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Report on the Observance of Standards and Codes (ROSC)

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CORPORATE GOVERNANCE
COUNTRY ASSESSMENT

Mauritius

Public Disclosure Authorized

December 2010

About the ROSC

What is corporate governance?

Corporate governance refers to the structures and processes for the direction and control of companies. Corporate governance concerns the relationships among the management, board of directors, controlling shareholders, minority shareholders and other stakeholders. Good corporate governance contributes to sustainable economic development by enhancing the performance of companies and increasing their access to outside capital.

The OECD Principles of Corporate Governance provide the framework for the work of the World Bank Group in this area, identifying the key practical issues: the rights and equitable treatment of shareholders and other financial stakeholders, the role of non-financial stakeholders, disclosure and transparency, and the responsibilities of the board.

Why is corporate governance important?

For emerging market countries, improving corporate governance can serve a number of important public policy objectives. Good corporate governance reduces emerging market vulnerability to financial crises, reinforces property rights, reduces transaction costs and the cost of capital, and leads to capital market development. Weak corporate governance frameworks reduce investor confidence, and can discourage outside investment. Also, as pension funds continue to invest more in equity markets, good corporate governance is crucial for preserving retirement savings. Over the past several years, the importance of corporate governance has been highlighted by an increasing body of academic research. Studies have shown that good corporate governance practices have led to significant increases in economic value added (EVA) of firms, higher productivity, and lower risk of systemic financial failures for countries.

The Corporate Governance ROSC

Corporate governance has been adopted as one of twelve core best-practice standards by the international financial community. The World Bank is the assessor for the application of the OECD Principles of Corporate Governance. Its assessments are part of the World Bank and International Monetary Fund (IMF) program on Reports on the Observance of Standards and Codes (ROSC).

The goal of the ROSC initiative is to identify weaknesses that may contribute to a country's economic and financial vulnerability. Each Corporate Governance ROSC assessment benchmarks a country's legal and regulatory framework, practices and compliance of listed firms, and enforcement capacity vis-à-vis the OECD Principles.

- The assessments are standardized and systematic, and include policy recommendations and a model country action plan. In response, many countries have initiated legal, regulatory, and institutional corporate governance reforms.
- The assessments focus on the corporate governance of companies listed on stock exchanges. At the request of policymakers, the World Bank can also carry-out special policy reviews that focus on specific sectors, in particular for banks and state-owned enterprises.
- Assessments can be updated to measure progress over time.
- Country participation in the assessment process, and the publication of the final report, are voluntary.

By the end of December 2011, 83 assessments had been completed or were underway in 58 countries around the world.

THE WORLD BANK

ROSC

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Acknowledgements

This updated assessment of corporate governance in Mauritius has been prepared by Alexander Berg of the World Bank Global Capital Markets Development Department with Karen Sarah Cuttaree (consultant), as part of the Reports on Observance of Standards and Codes Program. The report is based in part on a template / questionnaire completed by BLC Partners. The findings of the ROSC are based on the Detailed Country Assessment (DCA), which is presented as a separate annex. The due diligence mission was carried out in January 2011.

The assessment reflects technical discussions with the Financial Reporting Council, the Financial Services Commission, Bank of Mauritius, Stock Exchange of Mauritius, Central Securities Depository, Registrar General, Institute of Directors, and representatives of companies, banks, and market participant. The assessment draws on two separate sources of information on corporate governance adoption. In 2009, the National Committee on Corporate Governance commissioned a *Survey on the State of Compliance with the Code of Corporate Governance in Mauritius* (available in summary form on the NCCG website). In addition, the Financial Reporting Council collects data on compliance with the Code of Corporate Governance through its regular reviews of financial reporting.

Laura Ard, Mazen Bouri, Gary Fine, Khoudijah Maudarbocus-Boodoo and Roman Zyla provided advice and comments. Johana Shah provided administrative support. Comments on the draft were received from the National Committee on Corporate Governance Financial Services Commission, the Registrar of Companies, the Bank of Mauritius, and the Mauritius Institute of Directors.

Acronyms

BoM: Bank of Mauritius
CA: Companies Act 2001
CEO: Chief Executive Officer
CFO: Chief Financial Officer
CSR: Corporate Social Responsibility
DCA: Detailed Country Assessment (annex to the ROSC report)
EGM: Extraordinary General Meeting
ESOP: Employee Stock Ownership Program
FRA: Financial Reporting Act 2004
FRC: Financial Reporting Council
FSC: Financial Services Commission
GDP: Gross Domestic Product
GMS: General Meeting of Shareholders
IFRS: International Financial Reporting Standards
IOSCO: International Organization of Securities Commissions
ISA: International Standards on Auditing
LR: Listing Rules
MIPA: Mauritius Institute of Professional Accountants
MIOD: Mauritius Institute of Directors
MOFED: Ministry of Finance and Economic Development
NCCG: National Committee on Corporate Governance
ROC: Registrar of Companies
ROSC: (Corporate Governance) Report on Standards and Codes
RPT: Related Party Transaction.
SEM: Stock Exchange of Mauritius
SOE: State Owned Enterprise
SRO: Self regulatory organization

Definitions

Cumulative voting: Cumulative voting allows minority shareholders to cast all their votes for one candidate. Suppose that a publicly traded company has two shareholders, one holding 80 percent of the votes and another with 20 percent. Five directors need to be elected. Without a cumulative voting rule, each shareholder must vote separately for each director. The majority shareholder will get all five seats, as s/he will always outvote the minority shareholder by 80:20. Cumulative voting would allow the minority shareholder to cast all his/her votes (five times 20 percent) for one board member, thereby allowing his/her chosen candidate to win that seat.
Pre-emptive rights: Pre-emptive rights give existing shareholders a chance to purchase shares of a new issue before it is offered to others. These rights protect shareholders from dilution of value and control when new shares are issued.
Proportional representation: Proportional representation gives shareholders with a certain fixed percentage of shares the right to appoint a board member.
Pyramid Structures: Pyramid structures are structures of holdings and sub holdings by which ownership and control are built up in layers. They enable certain shareholders to maintain control through multiple layers of ownership, while at the same time they share the investment and the risk with other shareholders at each intermediate ownership tier.
Shareholder agreement: An agreement between shareholders on the administration of the company. Shareholder agreements typically cover rights of first refusal and other restrictions on share transfers, approval of related-party transactions, and director nominations.
Squeeze-out right: The squeeze-out right (sometimes called a “freeze-out”) is the right of a majority shareholder in a company to compel the minority shareholders to sell their shares to him. The sell-out right is the mirror image of the squeeze-out right: a minority shareholder may compel the majority shareholder to purchase his shares.
Withdrawal rights: Withdrawal rights (referred to in some jurisdictions as the “oppressed minority,” “appraisal” or “buy-out” remedy) give shareholders the right to have the company buy their shares upon the occurrence of certain fundamental changes in the company.

Executive Summary

This report assesses Mauritius's corporate governance policy framework. It highlights recent improvements in corporate governance regulation, makes policy recommendations, and provides investors with a benchmark against which to measure corporate governance in Mauritius. It is an update of the 2002 Corporate Governance ROSC.

Good corporate governance enhances investor trust, helps to protects minority shareholders, and can encourage better decision making and improved relations with workers, creditors, and other stakeholders. It is an important prerequisite for attracting the patient capital needed for sustained long-term economic growth.

The OECD Principles focus on private-sector publicly traded companies, both financial and non-financial, but are equally applicable to other public interest entities, such as large, non-listed joint stock companies and state-owned enterprises (SOEs). By extension, this CG ROSC focuses on publicly traded companies, but also touches upon corporate governance issues relevant to other publicly interest entities, notably non-listed banks, non-bank financial institutions (NBFIs), SOEs, and large private enterprises.

Achievements: Over the past 10 years, the authorities and the private sector have established a strong legal and institutional framework for corporate governance. In 2001 a modern Companies Act was put in place, and the Bank of Mauritius issued its first guidelines for the governance of banks. In 2004, the government passed the Financial Reporting Act, which regulates financial reporting and established the Financial Reporting Council, the Mauritius Institute of Professional Accountants, and the National Committee on Corporate Governance, and indirectly established the Mauritius Institute of Directors. A strong Registrar of Companies provides a high degree of transparency.

The Code of Corporate Governance (revised October 2004) is a key part of the legal and regulatory framework. The Code was developed on the basis of the King Report in South Africa, and shares many approaches with that model. The Code applies (by its own definition) to all public interest entities. The Code of Corporate Governance has made a significant impact on behavior, especially those provisions related to board composition, board committees, and disclosure (see the board section below for more details). Other provisions, such as enhancing the role of shareholders and other stakeholders may have received less attention.

Mauritius has a modern board structure driven by tradition and the Code of Corporate Governance. The board is the focal point of the corporate governance system and is ultimately accountable and responsible for the performance and affairs of the company. Fiduciary duties are clearly defined in the 2001 Companies Act. Board responsibilities are well developed in the Code, and boards carry out most of the functions required by the OECD Principles. In practice, directors take their responsibilities seriously, and their awareness of liability and their role is high. Most companies have established audit committees and corporate governance committees. The Mauritius Institute

of Directors is growing rapidly in reach and influence, and formal induction and ongoing director training are beginning to take hold.

The Code recommends two independent directors. According to unpublished FRC data from 2009, most public interest entities surveyed met the requirement of a minimum of 2 independent directors. As in many countries around the world, some market participants question their actual objectivity, because they are in the end appointed by controlling shareholders. While directors take their job seriously, there are indications that independent directors rarely take stands against the controlling shareholder, and that some may equate the interest of the company with that of the controlling shareholder.

Financial reporting is considered by all parties to have significantly improved since in recent years. Compliance with IFRS and ISA are relatively high, particularly by emerging market standards. The Financial Reporting Act 2004 requires all public interest entities to apply full IFRS and be audited according to ISA. The FRC is responsible for the oversight of accounting and auditing standards, and actively supervises the audit profession. In addition to financial statements, the annual report must include a variety of non-financial disclosures, many recommended by the Code. Many companies make significant disclosures about governance structures and policies (especially official market companies).

Shareholder rights are in place. Shareholders have significant rights to private redress under the law. Shareholders have full rights to participate at the GMS. The Listing Rules require listed companies to (a) allow shareholders to approve new share offerings, or (b) provide pre-emptive rights to existing shareholders.

Stakeholder issues have become increasingly visible in Mauritius. Since the last ROSC assessment, the Mauritian framework has undergone significant transformation in the recognition and protection of both employee and creditors rights, including a significant reform to the insolvency framework. There has also been a strong push towards corporate social responsibility (CSR). The Government has recently mandated profitable firms to spend two percent of their profits on CSR activities approved by the Government or otherwise allocate the funds for use in the fight against poverty. Around 2000 companies will contribute towards the CSR initiative in 2011.

Key Obstacles: While the corporate governance legal and institutional framework has continued to mature, a number of issues remain.

- Some market participants complain that the Code's provisions are not always clear. Interviews suggest that the distinction between the "code" and the "report", between "requirements" and "aspirations", and the "comply or explain" provisions may not be fully appreciated by some market participants. While many companies referred to the requirements of the Code in their annual reports, some companies did not make overall compliance statements about the Code, and none specifically mentioned areas of non-compliance.

- While significant progress has been made with governance of private sector companies, the governance of state-owned enterprises lags. Several market participants see the performance of publicly owned companies as a hindrance to general economic progress.
- "Standards of transparency and disclosure are generally high. However, a potential weakness is incomplete disclosure of ownership, control, and group structures. Some companies do not disclose complete indirect ownership or cascade holding structures, making it difficult to understand ultimate beneficial ownership and control. This limits the effectiveness of rules on conflicts of interest."Minority shareholders have little influence on board appointment. Nominating outside board members is generally considered by outsiders to be difficult and not transparent.
- While the SEM plays its role in reviewing extraordinary and related party transactions, according to some observers, the fact that the listing rules only cover "balance sheet" type transactions and "transactions in the ordinary course of business" means that other relevant transactions are not covered, such as management contracts.
- Formal enforcement actions in the area of corporate governance are rare, and the institutional framework for public enforcement needs to be put in place. Few of the legal remedies available under the Companies Act are applied in practice due to a combination of passive minority shareholders, expensive court actions, and lack of experience of judges in capital market matters.

Assessment of OECD Principles: The Detailed Country Assessment of the OECD Principles of Corporate Governance is summarized in the tables at the end of the report. Mauritius's scores have improved since the last ROSC was carried out in 2002. The average percent of observance in the shareholder rights chapter increased from 60 to 81, and from 60 to 66 in the chapter on equitable treatment of shareholders. Disclosure percent implementation increased from 60 to 81, and the percent implementation of board responsibilities from 56 to 77. Mauritius is an international leader in many respects, especially in the area of board practices and disclosure. Across most of the aspects of good corporate governance as defined by the OECD Principles, Mauritius is now on par with many market leaders in Asia (India, Thailand, and Malaysia). Nevertheless, more work remains to be done. Using the new methodology to assess compliance with the OECD Principles, 8 Principles were fully observed, 24 were broadly observed, 29 principles were partially observed, and 3 were not observed.

A review of the recommendations of the 2002 Corporate Governance ROSC indicates that the core recommendations of the report have been implemented (see table on page 40). However, 21 of the remaining 38 recommendations made in 2002 can be assessed as not implemented. This is largely due to the fact that many of the 2002 recommendations related the Companies Act which has not been significantly revised. Other recommendations of the 2002 report that were not significantly implemented include several areas that are reflected in this report, including the disclosure of ultimate ownership information, and the lack of any stewardship policies for institutional investors.

Next Steps: For emerging market countries, improving corporate governance can serve a number of important public policy objectives. Good corporate governance reduces vulnerability to financial

crises, reduces transaction costs and the cost of capital, and leads to capital market development. While a strong framework is in place, on-going reform will work to build the country's reputation as an international financial center. Weak corporate governance frameworks can reduce investor confidence, and discourage outside investment. As pension funds continue to invest more in equity markets, good corporate governance is crucial for preserving retirement savings.

Recommendations are developed in detail beginning on page 44. Key reforms to consider include the following:

- Better anchoring the Code in the legal and regulatory framework, and working to continue to align it with the OECD Principles.
- Reforms to the SOE governance framework, including an acceleration of the reforms already initiated, and broader-based reforms to the ownership framework to improve performance. The government should move rapidly to build public awareness of the importance of good governance among public companies, monitor company performance and corporate governance practices (in concert with the FRC), and "name and shame" companies and Ministries that are using traditional governance techniques, help owners and boards to clarify company goals, and developing a set of board appointments guidelines that uses international good practices and techniques to build higher-performing boards.
- Improving the disclosure of ownership and control, including harmonizing the definitions of "direct" and "indirect" ownership across the entire legal framework (including the Listing Rules and the Code), and developing new (mandatory) regulation to disclose ownership in line with the new definitions. It should also be a mandatory requirement to disclose membership in a company group (the "cascade ownership structure").
- Consider new approaches to improve minority shareholder representation on boards, including requirements for more disclosure on the board nomination and election process, and giving small shareholders (e.g. those holding no more than 5% each) the right to select an alternative election process for one or two board seats for minority shareholder representation.
- Strengthening the rules for related party transactions, including a review of the provisions of the Listing Rules that exempt transactions "in the ordinary course of business". Boards should approve all related party transactions, and all large transactions (as already defined by the Rules) should be subject to stock exchange review.
- Reforms to increase public sector enforcement and build regulatory capacity. The regulatory bodies should put in place the relevant enforcement committees, and pursue enforcement actions in some key areas.

Landscape

Introduction

This Corporate Governance ROSC Assessment (CG ROSC) was commissioned by the Ministry of Finance and Economic Development. The primary audience of the report is the Government of Mauritius and those responsible for setting and enforcing corporate governance policy. Other stakeholders, including investors, financial intermediaries, business associations, the audit and legal professions, and the companies themselves, can also benefit from this report in terms of assessing and implementing good corporate governance.

The purposes of this CG ROSC are to[1]: (i) benchmark Mauritius's legal and regulatory framework, practices, and enforcement framework against the OECD Principles of Corporate Governance (OECD Principles), the international reference point for good corporate governance; and (ii) develop a series of recommendations to reduce or close potential gaps.

The OECD Principles focus on private-sector publicly traded companies, both financial and non-financial, but are equally applicable to other public interest entities, such as large, non-listed joint stock companies and state-owned enterprises (SOEs).[2] By extension, this CG ROSC focuses on publicly traded companies, but also touches upon corporate governance issues relevant to other publicly interest entities, notably non-listed banks, non-bank financial institutions (NBFIs), SOEs, and large private enterprises. This report updates a previous report published in October 2002.

Mauritius has been one of the best growth performers in the developing world over the past three decades thanks to sound policies and strong institutions.

The sugar-dependent economy of the 1970s transformed into a competitive location for international textile firms in the 1980s, into a global tourist destination in the mid-1990s, and is moving to become a service-oriented economy.

As part of this transformation, the authorities and the private sector have worked to create an international financial center. Steps taken include the adoption of high-quality law and regulations, low taxation, and the creation of a pool of skilled professionals.

[1] This Corporate Governance ROSC is based on a revised assessment methodology. In response to the revised OECD Principles of 2004, as well as the 2008-2009 global financial crises, the World Bank has updated its methodology and developed a new set of some 650 data points to more objectively benchmark a country's corporate governance framework against the OECD Principles of Corporate Governance. The data is complemented by qualitative findings made during a series of meetings with key stakeholders in Mauritius in January 2011.

[2] Unless otherwise designated, all references to "companies" means companies that are listed on the SEM. These may include banks, insurance companies, and companies in the 'real sector'.

Recent global crises have affected economic performance

Mauritius has faced a number of recent external shocks (the 2008 increase in commodity prices, the global financial crisis in 2009-10, and Euro crisis in 2010) but showed resilience. The economy grew by 4.2% in 2010 following 3.1 percent in 2009, lower than the historical average of 5 percent, but higher than competitor countries.

Convergence with high-performing countries will benefit from additional reforms in the area of corporate governance.

Significant achievements have been made in the area of corporate governance in the past 10 years. Additional reforms in the Mauritian context can (a) help to reinforce the country's reputation as a safe and secure international financial center, (b) help supervisors to protect investors and maintain financial stability, particularly during the current period of international uncertainty; (c) improve governance in parastatal companies.

