in special economic zones (SEZs), simplifies procedures to attract foreign labor, and establishes a special customs zone regime not governed by Customs Union rules. A system of tax preferences exists for foreign and domestic enterprises engaged in prescribed economic activities in Kazakhstan's ten SEZs. The SEZs are located in the New Administrative Center in Astana, the Seaport of Aktau, the Alatau Information Technology Park (near Almaty), the Ontustik Textile Center in south Kazakhstan, the international tourism zone "Burabay" (a resort area 300 kilometers from Astana), the Atyrau National Industrial Petrochemical Techno park, SEZ “Saryarka” in the Karaganda region, a transport and logistics zone in Khorgos at the Kazakhstan-Chinese border, and SEZ “Pavlodar”, and SEZ ”Chemical Park Taraz”.

For more details see http://isc.baseinvest.kz/account/wey_map#.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2015	183833	2015	211700	http://www.worldbank.org/en/country/kazakhstan
Foreign Direct Investment	Host Country Statistical source		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2014	18459	2014	15582	http://bea.gov/international/di1usdbal.htm. Local source is the National Bank of the Republic of Kazakhstan: http://www.nationalbank.kz/?docid=679
Host country's FDI in the United States ($M USD, stock positions)	2014	580	2012	638	http://elibrary-data.imf.org/public/FrameReport.aspx?v=3&c=11666796&pars=Country%2c916 Local source is the National Bank of the Republic of Kazakhstan: http://www.nationalbank.kz/?docid=679
Total inbound stock of FDI as % host GDP	2014	58.3%	2014	58.8%	N/A

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			Outward Direct Investment		
Total Inward	128,017	100%	Total Outward	27,232	100%
Netherlands	63,971	50%	Netherlands	14,865	55%
United States	18,777	15%	United Kingdom	5,028	18%
France	11,333	9%	Luxembourg	1,140	4%
Japan	5,012	4%	Singapore	948	3%

China, P.R. Mainland	4,009	3%	Russian Federation	820	3%
"0" reflects amounts rounded to +/- USD 500,000.					

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	71,959	100%	All Countries	11,929	100%	All Countries	60,031	100%
United States	40,945	57%	United States	6,211	52.1%	United States	34,734	57.9%
United Kingdom	4,562	6.3%	Japan	1,158	9.7%	United Kingdom	3,439	5.7%
Japan	4,468	6.2%	United Kingdom	1,123	9.4%	Japan	3,310	5.5%
Germany	3,290	4.6%	Germany	530	4.4%	France	2,798	4.7%
France	3,238	4.5%	France	440	3.7%	Germany	2,760	4.6%

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

Civil law system influenced by Roman-Germanic law and by the theory and practice of the Russian Federation

International organization participation:

ADB, CICA, CIS, CSTO, EAEC, EAPC, EBRD, ECO, EITI (candidate country), FAO, GCTU, IAEA, IBRD, ICAO, ICC (NGOs), ICRM, IDA, IDB, IFAD, IFC, IFRCS, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, MIGA, NAM (observer), NSG, OAS (observer), OIC, OPCW, OSCE, PFP, SCO, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO (observer), ZC

Exchange control

Exchange transactions performed in Kazakhstan are regulated by Kazakhstan Law on exchange regulation and control. The basic principles are as follows:

Exchange transactions between residents are unlawful, with the exception of transactions defined in the list, for example:

- fees paid to banks for performing exchange transactions and fines (penalties) paid on contracts for bank services in a foreign currency
- transactions associated with the acquisition, sale and payment of premiums on redemption of securities denominated in a foreign currency
- purchase and sale of fine gold bars
- payment and remission of cash under commission contracts in relation to exports and imports using transferable letters of credit as the mode of payment;
- transactions associated with the payment of taxes and other compulsory payments under Kazakhstan law.

Residents may enter into transactions with non-residents in the national or a foreign currency as agreed between them in accordance with the exchange regulations of Kazakhstan.

Residents may issue promissory notes in a foreign currency on transactions with non-residents. Non-residents may, without any restrictions, receive and remit dividends, commission fees and other income on deposits, securities, loan and other exchange transactions entered into with residents and performed in accordance with this Law.

Exchange transactions between non-residents are allowed without any restrictions provided they meet set requirements. In particular, payments and remissions on exchange transactions between residents and non-residents must be made through accounts with authorised banks with some exceptions.

Any foreign cash received by resident and non-resident legal entities from transactions performed in Kazakhstan must be credited to an account with an authorised bank.

Residents and non-residents may buy and sell foreign currency with banks authorised to conduct exchange transactions and other authorised organizations in accordance with the procedures set down by the National Bank of Kazakhstan.

