Kazakhstan

RISK & COMPLIANCE REPORT

DATE: January 2017

JERSEY TRUST COMPANY

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

Major Investment Areas:

Agriculture - products:

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

Industries:

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

Exports - commodities:

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

Exports - partners:

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

Imports:

Country comparison to the world: 58

Imports - commodities:

Machinery and equipment, metal products, foodstuffs

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

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Section 1 - Background

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

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF Status:

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

Compliance with FATF Recommendations

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

Key Findings from latest Mutual Evaluation Report (2011):

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

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

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

US Department of State Money Laundering assessment (INCSR)

Kazakhstan was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

While not a regional financial center, the Republic of Kazakhstan has the most developed economy and financial system in Central Asia and has an ambitious plan for creating a regional financial offshore zone in its capital, Astana. Governmental corruption, an organized crime presence, and a large shadow economy make the country vulnerable to money laundering and terrorist financing. A significant part of Kazakhstan's mineral wealth is held in offshore accounts with little public scrutiny or accounting oversight. The major sources of laundered proceeds are graft by public officials, tax evasion, and fraudulent financial activity, particularly transactions using shell companies.

There are some reports of increasing activity by Kazakhstani extremists inside the country and abroad, as well as terrorist groups with extended international links involved in illicit turnover of arms and explosives of unknown origin and active recruitment among the population. The funding source is unclear, as is the destination of the proceeds. In addition, smuggling of contraband goods and fraudulent invoicing of imports and exports by Kazakhstani businessmen remain common practices.

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

Outbound cross-border remittances increased significantly over the past decade and are expected to continue to increase. Informal remittance channels, such as hawala systems, and the cross- border physical transportation of cash are used by migrant workers who do not have, or do not want to use, the identification documentation required by financial institutions, as well as by individuals and businesses that wish to avoid payment of taxes and duties. It is not known whether the formal and informal remittance systems are used to launder money.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:
"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes
Are legal persons covered: criminally: NO civilly: NO

KNOW-YOUR-CUSTOMER (KYC) RULES:
Enhanced due diligence procedures for PEPs: Foreign: YES Domestic: NO
KYC covered entities: Banks and organizations that conduct banking transactions; stock exchanges and professional participants in the securities market; insurance and re-insurance companies and brokers; pension funds; central depositories; exchange offices and postal and other persons that perform fund transfers; lawyers and independent legal advisors; commodity stock exchanges; auditors and accountants and their organizations; organizers of gaming businesses; microfinance organizations; and non-bank electronic money system operators

REPORTING REQUIREMENTS:
Number of STRs received and time frame: 672,706: January 1 – November 10, 2015 Number of CTRs received and time frame: 1,056,865: January 1 – November 10, 2015 STR covered entities: Banks and organizations that conduct banking transactions; stock exchanges and professional participants in the securities market; insurance and re-insurance companies and brokers; pension funds; central depositories; exchange offices and postal and other operators that perform fund transfers; lawyers and independent legal advisors; commodity stock exchanges; auditors and accountants and their organizations; organizers of gaming businesses; microfinance organizations; and non-bank electronic money system operators

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:
Prosecutions: 15: January 1 - October 31, 2015
Convictions: 3: January 1 - October 31, 2015

RECORDS EXCHANGE MECHANISM:
With U.S.: MLAT: NO Other mechanism: YES
With other governments/jurisdictions: YES

Kazakhstan is a member of the Eurasian Group on Combating Money Laundering and the Financing of Terrorism (EAG), a FATF-style regional body.

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

Current AML/CFT law does not cover financial management firms, travel agencies, or dealers of art, antiques, and other high-value consumer goods. These entities are not required to maintain customer information or report suspicious activity.

All reporting entities subject to the AML/CFT law are inspected by their respective regulatory agencies, rather than by the financial intelligence unit (FIU). Most of those agencies, however, lack the resources and expertise to inspect reporting entities for AML/CFT compliance. The National Bank adopted the AML/CFT Inspection Manual covering its reporting entities.

The Law on the Further Improvement of State Management, passed on November 7, 2014, markedly improved the government's ability to detect, investigate, and prosecute money laundering crimes related to serious criminal offenses, including drug trafficking and trafficking in persons. The law expands cooperation among the Ministry of Interior, Anti-Corruption Agency, Committee for State Revenue, and Committee for National Security to combat money laundering. Prior to this change, the Financial Police was the only agency responsible for the investigation of money laundering crimes, and the Ministry of Interior investigated a wide range of predicate offenses but did not examine the financial aspects of crimes. Now that the law has passed, the newly-emerged players need to learn the specifics of complex financial investigations.

The Criminal Code provides for the mandatory seizure, in part or in whole, of property of any person convicted of miscellaneous predicate offenses as defined in the Code. In an effort to evade such forfeiture, criminals often register their assets in the names of shell companies or relatives. Since the burden of proof lies with law enforcement and can be difficult to meet, law enforcement agencies frequently do not attempt to determine the origin of assets during the initial stage of an investigation. During the first ten months of 2015, police were able to recover $3,633,367 from four suspects accused of laundering funds derived from economic contraband and from illegal sales, storage, and transportation of oil and oil products. The legislation does not address the seizure of property of corresponding value or indirect benefits from the proceeds of a crime.

Kazakhstan has no legal framework to allow the government to freeze terrorist assets in a timely manner; all asset freeze orders must have prior court approval. Kazakhstan lacks a mechanism to share with other countries assets seized through joint or trans-border operations.

The Government of Kazakhstan requires additional resources to ensure the proper enforcement of its financial crimes regulations. The government should train and educate local institutions and personnel on further implementation of the AML/CFT law. Kazakhstan should criminalize tipping off persons suspected of violations of AML/CFT law. The government should ensure due diligence and reporting requirements are applied to all appropriate entities. Kazakhstan also should amend its legislation, as necessary, to provide for the seizure and forfeiture of property of corresponding value or the indirect benefits of the proceeds of a crime and to allow for the freezing without delay of assets suspected to be linked to terrorist financing.

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

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

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

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

EU White list of Equivalent Jurisdictions

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

World Governance indicators

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

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Kazakhstan is not considered to be an Offshore Financial Centre

Key Findings from other US State Department Reports:

Narcotics

Kazakhstan is a strategically-situated transit country along the northern route for Afghan opioids, running through Central Asia into Russia and Europe. Cultivation and trafficking of cannabis and importation of synthetic drugs are rising, corresponding with growing domestic demand. An estimated 138,000 hectares (ha) of wild cannabis grows in the Chu valley of the Zhambyl region, which could potentially yield 100,000 metric tons (MT) of marijuana or nearly 3,500 MT of hashish. Kazakhstani customs intercepted 118 kilograms (kg) of heroin smuggled via the Caspian Sea, signaling an increase in maritime trafficking and underscoring the need for enhanced port security.

According to a 2014 report by the UN Office on Drugs and Crime (UNODC), increasing opium production in southern Afghanistan has prompted drug traffickers to shift routes away from the northern route through Kazakhstan, leading to a drop in heroin availability and a six-fold increase in prices within the country. This trend may not endure, however, if traffickers redirect shipments through western Kazakhstan in response to new poppy cultivation in northern Afghanistan, which was also reported by UNODC in 2014.