Public interest entities in Mauritius

The banking sector is large and dominated by the three largest banks.

Bank deposits as a share of GDP were 100.5% at the end of 2009, higher than the median of high-income OECD countries and much higher than other countries with similar income levels.[3] The 20 commercial banks in the system are dominated by the three largest banks, which hold 69.6 percent of system assets; the corporate governance of these institutions is crucial to sustain further growth. There are 10 insurance companies; life insurance premiums were equal to 3.4% of GDP in 2009, in line with levels in OECD countries. Insurance company assets were a large 24.5% of GDP in 2008.

Banks are supervised by the Bank of Mauritius (BOM). Insurance companies are supervised by the Financial Services Commission (FSC). Two banks and three insurance companies are listed on the official market.

Mauritius has a strong listed sector

The listed sector is large, and equity markets have continued to grow since recovering from declines during the global financial crisis. The Financial Indicators table and the charts on the following pages show the breadth and depth of the equity markets. The Stock Exchange of Mauritius (SEM) is the country's stock exchange.[4] The SEM, market intermediaries, and the listed companies are overseen by the Financial Services Commission (FSC).

The financial markets have surged in recent years and have weathered the global financial crisis relatively well. The official market index grew rapidly through February 2008, before declining by 56 percent by March

[3] Data taken from World Bank Finstat database, summarized on page 11.

[4] There are two licensed Securities Exchanges in Mauritius - the Stock Exchange of Mauritius Ltd (SEM) and the Global Board of Trade Ltd (GBOT). The GBOT offering Futures trading in commodities and currencies

18, 2009. Since then, the market has recouped most of its former losses. At the end of 2010, market capitalization was 61.4 percent of GDP. There were 37 officially listed companies. The number of listed companies has been gradually trending down, from 41 in 2006, as the result of delistings and mergers as a result of the reform in the sugar sector in Mauritius. However, this trend ignores the successful Development and Enterprise (DEM) market, on which 50 other companies are listed, for a total of 87 listed equities.

- As shown in the Financial Indicators table, market capitalization as a percent of GDP in 2009 was in line with OECD averages and higher than averages in Africa or countries with similar income levels.[5]
- Foreign investment remains significant – about 24 percent of turnover in 2010 was related to foreign investors.[6]

Mauritius has a large number of state-owned commercial companies.

SOEs continue to play a major role in the economy, including utilities, transportation, and the sugar sector.[7][8] Several listed companies (including Air Mauritius and the State Bank of Mauritius) are controlled by the Government. Ownership rights (including board appointments) tend to be exercised in decentralized fashion by the line Ministry responsible for each enterprise or in some cases by the Prime Minister.

Ownership

Ownership of most listed companies and financial institutions is concentrated, and control is exercised through 5-7 family groups.

Ownership of most large companies remains concentrated, although perhaps less than in many emerging market countries. According to data obtained from the SEM (see table on following page), about 60 percent of listed companies report a "controlling shareholder" (a single shareholder holding more than 20% of shares), and companies have an average of about 2 "significant shareholders" (holding between 5 and 20%). An average of 52.2 percent of shares is held by other shareholders (i.e. each holding less than 5 percent). In two listed companies, no controlling or significant shareholders are reported. There are between five and seven groups of companies, generally controlled by families.

In other countries this degree and form of concentrated ownership brings a number of corporate governance challenges:

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[5] 2009 is the latest year for which comparable data were available.

[6] Stock Exchange of Mauritius Factbook 2011, Page 40.

[7] State-owned commercial bodes in Mauritius are referred to as state-owned enterprises, parastatal bodies, or public enterprises. This report adopts the international standard term state-owned enterprises (SOEs).

[8] The most important SOEs (cited in the First Schedule of the Financial Reporting Act) include the Agricultural Marketing Board, Central Electricity Board, Central Water Authority, Irrigation Authority, Mauritius Broadcasting Corporation, Mauritius Meat Authority, Mauritius Ports Authority, Mauritius Sugar Terminal Corporation, National Transport Corporation, Road Development Authority, Rose Belle Sugar Estate Board, State Trading Corporation, Sugar Insurance Fund, Sugar Planters Mechanical Pool Corporation, and the Waste Water Management Authority.

- In general, concentrated ownership (and membership in group structures) increases the risk for minority shareholders from abusive actions by controlling owners and more generally discourages shareholders from participating in the governance process. The same owner may control listed and private firms and the relationship between the different firms is not transparent to outsiders. It is not always easy for minority shareholders to identify "related parties" or to assess the fairness of a transaction. This can provide controlling shareholders with multiple and often perfectly legal opportunities to engage in activities that advance their own interests at the expense of minority shareholders.
- Family ownership in other countries has raised a separate but related set of concerns, including: (i) informal policies, procedures, and control structures; (ii) informal, unprofessional, or unqualified boards that do not provide strategic guidance or oversight to management, and (ii) a lack of management succession planning.

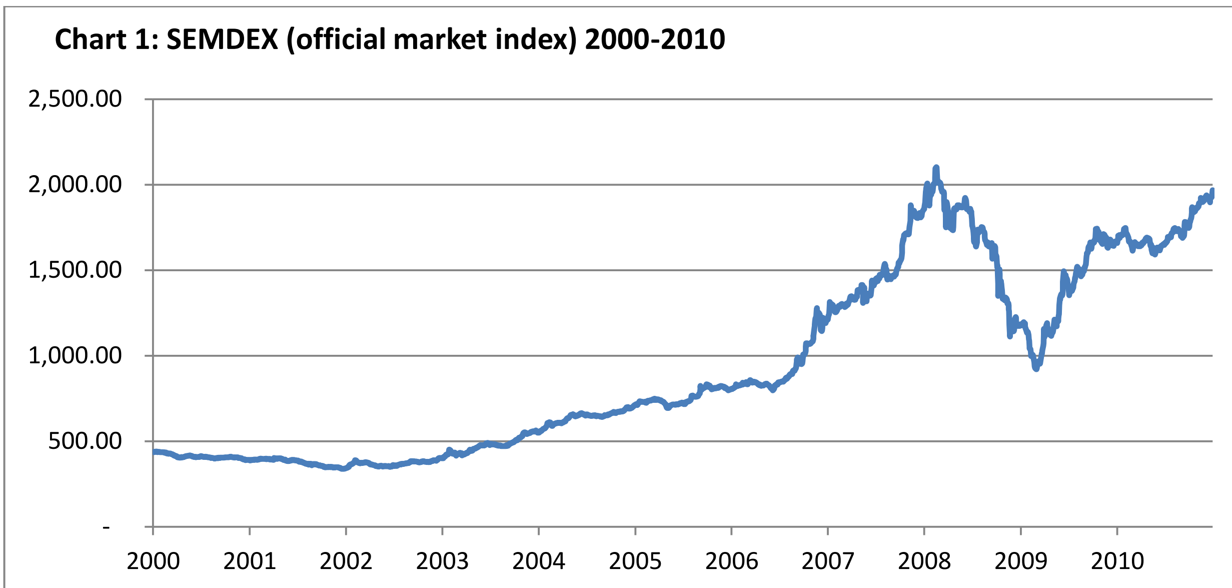


Chart 1: SEMDEX (official market index) 2000-2010
2,500.00
2,000.00
1,500.00
1,000.00
500.00
-
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010

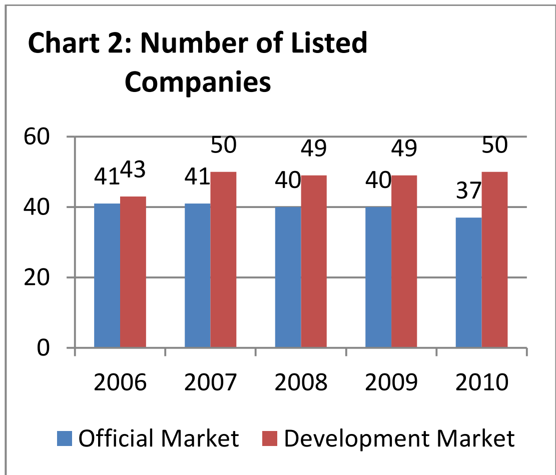


Chart 2: Number of Listed Companies
60
40
20
0
41
43
41
50
40
49
40
49
37
50
2006
2007
2008
2009
2010
Official Market
Development Market

Chart 3: Market Capitalization as a Percent of GDP
(Official Market only)
80
60
40
20
0
57.0
74.9
41.4
54.6
61.4
2006
2007
2008
2009
2010

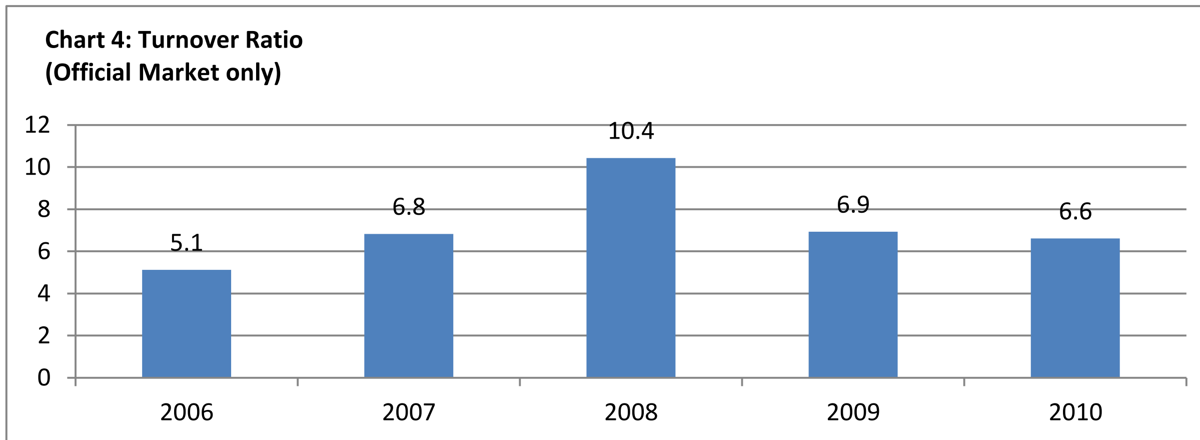


Chart 4: Turnover Ratio
(Official Market only)
12
10
8
6
4
2
0
5.1
6.8
10.4
6.9
6.6
2006
2007
2008
2009
2010

Mauritius - Financial Indicators

	Source	Year	Mauritius	Regional Median	Income Group Median	High Income OECD Median	Expected median	Botswana	Chile	Estonia	Lebanon	Panama	Singapore	Slovenia
BANKING														
Access														
Accounts Per Thousand Adults, Commercial Banks	IMF	2009	2,145	154	796	1,399	336	506	2,030	2,084	885	-	2,117	-
Number of Branches Per 100,000 Adults, Commercial Banks	IMF	2009	23	3	14	32	14	9	17	20	30	-	10	-
Percent of Firms With Line of Credit, All Firms (%)	ES	2008	47.4	21.6	47.4	46.6	55.3	-	-	50.8	-	-	-	71.2
Percent of Firms With Line of Credit, Small Firms (%)	ES	2008	41.0	19.7	34.5	39.7	62.5	-	-	43.7	-	-	-	66.4
Depth/Size														
Domestic Bank Deposits / GDP (%)	IFS	2009	100.5	25.2	44.6	91.1	109.6	44.6	54.4	56.1	229.4	85.3	132.4	55.8
Private Credit / GDP (%)	IFS	2009	84.3	16.3	43.4	111.5	119.9	25.4	80.4	-	70.3	80.5	103.2	92.7
Efficiency/Structure														
3 Bank Asset Concentration (%)	BKSC	2009	69.6	91.5	71.9	72.7	70.3	90.3	-	100.0	48.2	79.6	94.7	55.0
Cost to Income Ratio (%)	BKSC	2009	35.1	62.3	55.8	58.6	52.3	44.5	56.9	84.9	53.0	61.9	36.0	53.7
Net Interest Margin (%)	BKSC	2009	2.6	5.1	4.2	1.7	3.2	5.2	3.6	1.6	2.3	4.1	1.8	2.1
Non-Interest Income / Total income (%)	BKSC	2009	37.4	47.0	32.5	39.5	26.0	32.5	45.1	42.4	32.5	36.1	32.3	32.3
Overhead Costs / Total Assets (%)	BKSC	2009	1.0	4.5	3.1	1.2	2.0	3.1	3.0	2.1	1.5	3.4	0.9	1.6
Return on Assets (%)	BKSC	2009	1.5	1.4	1.0	0.2	1.1	2.3	0.4	-2.0	1.0	0.7	0.9	0.2
Return on Equity (%)	BKSC	2009	13.2	15.0	9.9	5.5	12.6	39.3	4.9	-21.4	11.9	6.8	9.0	2.7
Credit to Government and SOEs / GDP (%)	IFS	2009	26.1	4.3	6.2	10.9	16.8	1.9	1.9	0.9	-	4.0	30.7	10.9
Lending-Deposit Spread (%)	IFS	2009	10.8	8.4	5.7	2.7	4.9	6.3	5.2	4.6	2.3	4.8	5.1	4.5
External position														
Consolidated Foreign Claims of BIS-Reporting Banks / GDP	BIS	2009	145.8	7.7	27.3	82.2	44.0	22.9	66.0	148.7	16.4	311.9	143.6	81.5
Stability														
Private Credit to Deposits (%)	IFS	2009	83.9	70.2	84.3	124.9	89.7	57.0	147.9	-	30.6	94.3	77.9	166.0
Liquid Assets / Deposits & Short Term Funding (%)	BKSC	2009	40.5	41.4	28.0	30.0	33.5	20.6	43.7	23.0	33.0	28.0	35.0	20.1
STOCK MARKETS														
Percent Market Capitalization of Top 10 Largest Companies	WFE	2009	61.0	54.5	59.4	56.5	76.9	-	48.1	-	-	-	33.0	79.2
Percent Value Traded of Top 10 Traded Companies (%)	WFE	2009	89.9	70.4	64.2	64.2	77.2	-	58.7	-	-	-	33.4	72.4
Number of Listed Companies	S&P	2009	88	37	88	211	35	20	232	16	11	21	459	76
Stock Market Capitalization / GDP (%)	S&P	2009	55.1	30.5	37.4	55.8	30.5	34.3	128.0	13.9	37.4	32.6	170.5	24.3
Stock Market Turnover Ratio (%)	S&P	2009	8.1	3.8	7.5	80.2	6.8	2.7	22.0	16.2	9.3	0.7	102.8	8.7
Gross Portfolio Equity Assets / GDP (%)	IFS	2009	4.3	9.5	1.0	22.0	3.3	20.9	43.6	8.4	-	0.3	129.0	-
Gross Portfolio Equity Liabilities / GDP (%)	IFS	2009	1.9	1.1	1.8	20.0	3.3	1.8	8.6	4.4	-	-	60.7	-
DEBT MARKETS														
Gross Portfolio Debt Assets / GDP (%)	IFS	2009	17.8	5.8	4.3	48.6	12.8	4.3	11.7	17.7	-	34.6	78.2	-
Gross Portfolio Debt Liabilities / GDP (%)	IFS	2009	0.8	1.0	6.7	76.9	4.1	0.1	8.5	5.3	-	33.2	6.3	-
NON-BANK FINANCIAL INSTITUTIONS														
Insurance Premiums (Life) / GDP (%)	AXCO	2009	3.4	0.2	0.3	3.3	1.7	-	2.3	0.5	1.0	1.0	4.8	1.8
Insurance Premiums (Non-Life) / GDP (%)	AXCO	2009	1.5	1.0	1.2	2.1	1.8	-	1.2	1.7	2.2	2.0	1.0	2.6
Insurance Company Assets / GDP (%)	NBFI	2008	24.5	1.7	3.6	33.9	5.7	-	16.2	-	7.2	5.0	44.8	-

Reported Ownership of SEM Official Listed Companies (End-2010)

	Number of Controlling S-holders (>20 %)	Number of Substantial s-holders (5-20%)	Controlling Ownership	Substantial Ownership	Remainder (public)
Air Mauritius Limited	1	2	51.0%	13.6%	35.4%
Automatic Systems Ltd	1	0	59.6%	0.0%	40.4%
Belle Mare Holding Ltd	0	6	N/A	N/A	N/A
Caudan Development Ltd	1	2	51.2%	15.1%	33.7%
Compagnie Des Mag. Populaires Ltee	0	3	0.0%	38.2%	61.8%
Dale Capital Group Limited	0	5	0.0%	60.3%	39.7%
Enl Commercial Ltd	0	1	0.0%	14.8%	85.2%
Enl Land Ltd	0	1	0.0%	5.8%	94.2%
Fincorp Investment Limited	1	1	57.6%	9.3%	33.2%
Gamma Civic Ltd	0	8	0.0%	76.3%	23.7%
Harel Freres Limited	1	1	28.0%	5.8%	66.2%
Harel Mallac & Co Ltd	1	3	50.5%	27.0%	22.5%
Innodis Ltd	1	3	39.8%	28.3%	31.9%
Ipro Growth Fund Ltd	0	1	0.0%	9.8%	90.2%
Ireland Blyth Limited	1	2	48.3%	24.5%	27.2%
Mauritian Eagle Insurance Company Ltd	1	1	60.0%	15.0%	25.0%
Mauritius Oil Refineries Limited	0	3	0.0%	18.4%	81.6%
Mauritius Stationery Manufacturers Ltd	1	1	75.2%	9.4%	15.4%
Naiade Resorts Limited	1	3	30.0%	25.1%	44.9%
National Investment Trust Ltd	1	2	22.3%	23.7%	54.0%
New Mauritius Hotels Limited	0	2	0.0%	24.7%	75.3%
Omnicane Ltd	1	1	70.2%	10.1%	19.6%
P.O.L.I.C.Y. Limited	0	2	0.0%	14.3%	85.7%
Phoenix Beverages Limited	1	1	31.0%	17.1%	51.9%
Plastic Industry (Mtius) Limited	1	3	32.3%	27.9%	39.8%
Promotion & Development Ltd	1	1	46.4%	5.7%	47.9%
Rogers & Co Ltd	1	0	53.0%	0.0%	47.0%
Shell (Mauritius) Limited	1	0	75.0%	0.0%	25.0%
Sun Resorts Limited	1	2	29.2%	16.2%	54.6%
Swan Insurance Co Ltd	1	0	69.4%	0.0%	30.6%
The Mauritius Chem. & Fert. Industry Ltd	1	0	69.5%	0.0%	30.5%
The Mauritius Commercial Bank Limited	0	0	0.0%	0.0%	100.0%
The Mauritius Development Inv. Trust Ltd	0	3	0.0%	24.1%	75.9%
The Mauritius Leasing Company Ltd	1	2	68.5%	13.0%	18.5%
The Mauritius Union Assurance Co Ltd	0	3	0.0%	20.3%	79.7%
The State Bank Of Mauritius Limited	0	3	0.0%	45.7%	54.3%
The United Basalt Products Ltd	1	1	25.0%	9.5%	65.6%
United Docks Limited	0	2	0.0%	24.7%	75.3%
	60.5%	197.4%	30.9%	18.2%	50.9%

Source: Stock Exchange of Mauritius

Key Findings

The following sections highlight the principle-by-principle assessment of Mauritius's compliance with the OECD Principles of Corporate Governance.