Capital flow transactions and opening of accounts are subject to notification or registration requirements.

Payments between residents and non-residents on commercial loans associated with the export or import of goods for a time period exceeding 180 days must be registered by the authorised bank servicing such payments. Payments between residents and non-residents in settlement of exported and imported services must also be registered.

These exchange requirements do not apply to commercial loans associated with export and import transactions where transaction certificates have been drawn up.

Direct investments by non-residents into and by residents outside Kazakhstan are subject to registration. Direct investment is defined as the investment of cash, securities, property, property rights including intellectual property rights and other property as payment for shares of a legal entity if the person investing owns or will own as a result of such investment, 10% or more of the voting shares (10% or more votes of the total number of shareholder votes) of such a legal entity.

Residents are required to notify the National Bank of Kazakhstan of any exchange transactions associated with the acquisition of securities, investing into share capital and exchange transactions involving derivative financial instruments.

Financial loans made by residents to non-residents and by non-residents to residents for a time period exceeding 180 days are subject to registration.

Other capital flow transactions include:

1) acquisition of property rights for real estate with the exception of movable property
2) acquisition of exclusive intellectual property rights
3) assignment of cash and other property for trust management or to fulfill obligations under a joint venture.

Payments made by residents to non-residents (and vice versa) in connection with acquiring real estate and intellectual property rights, as well as through the assignment of cash and other property for trust management are also subject to the notification requirement.

The National Bank of Kazakhstan registers exchange transactions where the following requirements are met:

1) the value of the assets acquired or liabilities incurred by a resident of Kazakhstan from or to a non-resident exceeds an equivalent of USD $500,000

2) the value of assets transferred from Kazakhstan to a non-resident exceeds an equivalent of USD $100,000

3) the amount of payment or bank transfer by a resident to a non-resident (or vice versa) on transactions in financial derivative instruments or in connection with settlements on export or import services exceeds an equivalent of USD $100,000.

Treaty and non-treaty withholding tax rates

The withholding tax rates for non-treaty countries are as follows.

Country	Dividends[1]	Interest	Royalties
	(%)	(%)	(%)
Austria	15/5[1]	10	10
Azerbaijan	10	10	10
Belarus	15	10	15
Belgium	15/5[1]	10	10
Bulgaria	10	10	10
Canada	15/5[1]	10	10
China (People's Republic)	10	10	10
Czech Republic	10	10	10
Estonia Finland	15/5[2] 15/5	10 10	15 10
France	15/5[1]	10	10
Georgia	15	10	10
Germany	15/5[2]	10	10
Hungary	15/5[2]	10	10
India	10	10	10
Iran	15/5[3]	10	10
Italy Japan	15/5[1] 15/5	10 10	10 10
Korea, Republic of	15/5[1]	10	10
Kyrgyzstan	10	10	10
Latvia	15/5[2]	10	10
Lithuania	15/5[2]	10	10
Malaysia	10	10	10
Moldova	15/10[2]	10	10
Mongolia	10	10	10
Netherlands	15/5/0[4]	10	10
Norway	15/5[1]	10	10
Pakistan	15/12.5[1]	12.5	15
Poland	15/10[3]	10	10
Romania	10	10	10
Russia	10	10	10

Country	Dividends[1]	Interest	Royalties
	(%)	(%)	(%)
Singapore	10/5[5]	10	10
Slovak Republic Spain	15/10[6] 15/5	10 10	10 10
Sweden	15/5[1]	10	10
Switzerland	15/5/0[5]	0/10	10
Tajikistan	15/10[6]	10	10
Turkey	10	10	10
Turkmenistan	10	10	10
Ukraine	15/5[2]	10	10
United Kingdom	15/5[1]	10	10
United States	15/5[1]	10	10
Uzbekistan	10	10	10

1 Unless indicated otherwise, the lower rates in this column apply if the recipient company owns at least 10% of the capital or the voting power of the paying company, as the case may be.
2 This rate applies if the recipient company owns at least 25% of the capital or the voting power of the paying company, as the case may be.
3 The rate applies if the recipient company owns at least 20% of the capital or the voting power of the paying company, as the case may be.
4 The zero rate applies if the recipient company owns 50% of the capital of the paying company and that participation has a value of at least US$ 1 million, and the head office's state of residence has secured the participation. The 5% rate applies if the recipient company owns at least 10% of the capital of the paying company.
5 This rate applies if the recipient company has a direct holding of at least 25% of the capital of the company paying the dividends.
6 This rate applies if the recipient holds at least 30% of the capital of the paying company.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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