In 2015, Kyrgyzstan joined the Eurasian Custom Union and lifted border controls along Kazakhstan, potentially reducing barriers to drug trafficking. Construction of a new freight rail line from Gorgan, Iran through Turkmenistan to Beineu in western Kazakhstan may also provide new opportunities for trafficking in the future.

Kazakhstan's government has acknowledged a spike in the importation of synthetic drugs, mostly from China, and is working to combat the flow. New methods for sales of illicit drugs in Kazakhstan include bank payment systems, internet sales, and mail services.

Corruption

Kazakhstan does not encourage or facilitate drug trafficking or related activity as a matter of policy. In 2015, law enforcement officers were charged in six drug trafficking offences. The government rewards citizens for reporting police corruption.

Trafficking in Persons

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

Kazakhstan is a destination and, to a lesser extent, a source and transit country for men, women, and children subjected to sex trafficking and forced labor. There is also a large domestic trafficking problem. Kazakhstani women and girls are subjected to sex trafficking in the United Arab Emirates, Russia, Uzbekistan, Cyprus, Luxembourg, Sweden, and Turkey. Women and girls from Uzbekistan, Kyrgyzstan, Tajikistan, and rural areas in Kazakhstan, as well as Russia, Moldova, and Ukraine, are subjected to sex trafficking in Kazakhstan. The relative economic prosperity in the government capital Astana, the financial capital Almaty, and the western oil cities Aktau and Atyrau, has attracted large numbers of Kazakhstanis from rural villages, some of whom become victims of labor trafficking as construction workers and domestic servants, or victims of sexual exploitation in brothels. Sex trafficking occurs in small hotels in big cities and resort areas, and in rented apartments and multi-business establishments (such as a single facility that operates as a restaurant, hotel, and gas station). In most cases of trafficking for purposes of sexual exploitation, traffickers targeted young girls and women aged 15 to 35, primarily from rural areas, luring them with comparatively lucrative employment as waitresses, models, or nannies in large cities. Kazakhstani men, women, and children are subjected to conditions of forced labor in Russia and South Korea. Kazakhstani men, women, and children as well as men and children from Uzbekistan, Kyrgyzstan, Tajikistan, Russia, and the Philippines are subjected to conditions of forced labor in domestic service, construction, agriculture, private households, and small businesses in Kazakhstan, reportedly being subjected to physical violence, resulting in injuries such as broken limbs. Investigations revealed children of migrant workers from Kyrgyzstan work up to 75 hours per week in cotton fields in the Almaty province. Some children are forced to beg and others may be coerced into criminal behavior or pornography. Small organized criminal groups, in some cases led by former convicts, facilitated trafficking in Kazakhstan. Traffickers included women formerly in prostitution, career criminals, independent business people, taxi drivers, sauna owners or administrators, and farm owners. Many victims indicated that they were lured through fraud and deceit, sometimes by friends or acquaintances.

The Government of Kazakhstan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated its commitment to combating trafficking in persons by improving its anti-trafficking legislation and increasing training for law enforcement officials. The government increased its law enforcement efforts against human trafficking and funding of awareness campaigns and continued to protect identified victims. Government officials' complicity in trafficking remained a serious but unaddressed problem. The government identified an increased number of victims, but struggled to identify victims proactively, despite substantial law enforcement training. The government did not use a victim-centered approach when investigating and prosecuting potential crimes, and longer-term shelter and assistance to victims remained insufficient.

Terrorist Financing 2015:

Overview: The Government of Kazakhstan remained eager to increase counterterrorism cooperation with the United States, particularly in the areas of law enforcement and countering violent extremism (CVE). The Kazakhstani government is concerned about the threat posed by the Islamic State of Iraq and the Levant (ISIL) and by insecurity in Afghanistan. In June, Kazakhstan hosted a regional CVE conference in Astana and President Nursultan Nazarbayev spoke at the Leader's Summit on Countering ISIL and Violent Extremism hosted by President Obama in New York in September.

The Government of Kazakhstan views ISIL as a dangerous terrorist organization and appreciates Global Coalition to Counter ISIL efforts, but has not joined the Coalition. The Kazakhstani government does not have an official estimate of the number of Kazakhstanis that are fighting alongside ISIL. Media reports suggest that Kazakhstanis in Syria may fight with a host of armed groups, not just ISIL. Kazakhstani Security Council Secretary Nurlan Yermekbayev stated in July that 400 Kazakhstanis are fighting abroad, including in Afghanistan and Pakistan. National Security Committee (KNB) Chair Nurtai Abykaev publicly estimated in April that 350 Kazakhstanis are in Syria, but only 150 are fighting; the other 200 are family members.

Legislation, Law Enforcement, and Border Security: Kazakhstan has a comprehensive counterterrorism legal framework which includes laws on countering extremism and terrorism, and relevant bylaws and chapters in the Criminal Code, Procedural Code, and the Law on National Security. It is illegal for Kazakhstani citizens to fight in foreign wars. The government has taken a two-pronged approach to the few returning ISIL fighters, pursuing a rehabilitation program while arresting and prosecuting others.

President Nazarbayev approved amendments to several laws on local policing aimed at creating a local police service more accountable to the local representative bodies and communities. Kazakhstani courts designated ISIL as a terrorist organization on October 15.

Kazakhstan's legal counterterrorism framework came under criticism in 2015 due to the arrest and prosecution of individuals and groups for committing offenses that would not be considered terrorism by international standards. For example, authorities arrested members of locally-banned religious groups, such as Tablighi Jamaat, which eschews violence.

The government's counterterrorism plan allows for enhanced domestic interagency cooperation, coordination, and information-sharing, but the extent to which this occurred in 2015 is unclear. In the past, law enforcement bodies were criticized for killing rather than capturing members of suspected terrorist groups, but during the years leading up to and including 2015, they showed a greater tendency to arrest, detain, and question these suspects. There are four special counterterrorism detachments under the Ministry of Internal Affairs, and one under the KNB.

Law enforcement units demonstrated an increased capacity to detect, deter, and respond to terrorist incidents, and Kazakhstani security forces continued to participate in the Department of State's Antiterrorism Assistance program.

Kazakhstan's Border Guard Service (BGS) uses specialized passport control equipment at each passport control station, allowing officers to check for fraudulent documents. Every officer working at border crossing points must be a graduate of the BGS Academy's four-year program, where they study passport control using passport samples from around the world. BGS officers receive regular instructions and refresher training, including additional training by the Department of State's Export Control and Related Border Security (EXBS) Program. Additionally, the Department of State provided behavioral profiling training to identify traffickers and terrorists and K-9 training for counterterrorism operations.

In recent years, Kazakhstan has strengthened security on its southern border by adding radar systems, inspection equipment and vehicles, and specialized mobile inspection groups. To combat nuclear smuggling, EXBS supported training programs for Central Asian border guard cadets on how to prevent nuclear trafficking and terrorism, and initiated construction on a border crossing training facility for the Border Guard Service Academy in June.

Kazakhstani courts delivered numerous sentences in 2015 for promotion of extremism and terrorism, terrorist activities in Syria, and recruitment and plotting terrorist acts. The Prosecutor General's Office (PGO) announced 280 cases involving extremism and terrorism in Kazakhstan in 2015. Most of those arrested were recruiters. Very few cases addressed intent to commit terrorist acts or depart for foreign conflict zones. In 2015, 71 people were convicted in terrorism-related cases, 13 were charged with participating in foreign armed conflicts. Media reports on detainment or conviction on such charges appeared more frequently in 2015.