COMMITMENT AND ENFORCEMENT

The last Corporate Governance ROSC was completed in 2002. Since that time the Government and the private sector have established an unusually strong legal and institutional framework for corporate governance.

Legal Framework

Modern company law is in place

Mauritius has a hybrid legal system combining both civil and common law practices. The *Code Civil Mauricien* is largely inspired by the French *Code Napoleon* and co-exists with company law from the Anglo-Saxon legal tradition.

The current Companies Act was enacted in 2001. It was based on New Zealand Companies law, and replaced the Companies Act 1984 (which had been modeled after the UK Companies Act 1948). The new Act added detailed provisions on director duties, simplified procedures for calling meetings, and mandatory use of IFRS for all public and private companies. Most types of public interest entities (as defined by the Financial Reporting Act and described below) are formed as public companies.

According to data received from the Registrar of Companies, as of December 31, 2010, there were 45,975 "live" companies registered in Mauritius, of which 492 were public companies.

The Code of Corporate Governance is a key part of the legal and regulatory framework

In September 2001, a Committee on Corporate Governance was set up "with the purpose of providing a framework for improved corporate governance in Mauritius." This Committee developed the *Report on Corporate Governance* (which incorporates the Code) in October 2003. The latter was revised in April 2004. The Code was developed on the basis of the King Report in South Africa, and shares many approaches with that model.

The Code applies (by its own definition) to

- Companies listed on the official list of the Stock Exchange of Mauritius (SEM).
- Banks and non-banking financial institutions

- Large public and private companies ("individual companies or group of companies with an annual turnover of MUR 250 million and above"). Applying corporate governance norms to companies solely because of their size is quite unusual by emerging market standards.
- State-owned enterprises ("including statutory corporations and parastatal bodies").

The Code was issued by the National Committee on Corporate Governance

The National Committee on Corporate Governance (NCCG) was later established under the Financial Reporting Act with the mandate of establishing and promoting principles corporate governance. The FRC monitors compliance with the reporting requirements of the Code, but does not produce a report summarizing company implementation.

The Code of Corporate Governance has made a significant impact on behavior

The Code has contributed to raising awareness on corporate governance issues in Mauritius, especially in areas related to board composition, board committees, and disclosure (see the Board section below for more details). Other areas of corporate governance, such the stewardship role of shareholders and other stakeholders, are less prominent in the Code and have had less impact.

The Code is also very complex

Some market participants complain that the Code's provisions are not always clear:

- The distinctions between the "code" and the "report", as well as the distinctions between "requirements" and "aspirations" may be confusing for some market participants.
- Interviews suggest that the nature of the Code may not be clear (e.g. the requirement to "adopt" the Code in the FRA versus the "comply or explain" provisions within the Code itself).
- Some provisions (e.g. those on risk) may be inappropriate for smaller and less sophisticated companies (and SOEs), although this problem is mitigated because the Code is intended to be applied on a "comply or explain basis", reducing the chance of over-regulation.
- There are some in the market who complain that compliance with some of the provisions of the Code is relatively onerous.

The Financial Reporting Act 2004 established several key institutions and set general rules for the governance and financial reporting of "public interest entities".

The Financial Reporting Act regulates financial reporting, and established the Financial Reporting Council (FRC), the Mauritius Institute of Professional Accountants (MIPA), and the National Committee on Corporate Governance. Under the provisions of the Act, the National Committee on Corporate Governance also set up the Mauritius Institute of Directors.

Companies are considered "public interest entities" under the Act if their

turnover is greater than MUR 200 million rupees (about USD 1.8 million). Public interest entities are required to report to the FRC, and "shall adopt corporate governance in accordance with the National Code of Corporate Governance." Based on this definition, listed companies with a turnover of less than MUR 200 million are not classified as public interest entities and thus not subject to review by Financial Reporting Council.

In 2008, the Act was revised to clarify the role of the FRC over the state-owned enterprises; 15 companies (including the major commercial SOEs) must now have their financial statements reviewed by the FRC.

The Listing Rules of the SEM contain important provisions, especially those related to the review and approval of significant and related party transactions.

A company seeking a listing on the Official List should be a public company, have three years of published accounts, an expected market capitalization of not less than MUR 20 million; and issue at least 25% of the shares to the public, with a minimum of 200 shareholders. The Development Enterprise Market has similar but less stringent rules.[9] The SEM listing rules mandate the disclosure of price-sensitive information, and special procedures for the review and approval of large and related-party transactions.

The Bank of Mauritius has issued guidelines on the corporate governance of banks

In April 2001 the Bank of Mauritius issued a *Guideline On Corporate Governance* for banks. In tone, the current Guideline is more in the nature of a corporate governance code. It establishes good practice for banks in the respective roles of the board and management, and mandates an audit committee.

The Guideline was drafted in advance of the Code and does not refer to the Code or appear to be harmonized with it. In November 2010 a new draft set of guidelines on corporate governance of banks was issued for consultation.

Laws and regulations are developed with significant consultation

According to stakeholders, there is significant consultation that takes place before new laws and regulations are enacted. Stakeholders can provide their comments to help shape new or amend existing laws and regulations through the Law Reform Commission, which is an independent statutory body set up by Parliament to review the law of Mauritius. The authorities usually provide stakeholders with an adequate consultation period when seeking comments and suggestions. Regulatory authorities do not carry out systematic cost-benefit analyses.

[9] A listing on the DEM should have at least 100 shareholders, a minimum of 10 % of its shareholding in public hands, and one year of published financial statements. Admission to the DEM may also be granted to a company if it has no proven track record provided that the company submits to the SEM a sound business plan covering at least 3 years and certified by an independent financial adviser, demonstrating sustained viability of the company and disclosing risk factors.

Institutional Framework and Enforcement

Banks and financial institutions are overseen by their respective supervisors, namely, the Bank of Mauritius (for banks) and the Financial Services Commission (FSC) for non-bank financial institutions and listed issuers. The auditing profession is overseen by the FRC.

The Bank of Mauritius (BOM) and the Financial Services Commission (FSC) are the most important financial sector supervisors

The BOM licenses and supervises banks, non bank deposit taking institutions, Foreign Exchange Dealers and cash dealers. The FSC licenses, regulates and supervises securities issuers and non-bank financial institutions including pension funds, asset managers, CIS Managers, the Securities Exchanges/Clearing and Settlement facilities, Investment Dealers, Investment Advisers, leasing companies, and global business activities.[10] Both have established reputations for being relatively transparent, consistent, and effective.

The Bank of Mauritius (BOM) and the FSC are both financially independent, although they do not have the power to issue their own regulations.

BOM is designed to have supervisory independence. The head of supervision reports to the Governor, who in turn is accountable to the board of directors. The Governor is appointed by the President of Mauritius, on the recommendation of the Prime Minister. The supervision function is financed out of profits of the Bank, and has sufficient resources to carry out its functions.

The BOM has the power to licence banks and issue warnings. It also has the power to impose a penalty on financial institutions it regulates.[11] BOM can issue instructions or guidelines or impose requirements on or relating to the operations and activities of and standards to be maintained by the banks and other financial institutions, breach of which entail penal sanctions. This is in a sense akin to Regulations which the Minister may make under the Banking Act. The Ministry of Finance and Economic Development (MOFED) can issue banking regulations.

The FSC is designed to function as an independent agency. It is governed by a board, and managed by a CEO (who is appointed by the board with the approval of MOFED). The FSC has the power to make "rules" under the Financial Services Act 2007, while the power to issue "regulations" (which are more general) lies with the MOFED.[12] The FSC is funded by the fees it collects from the market, and receives no budget allocation from

[10] The FSC derives its formal authority to supervise financial intermediaries from the Financial Services Act 2007 and the Securities Act 2005.

[11] As from 7 October 2008, by virtue of the Bank of Mauritius (Compoundable Offences) Regulations 2008 and the Banking (Compoundable Offences) Regulations 2008.

[12] Regulations can only be issued by MOFED because the Interpretation and General Clauses Act provides that only a Minister can approve regulations. Regulations are in theory stronger than rules or guidelines because they are "enactments" (per the Act). However FSC Rules amount to secondary legislation as the FSC has been delegated by statutes (section 93 of the Financial Services Act 2007). In practice FSC Rules will have more or less the same effect as Regulation.

Government. FSC has sufficient resources to fulfill its objectives. There are approximately 140 technical staff. The salaries at the FSC appear to be somewhat lower than in the private sector, but higher than in the civil service.

The SEM plays a key role in enforcing rules on related party transactions

The Stock Exchange of Mauritius (SEM) is a "licensee" of the Financial Services Commission (FSC) but has not been given the status of an SRO. The SEM enforces compliances with its listing rules. The listing committee in particular plays a role in reviewing related party transactions.

The Financial Reporting Council is now up and running but faces resource constraints

The FRC was set up to regulate the accountancy profession, set accounting and auditing standards, and monitor financial reporting for public interest entities, and oversee auditors. It also monitors compliance with the reporting requirements of the CG code. The FRC operates through two panels consisting of FRC employees and other suitably qualified independent persons appointed by the Council.[13] There are 14 staff. Like the other regulators, the FRC can issue "rules" and not regulations.

The FRC is funded by the Government budget, and obtains few resources from the market. This funding arrangement may leave the FRC with insufficient financial resources to carry out its functions effectively. The FRC and market participants reported that it has some difficulties in attracting and retaining staff with appropriate level of skills and experience.

Risk based supervision

Both the BOM and FSC follow risk-based supervision approaches, and have formal strategies and plans to focus their resources on those institutions and practices that pose the greatest risk.

Formal enforcement actions by any of the supervisory agencies are rare

The FSC has among the other supervisory agencies, the most extensive enforcement powers- it can issue warning letters, suspend listings and licenses, and (since 2007) impose administrative penalties (fines). Some actions have been taken against licensed entities. No fine has been imposed to date on issuers, and the Enforcement Committee of the FSC, which has under the Act the power to impose administrative penalties, has not been duly constituted.

FRC enforcement actions have also been limited. The FRC Enforcement Panel has not yet been constituted, although the Council is carrying out its functions. Most of the members of the panels are from the auditing firms, which may impact on objectivity of the panel.

Decisions are not published in each instance of enforcement, and there is little public awareness of enforcement actions. Regulators tend to prefer

[13] See the discussion under financial reporting, below.

finding a compromise in most cases.

Coordination among the regulatory bodies could be improved

The Bank of Mauritius and the FSC consulted with the FRC in developing the corporate governance framework with respect to their licensees. BOM entered into a Memorandum of Understanding with the FSC in 2002 which lays down the framework of their cooperation in their common pursuit to maintain a safe, efficient and stable financial sector.

There are no MOUs between the FRC and the other regulatory bodies. The FRC informally collaborates with various sector regulators like BOM and FSC, and the CEO of the FSC and the Deputy Governor of the BOM sit on the FRC's board. However, formalizing the relationships may positively impact on the effectiveness of the arrangement.

There is some overlap in the roles of the NCCG and the FRC in relation to the Code. Both have responsibility for monitoring compliance.

Mauritius lags in the professionalism with which the Government owns and controls SOEs

Corporate governance of SOEs is seen by many market participants as generally lagging behind that of the private sector. There has been relatively little focus on the ownership arrangements, and the bodies charged with exercising the ownership rights of Government have somewhat confusing roles and accountabilities. Company monitoring is carried out through board attendance, and little information is centrally available. There is no centralized body responsible for setting or monitoring corporate governance standards, appointing board members, or advising on shareholder matters.

Larger commercial public enterprises generally do not have explicit objectives, targets, or performance monitoring for their boards or management. Government owners cannot say that they are getting the best return for their investment. Opacity is probably concealing poor performance in some companies.[14] More generally, the Government does not know how the overall portfolio is performing, and citizens cannot make judgments about the performance of the companies or of the owners.

The Government has taken tentative first steps to improve SOE governance. The Office of the Public Sector Governance (OPSG) was established in August 2010. The OPSG, formerly the Management Audit Bureau, operates under the Prime Minister's Office and reports to the Secretary of Cabinet and Head of Civil Service. The key functions of the OPSG are to support the development of a cost effective and outcome-oriented public sector and to strengthen corporate governance in the

[14] The companies that have state ownership that are listed on the SEM are required to comply with the listing rules and other regulations.

public sector.

Courts are expensive to use

The court system in Mauritius is considered to be relatively fair and impartial. A commercial division of the supreme court was recently set up to deal with all corporate and bankruptcy matters. However, court actions are considered to be expensive and slow in Mauritius. The general view is that the judiciary is understaffed relative to the number of cases, and challenged by a lack of administrative staff and personnel with sufficient IT proficiency to operate new technology.

An arbitration framework has been put in place. The permanent arbitrational tribunal of the Mauritius Chamber of Commerce and Industry (MCCI) provides a venue for arbitration. Parties may also seek the appointment of an arbitrator by making an application to the judge in chambers. Recently, the Supreme Court (Mediation) Rules 2010 came into force and its primary purpose is for the parties, in all good faith, to dispose of the civil suit, actions, cause or matter by a common agreement, or to narrow down the issues in dispute.

Using the Doing Business "Enforcing Contracts" indicator as a proxy for overall commercial court effectiveness, courts in Mauritius appear to be slower than the OECD and East Asian averages, but are less costly than the average in OECD countries(and significantly less costly than the East Asian and African averages).

Doing Business 2011
Enforcing Contracts Indicator

Indicator	Mauritius	Africa Average	East Asia and Pacific Average	OECD Average
Procedures (number)	36	39.1	37.3	31.2
Time (days)	645	639.0	531.8	517.5
Cost (% of claim)	17.4	50.0	48.5	19.2

SHAREHOLDER RIGHTS

Shareholder Meetings

Shareholders have full rights to participate at the GMS

Shareholders have the right to attend and cast votes at the GMS. The meeting notice must be published and sent to shareholders with the annual report and financial statements at least 14 days prior to the meeting. The Code recommends that a brief CV of each director up for election should accompany the notice of the meeting.

Shareholders also have relatively strong rights to ask questions, and add items to the agenda in advance of the meeting. Per the Companies Act, the Chair of any meeting of shareholders must give the shareholders a reasonable opportunity to discuss and comment on the management of the company. The Code provides that the board of directors should encourage greater shareholder participation at meetings and should be prepared to answer "wide ranging questions". Any shareholder may notify the board of matters they intend to raise at the next shareholders meeting. If notice is given at least 28 days prior to the meeting, the board must give notice of the shareholder's proposal and any proposed resolution to all shareholders. Such notice is given at the shareholders expense if received by the board between 7 and 28 days prior to the meeting.[15]

Shareholders can vote in absentia, and such proxy voting is widely used. The proxy does not need to be notarized. Postal votes are allowed, but there are no provisions supporting electronic voting at shareholder meetings. Foreign investors generally rely on custodians, and in practice, market participants confirm that custodians do pass information to their clients and vote based on their instructions in the GMS.

The 14-day notice period is relatively short by international standards, although there are no complaints locally.

Institutional investors attend and vote, but do not disclose their voting or voting policies.

Many institutional investors do vote, and the average attendance rate of institutional investors is higher than that of individual investors. However, Institutional shareholder engagement with companies is limited.

The legal and regulatory framework does not require institutional investors to vote, disclose a voting policy, or a policy on conflicts of interests related to voting.

[15] If received less than 7 days prior to the meeting, such notice may be given at the shareholders expense if practicable for the board.

Appointing board members

Minority shareholders have little influence on board appointment

In general, the right to vote for board members is in place and is not violated. However there is generally no opposing slate of candidates. In practice, minority shareholders can nominate candidates, but there are no required mechanisms that allow non-controlling shareholders to appoint or elect board members (i.e. proportional representation, cumulative voting). The Code recommends a nomination committee (or a corporate governance committee (playing the role of a nomination committee), composed of a majority of nonexecutive directors. However, relatively few companies have set up nomination committees.

Nominating outside board members is generally considered by outsiders to be difficult and not transparent. According to the NCCG Survey, 56 percent of companies did not specify whether minority shareholders could exercise their right to appoint directors.

Major transactions and corporate events

Shareholders of listed companies must allow shareholders to approve new share offerings

The Listing Rules require listed companies to (a) allow shareholders to approve new share offerings, or (b) provide pre-emptive rights to existing shareholders.[16] Consent is not required where the issue or grant of securities is being made to existing shareholders. Consent is also not required if the increase is less than 10% of share capital. This threshold is relatively low by international standards.

In practice, the constitution of listed companies provides for shareholder approval of share offerings, by ordinary resolution. Listed companies often raise additional capital by way of rights issues as an alternative to the process of holding meetings to get consent.

The threshold for a mandatory tender offer is 50 percent

Since May 2011, the Securities (Take Over) Rules 2010 apply to reporting issuers. An “offeror” is required to make an offer to the other shareholders and communicated to the board of a target company when the offeror has, whether by itself or with a person acting in concert, acquired "effective control" of the target, defined as the right to control 30% of the voting shares of the target. The offer must be for all voting shares, and must provide equitable treatment to all target shareholders. Where the target is not listed, the offer price must be “fair and

[16] For unlisted companies, per the CA 2001, the issue of new shares is determined by the board of the company unless the constitution sets out otherwise. Shareholders have pre-emptive rights on new issues of shares, requiring the board to make them a first offer of new issues prior to offering them to third parties. However, non-listed companies may disapply these pre-emptive provisions in their constitution. There is no concept of authorised share capital.

reasonable".

The tender rules are so new that their impact is unclear.

Shareholders approve certain large transactions, except in the core business of the issuer

The Listing Rules mandate that "major transactions" require the authorization of shareholders by ordinary or special resolution:

- If the transaction amounts to 50% of the asset value of a company, an ordinary resolution (50%) of shareholders is required.
- If the transaction amounts to 75% of the asset value, a special resolution (75%) is required.

Major transactions include acquisitions or dispositions (or agreements to acquire or dispose) of assets, or incurring liabilities. Transactions consistent with "the core business of the issuer" are excluded.

Independent shareholders must pre-approve certain RPTs

Shareholder approval of related party transactions is also governed by the Listing Rules. Significant discretion is given to the Listing Executive Committee of the SEM. If the committee "considers the related party to have a significant interest in, or influence over the related party transaction, it may, at its sole discretion" require the company to obtain shareholder approval.[17]

A "related party transaction" is any transaction between the company and its related parties, except "a transaction of a revenue nature in the ordinary course of business". The rules also exclude small transactions (less than 5% of market cap or total securities) and loans to a related party "upon normal commercial terms in the ordinary course of business". For medium-sized transactions (less than 15% of market cap but more than 5%), shareholder approval is not required but the company must provide a valuation report.[18]

This system does function in practice, with the role of the Listing Executive Committee played by the full board of the exchange. By most estimates, the committee reviews 4-6 transactions per year, and a few of these transactions are required to be submitted to shareholders. However, according to some observers, the fact that the listing rules only cover "balance sheet" type transactions and the ability of companies to opt out of companies "in the normal course of business" means that many relevant transactions may not be covered, such as management contracts.

[17] "Related party" is defined as a director, chief executive or controlling shareholder of the company or any of its subsidiaries or associates (associates include the individual's family, trustees of any trust of which the individual or any of the individual's family is a beneficiary or discretionary object, any company in which the individual's family (taken together) own 20% or more of shares, and subsidiaries of a related company, 20% shareholders of a related company.

[18]

Protecting shareholders from illegal insider trading

Insider trading is prohibited by a new and modern law, but has not been prosecuted

The Securities Act 2005 Section 111 regulates insider dealing. No person who has inside information about securities of a reporting issuer shall buy, sell or otherwise deal in securities of that reporting issuer…, counsel, procure or cause another person to deal in the securities …, [or] disclose the information, otherwise than in the proper performance of that person's employment, office or profession. Violation potentially includes a fine of 500,000 – one million rupees and imprisonment for up to 10 years. The Securities Act defines "insider of a reporting issuer" as the reporting issuer itself, its subsidiaries, its officers and those of its subsidiaries, and "any person who exercises control more than 5% of a class of shares with voting rights". The SEM monitors market transactions and follows up on unusual activity.

As in other countries, detecting and enforcing violations of illegal insider trading rules is a significant challenge. The Securities Act 2005 came into force only in 2007 and is thus relatively recent. The FSC monitors trades on the SEM daily through the Automatic Trading System. In several cases when unusual trading patterns have been observed, the FSC has conducted preliminary enquiries. The FSC has referred to the DPP alleged cases of insider trading and market manipulation in the past, but there have been no prosecutions. Market participants feel that insider trading and market manipulation continues, but the scale is unclear.

Shareholder Recordkeeping

Shareholders and the market benefit from and are protected by an efficient central depository

The Central Depository & Settlement Co. Ltd (CDS) was established by the SEM in 1996 and became operational in 1997. The CDS complies with the CPSS/IOSCO standards on depository, clearing and settlement systems.

All shares that are traded on the SEM must first be dematerialized and deposited in CDS. The CDS keeps track of sub-accounts at the customer level. Trades are settled within a rolling T+3 settlement cycle on a strict Delivery versus Payment (DvP) basis. The CDS has established a guarantee fund to guarantee the settlement of transactions in the event of a default by a participant. Customers can access their accounts at the CDS through one of the 10 brokerage firms or 6 bank custodians.

Most small investors hold their shares through the Central Depository of Mauritius (CDS) in dematerialized form. As at 30th June 2010, 74.9% of shares in the official market, and 49.1% in the development market, were held through the depository. Shares in the depository are held in the

name of clients (there is no use of nominee ownership).

Over 60 thousand individuals and institutions had accounts in the CDS system at the end of January 2011.[19]

All companies registered in Mauritius are required to maintain a share register either directly or through an agent. The registry is open to inspection by shareholders. The market for share registration is split between companies that carry out this function in-house, and companies that contract it out to third parties. The largest companies do it in-house. There are four main independent registrars (MCB Registrar, Abax, MCS, and Prime Partners) control about 50 percent of market. Registrars also assist with the organization of shareholder meetings and the distribution of annual reports.

Custodians hold shares for collective investments and foreign investors, but do not play a major role in the market for individuals. They are lightly regulated but it does not appear to be a concern or problem in practice.

Shareholder Redress

Shareholders have significant (if theoretical) rights to private redress under the law.

Shareholders have a number of possible options for redress, with low thresholds. Any shareholder may file a derivative suit on behalf of the company against directors. Section 178 of the Act also allows a shareholder to apply to court for an order "where that shareholder considers that the affairs of the company have been, or are being, or are likely to be, conducted in a manner that is, or any act of the company have been, or are, or are likely to be oppressive, unfairly discriminatory, or unfairly prejudicial. Company law also allows shareholders to directly sue the directors and the company, but only in three minor circumstances.[20]

Shareholders have other powers. Under the company law, the Registrar of Companies may require an inspector to investigate the affairs of the company, on application from at least 50 shareholders or shareholders holding at least 10% of issued shares (the inspector can be a qualified auditor or a person holding judicial audit). Shareholders may also request the company to buy back their shares ("minority buy-out"). Shareholders with at least 5 percent of the voting rights can call a shareholder meeting.

[19] http://www.stockexchangeofmauritius.com/cds_depository.htm

[20] The Companies Act 2001 gives this right in the case of violation of three very specific duties including section 94 (Secretary's duty to supervise share register), section 48 (Disclosure of interest), and section 156 (Disclosure of share dealing by directors). Other violations or causes of action are considered to be violations of duties to the company, and thus it is this not possible for individual shareholders to sue on the basis of violations of other duties.

…but rarely do so in practice

However, very few of these legal actions are applied in practice. Some observers indicate that a combination of passive minority shareholders, expensive court actions, and lack of experience of judges in capital market matters have meant that there are very few (if any) private actions taken under the law.

Doing Business 2011 sheds some additional light on this question. The following table shows Mauritius's scores on the "protecting investors" index. Mauritius scores highly on the extent of related party transaction disclosure, on the extent of director liability, and the ease of shareholder lawsuits. This suggests that non-legal factors (and perhaps a lack of a litigious shareholder tradition) are responsible for the lack of private actions.

DB Investor Protection Index Components (2011)

DB Investor Protection Indicator	Mauritius	East Asia & Pacific	OECD Average
Extent of disclosure index (0-10)	6.0	4.8	6.0
Extent of director liability index (0-10)	8.0	3.4	5.2
Ease of shareholder suits index (0-10)	9.0	5.0	6.8
Strength of investor protection index (0-10)	7.7	4.4	6.0

STAKEHOLDERS AND CORPORATE SOCIAL RESPONSIBILITY

Stakeholder issues are increasingly important in Mauritius

Chapter IV of the OECD Principles of Corporate Governance provides that the corporate governance framework should recognize the rights of stakeholders established by law or through mutual agreements.

The Code requires companies to have regard to the interest of stakeholders and includes in its definition "employees, customers, suppliers, the national community, the local community and the Government." The Code also encourages companies to report to stakeholders on policies regarding ethics, environment, health and safety and social issues. Published corporate codes of ethics, however, are relatively uncommon. Some companies (for example the Ireland Blyth Group) abide by an environment charter.

Substantial reinforcement of the rights of employees and creditor rights

Since the last ROSC assessment, the Mauritian framework has undergone significant transformation in the recognition and protection of both employees and creditors rights. On the employment side, the Labour Act of 1975 was replaced by the Employment Rights Act 2008. The new act streamlines and clarifies provisions on matters such as termination of agreements, written agreements and conditions of employment.[21]

Aggrieved employees have several means of resolving disputes with their employers: from free conciliation services at the Ministry of Labour or the Labour Advisory Council to what is perceived as access to fair judicial recourse before the Industrial Court. Cases for unjustified dismissal are routinely, if not systematically, filed by employees who failed to negotiate settlements- a willingness to go to court pointing to a form of trust in the system.

Employees and other stakeholders are not directly involved n the governance of companies.

The past few years have seen significant reforms to the insolvency framework

Following the 2002 CG ROSC report, Mauritius announced its intention to implement a complete reform of its insolvency laws. The insolvency framework consisted at the time of a patchwork of various legislations, including a Bankruptcy Act dating back to the 19th century. The Insolvency Act 2009 overhauled and modernized the legal framework: it introduces clear definitions of rights and obligations of creditors and debtors, a new definition of voidable transactions, provisions for netting

[21] A notable provision is the addition of employment specific prohibition against discrimination in employment and occupation which goes even further than the protection against discrimination provided under the country's constitution. Prohibited grounds of discrimination include social origin, HIV status and sexual orientation.

agreements, sanctions for abuses, and above all more straightforward processes. Rehabilitation procedures introduce viable alternatives to winding up. Mauritius climbed 3 places on the Doing Business Closing a Business indicator and now ranks 71 out of 183 economies. Matters under the Insolvency Act are resolved by the specialized commercial division of the Supreme Court, also set up in 2009, with the benefit that insolvency cases do not have to compete on court's general roll of cases.

Strong push towards CSR

The Government has established an initiative on corporate social responsibility, with the overall objective of mandating profitable firms to spend 2 percent of their profits on CSR activities approved by the Government or otherwise allocate the funds for use in the fight against poverty[22]. Under the Income Tax Act, companies must contribute 2% of their book profit (after tax) to a CSR fund. A CSR Committee has been established to issue guidelines and approve programs. The objective of the program appears to be both the encouragement of additional CSR, and establish Government coordination of CSR programs. Around 2000 companies will contribute towards the CSR initiative in 2011.

The websites and annual reports of major Mauritian companies now take pride in their CSR projects: for example, the Rogers Group fights HIV/AIDS, Air Mauritius supports the Wildlife Foundation, the Currimjee Group intervenes in poverty alleviation projects.

While the private sector appears to support the overall goal of CSR, some view the new policy as an inappropriate and inefficient Government intervention. It also could result in unintended consequences (e.g. cutting flows to programs that are not on the approved list).

Weak whistleblower framework- no protection provided

Mauritius remains weak on whistleblower protection. The Companies Act, the Code and the listing rules are all silent on this issue. Most companies do not appear to have adopted whistleblower policies on their own. The Prevention of Corruption Act 2002 allows investigations on the basis of anonymous reports of corruption offences but anonymous reports make it difficult to build a case. The absence of formal requirements and of safe harbours for whistle blowers may explain the near absence of reports of illegal practices by corporate officers and ensuing litigation.[23]

[22] The initiative was first announced in the July-December 2009 budget and came in force in October 2009. The Corporate Social Responsibility Guidelines are available at http://www.nef.mu/csr/guidelines.php.

[23] One recent precedent is the case of Air Mauritius. A retired CFO acted as a whistleblower and reported various financial improprieties. However, the whistleblower was subsequently prosecuted, entered a guilty plea and was sentenced to imprisonment. Prosecutions based on his information were initiated, but appeared to be stalled in the courts.

DISCLOSURE AND TRANSPARENCY

Company Reporting

All public and private companies must prepare an annual report.

Under the Companies Act, companies must prepare an annual report within 6 months of the end of the year. The board must send a copy of the annual report to every shareholder not less than 14 days before the date fixed for holding the annual meeting of the shareholders.

Financial Reporting and Auditing

Financial reporting for public interest entities must be prepared according to IFRS

Financial reporting is considered by all parties to have significantly improved in recent years. [24] Compliance with IFRS and ISA are relatively high, particularly by emerging market standards. Further details are provided in the Accounting and Auditing ROSC for Mauritius (2011).

The Financial Reporting Act 2004 requires all public interest entities (listed companies, banks, nonbanking financial institutions, insurance companies, and companies with revenue exceeding MUR 200 million) to apply full IFRS. [25] Abridged audited annual financial statements must be filed with the SEM as soon as they are approved by the board but not later than 90 days of the year-end, and the annual report must be submitted to the FSC within 90 days of the year-end.[26]

Financial statements for public interest entitites must be audited according to ISA.

Financial statements of listed companies must be audited in accordance with to International Standards of Audit (ISA) by a registered and licensed auditor.[27]

The FRC is resonsible for the oversight of accounting and auditing standards

The FRC is the accounting and auditing standard-setter and monitors compliance of financial statements of public interest entities with accounting standards. The FRC is also responsible for the audit quality assurance review system. Following the UK model, it operates four

[24] The 2011 Accounting and Auditing ROSC for Mauritius (forthcoming) provide a more detailed assessment of accounting and auditing issues in Mauritius.

[25] The Companies Act requires all companies with a turnover greater than Rs50 million (about USD 1.8 million) to report in terms of full IFRS. The Companies Act exempts small private companies (with turnover below Rs50 million) from preparing full financial statements These companies are required to prepare a financial summary made up of a balance sheet and income statement, with no notes. Section 210 of the Companies Act 2001 imposes an obligation on all public companies to prepare accounts in accordance to the International Accounting Standards (now IFRS).

[26] All audited financial statements (of companies other than small private companies) are also required to be filed with the Registrar of Companies within 28 days.

[27] Interim quarterly reports must be filed with the Stock Exchange of Mauritius and the FSC not later than 45 days after the end of quarter and published in at least 2 local newspapers with wide circulation, Where the interim quarterly report has not been audited, a statement to that effect must be included and where audited, the report of the auditor must be reproduced.

Panels composed of FRC staff and non-staff appointed by the Council.[28]

FRC Actively supervises the audit professwion

FRC ensures compliance with audit standards through audit reviews carried out by the Audit Practice Review Panel. About 25 reviews are being carried out per year. Emphasis is placed on large audit firms, auditors of public interest entities, and the time since the last review. A review can also be initiated by a complaint against a licensed auditor. The reviews are a combination of desk reviews and on-site visits. The results of the reviews are posted on the FRC website and published in a quarterly bulletin with no names.

The reviews indicate that, in general, the international network firms are following ISA. The situation is more mixed with smaller firms, where documentation is poor.

The Mauritius Institute of Professional Accountants (MIPA) was set up as a professional accountancy body under the Financial Reporting Act 2004. Its functions include the registration of professional and public accountants and member firms. MIPA has the power to conduct or arrange for examinations deemed necessary for the purpose of registering professional accountants. It is empowered to institute disciplinary actions against its members.

Auditor code of ethics based on IFAC is in place

MIPA has also adopted the IFAC Code of Ethics for its members, but it has not issued specific guidance to assist with the implementation of the code.

There are no explicit requirements for audit firm or partner rotation for listed companies. The Code recommends that rotation of auditors should be one of the "considerations" for the Audit Committee. Banks must rotate audit partners after 5 years.

MIPA faces several challenges. Resources are limited, allowing only two staff members, and MIPA has not been able to offer significant membership support and services.

Auditors are accountable to the company, not to shareholders.

Shareholders approve the appointment of the auditor at the general shareholder meeting. Auditors can be automatically re-appointed unless the meeting passes a resolution appointing another person. The Code recommends that the appointment should be based on a recommendation from the audit committee. Company law does not

[28] The four panels include the Standards Review Panel: (responsible for developing, renewing, improving, and adopting financial reporting and auditing standards), the Financial Reporting and Monitoring Panel (responsible for reviewing financial statements of public interest entities), the Audit Practice Review Panel (responsible for conducting practice reviews of licensed auditors and audit firms), and the Enforcement Panel (which takes action on recommendations from other panels or the Council as a whole).

create a duty of care of auditors towards shareholders[29] but a cause of action potentially exists in tort. No audit firm has been sued for substandard work by companies, shareholders, or third parties.

Non-financial Disclosure

In addition to financial statements, the annual report must include a variety of non-financial disclosures.

Company objectives

Annual reports should include descriptions of principal activities and subsidiaries and include segment reporting. Companies should disclose to the SEM and the FSC any decision to change the principal activity of the company or its subsidiaries.

Major share ownership and voting rights

Per CA 2001, public companies must maintain a register of substantial shareholders (person who "who holds by himself or his nominee more than 5 % of voting shares). Per the Listing Rules, issuers must notify SEM without delay of any changes to this register. The Annual Report must include list of shareholders with more than 5% of capital held "directly or indirectly". The Code (Section 8.4) recommends the disclosure of the "...cascade holding structure up to and including the ultimate holding company ". Directors are also required to disclose changes in their ownership.

In practice, many companies do not disclose indirect ownership or cascade holding structures, and it is difficult to understand ultimate beneficial ownership and control, even for the largest companies. In many cases, ultimate shareholders are *sociétés civiles*[30], with the names of the individual members of these *sociétés* not being disclosed and/or readily obtainable.

Remuneration policy for board and key executives

Under the CA 2001, the annual report should disclose aggregate remuneration for both executive and non-executive directors. The Code goes further and recommends that companies should disclose individual remuneration, and many companies (6 out of 10 companies in the survey) comply. The Code also recommends that companies disclose a "statement of philosophy" regarding remuneration. There are no requirements for the disclosure of the link between remuneration and company performance. Section 8.3 of the Code requires that the annual report should contain directors CV, their classification (i.e. independence), information about their other directorships (in listed

[29] A cause of action potentially exists in tort against the auditors.
[30] A form of partnership provided for under the *Code Civil Mauricien*.

companies), and their attendance records at committees.

Related party transactions

Related party transactions should be disclosed per IAS 24. Companies do disclose some information about RPT in annual reports but completeness varies.