Countering the Financing of Terrorism: Kazakhstan belongs to the Eurasian Group; a Financial Action Task Force (FATF)-style regional body. Kazakhstan's unregulated financial sector is relatively small. In 2015, Kazakhstan passed amendments to its laws on countering the financing of terrorism to comply with international standards. The amendments seek to ensure conformity with updated FATF money laundering requirements and the legal assessment made by the Eurasian Group for Countering Legalization of Criminal Proceeds and Terrorism Financing. With these amendments, Kazakhstan is now in compliance with more than half of the FATF requirements, and Parliament is working toward greater compliance. Despite these efforts, in November the Eurasian Group downgraded Kazakhstan to "enhanced monitoring procedures" for its non-compliance with criminalization of money laundering, requiring Kazakhstan to report biannually on its progress in improving procedures for anti-money laundering/combating the financing of terrorism.

Countering Violent Extremism: The Government of Kazakhstan's countering violent extremism (CVE) efforts focused on preventing radicalization, with efforts to educate and provide alternatives to youth through social programs and economic opportunities. Building on the White House Summit on Countering Violent Extremism in February, Kazakhstan hosted a regional CVE Summit in Astana in June, where regional and international officials and subject matter experts discussed regional CVE challenges and opportunities for cooperation.

The Government of Kazakhstan focused its prevention efforts on detainment and prosecution of recruiters and proselytizers deemed by the government as sharing extremist ideas. Most convicted recruiters are placed in general regime penal colonies for three to six years. Human rights groups say the government exercises excessive vigilance in some cases. For example, one convict challenged his prison sentence claiming he was only discussing general religious topics online and sharing publicly available videos. The courts have blocked more than 700 websites for sharing extremist materials. In October, the website Vimeo was blocked by court order until the site removed videos that showed ISIL atrocities. Critics say Kazakhstan's anti-radicalization efforts are unnecessarily heavy-handed, and could actually encourage radicalization of members of otherwise peaceful religious groups.

Kazakhstan's Ministry of Culture and Sport conducted outreach to youth who studied abroad at religious schools suspected of indoctrinating youth in extremist ideology. Religious experts from the Committee for Religious Affairs reached out to at-risk youth via websites such as E-Islam, which was created to increase religious literacy and to counter radical ideas. Religious experts created groups on social networks such as Facebook and VKontakte, where they posted information and answered users' questions about religious extremism. Officials from the Committee for Religious Affairs provided training and awareness events for local imams, NGOs and media.

The government and NGOs continued rehabilitation and reintegration work with convicts and their relatives. The PGO claimed to have made progress in persuading convicted radicals to take less radical views.

International and Regional Cooperation: Kazakhstan participates in counterterrorism and CVE activities through the Collective Security Treaty Organization (CSTO), which has established a joint task force for preventing the propagation of terrorist and extremist ideas via the internet. Kazakhstan is a member of the Community of Independent States' (CIS) Anti-Terrorism Center that hosts a data bank of terrorist and extremist organizations banned in CIS that is made accessible to law enforcement and financial intelligence bodies of the member-states. The PGO cooperates with the OSCE on countering violent extremism and terrorism through joint workshops. Kazakhstan is a member of the Shanghai Cooperation Organization (SCO), which has a limited counterterrorism role. From September 2015 to September 2016, Kazakhstan chaired the SCO's Regional Anti-Terrorism Structure for coordination of joint antiterrorist exercises for its member states.

International Sanctions

Kazakhstan is not currently subject to any International Sanctions

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	29
World Governance Indicator – Control of Corruption	25

US State Department

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

Corruption and Government Transparency - Report by Global Security

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

Positive developments in relation to corruption and investment:

- Foreign direct investment flows have remained strong over recent years, highlighting the fact that Kazakhstan is an attractive investment country, despite the increased likelihood of companies encountering corruption.

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

Risks of corruption:

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

Political Climate

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

(OSCE) monitors criticised the election, pointing to a lack of transparency and competition in the vote, according to a 2011 article by The Associated Press.

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

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

Business and Corruption

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

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

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

Regulatory Environment

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

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

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

Section 3 - Economy

Kazakhstan, geographically the largest of the former Soviet republics, excluding Russia, possesses enormous fossil fuel reserves and plentiful supplies of other minerals and metals, such as uranium, copper, and zinc. It also has a large agricultural sector featuring livestock and grain. In 2002 Kazakhstan became the first country in the former Soviet Union to receive an investment-grade credit rating. Extractive industries have been and will continue to be the engine of Kazakhstan's growth, although the country is aggressively pursuing diversification strategies. Landlocked, with restricted access to the high seas, Kazakhstan relies on its neighbors to export its products, especially oil and grain. Although its Caspian Sea ports, pipelines, and rail lines carrying oil have been upgraded, civil aviation and roadways continue to need attention. Telecoms are improving, but require considerable investment, as does the information technology base. Supply and distribution of electricity can be erratic because of regional dependencies, but the country is moving forward with plans to improve reliability of electricity and gas supply to its population. At the end of 2007, global financial markets froze up and the loss of capital inflows to Kazakhstani banks caused a credit crunch. The subsequent and sharp fall of oil and commodity prices in 2008 aggravated the economic situation, and Kazakhstan plunged into recession. While the global financial crisis took a significant toll on Kazakhstan's economy, it has rebounded well, helped by prudent government measures. Rising commodity prices have helped the recovery. Despite solid macroeconomic indicators, the government realizes that its economy suffers from an overreliance on oil and extractive industries, the so-called "Dutch disease." In response, Kazakhstan has embarked on an ambitious diversification program, aimed at developing targeted sectors like transport, pharmaceuticals, telecommunications, petrochemicals and food processing. In 2010 Kazakhstan joined the Belarus-Kazakhstan-Russia Customs Union in an effort to boost foreign investment and improve trade relationships.

Agriculture - products:

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

Industries:

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

Exports - commodities:

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

Exports - partners:

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

Imports:

Country comparison to the world: 58

Imports - commodities:

Machinery and equipment, metal products, foodstuffs

Imports - partners:

Russia 37.9%, China 17.2%, Ukraine 6.7%, Germany 5.1%, US 4.8% (2012 est.)

Banking

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

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

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

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

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

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

Stock Exchange

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

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

Section 4 - Investment Climate

Executive Summary

Kazakhstan has made significant progress toward creating a market economy since it gained independence in 1991, and has achieved considerable results in its efforts to attract foreign investment. As of December 31, 2013, the total stock of foreign investment in Kazakhstan reached $209.1 billion. Of that total, net Foreign Direct Investment (FDI) constituted $129.5 billion, with portfolio and other investments comprising the remaining $79.6 billion. The majority of foreign investment is in the oil and gas sector, and the United States is a leading source of investment capital with around $31.4 billion invested in Kazakhstan during the period 2005-2013.

The government continues to make incremental progress toward its goal of diversifying the country's economy away from an overdependence on extractive industries by improving the investment climate. Kazakhstan's efforts to remove bureaucratic barriers have yielded some progress, and the World Bank in 2013 ranked the country 50 out of 189 in its annual "Doing Business" report. In spite of these incremental changes, however, corruption and bureaucracy remain challenges for foreign investors working in Kazakhstan. Attracting FDI in the underdeveloped manufacturing sector remains difficult and requires more concrete actions from the government.