Foreseeable risk factors

Under the Code, Companies are required to make public disclosures on risk management. Annual reports should include (a) the structures and process in place for the identification and management of risk; (b) the methods by which internal control and risk management are integrated together; (c) the methods by which the directors derive assurance that the risk management processes are in place and are effective; (d) a brief description of each of the key risks identified by the company and the way in which each of these key risks is managed.

Issues regarding employees and other stakeholders

The annual report should contain the company's policies and practices regarding social, ethical, safety, health and environmental issues (targeted at stakeholders including employees). Companies make significant disclosures about these policies and their CSR programs.

Governance structures and policies

Under the provisions of the Code, companies should identify and give reasons for areas of non compliance with the Code in their annual reports. There should also be a separate corporate governance section in the annual report, amongst other items, the company should disclose the main terms of reference and composition of board committees.

Many companies make significant disclosures about governance structures and policies (especially official market companies). While many companies surveyed referred to the requirements of the Code in the annual report, some companies did not make overall compliance statements about the Code, and none specifically mentioned areas of non-compliance.

BOARD PRACTICES AND COMPANY OVERSIGHT

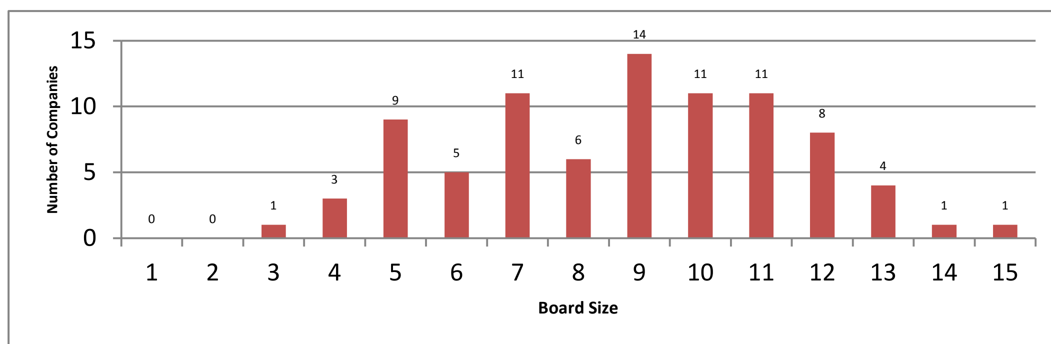
The Role of the Board

Mauritius has a modern board structure driven by tradition and the Code of Corporate Governance

Board structure and duties are driven by the Companies Act, and board responsibilities are enumerated in the Code of Corporate Governance. Mauritius has a one tier board system, with duties and responsibilities similar to those in other countries with a heritage of UK company law. The board is the focal point of the corporate governance system and is ultimately accountable and responsible for the performance and affairs of the company.

According to data obtained for Official List companies, listed company boards have between 3 and 15 members, with an average of 8.8.

Board Size in Official List Companies



Source: Data from Registrar of Companies (for end-2010)

Fiduciary duties are clearly defined in the 2001 Companies Act

Directors should act in good faith and in best interests of company. Section 160 of the Companies Act 2001 provides that every officer (which includes directors) of a company shall exercise (a) the powers and discharge the duties of his office honestly, in good faith and in the best interests of the company; and (b) with the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. In regulated institutions, "fit and proper" tests apply."

In practice, directors take their responsibilities seriously, and awareness of liability and the importance of their role is high. The development of company codes of conduct and codes of ethics, as well as formal induction and ongoing director training are beginning to take hold.

No board member has been found liable for a violation of duties their duties under the CL

However, while directors take their responsibilities seriously, interviews suggest that some may equate the interest of the company with that of the controlling shareholder. Based on information from the Registrar, and other anecdotal information, most directors appear to be extended family members from the controlling families. Company codes of conduct and codes of ethics are not yet widespread (according to 2009 compliance data from the FRC). Court actions against directors for violations of their duties (which can serve to enforce the provisions of the Companies Act) are rare or non-existent. In spite of strong recent gains made by the Mauritius Institute of Directors to develop training programs and strengthen a culture of professional directors, this process remains in its relatively early stages.

Board responsibilities are well developed in the Code, and boards carry out most of the functions required by the OECD Principles

The Companies Act 2001 provides that the board shall have all the powers necessary for managing, and for directing and supervising the management of, the business and affairs of the company.

Board oversight of general corporate strategy and major decisions

The Code states that the board must provide guidance and maintain effective control over the company, and monitor management in carrying out board plans and strategies. (CCG 2.3.2). In practice, boards play a central and strategic role.

Monitoring effectiveness of company governance practices

The Code provides that it is the board's responsibility to provide effective corporate governance. Boards are strong in Mauritius and they are clearly responsible for corporate governance practices. Some corporate governance practices are set at the group level.

Selecting / compensating monitoring / replacing key executives

The Code provides that a key responsibility of the board is to appoint a chief executive officer. The board is responsible for monitoring and evaluating the implementation of strategies, policies, management performance criteria and business plans. The Report on Corporate Governance (Section 3.5) goes further and states that the Board is required to regularly (at least once a year) assess the performance and effectiveness the chief executive officer. The Governance Committee (or Remuneration Committee) of the board should set the company's general policy on executive and senior management remuneration.

Aligning executive and board pay

Companies are required to develop and disclose a "Statement of Remuneration Philosophy" in annual report, and 83% of listed companies comply (per FRC data). Interviews suggest that in many companies remuneration practices are sophisticated, and remuneration is tied to short and long-term performance.

Transparent board nomination/election process

There are no requirements or special election procedures that enable minority shareholders to nominate or appoint board members. The Code calls for a clearly defined and transparent procedure for shareholders to recommend potential candidate, although it is not clear if this is in place. Nominating outside board members considered by outsiders to be difficult and not transparent.

The 2009 Survey of corporate governance practices commissioned by the NCCG notes that "contestation by minority shareholders of election of a Director's on the Board seems to be very rare in companies responding to the survey, with only 2% mentioning such an event."

Oversight of insider conflicts of interest

Boards are responsible for overseeing internal controls but there no explicit requirements for oversight of related party transactions.

Oversight of accounting and financial reporting systems

Boards are responsible for accounting and financial reporting systems. The Companies Act requires all companies to have their financial statements signed on behalf of the board by two directors of the company within 6 months of the year-end.

The Code recommends a board-level risk committee, depending "on the nature and complexity of the business." When constituted, the separate board committee would "set risk strategy, advise the board on risk issues and monitor the risk management process." The committee should be chaired by a non-executive director, include the CEO, and should include at least one independent director.

Overseeing disclosure and communications processes

There are limited requirements in the Code or in the legal framework related to the board's role in overseeing information disclosure, although they play a major role.

Board Independence and Objectivity

The Code recommends two independent directors

The Code provides that the board should have an appropriate balance of executive, non-executive and independent directors under the firm and objective leadership of a chairperson, to manage conflicts of interest and to serve the interests of all the company stakeholders.[31] The Code

[31] Per the Code of Corporate Governance Section 2.7.1.3, an Independent Director is:
(a) not a representative or member of the immediate family (spouse, child, parent, grandparent or grandchild) of a shareholder who has the ability to control or significantly influence the board or management. This would include any director who is appointed to the board (by virtue of a shareholders' agreement or other such agreement) at the instigation of a party with a substantial direct or indirect shareholding in the company;
(b) has not been employed by the company or the group of which the company currently forms part, in any executive capacity for the preceding three financial years;
(c) is not a professional advisor to the company or the group other than in a director capacity;
(d) is not a significant supplier to, debtor or creditor of, or customer of the company or group, or does not have a significant influence in a group related company in any one of the above roles;

recommends that boards have a minimum of two independent directors; the aspiration is for an equal number of executive, non-executive and independent members.

The (now somewhat dated) Bank of Mauritius guidelines on corporate governance recommend that bank boards have 40% independent members.

According to unpublished FRC data from 2009, most public interest entities surveyed (90% of banks, 100% of official list companies, 100% of insurance companies) met the requirement of a minimum of 2 independent directors. However, the FRC data also indicate that no companies listed on the development market met the target in 2009. As in many countries around the world, some market participants question the "true" independence of the independent members, because they are in the end appointed by controlling shareholders. According to the 2009 NCCG survey, 79 percent of responding companies "strongly agree or agree" that their "independent directors are truly independent" from the CEO and controlling shareholders. Although difficult to measure, the impression given by interviews is that instances in which independent directors take stands against the controlling shareholder are relatively few. In general, more work can be done (through director training and awareness raising) to build the role of the independent director.

According to the Code of Corporate Governance, the positions of the Chairperson and CEO must be held by different people. This recommendation is widely followed in practice – according to the survey of practices commissioned by the NCCG, 88 percent of companies complied in 2009.

Many market participants note that the country's small size results in a limited pool of qualified people are available to serve as directors. Fewer than 2% of directors are currently women. The 2009 Survey of corporate governance practices commissioned by the NCCG indicated that boards "lack diversity, be it in terms of age, gender, qualifications or ethnic origin."

Most companies have established audit committees and corporate governance

Per the Code, public interest entities should constitute, at a minimum, an audit committee and a corporate governance committee. The corporate governance committee should include in its terms of

(e) has no significant contractual relationship with the company or group;
(f) is free from any business or other relationship which could be seen to materially impede the individual's capacity to act in an independent manner;
(g) in the case of banks, the Bank of Mauritius' definition of independent applies.

committees.

reference the key areas normally covered by a nomination committee and a remuneration committee (unless these have been separately constituted).

The establishment of board committees is encouraged to assist the board and its directors in discharging their duties through a "more comprehensive" evaluation of specific issues and the delivery of "well-considered" recommendations to the board. There is less emphasis in the Code on the use of committees to help to manage specific conflicts of interest.

According to the 2009 NCCG Survey, 84% of companies surveyed have established audit and corporate governance committees. 70% of companies have established remuneration committees, and 51% have established board-level risk committees.

Audit committees have a range of responsibilities, but do not oversee RPTs

Per section 3.9.2 of the Code, the audit committee should focus on:

- **Internal controls.** The audit committee should focus on the functioning of the internal control system and the internal audit department;
- **The internal and external audit functions.** The audit committee should review the scope and results of the internal and external audits and its cost effectiveness; review the independence and objectivity of the external auditors; make recommendations on whether the company should continue to use the services of the current external and internal auditors; review any accounting or auditing concerns identified as a result of the internal or external audits; and assess the nature and extent of non-audit services provided by the external auditors.
- **The reliability and accuracy of the financial information.** The audit committee should review the information provided by management to the board and other users of financial information, as well as the financial information to be published by the board.
- **Compliance.** The audit committee is responsible for compliance with legal and regulatory requirements with regard to financial matters.

The Code does not give the audit committee an explicit role in managing conflicts of interest.

In terms of composition, the Code recommends that the chair should be an independent nonexecutive director, and the rest of the committee should be composed entirely of non-executive directors. The CEO and

board chair should not be members. Majority-independence is not recommended, but is the “aspiration”.

The Companies Act and the Code contain strong conflict-of-interest provisions for board members, but implementation is unclear

Directors are required to disclose their interest in a given transaction to the board. [32]The company is required to have a register of interests.[33] The Code goes further and requires the board to develop a corporate code of conduct that specifically addresses conflicts of interest, particularly relating to directors and management, which should be regularly reviewed and updated as necessary.

Subject to the constitution, a director of a public company may not vote on a matter in which he has an interest. Pursuant to Listing Rules, a director shall not vote on any contract or arrangement or any other proposal in which he or his associates have a material interest nor shall he be counted in the quorum present at the meeting. The Code specifies that such a director's vote will not be counted.

A director should not compete with the company or become a director or officer of a competing company unless approved by shareholders. Generally, a company cannot make a loan to a director or any relative or related entity of the director. A director should make a best effort to avoid conflicts of interests according to the Code.

The available evidence suggests that more can be done to manage conflicts of interest at the board level. For example, the 2009 NCCG survey indicates that “only 51% of the responding companies maintain a Register of Interest. 72 percent of responding companies had policies which required directors to disclose personal interests in the company.”

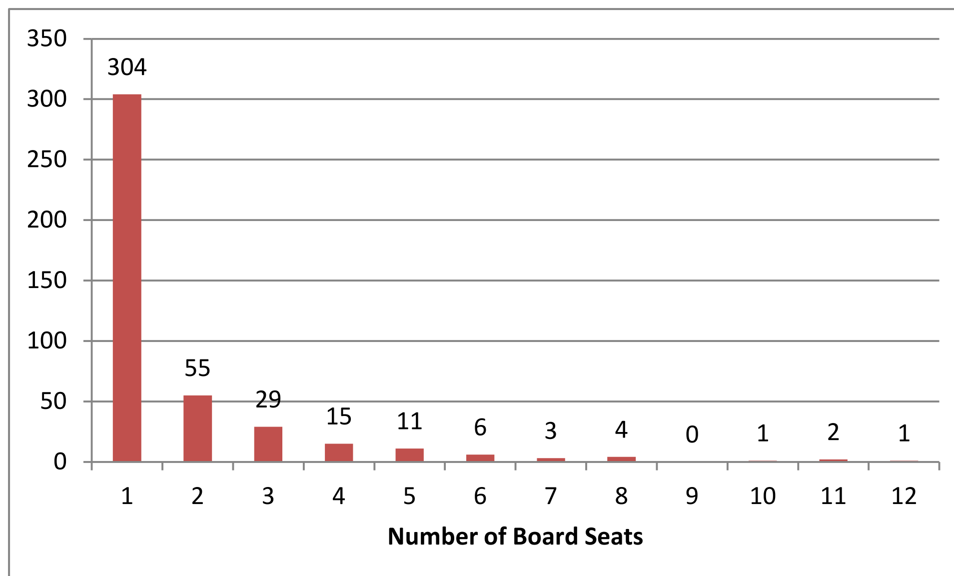
Most board members do not appear to be overstretched, and are committed to their duties

As shown in the table below, relatively few board members sit on large numbers of companies. According to data for official listed companies, 431 individuals held 749 board seats at the end of 2010 (see chart below). 17 board members held six seats or more.

[32] A director is “interested” in a transaction when he or she is the parent, child or spouse of another party to, or person who shall derive material financial benefit from the transaction; or is otherwise directly or indirectly materially interested in the transaction.

[33] Companies Act Section 147-148.

Number of Seats Held by Board Members of Official List Companies



Source: Data from Registrar of Companies (end-2010)

Boards are supposed to meet regularly (at least once a year) assess their performance and effectiveness. Directors should be assessed both individually, and collectively as a board. Board committees should also be subject to regular evaluation by the overall board to assess their performance and effectiveness. In practice, board evaluations appear to be relatively rare; according to the 2009 NCCG survey, only 42 percent of companies reported that they had appraised the performance of either the Board/Sub-Committees or Management.

The Mauritius Institute of Directors is growing rapidly in reach and influence

The Mauritius Institute of Directors (MIOD) was recommended by the 2002 CG ROSC, was cited in the Financial Reporting Act, and was established as a legal entity in 2008. The MIOD is working to raise the level of professionalism of directors in Mauritius by "responding to their needs in terms of training, sharing of knowledge, advice, communication and networking (locally, regionally and internationally)". In addition, it is working as a corporate governance institute, "to improve corporate governance practices, to promote the ethical conduct of business and public affairs, to enhance productivity and efficiency in companies for the benefit of all stakeholders."[34]

The MIOD grew slowly in its early years but obtained new management in early 2010 and is now growing rapidly in size and influence. It now has 620 members and regularly holds corporate governance workshops

[34] MIOD website.

based on the board leadership training of IFC's Global Corporate Governance Forum. The goal is to reach 1200 members in 2 years.

The Code (Section 2.9.1) notes that "…directors with no board experience should receive the relevant education and development." However, there are no requirements for on-going training or professional development, and no explicit requirement in the Code to support a local director training organization.

IMPLEMENTATION OF THE 2002 CG ROSC

The core recommendations of the 2002 CG ROSC were largely implemented

A review of the recommendations of the 2002 Corporate Governance ROSC indicate that the core recommendations of the report have been implemented[35] (see table on page 42):

- The corporate governance code has been introduced
- The FRC was created to oversee and monitor auditors
- An IOD was established and is now up and running
- The FSC has significantly increased its capacity to enforce securities laws.
- The Insolvency Act constituted a major and long-awaited reform.
- New takeover rules have been introduced.

Many of the other recommendations were implemented by the Code and the activities of the MIOD. However, 20 of the remaining 37 recommendations made in 2002 can be assessed as not implemented. This is largely due to the fact that many of the 2002 recommendations related the Companies Act, which has not been significantly revised. Other recommendations of the 2002 report that were not significantly implemented include several areas that are reflected in this report, including improvements to the disclosure of ultimate ownership information, and the lack of any stewardship policies for institutional investors.

FINDINGS OF THE DCA

Corporate governance in Mauritius has improved and meets many international standards

The Detailed Country Assessment of the OECD Principles of Corporate Governance is summarized in the tables at the end of the report. These results indicate that:

- **Mauritius's scores have improved since the last ROSC was carried out in 2002[36].** The average percent of observance in the shareholder rights chapter increased from 60 to 81, and from 60 to 66 in the chapter on equitable treatment of shareholders. Disclosure percent implementation increased from 60 to 81, and the percent implementation of board responsibilities from 56 to 77.
- **Mauritius is a leader in many countries of good corporate**

[35] The 2002 CG ROSC also recommended that companies should work to "unlock shareholder value". The implementation of this recommendation is difficult to measure, although many companies have apparently worked to restructure real estate holdings.
[36] All comparisons of scoring with the previous ROSC should be interpreted with care, due to the use of different methodologies, averaging systems, new principles assessed, etc.

governance, especially in the area of board practices and disclosure. Across most of the aspects of good corporate governance as defined by the OECD Principles, Mauritius is now on par with many market leaders in Asia (India, Thailand, and Malaysia)**.** The one area where Mauritius appears to lag (based on the ROSC scores) is in the general area of shareholder rights.

- **Nevertheless, more work remains to be done.** Using the new methodology to assess compliance with the OECD Principles 3 Principles were fully observed, 24 were broadly observed, 29 principles were partially observed, and 3 were not observed.

Implementation of Recommendations from the 2002 CG ROSC

CORE RECOMMENDATIONS OF 2002 ROSC	IMPLEMENTATION
1. Introduce a voluntary corporate governance code	Implemented
2. Impose oversight and monitoring of auditors	Implemented
3. Establish IOD	Implemented
4. Unlock shareholder value	Implemented[37]
5. FSC capacity building	Implemented
Establish basic shareholder rights	
6. Impose quorum requirement.	Not implemented
7. Introduce cumulative voting.	Not implemented
8. Permit shareholders to approve dividend distributions.	Not implemented
9. Require a 76 percent supermajority, rather than current 75 percent.	Not implemented
10. Consider increasing free float requirement.	Not implemented
11. Extend AGM notice period to 30 days	Not implemented
12. Require supermajority authorization for major transactions	Not implemented
13. Remove provision permitting AGM to proceed if accidental failure to notify.	Not implemented
14. Harmonize Companies Act 2001 and the Listing Rules.	Partially implemented
15. Consider express prohibition on certain types of abusive self-dealing.	Partially implemented
16. Clarify Listing Rules concerning shareholder approval of related party transactions.	Implemented
17. Require that custodian vote in a manner agreed upon by ultimate owner.	Not implemented
18. Give discretion over related party transactions to an audit committee	Not implemented
19. Consider majority of the minority voting to approve conflicted transactions	Not implemented
20. Consider how (legal) shareholder remedies could be better utilized in cases of abuse.	Not implemented
Stakeholder Issues	
21. Improve compliance with labor laws.	Implemented
22. Consider ways to increase use of stock options and employee stock purchase plans.	Not implemented
23. Pass the new draft Insolvency and Securities Acts.	Implemented
24. Raise awareness of other countries' experience with shareholder activism.	Not implemented
Improve information disclosure	
25. Clarification of rules mandating public disclosure of ultimate ownership.	Not implemented
26. Make private shareholder agreements public.	Implemented
27. Require pension fiduciaries to disclose voting policies / consider costs- benefits of voting.	Not implemented
28. Disclosure of relationships with stakeholders in annual reports.	Partially Implemented
29. Better non-financial disclosure.	Implemented
30. Require remuneration disclosure on an individual basis, not aggregate.	Implemented
31. Prepare accounting/auditing and creditor rights/insolvency ROSCs.	Implemented
32. Report board attendance at AGM.	Implemented
33. Publish interests register.	Not implemented
34. Provide a more precise definition for timeliness of disclosure of material information.	Not implemented
35. Consider statutory auditor rotation	Not implemented
Better define the role and powers of the board	
36. More guidance on anti-takeover devices through new Securities Act legislation.	Implemented
37. Better director training.	Implemented
38. Create specific duties on directors, e.g., oversight of key executives.	Implemented
39. Mandatory board committees on audit, nomination and compensation.	Partially implemented
40. Ensure compliance with Listing Rule requirement for independent directors.	Implemented[38]
41. Directors should have unrestricted access to all information.	Implemented
42. Cap number of directorships for single individuals.	Not implemented
43. Consider extending board responsibilities to parastatal organizations.	Implemented

[37] As an "outcome" of corporate governance reform, the implementation of this recommendation is difficult to assess. Many companies have restructured their real estate holdings.

[38] Superseded by independence provisions in Code

Recommendations

Build on strong framework for better performance and improved competitiveness

Mauritius has undertaken a variety of important reforms in recent years, and now has institutions and laws that reflect (and even set) international good practice. The key reforms proposed below focus on implementation of the existing framework, rather than major changes.

Reforms to consider include the following:

- Better anchoring the Code in the legal and regulatory framework, and working to continue to align it with the OECD Principles;
- Improving the disclosure of ownership and control
- Strengthen the listing rules regarding the approval of related party transactions.
- Reforms to build regulatory capacity
- Drafting Guidelines on aspects of the framework
- Reforms to the ownership framework and governance of state-owned enterprises

Reforms to the Code

Clarifying "comply or explain"

In general, a review of the Code, the Report, its provisions, and discussions with various market participants indicated that it would be useful to clarify exactly which provisions must be complied with, and how compliance is disclosed. Steps that could be taken include:

- **Clarifying and harmonizing the differences between the "Code" and the "Report".** The next version of the Code could clarify (or perhaps remove) distinctions between the "code" and the "report", and between "requirements" and "aspirations" which may be confusing for some market participants. Any differences between requirements in the Report and requirements in the Code should be eliminated. The Report should be seen as a set of annotations and implementation guidelines for the Code. Alternatively, a separate set of implementation guidelines could be developed and the Code could be significantly shortened.
- **Enhance the "comply or explain" requirement.** The review of annual reports of official listed companies indicated that it was not easy to see which companies were not fully implementing the Code (other than the disclosure provisions in section 8.4, which is reviewed by the auditor), and specifically which provision were

not fully implemented. The National Committee should explore a move away from "comply or explain" towards "comply and explain". Companies should be required to include a sentence in their annual report stating that they fully comply with the Code, or to specifically indicate sections where they are not compliant.

- This process has been assisted in other countries by the creation of a short-form questionnaire, listing in summary form the provisions of the Code and indicating which provisions have been adopted, and which have not and why not. This process would encourage the publication of a joint annual or semi-annual report by the FRC that indicates levels of compliance across the listed and non-listed sector.
- The Code should encourage and stress that 100% compliance is not the goal, but rather that boards should fully consider all their governance options and set governance policies that are in the best interests of all shareholders. Non-standard approaches should be highlighted and celebrated in any future reviews of compliance.

Anchoring the Code

The current legal framework (consisting mainly of the Companies Act, Listing Rules, banking regulations, and the Code) has evolved on somewhat parallel tracks. As a result, as in other countries, there is some risk that corporate governance regulation of the different public interest entities will go in different directions, and the Code will lose its role as the main statement of corporate governance good practice. It would be useful for the Code to be cited in the other regulations, to strengthen the Code's role and ease compliance requirements for companies with overlapping regulations. For example, banking regulation could mandate certain sections of the Code, rather than introducing completely new corporate governance requirements.

The Listing Rules should explicitly mention that companies are expected to "comply and explain" their compliance with the Code. The FRC should have the explicit power to review compliance statements and should take action if compliance statements by public interest entities are insufficient or missing.

Changes to the Code: boards

The review of the Code's provisions against the OECD Principles of Corporate Governance and the Methodology to assess those principles reveals that a number of items related to the board of directors could be added to the Code to improve compliance:

- Encourage boards to participate in training and development

programs, with support from the MIOD or other international organizations
- Encourage boards to develop an information disclosure policy
- Explicitly encourage board diversity, especially in terms of gender
- Encourage companies to establish an investor relations function
- Specify that the board should explicitly monitor and approve all related party transactions
- Clarify issues related to the conflicts of interest of appointing outsourced / group internal auditors and company secretaries
- Clarify board responsibility for dismissing the CEO
- Establish a cap on number of board appointments.
- Develop written board procedures for managing related party transactions
- Audit committees should be given explicit responsibility for reviewing and approving related party transactions, and working with the external auditor with respect to detecting and reporting on related party transactions
- Boards should be encouraged to ensure that executive remuneration is aligned to both the company's short and long-term performance

Consider making the Code's disclosure recommendations mandatory, for listed companies

In addition to enhancing the Code's disclosure provisions, the FRC / SEM should consider taking the Code's disclosure recommendations and making them mandatory, in either the Listing Rules or in securities regulation. The argument for doing so is that this would be a natural add-on to the "comply-or-explain" requirement, and allow investors to fully understand the governance structure of a listed company; the disclosure requirement does not itself mandate any particular governance structure.

An efficient way to implement this regulation would be to develop a standard "governance report" that could be posted on company websites and on the SFC/SEM websites. The governance report would incorporate all of the disclosures recommended in the Code and would be updated any time there were any changes. This approach has recently been implemented in Brazil with great impact.

Changes to the Code: disclosure

The review of the Code's provisions against the OECD Principles of Corporate Governance and the Methodology to assess those principles reveals that a number of items related to transparency and disclosure could be added to the Code to improve compliance. The following items

could be disclosed on websites and /or in the corporate governance report in the annual report:

- Information on the rules, including voting procedures, that govern the GMS
- A director's length of service as a board member and tenure on various board committees
- Board nomination and election processes
- Commercial and non-commercial objectives
- Criteria used by the company to define independence (or a note that the company is using the definition in the Code)
- the link between remuneration and company performance
- material issues regarding their employees, creditors, its environmental impact , and any other material issues regarding other stakeholders
- Report by the audit committee that the external auditor was independent, qualified, and acted with care
- What board evaluations were carried out
- Code of Ethics implementation.
- What board training has been carried out

Changes to the Code: Minority Shareholder Representation

Given that market participants commented that minority shareholders do not always feel represented on boards, the new Code drafting committee could consider new provisions that:

- Give significantly more disclosure on the board nomination and election process, including website descriptions of how to nominate potential board members;
- Give a small number of shareholders (e.g. those holding no more than 5% each) the right to select an alternative election process for one or two board seats for minority shareholder representation. These directors selected by minority shareholders should pass independence requirements of the Code. (Once elected, these directors would have no special obligations to the minority shareholders but would have liabilities, duties and responsibilities like any other board member).

Other Code or regulatory changes

- **Conflicts of Interest.** Shareholders who are interested parties to the transactions should recuse themselves from voting on the transaction or participating in the discussion.
- **Whistleblower rules.** The introduction of whistleblower provisions would serve to act as another line of defense against

fraud and shareholder abuse. Possible protections include: confidential hotlines of regulations, mandatory requirement on public interest entities and listed companies to provide access to a confidential and independent person or office, 'up-the-ladder' obligations, and safe harbours or immunity to a degree to whistleblowers.

- **Meeting notice period.** The Code or the Listing Rules could include a provision that suggests extending the meeting notice period for official-list companies to 21 or 30 days, in line with larger markets.
- **Internet information disclosure.** The SEM and the FRC should explore options for developing an "information warehouse" to allow domestic and foreign shareholders to immediately find all relevant information about a company, including annual reports, corporate governance reports, immediate information disclosures, company documents required under the Companies Act, and other relevant information. This information could either be kept centrally and integrated into an electronic filing system, or maintained by companies on their websites according to explicit standards developed by the SEM / FRC.
- **Definitions of public interest entities**. It would be useful to harmonize the definitions of public interest entities between the Code and the Financial Reporting Act so that (a) all official listed companies are included and (b) it is clear which state-owned enterprises are covered by the Code.

Implement stewardship policies for institutional investors

As part of the Code (or as a separate exercise) the SFC and the NCCG should introduce provisions the more fully address the role of institutional investors in corporate governance. Issues to be addressed include voting, voting policies, and management of conflicts of interest. The UK Stewardship Code is a useful starting point for this discussion.

Improving the disclosure of ownership and control

Improved disclosure of ownership and control remains as a high priority

In general, obtaining information about group structures and ultimate owners is difficult in Mauritius, and is inconsistent with an otherwise very high level of transparency. The disclosure of ownership is hampered by the lack of a requirement to disclose "ultimate" shareholders – most disclosure is made at the level of direct shareholders (including custodians). The Code requirement to disclose the "cascade" holding structure is not consistently applied.

A two-step process is proposed:

- A legal working group (perhaps organized by the NCCG in conjunction with the various financial sector regulators) should work to harmonize the definitions of "direct" and "indirect" ownership across the entire legal framework (including the Listing Rules and the Code). The result would be clear definitions of "groups", "indirect ownership", "acting in concert", and "ultimate owners".
- A second step would be to revise regulation in line with the new definitions.

It should also be a mandatory requirement to disclose membership in a company group (the "cascade ownership structure").

Strengthening rules for the approval of related party transactions

The listing rules should remove the opt-out for transactions "carried out in the normal course of business"

While the current process (in which the stock exchange reviews related party transactions and can require prior shareholder approval) does appear to function, the Listing Rules currently exempt transactions "in the ordinary course of business". All large transactions (as already defined by the Rules) should be subject to stock exchange review. In addition, the Code should include a recommendation that the board explicitly approve all related party transactions.

Drafting Guidelines on aspects of the framework

NCCG (perhaps working in concert with the MIOD and / or ACSA) should work to develop material to explain the Code

Once the next version of the Code has been drafted, the NCCG should develop guidelines or handbooks on the implementation of key aspects of the Code, and on other aspects of corporate governance implementation in Mauritius. These handbooks could be as part of MIOD training. Possible topics include:

- Good practices in the governance of family-owned companies
- Good practice in board evaluations
- Guidelines on creating and implementing a code of ethics
- Guidelines on the conduct shareholder meetings
- Stewardship policies of institutional investors

The MIOD should also consider moving towards developing a register of qualified independent directors.

State-Owned Enterprise Governance

Reforms of the parastatal sector should accelerate

While significant progress has been made with governance of private sector companies, the governance of state-owned enterprises lags. Several market participants stated that they now begin to see the performance of publicly owned companies as a hindrance to general economic progress.

The Government should accelerate governance reforms already initiated, and should push hard for broader-based reforms to improve the performance of parastatal companies:

- The OPSG should develop a strategy to evolve into an "advisory body" that oversees governance for the key 15 state-owned enterprises (and beyond).
- The strategy should move rapidly to:
    - Build public awareness of the importance of good governance among public companies;
    - Monitor company performance and corporate governance practices (in concert with the FRC), and "name and shame" companies and Ministries that are using traditional governance techniques;
    - Help owners and boards to clarify company goals by develop / relaunch the target-setting process already laid out in the Guidelines for SOEs;
    - Develop a set of board appointments policies that (together with line Ministers and company Chairmen) uses international good practices and techniques to build higher-performing boards.

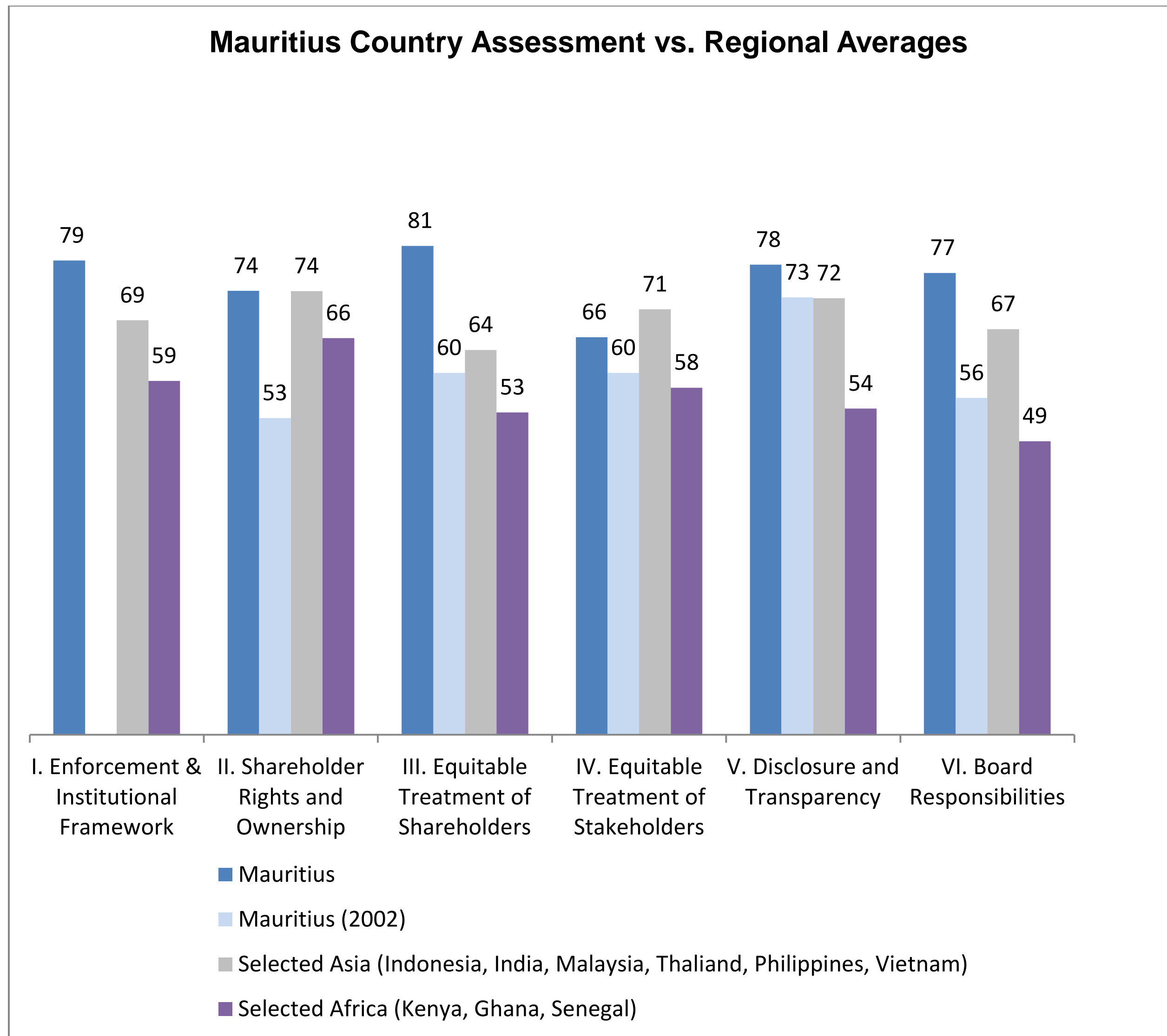
Reforms to build enforcement and regulatory capacity

Many aspects of the supervisory and enforcement process for listed companies are new. Formal enforcement actions in the area of corporate governance reform have been relatively limited to date. To improve compliance with the new Code, it would be useful for the FRC to pursue some cases and enforcement actions in some key areas. This would include in particular pursuing those companies that do not comply with the FRA, or with the comply or explain requirements. The staff at the regulatory bodies (FRC, FSC, BOM) would benefit from training in

corporate governance to assist in the implementation of risk-based supervisory approaches.