The government maintains a dialogue with international investors and is committed to improving the investment climate. President Nazarbayev himself has publicly pledged to create a favorable climate for foreign investors in order to spur domestic innovation and the use of new technologies, and in early 2014 threatened to form a new government if reforms remained stalled. He made good on his threat in April 2014, and appointed a new prime minister with a clear mandate to improve the country's investment climate.

The country's vast hydrocarbon and mineral reserves continue to form the backbone of the economy, and foreign investment continues to flow into these sectors. Despite this growing investment, concerns remain about the government's tendency to challenge contractual rights, to legislate preferences for domestic companies, and to create mechanisms for government intervention in foreign companies' operations, particularly in procurement decisions. Together with vague and contradictory legal provisions that are often arbitrarily enforced, these negative tendencies feed the perception that Kazakhstan's investment environment is less than optimal.

The government is also optimistic that further integration with Russia and Belarus will make the country more attractive to foreign investors by expanding access to those countries' markets.

Although Kazakhstan has so far not realized the gains it sought when it joined the Customs Union with Russia and Belarus, economic integration will likely continue to deepen following the May 29, 2014 signing of a treaty to create a single economic space to be known as the Eurasian Economic Union.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude Toward FDI

Kazakhstan has attracted significant foreign investment since independence. As of December 31, 2013, foreign direct investment in Kazakhstan totaled $129.5 billion, primarily in the oil and gas sector. Kazakhstan is widely considered to have the best investment climate in the region, and numerous international firms have established regional headquarters in Kazakhstan.

Although Kazakhstan's government has incrementally improved the business climate for foreign investors overall, as explained below its efforts to support local content requirements have restricted foreign investment, especially in the extractive sector.

Other Investment Policy Reviews

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

Laws/Regulations of FDI

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

The 2003 Law on Investments established a single investment regime for domestic and foreign investors, and thus in principal codifies non-discrimination for foreign investors. It guaranteed the stability of existing contracts at the time of its passage, with the qualification that new contracts will be subject to amendments in domestic legislation, certain provisions of international treaties, and domestic laws dealing with "national and ecological security, health, and ethics." The Law on Investments contains incentives and preferences for government-determined priority sectors, providing customs duty exemptions and in-kind grants which are more fully explained in Part 5.2 (Performance Requirements and Investment

Incentives). The law also provides for dispute settlement through negotiation, use of Kazakhstan's judicial process, and international arbitration. In general, U.S. investors have expressed concern about the law's narrow definition of investment disputes, its lack of clear provisions for access to international arbitration, and certain aspects of investment contract stability guarantees.

The tax code that Kazakhstan adopted in 2009 lowered corporate income and value-added taxes (VAT), replaced royalty payments with a mineral extraction tax, and introduced excess profit and rent taxes on the export of crude oil and natural gas. Accordingly, the corporate income tax rate has dropped from 30% to 20%. The government gradually reduced the VAT from 16% in 2006 to 12% in 2009, where it is expected to remain in the near term. Kazakhstan applies a flat 11% social tax to employers based on employees' earnings, and a personal income tax rate of 10%. The tax rate for non-residents varies between 5% and 20% depending on the type of income. Subsurface users may be subject to additional taxes, such as signing bonuses, commercial discovery bonuses, and historical cost reimbursements.

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

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

Industrial Strategy

The government's primary industrial development strategies, such as the Concept for Industrial and Innovative Development 2015-2019 and the national program to attract investments, prioritize diversifying Kazakhstan's economy away from its overdependence on extractive industries. In order to facilitate the work of foreign investors, especially in targeted non- extractive industries, the government has announced plans to improve visa and work permit acquisition procedures, as well as to streamline customs clearance and cross-borders processes.

The government maintains a dialogue with foreign investors through the Foreign Investors' Council under the president, the Council for Improving the Investment Climate chaired by the prime minister, and a recently created Investment Ombudsman. The government is drafting a bill on the investment climate that would reportedly remove obstacles to increased foreign investment and expand incentives for investors, including simplification of work permit procedures, optional tax exemption, and long-term contracts with national companies.

President Nazarbayev in February 2014 publicly pledged to create a favorable climate for foreign investors in order to spur domestic innovation and the use of new technologies, and threatened to form a new government if investment climate reforms remained stalled. In April 2014, he made good on his threat, appointing a new prime minister with a clear mandate to improve the country's investment climate. At the time of this writing, it is unclear whether the new Prime Minister can implement the necessary reforms to increase foreign investment in Kazakhstan. Nevertheless, these events show that top officials are focused on investment climate issues.

Limits on Foreign Control

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

Privatization Program

By law and in practice, foreign investors can participate in privatization projects. The government and parastatal National Welfare Fund "Samruk-Kazyna" (SK) are currently preparing 103 SOEs for privatization from 2014-2016. These companies are mostly subsidiaries of large national companies operating in the energy, mining, transportation, and service sectors. SK plans also to conduct so-called People's Initial Public Offerings (IPO) from 2014-2016, the terms of which would allow citizens and institutional investors to buy up to 10% of the stock of national companies, such as those that operate Kazakhstan's electrical grid (KEGOC) and national railway system (Kazakhstan Temir Zholy).

Screening of FDI

Foreign investors have complained about the irregular application of laws and regulations, and interpret such behavior as efforts to extract bribes. Some investors report harassment by the Financial Police via unannounced audits, inspections, and other methods. At times, the authorities have used criminal charges in civil disputes as a pressure tactic.

Many foreign companies say they must vigilantly defend investments from a steady stream of decrees and legislative changes, most of which do not exempt or "grandfather in" existing investments. Foreign investors also complain about arbitrary tax inspections, as well as problems in finalizing contracts, delays and irregular practices in licensing, and land fees. Foreign companies report that the authorities at the local and national level arbitrarily impose environmental fines which are then placed in the general budget, as opposed to directly offsetting any alleged environmental damage. As a result, they argue that environmental fines are assessed to generate additional revenue rather than to punish companies for breaching environmental regulations. Some foreign firms have expressed concern that the government's failure to pay for services on time can prevent the foreign partner from advancing its investment program. In the past, the government has used such disputes as a pretext for alleging non-performance, enabling it to cancel a contract.

The government regulates foreign labor at macro and micro levels. Foreign workers must obtain work permits, which can be difficult and expensive. The government limits work permits to boost local employment based on the area of specialization and geographic region. From 2003-2008, the quota for foreign labor steadily increased from 0.14% to 1.6% of the total workforce, but was reduced by half on the heels of the economic crisis in 2008. In 2013, the foreign labor quota grew to 1.2% of the active labor force, but shrank in 2014 to 0.7%. A February 2011 amendment to Kazakhstan's Expatriate Workforce Quota and Work Permit Rules required medium and large businesses to have 90% local content in their workforce for technical personnel and 70% for company executives as of January 2012. Following a concerted campaign led by Western oil companies, Kazakhstan passed an October 2011 decree exempting Kazakhstan's three largest hydrocarbon projects – Tengiz, Karachaganak and Kashagan – from the requirement for three years. Other foreign businesses find it difficult to meet the local content demands, especially in technical fields where Kazakhstan cannot supply skilled workers in sufficient numbers.

The 2011 Law on Migration allows foreign citizens with legal residence in Kazakhstan to work without seeking additional permission and without being counted against labor quotas. Kazakhstan has also opened its labor market for its Common Economic Space partners Russia and Belarus, and labor migrants from those countries may stay in the country for 90 days without registering with the migration police.