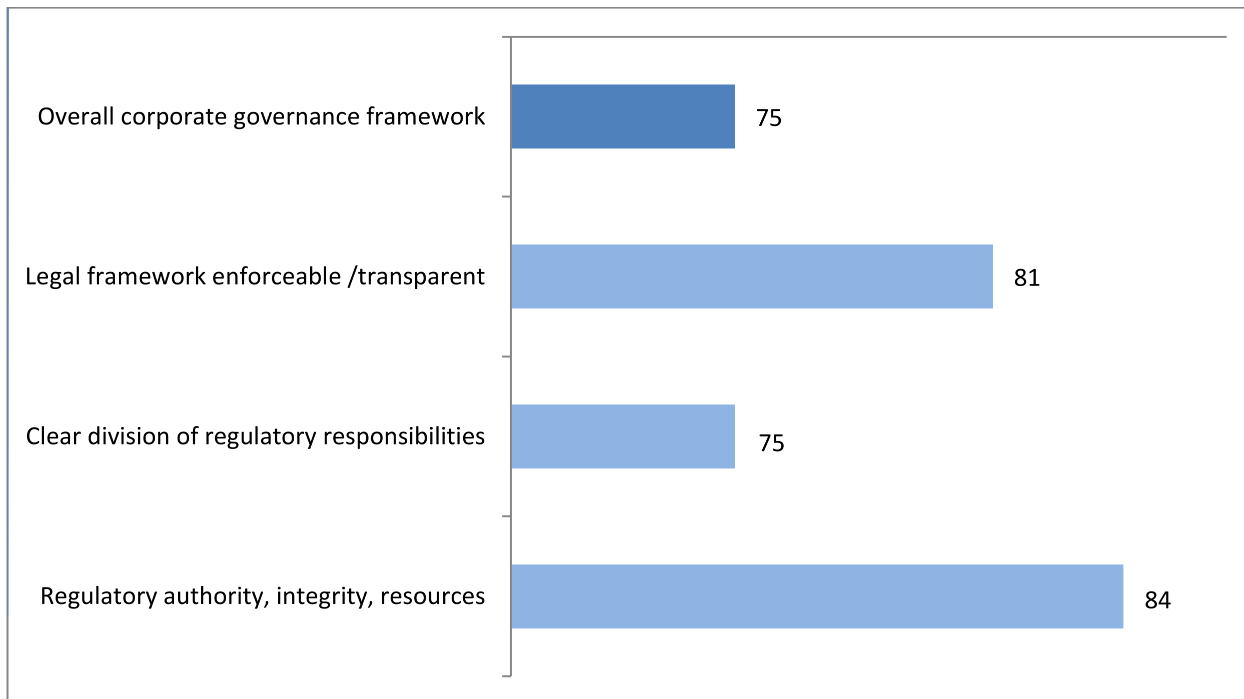
FRC and NCCG should explore a joint annual or semi-annual publication on code compliance.

Summary of the Detailed Country Assessment: Mauritius



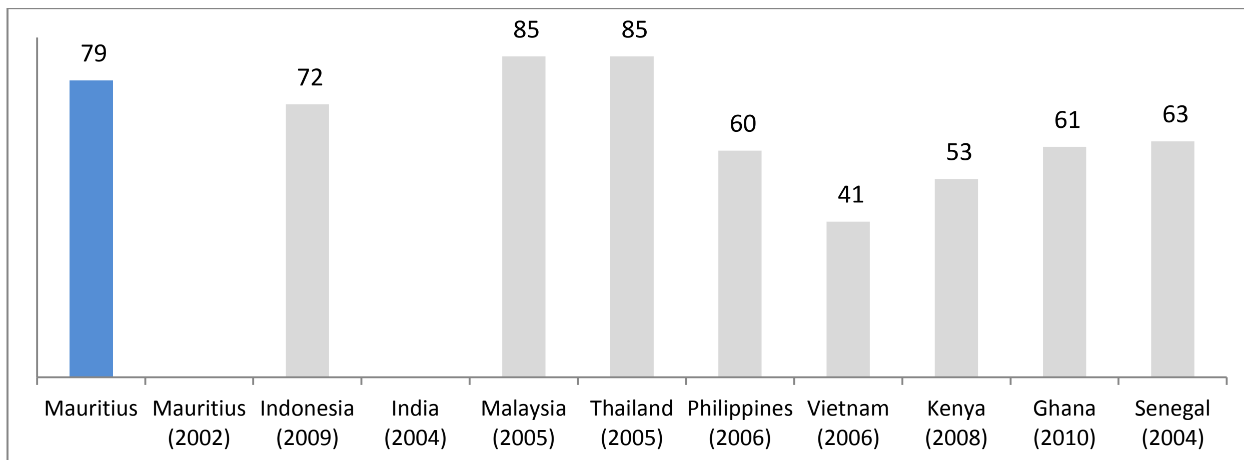
OECD Principle Assessment: Corporate Governance Framework

Mauritius



Source: Detailed Country Assessment. Figures represent the percent implementation of each OECD Principle. 95 % = Fully implemented, 75-95 = Broadly Implemented, 35-75 = Partially implemented, and less than 35% = not implemented.

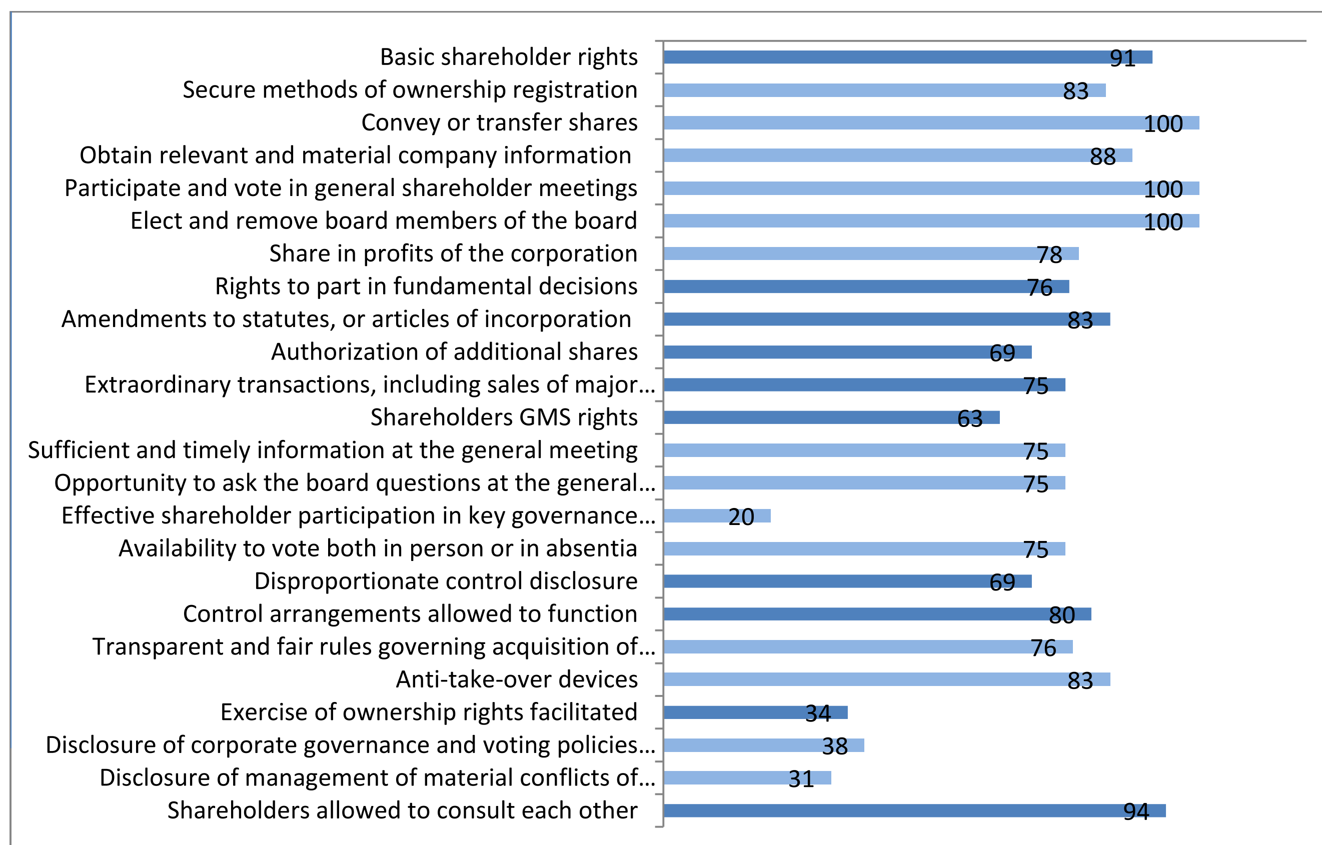
International Comparisons



Source: Figures for other countries represent weight-averaging of scores from previous ROSCs. Averages should be interpreted with caution due to changing methodologies over time. Data from previous ROSCs are not directly comparable because reports were completed in prior years (year of ROSC publication in parenthesis).

OECD Principle Assessment: Shareholder Rights

Mauritius



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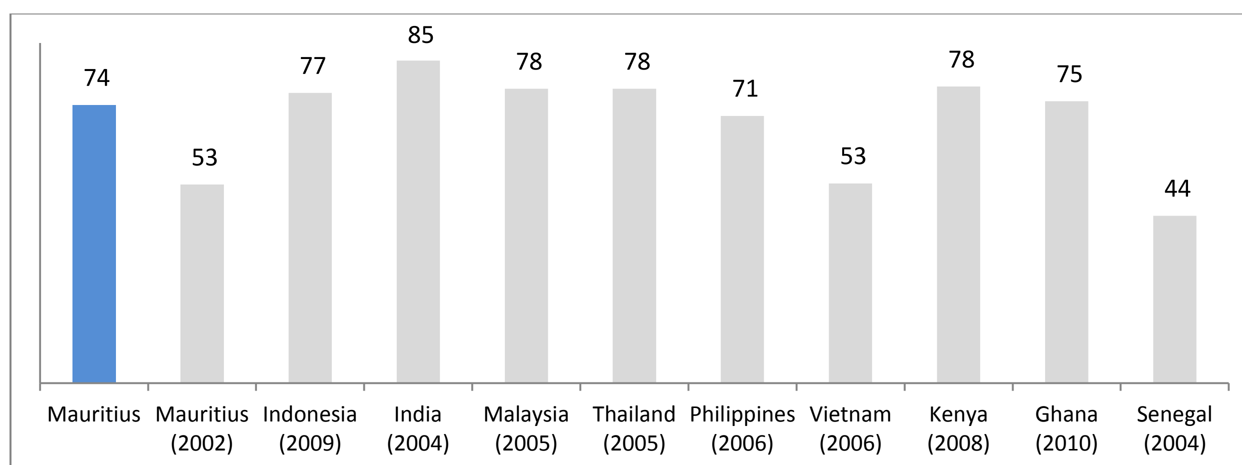
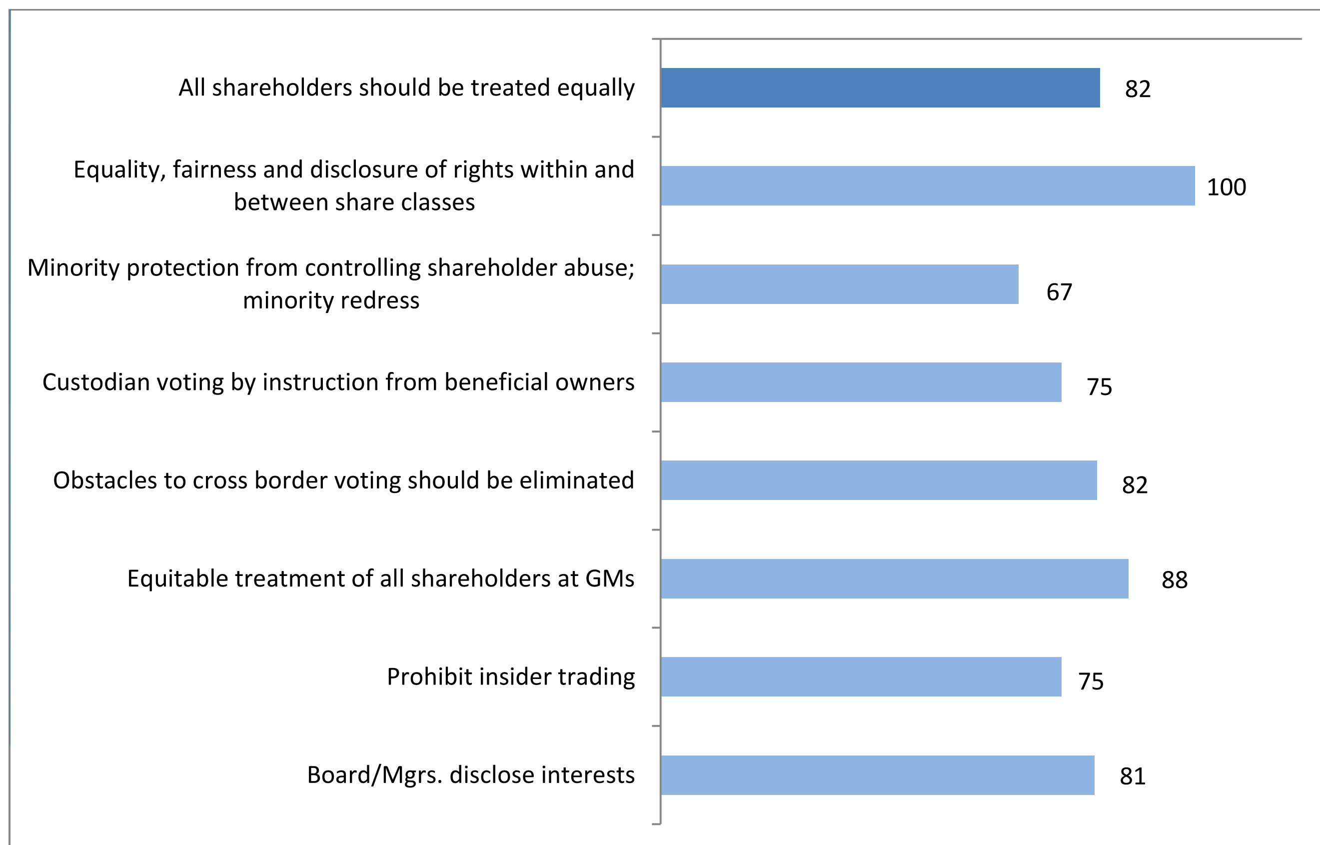


Source: Figures for other countries represent weight-averaging of scores from previous ROSCs. Averages should be interpreted with caution due to changing methodologies over time. Data from previous ROSCs are not directly comparable because reports were completed in prior years (year of ROSC publication in parenthesis).

OECD Principle Assessment: Equitable Treatment of Shareholders

Mauritius



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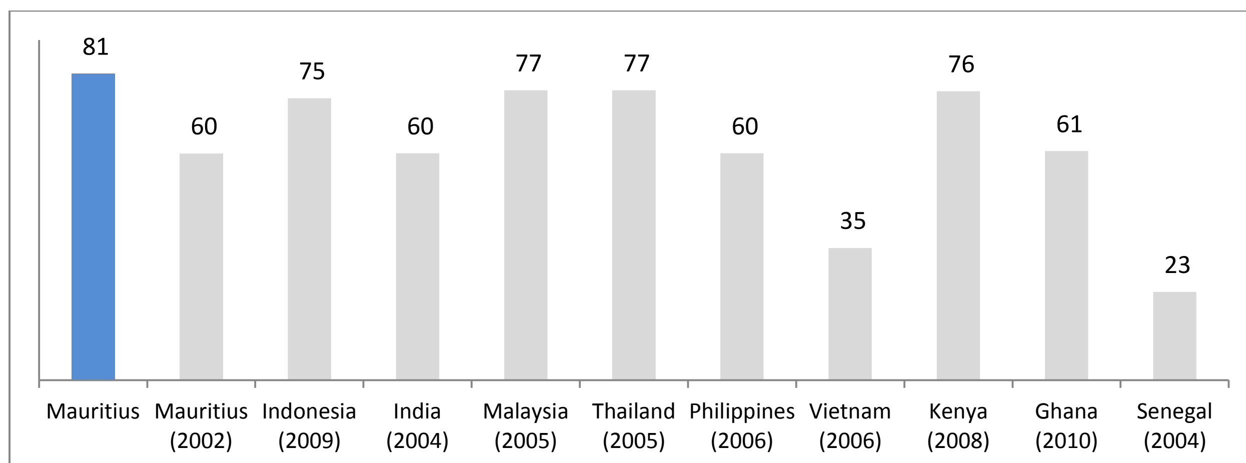

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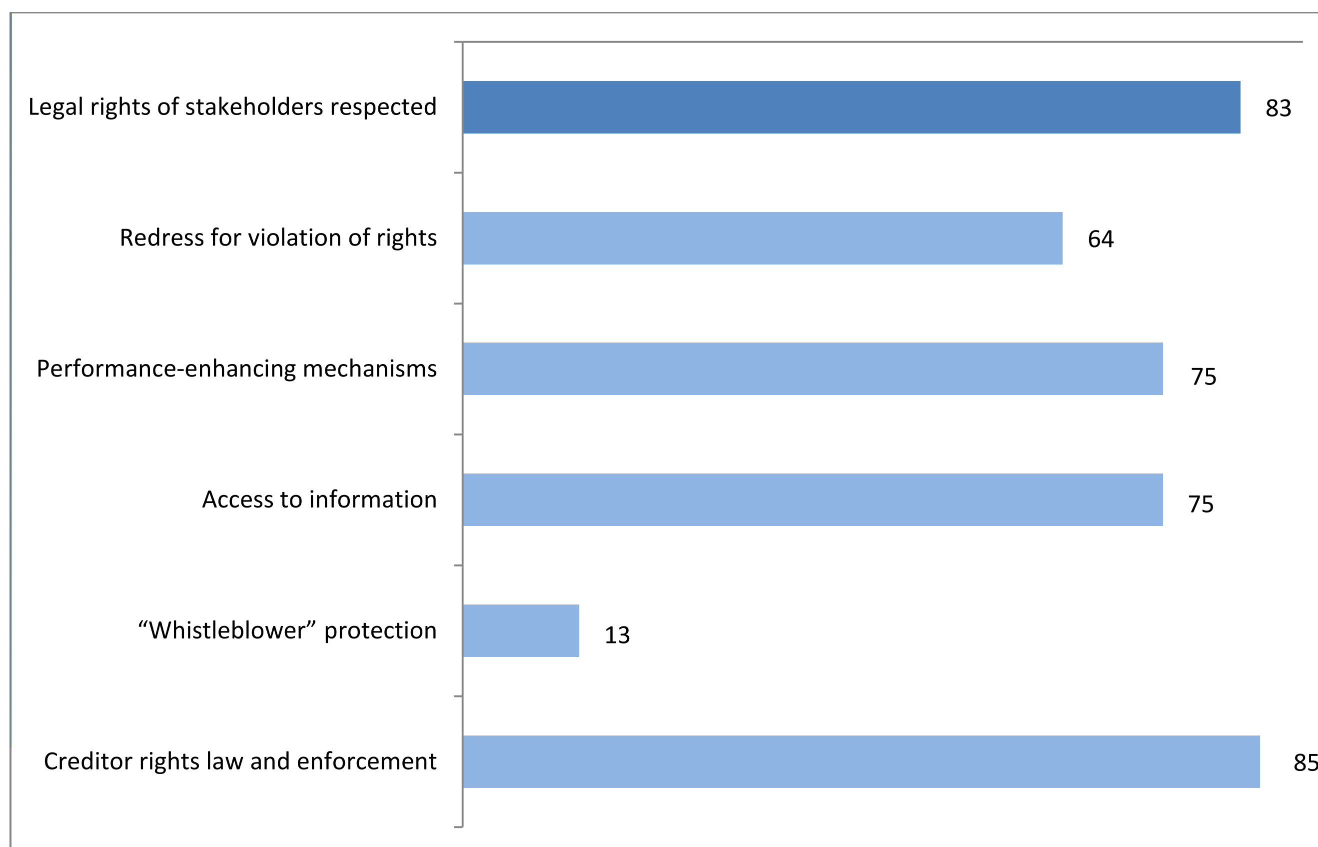
OECD Principle Assessment: Equitable Treatment of Stakeholders