Competition Law

A law on competition which came into force in 2009 targets cartel agreements, unfair competition, and uncompetitive actions by state agencies.

Investment Trends

Eurasian Economic Integration

Kazakhstan submitted its Memorandum on the Foreign Trade Regime (MFTR) to the WTO in 1996, and the first round of consultations on accession took place in 1997. Kazakhstan has made significant progress in implementing the legal framework necessary for WTO accession and has signed bilateral protocols on market access for goods and services with the bulk of working party members. Multiparty talks have been more contentious, with difficult negotiations centering on agricultural subsidies, sanitary and phytosanitary standards, local content requirements, export duties on petroleum, tariff rate adjustments, and enforcing intellectual property rights for pharmaceuticals. Despite domestic opposition to compromising on these issues, the government has vowed to satisfy working party concerns in order to accede to the WTO as soon as possible.

Russia, Belarus, and Kazakhstan officially entered into a Customs Union on July 1, 2010. Kazakhstan’s trade policy is now heavily influenced by regulations promulgated by the Customs Union and its governing body the Eurasian Economic Commission, a supra-national body located in Moscow. As a condition of membership in the Customs Union, Kazakhstan almost doubled its average import tariff and introduced annual tariff-rate quotas (TRQs) on poultry, beef, and pork. U.S. exporters have expressed frustration about the trade-limiting effects of these TRQs, and the way they are calculated and distributed.

On May 29, 2014 Kazakhstan and its Customs Union partners signed a treaty to create a common economic space to be known as the Eurasian Economic Union (EEU). The EEU is expected to further integrate their economies, and provide for the free movement of services, capital and labor within their common territory. The legal basis of the EEU will be the legislation of the Customs Union and 17 agreements of the Common Economic Space, a precursor to the Eurasian Union. The government of Kazakhstan has asserted that CES agreements comply with WTO standards.

Kazakhstan’s government is optimistic that further integration with Russia and Belarus will make Kazakhstan more attractive for foreign investment by expanding market access to those countries. A new law with a serious package of incentives for investors is scheduled to be presented to the Parliament by June 2014. Some proposed incentives include state reimbursement of investment costs related to industrial facility commissioning, corporate income tax exemptions, and executing long-term contracts with national companies.

Foreign Investment in the Energy & Mining Industries

Despite growing investment in Kazakhstan's energy sector, concerns remain about the government's tendency to challenge contractual rights, to legislate preferences for domestic companies, and to create mechanisms for government intervention in foreign companies' operations, particularly in procurement decisions. Together with vague and contradictory legal provisions that are often arbitrarily enforced, these negative tendencies feed the perception that Kazakhstan’s investment environment is less than optimal.

Business associations and investment advisors are concerned that Kazakhstan's tax code could undermine tax stability clauses in existing and future subsoil contracts. The government has stated that it will only guarantee tax stability for existing production sharing agreements (PSAs) and for the one major hydrocarbon project that has a tax and royalty contract (Tengiz). Furthermore, in December 2011, the minister of finance publicly stated that only tax rates, but not tax filing/collection procedures, will be held stable. Contracts for the Tengiz, Kashagan, and Karachaganak fields include tax stability clauses that theoretically shelter the operating companies from changes to the tax code or customs regime.

In April 2008, Kazakhstan introduced a customs duty on crude oil and gas condensate exports that on April 1, 2014 stood at $80 per ton. Companies that pay taxes on mineral or crude oil exports are exempted from export duties. Revenues from the export customs duty are not deposited into the National Fund, which accumulates much of the government's proceeds from the commodity sector, but instead go directly into the government budget. Government officials stated recently that export customs duties add about $3 billion to the budget, 95% of which comes from oil and oil products.

The 2010 Law on Subsoil and Subsoil Use contains explicit requirements for purchasing local goods and services related to offshore oil and gas exploration and production. The December 2009 Local Content Law (LCL) also requires companies to set a minimum percentage of local content for goods and services in contracts, but did not address pre-existing contracts. The government's local content strategy is widely considered to discriminate against foreign investors. International oil companies complain that implementation is uneven, irregular, and non-transparent, particularly at the local level. Representatives of international service companies also report it is difficult to obtain Kazakhstani certificates of origin. According to the LCL, a product must carry a Kazakhstani certificate of origin to meet the local content criteria, and the lack of such a certificate constitutes a legal violation. U.S. businesses have reported pressure from the government to rewrite contracts to include revised local content standards. The LCL allows the state to revoke the subsoil production rights of companies that do not meet local content requirements during a project's exploration phase. The National Agency for Local Content Development under the Ministry of Industry and New Technologies (MINT) has threatened to unilaterally terminate subsoil use contracts over alleged violations of local content requirements; no contracts are known to have been annulled.

The government is currently drafting an Action Plan on Enhancement of Local Content in Procurements for Major Subsoil Users and Strategic Mining and Petroleum Companies that would require companies to utilize 50% local content for front end engineering Design work, ban the export of geological information (core samples, rocks and reservoir fluids) and place a MINT representative on the Boards of Directors of key subsoil use projects. Kazakhstan's Foreign Investors Council was allowed to express industry's concerns with the Action Plan, the status of which is still pending.

The Subsoil Law also allows the government to unilaterally amend existing contracts of "strategic significance," and to terminate contracts deemed to threaten Kazakhstan's economic security or national interests. In April 2012, the government issued a new decree listing 361 hydrocarbon fields and mineral deposits as having "strategic significance." Companies must also obtain the government's permission to conclude combined exploration and production contracts. In addition, the Subsoil Law shortens the time limits for exploration contracts, enhances the government's authority to terminate contracts not in compliance with the law, requires parliamentary approval for tax stability clauses in individual contracts, and prohibits the future use of PSAs. Moreover, the law treats draft work plans containing cost and production volume projections as formal contractual commitments. Companies must establish equal terms, conditions, and pay for Kazakhstani and foreign workers, and the government can evaluate subsurface resource bids based on proposed social spending plans. The Law also severely reduces gas flaring quotas and imposes harsher penalties for environmental violations.

The Subsoil Law reaffirms the state's preemptive right to participate in equity transactions involving subsurface user rights in oil and gas or mining operations, including but not limited to the purchase of shares in new exploration and production projects. The Subsoil Law establishes transparent procedures for state and private companies to exercise subsurface rights, and clearly defines when the state can exercise its priority right. A December 2010 regulation established an interdepartmental committee to advise whether and how to exercise the government's preemptive rights in extractive projects. The 2012 Law on Natural Gas and Gas Supply regulates gas transportation, distribution, and pricing, and creates a state-owned monopoly for buying natural gas.

Despite effective dispute resolution mechanisms for most commercial activity, foreign investors have expressed serious concern about the lack of explicit provisions in the Subsoil Law for international arbitration. International law firms worry that the government might not include such provisions in future subsoil contracts, although the Ministry of Justice does have a special legal department to defend the country's interests in international courts. Parliament is also reviewing proposed amendments to the Subsoil Law aimed at improving offshore oil spill response measures and better differentiation between mining and oil and gas operations.

An April 2014 amendment to the Administrative Code reduces by 50% the size of potential penalties for exceeding permissible greenhouse gas emissions, and will exempt industrial firms from paying over $1 billion of greenhouse fines assessed in 2013. It also provides relief for greenhouse penalty charges for the first half of 2014. Several international oil companies, however, believe that the government targets them with environmental fines to recoup revenue losses caused by stagnant, declining, or delayed production.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	**Year**	**Rank or value**	**Website Address**
TI Corruption Perceptions index	2013	(140 of 177)	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2013	(67 of 178)	http://www.heritage.org/index/ranking

World Bank's Doing Business Report "Ease of Doing Business"	2013	(50 of 189)	http//doingbusiness.org/rankings
Global Innovation Index	2013	(84 of 142)	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	USD 9,780	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

The National Bank of Kazakhstan (NBK) regulates the national currency by means of a managed float exchange rate regime. In February 2014, the NBK devalued the tenge 19% from 155 to 185 to the U.S. dollar. According to the NBK, growing speculative pressure on the tenge and other emerging currencies, highly volatile world commodity markets, and the depreciation of the Russian ruble fueled this decision. Since devaluation, the NBK has pledged to maintain the tenge at 185 to the U.S. dollar, plus or minus 3 tenge, and promised to pursue policies designed to mitigate sharp fluctuations and short-term volatility of the exchange rate. Although this is the third such devaluation in the past 15 years, the tenge remains generally stable and the government has ample currency reserves to defend it within the designated corridor. Kazakhstan's total international reserves, including the NBK's foreign currency and gold reserves, equaled $99.3 billion (at current prices). The NBK monitors the currency operations of select subsidiaries or joint ventures of foreign corporations, primarily in the oil and gas, construction, and mining industries on the grounds that such practices improve statistical data on balance of payments and external debt.

Kazakhstan is bound by Article 8 of the International Monetary Fund's Articles of Agreement, adopted in 1996, which forbids the government to restrict currency conversions or the repatriation of investment profits. No distinction is made between residents and non-residents in opening bank accounts, but all account holders must have a Kazakhstani tax identification number. Money transfers associated with foreign investments, whether inside or outside of the country, are unrestricted. Article 16 of Kazakhstan's Law on Currency Regulation and Currency Control (hereafter the "currency law"), has since June 2005 permitted employers to pay non-residents their wages in foreign currency, and foreign investors may convert and repatriate earnings. However, since 2012 the government requires all companies in the electricity generation sector to reinvest all profits and amortization to improve their respective plants. This regulation is expected to expire in 2015, but the government has not yet announced the follow-on regulation. Only one foreign company is known to be effected by this regulation. The currency law likewise prohibits restrictions on money transfers, and allows individuals to take up to $10,000 in cash out of the country without documenting its origin. The Customs Union has further liberalized money transfer rules by removing the requirement for a member state central bank to certify the origin of amounts exceeding $10,000. On January 1, 2007, Kazakhstan eliminated licensing requirements and procedures for foreign currency operations except the licensing of exchange operations. Banks conducting transactions in a foreign currency are still required to notify the NBK of their operations once certain thresholds, $100,000 for capital outflow operations and $500,000 for capital inflow operations, are reached.

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

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

Remittance Policies

The U.S. Embassy is not aware of any concerns with regard to remittance policies or the availability of foreign exchange conversion for remittance of profits. However, Kazakhstan's 2012 Law on Electricity Generation could be used to require electricity generators to reinvest all of their profits into infrastructure upgrades, thereby negating foreign investors' opportunity to realize profits or take them out of the country.

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

3. Expropriation and Compensation

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

4. Dispute Settlement

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

Kazakhstan's Civil Code establishes general commercial law principles. The 2003 Law on Investments defines an investment dispute as "a dispute ensuing from the contractual obligations between investors and state bodies in connection with investment activities of the investor," and states such disputes can be settled by negotiation, litigation, or international arbitration. Aggrieved investors can seek dispute settlement in Kazakhstan's courts or international arbitration. Although some analysts believe the government prefers litigation to arbitration, courts will enforce arbitration clauses in contracts. Any court of original jurisdiction can consider investment disputes and bankruptcy cases. Under Article 28 of the Civil Code, however, the Almaty Financial Court retains jurisdiction over civil suits concerning financial institutions. Monetary judgments are normally made in domestic currency.

Bankruptcy

A 2014 bankruptcy law improves the insolvency processes by permitting accelerated business reorganization proceedings, extending the period for rehabilitation or reorganization, and expanding the powers of – and making more stringent the qualification requirements to become –insolvency administrators. The law also eases bureaucratic requirements for bankruptcy filings, gives creditors a greater say in continuing operations, and introduces a time limit for adopting a rehabilitation or reorganization plans, and adds court supervision requirements. In part due to these changes, the World Bank ranked Kazakhstan 54th for ease of resolving insolvency in its latest “Doing Business” report. The World Bank’s report indicates the average business bankruptcy in Kazakhstan takes 1.5 years on average, costs 15% of the debtor’s assets, and the average outcome is breakup and sale. The average recovery rate is 43 cents on the dollar.

Investment Disputes

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

In an effort to encourage foreign investment, the government has developed dispute resolution mechanisms aimed at enabling aggrieved investors to seek redress without requiring them to litigate their claims. In 2012, every regional government set up an Investors' Service Center, and the national government in 2013 established an Investment Ombudsman, who it is hoped will be able to resolve foreign investors' grievances by refereeing inter-governmental disagreements that hamper investors' activities. Although other countries have benefited from creating Investment Ombudsman, it is a new institution for Kazakhstan which has yet to demonstrate its efficiency.

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

International Arbitration

Despite effective dispute resolution mechanisms for most commercial activity, foreign investors have expressed serious concern about the lack of explicit provisions in the Subsoil Law for international arbitration. International law firms worry that because the Subsoil Law does not expressly provide for international arbitration, the government might choose not to include such a provision in future subsoil contracts, although the Ministry of Justice does have a special legal department to defend the country's interests in international courts.

ICSID Convention and New York Convention

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

Duration of Dispute Resolution

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

Additionally, the U.S. Ambassador participates in every meeting of the Prime Minister's Council to Improve the Investment Climate. The Council was created with the goal of paying special attention to questions related to foreign investors, including protection of their rights and interests. The Council has proved to be an efficient forum for foreign companies to raise concerns about doing business in Kazakhstan to the country's ministers and decision makers. In 2012-2013, the Council discussed various issues, including tax administration problems, decriminalization of administrative violations, the rule of law, judicial independence, and the arbitrary application of environmental fines.

5. Performance Requirements and Incentives

Investment Incentives

The 2003 Law on Investments and 2008 Tax Code provide for tax preferences, customs duties exemptions, and in-kind grants as incentives for foreign and domestic investment in priority sectors. The Investment Committee under MINT makes decisions on customs duties exemptions (with notification to customs authorities) and in-kind grants on a case-by-case basis. The Investment Committee also ensures that investors meet their contractual obligations. Regional tax authorities have the discretion to extend tax preferences, but the law also allows the government to rescind incentives, collect back-payments, and revoke an investor's operating license if an investor fails to fulfill contractual obligations.

The government is using preferences to help diversify its economy away from the extractive sector. Priority sectors include agriculture, agricultural chemistry, agricultural machinery manufacturing, construction materials, metallurgy, chemistry, food production, oil refining, oil and gas machinery manufacturing, transport, electric equipment, and mining. The government’s preference system applies to new and existing enterprises, and the duration of tax preferences increases with the size of investment.