Mauritius



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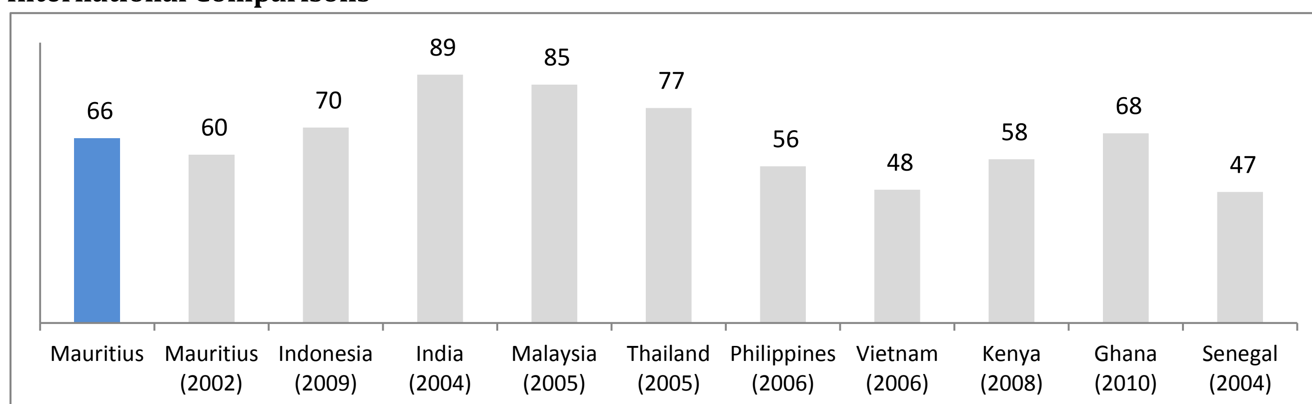

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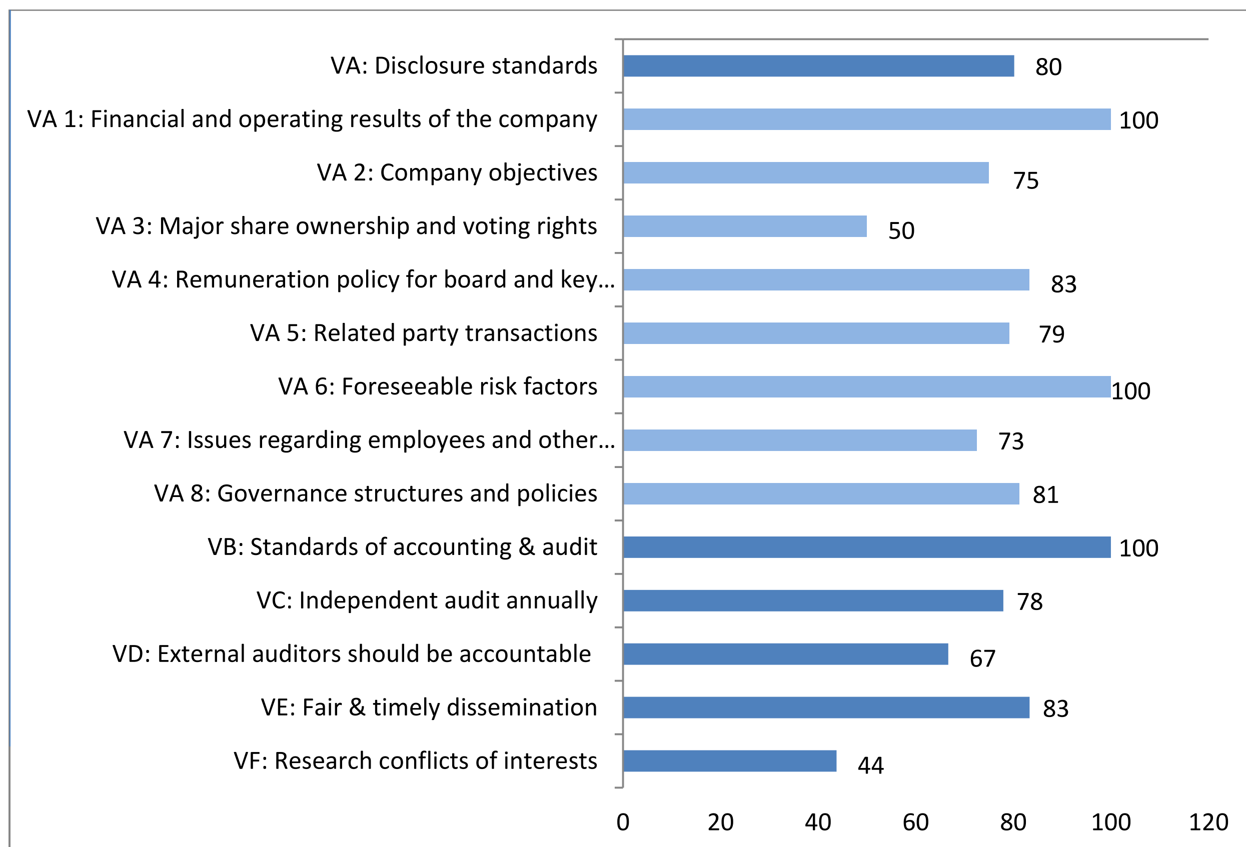
OECD Principle Assessment: Disclosure and Transparency

Mauritius



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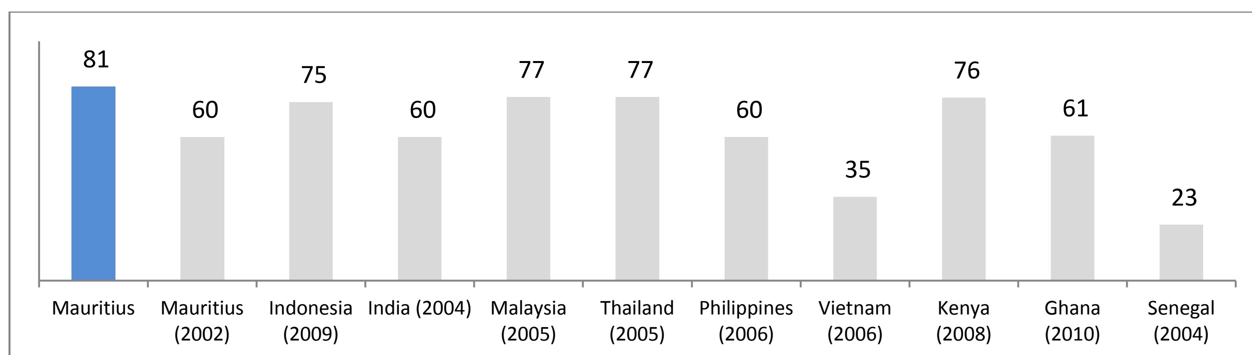

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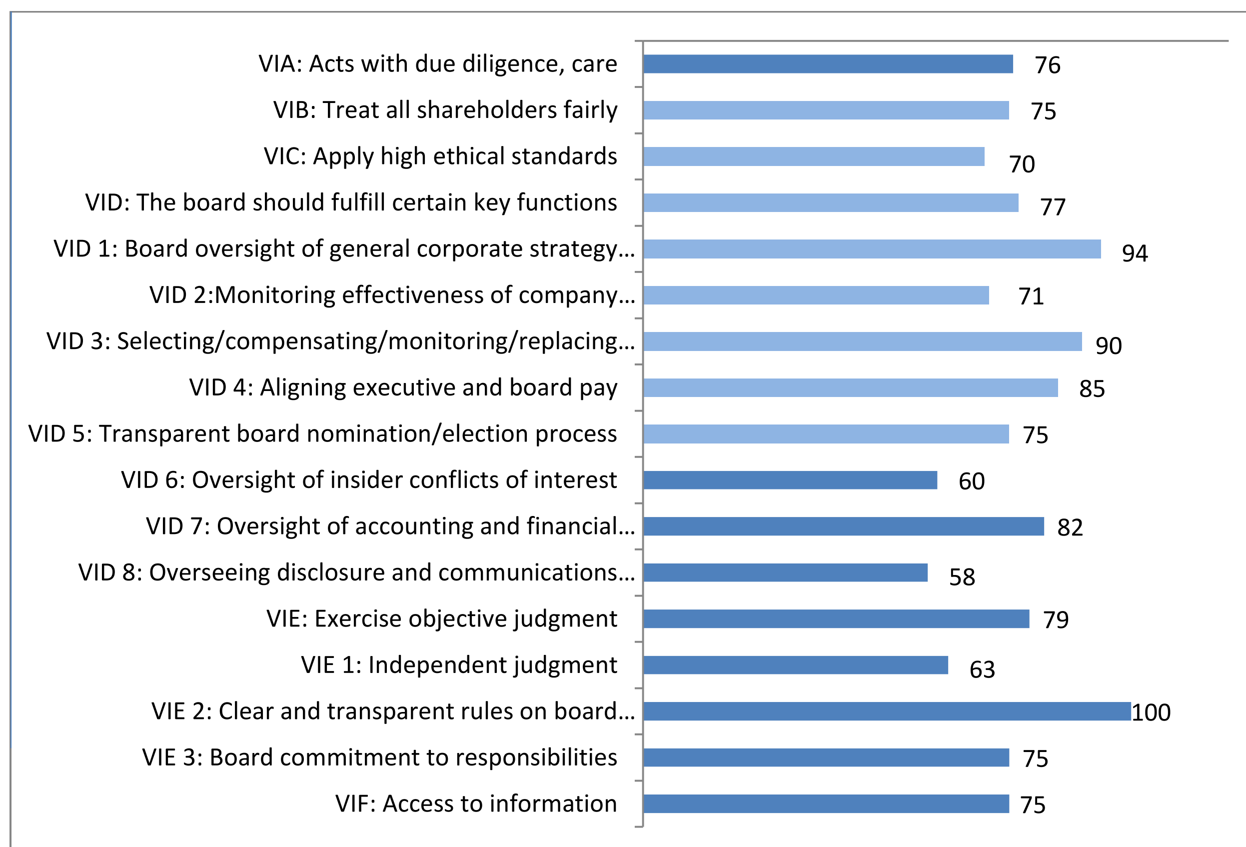
OECD Principle Assessment: Responsibilities of the Board

Mauritius



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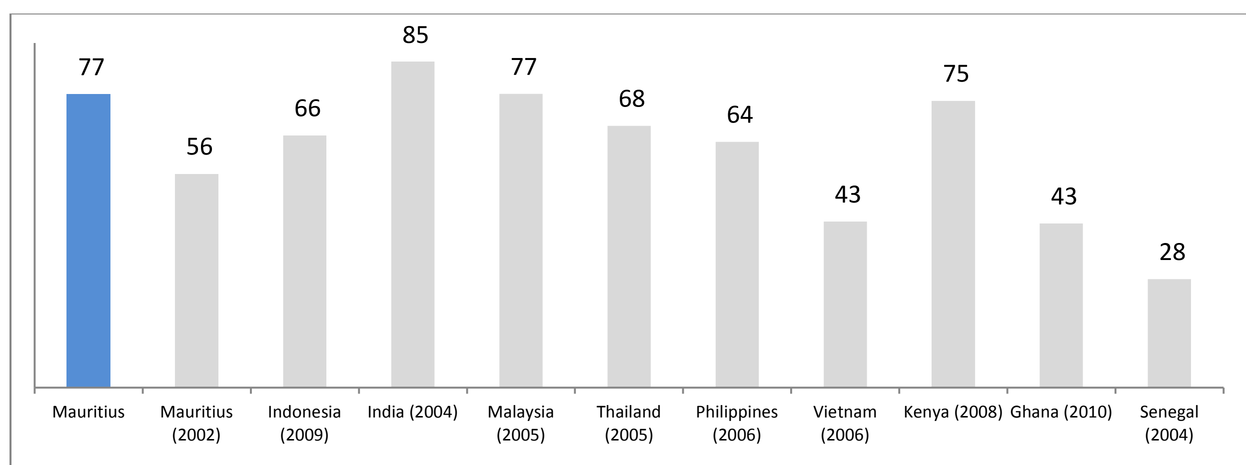

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Summary of Observance of OECD Corporate Governance Principles

	Principle	FI	BI	PI	NI
I. Ensuring the Basis for an Effective Corporate Governance Framework					
IA	Overall corporate governance framework			X	
IB	Legal framework enforceable /transparent		X		
IC	Clear division of regulatory responsibilities			X	
ID	Regulatory authority, integrity, resources		X		
II. The Rights of Shareholders and Key Ownership Functions					
IIA	Basic shareholder rights				
IIA 1	Secure methods of ownership registration		X		
IIA 2	Convey or transfer shares	X			
IIA 3	Obtain relevant and material company information		X		
IIA 4	Participate and vote in general shareholder meetings	X			
IIA 5	Elect and remove board members of the board	X			
IIA 6	Share in profits of the corporation		X		
IIB	Rights to part in fundamental decisions				
IIB I	Amendments to statutes, or articles of incorporation		X		
IIB 2	Authorization of additional shares			X	
IIB 3	Extraordinary transactions, including sales of major corporate assets			X	
IIC	Shareholders GMS rights				
IIC 1	Sufficient and timely information at the general meeting			X	
IIC 2	Opportunity to ask the board questions at the general meeting			X	
IIC 3	Effective shareholder participation in key governance decisions				X
IIC 4	Availability to vote both in person or in absentia			X	
IID	Disproportionate control disclosure			X	
IIE	Control arrangements allowed to function				
IIE 1	Transparent and fair rules governing acquisition of corporate control		X		
IIE 2	Anti-take-over devices		X		
IIF	Exercise of ownership rights facilitated				
IIF 1	Disclosure of corporate governance and voting policies by inst. investors			X	
IIF 2	Disclosure of management of material conflicts of interest by inst. investors				X
IIG	Shareholders allowed to consult each other		X		
III. Equitable Treatment of Shareholders					
IIIA	All shareholders should be treated equally				
IIIA 1	Equality, fairness and disclosure of rights within and between share classes	X			
IIIA 2	Minority protection from controlling shareholder abuse; minority redress			X	

Summary of Observance of OECD Corporate Governance Principles

	Principle	FI	BI	PI	NI
IIIA 3	Custodian voting by instruction from beneficial owners			X	
IIIA 4	Obstacles to cross border voting should be eliminated		X		
IIIA 5	Equitable treatment of all shareholders at GMs		X		
IIIB	Prohibit insider trading			X	
IIIC	Board/Mgrs. disclose interests		X		
IV. Role of Stakeholders in Corporate Governance					
IVA	Legal rights of stakeholders respected		X		
IVB	Redress for violation of rights			X	
IVC	Performance-enhancing mechanisms			X	
IVD	Access to information			X	
IVE	“Whistleblower” protection				X
IVF	Creditor rights law and enforcement		X		
V. Disclosure and Transparency					
VA	Disclosure standards				
VA 1	Financial and operating results of the company	X			
VA 2	Company objectives			X	
VA 3	Major share ownership and voting rights			X	
VA 4	Remuneration policy for board and key executives		X		
VA 5	Related party transactions		X		
VA 6	Foreseeable risk factors	X			
VA 7	Issues regarding employees and other stakeholders			X	
VA 8	Governance structures and policies		X		
VB	Standards of accounting & audit	X			
VC	Independent audit annually		X		
VD	External auditors should be accountable			X	
VE	Fair & timely dissemination		X		
VF	Research conflicts of interests			X	
VI. Responsibilities of the board					
VIA	Acts with due diligence, care		X		
VIB	Treat all shareholders fairly			X	
VIC	Apply high ethical standards			X	
VID	The board should fulfill certain key functions				
VID 1	Board oversight of general corporate strategy and major decisions		X		

Summary of Observance of OECD Corporate Governance Principles

	Principle	FI	BI	PI	NI
VID 2	Monitoring effectiveness of company governance practices			X	
VID 3	Selecting/compensating/monitoring/replacing key executives		X		
VID 4	Aligning executive and board pay		X		
VID 5	Transparent board nomination/election process			X	
VID 6	Oversight of insider conflicts of interest			X	
VID 7	Oversight of accounting and financial reporting systems		X		
VID 8	Overseeing disclosure and communications processes			X	
VIE	Exercise objective judgment				
VIE 1	Independent judgment			X	
VIE 2	Clear and transparent rules on board committees	X			
VIE 3	Board commitment to responsibilities			X	
VIF	Access to information			X	

Note: FI=Fully Implemented; BI=Broadly Implemented; PI=Partially Implemented; NI=Not Implemented; NA=Not Applicable