In light of Kazakhstan's Accelerated Industrialization and Innovation Program, the government in 2012 amended the Law on Investments in 2012 to extend preferences to “strategic investment projects.” If a project helps develop the high-tech industry or exceeds $50 million of investment in an economically depressed region, it is eligible for property and land tax exemptions and/or subsidies for electricity and gas.

More information on preferences and incentives is available at www.invest.gov.kz.

Performance Requirements

Local content requirement is one of the government’s major performance requirements, and especially affects the work of foreign investors in energy and mining industries, as well as suppliers of goods and services to national holding companies like Samruk-Kazyna. The Ministry of Oil and Gas, MINT and SK monitor local content compliance in respective companies. The government has promised to reduce local content requirements upon accession to the WTO.

6. Right to Private Ownership and Establishment

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

Kazakhstan's constitution provides that land and other natural resources may be owned or leased by Kazakhstani citizens. The 2003 Land Code allows citizens and Kazakhstani companies to own agricultural and urban land, including commercial and non-commercial buildings, complexes, and dwellings thereupon situated. Amendments to the Labor Code in 2011 permit foreigners to own land to build industrial and non-industrial facilities, including dwellings. Foreigners may rent, but not own, agricultural and forest service land for up to 10 years. Foreigners may, however, own agricultural land through either a Kazakhstani-registered joint venture or a full subsidiary. The Land Law does not allow private ownership of the following types of land:

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

7. Protection of Property Rights

Real Property

Secured interests in property (fixed and non-fixed) are recognized under the Civil Code and the 2003 Land Code. All property and lease rights for real estate must be registered with the Ministry of Justice through its service centers distributed throughout the country. According to the “Doing Business Report”, Kazakhstan ranks 18 out of 189 countries in terms of the ease of registering property. In 2014, Kazakhstan introduced new procedures aimed at expediting property transfer and registration.

Intellectual Property Rights

To facilitate its WTO accession and attract foreign investment, Kazakhstan continues to improve its legal regime for protecting intellectual property rights (IPR). The Civil Code and various laws, in principle, protect U.S. intellectual property.

In 2010, the government amended its trademark legislation to comply with WTO guidelines on trade-related aspects of intellectual property rights (TRIPS), and in 2010 joined multiple international agreements intended to strengthen trademark protection. Kazakhstan has ratified 18 of 24 treaties endorsed by the World Intellectual Property Organization (WIPO). http://www.wipo.int/wipolex/en/profile.jsp?code=KZ). Trademark violation is a crime in Kazakhstan. Although trademarks are protected in Kazakhstan, counterfeit goods can still be found at local markets. Registration fees charged to foreign trademark applicants are significantly higher than those charged to domestic applicants. Applications for trademark, service mark, and appellations-of-origin protection must be filed with the National Patent

Office and approved by the Committee for Intellectual Property Rights. Trademarks and service marks are afforded protection for 10 years from the date of filing. In December 2011, Kazakhstan simplified procedures for trademark registration.

The 1996 Law on Copyrights and Related Rights largely conforms to the requirements of the WTO TRIPS Agreement and the Berne Convention. Importantly, the Copyright Law allows licensed vendors to seek damages from unauthorized dealers selling pirated merchandise.

Article 184 of the Criminal Code and Article 129 of the Administrative Code define the punishments for copyright violation, and the law also permits the government to target Internet piracy and shut down websites unlawfully sharing copyrighted material, provided rights holders register copyrighted material with Kazakhstan's IPR Committee. U.S. companies and associated business groups have alleged that 76% of software used in Kazakhstan is pirated, and criticized the government's enforcement efforts.

Patent protection is available for inventions, industrial designs, prototypes, novel processes and products with industrial applications. The National Institute of Intellectual Property performs formal examinations of patent applications. Patents for inventions are granted for 20 years, whereas patents for utility models are granted for a five year period with a possible three year extension. Prototype patents are granted a 10 year initial period of protection, with the possibility of an additional five year extension. Kazakhstani law permits an "innovation" patent valid for an initial three-year period with a possible extension for two years. Unsuccessful applicants can appeal the National Institute of Intellectual Property's decisions to the Committee for Intellectual Property Rights. Kazakhstan is a member of the Moscow-based Eurasian Patent Bureau and the Munich-based European Patent Bureau.

Disclosure of trade secrets as well as the production, purchase, transportation, storage or sale of unregistered or counterfeit pharmaceuticals are prosecuted by the Administrative Code and the Civil Code, although enforcement of these prohibitions is considered lax.

Contact at the U.S. Embassy in Astana: InvestmentClimateKZ@state.gov

Country/Economy resources: The American Chamber of Commerce (AmCham) in Kazakhstan: http://www.amcham.kz

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Local lawyers list:
http://kazakhstan.usembassy.gov/uploads/b8/LE/b8LEmttSzlth6cJkiKwuWQ/List-of-attorneys-in-Kazakhstan_June-2009.pdf

8. Transparency of the Regulatory System

The non-transparent application of laws remains a major problem in Kazakhstan and an obstacle to expanded trade and investment. Foreign investors complain of inconsistent standards and corruption. In spite of the government's efforts to encourage foreign participation in the economy, some foreign investors point out that the government is not always evenhanded and sometimes reneges on its commitments. Although the Investment Committee of the MINT was established to facilitate foreign investment, it has been largely unable to address the concerns of foreign investors, and the recently-created Investment Ombudsman has yet to prove effective.

Kazakhstan has steadily improved its business environment since independence. It has streamlined some bureaucratic practices, provided accelerated business start-up procedures, reduced minimum capital requirements for businesses, and simplified the procedures for registering property and getting construction permits. As a result, the World Bank in 2013 moved Kazakhstan up 3 places to 50 out of 189 countries in its “Doing Business” report.

9. Efficient Capital Markets and Portfolio Investment

Liquidity, Credit, Banking System, Hostile Takeovers

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

Most domestic borrowers obtain credit from Kazakhstani banks, although foreign investors often find margins and collateral requirements onerous, and it is usually cheaper and easier for foreign investors to use retained earnings or borrow from their home country. Kazakhstani banks have since 1998 placed Eurobonds on international markets and obtained syndicated loans to support domestic lending. Leading Kazakhstani banks were able to obtain reasonably good ratings from international credit assessment agencies until the global financial crisis struck. Kazakhstan has 38 commercial banks. As of February 1, 2014, the five largest banks (KazKommertsBank, HalykBank, BTA bank, Bank CenterCredit and Sberbank-Kazakhstan) held assets worth approximately $46.8 billion, or about 54% of the banking sector’s total assets. Although Kazakhstan's banking system remains stable, it has not yet recovered due to the poor and deteriorating quality of many banking assets, capital constraints, and the aggressive growth of consumer lending, in 2013 in particular. In spite of the government’s efforts, local banks have been unable to overcome a high rate of toxic assets. Loans overdue by more than 90 days reached nearly $23.7 billion as of February 1, 2014, and comprised just over 32% of the total. BTA bank, which has defaulted on its debt obligations twice in the past few years, “leads” Kazakhstan’s banks with $11.4 billion worth of non-performing loans on its books.

Kazakhstan's Stock Exchange (KASE), which has operated since 1993, is an insignificant source of investment. The number of listed companies dropped from 354 in 2010 to 131 in 2013. The government’s 2013 decision to consolidate all pension savings into a single state-owned pension fund practically froze the stock market, as private pension funds, which until that time were Kazakhstan’s main institutional investors, ceased to operate. Trading is dominated by block trades, and the spreads are extremely wide. In 2013, 57% of KASE trades were in foreign exchange, repo transactions comprised a further 37%, and government securities trading accounted for roughly 4% of KASE volume. In December 2013, the stock market capitalization was $28.2 billion, and bond market capitalization was $35.2 billion. The newly created Single Pension Fund has accumulated nearly $22 billion. Its largest investment positions are in Kazakhstani government securities (47.4%) and corporate bonds of Kazakhstan-based companies (21.4%). The Single Pension Fund is not listed, and does not trade, on the KASE. As the KASE is not fully developed, decreased capitalization and diminished transaction volumes have not impacted financial markets or the overall economic situation.

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

10. Competition from State-Owned Enterprises

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

The law on state property defines national companies, national holding companies, and national managing holding companies. A national company is a government-created joint stock company which operates in “fundamental industries” or facilitates regional economic development, and in which the state holds a controlling interest. A national holding company is a government-created entity which holds shares in national companies. A national managing holding company is a government-created entity which manages the government’s interest in national holding companies, national development institutes, and other legal entities. As of April 2014, Kazakhstan had three national managing holding companies, two national holding companies and 33 national companies. The law requires all SOEs to publish annual reports and submit their books for independent audit.

National Welfare Fund Samruk-Kazyna (SK) is Kazakhstan's largest national holding company, and manages the state-owned companies that dominate the oil and gas, energy, mining, transportation, information and communication sectors. By some estimates, SK controls more than half of Kazakhstan's economy, and is the nation's largest buyer of goods and services. Created in 2008, SK's official purpose is to facilitate economic diversification and to increase effective corporate governance; however, it spent its first two years spearheading the government's efforts to respond to the global financial crisis of 2008. The Prime Minister chairs SK's board of directors, and several other ministers and the Head of the Presidential Administration also serve on the board, alongside three independent directors. President Nazarbayev endowed SK with special rights, such as the ability to conclude large transactions between members of its holdings without public notification. SK enjoys a pre-emptive right to buy strategic facilities and bankrupt assets, and is exempt from government procurement procedures. Critically, the government can transfer state-owned property to SK, easing the transfer of state property to private owners. Although domestic and foreign companies can sell their products and services to SK, local content requirements may distort free competition. The government in 2013 created a national managing holding company called Baiterek to provide financial and investment support to non-extractive industries, drive economic diversification, and to improve corporate governance in its subsidiaries. Baiterek is comprised of the Development Bank of Kazakhstan, the Investment Fund of Kazakhstan, the Housing and Construction Savings Bank, National Mortgage Company, National Agency for Technological Development, Distressed Asset Fund and other financial and development institutions. Like SK, the Prime Minister is Chairman of the Board, assisted by several cabinet ministers and independent directors.

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

Although the government has announced plans to conduct IPOs to spur domestic private investment in national companies, the number of state-owned enterprises has increased in recent years. In addition to creating Baiterek in 2013, the government also established National Company Astana Expo-2017 that is responsible for Expo-2017 preparations. (Expo-2017 is an international exhibition designed to showcase "Future Energy" in Kazakhstan's capital, Astana.) The government also created KazAvtoZhol to operate a planned toll road network. Analysts consider these national companies to be quasi-sovereign entities due to their strong affiliation with the government. International investment ratings of national companies are usually tied to the sovereign rating. National holding companies and national companies pursue investment policies consistent with the government's official industrial policy. The government considers national companies tools for accomplishing its economic goals, and supports them accordingly. For example, since 2008 SK has several times received substantial subsidies and contributions from the government via its National Oil Fund.

Sovereign Wealth Funds

Kazakhstan's sovereign wealth fund is called the National Oil Fund, and was established by presidential decree in 2000. The fund exists to reduce the country's budgetary dependence on fluctuating world oil prices and to accumulate savings to benefit future generations. The Fund receives all direct taxes and a percentage of revenues from the oil sector, revenues from the privatization of state property in the mining and manufacturing industries, proceeds from sales of farmlands, as well as the Fund's investment income. The Ministry of Finance owns the National Fund, while the NBK acts as trustee and selects external administrators from internationally recognized investment companies or banks to oversee the fund. Information on external administrators and the assets they manage is confidential. In addition to preserving wealth for future generations, the Fund is also used to support the government's political and economic objectives. The Fund extended a $4 billion loan in 2012 to Kazakhstan's state-owned oil company KazMunayGas (KMG) to support its participation in the Kashagan oil field. In 2014, President Nazarbayev decided to invest around $5.5 billion from the Fund to stimulate economic diversification and small business development. The Fund also invests in the domestic economy through official transfers to the state budget, which currently vary from $6.8 billion to $9.2 billion annually. President Nazarbayev has decreed that the Fund should retain a minimum balance of no less than 20% of GDP. The NBK has directed the investment of $5 billion over the next five years into private equity, hedge funds, real estate, and infrastructure projects abroad to diversify the Fund's assets and increase returns. As of April 1, 2014, the National Fund's assets totaled $72.8 billion.

11. Corporate Social Responsibility

OECD Guidelines for Multinational Enterprises

Kazakhstan continues to make steady progress toward meeting OECD Guidelines for International Investment and Multinational Enterprises, and the government actively promotes corporate social responsibility. President Nazarbayev has repeatedly asked foreign investors and local businesses to implement corporate social responsibility (CSR) projects, to provide occupational safety, pay salaries on time, and invest in human capital. The President presents annual awards for achievements in CSR. Foreign Investors report that local government officials regularly pressure them to provide social investments in order to achieve local political objectives. These local officials also attempt to exert as much control as possible over both the selection of and the subsequent allocation of funding for the projects. A survey conducted in 2013 by a well-regarded NGO found that large companies are better practitioners of CSR principles than their small and medium-size counterparts, although there is a likely correlation between resources and CSR outlays.

12. Political Violence

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

In the January 15, 2012 parliamentary elections, the president's party Nur Otan won 80% of the vote, Ak-Zhol won 7.47%, and the Communist People's Party won 7.19%. All three parties elected are generally considered supporters of President Nazarbayev. While the Organization for Security and Cooperation in Europe (OSCE) asserted that the election did not meet Kazakhstan's OSCE commitments or international standards for democratic elections, and opposition groups denounced the election as fraudulent, no significant demonstrations against the results occurred.

13. Corruption

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

Resources to report corruption

The Ministry of Interior, Financial Police, Disciplinary State Service Commission, and Committee for National Security (KNB) are responsible for combating corruption. However, questions of jurisdiction and competition between the Financial Police and KNB have occurred recently.

Transparency International (TI) maintains a national chapter in Kazakhstan. Kazakhstan's rating in TI's annual Corruption Perceptions Index is 26/100, ranking Kazakhstan 140 out of 177 countries rated – a relatively weak score but the best in Central Asia. TI has pointed out that corruption is particularly prevalent in the judiciary, police, customs, land registration, licensing, and construction projects. The government has signed on to the Extractive Industries Transparency Initiative (EITI) and EITI's International Board has designated Kazakhstan as "EITI compliant" country.

U.S. firms have cited corruption as a significant obstacle to investment. Law enforcement agencies occasionally have pressured foreign investors who are perceived to be uncooperative with the government, a practice that is made possible by the fact that many errors or omissions that would constitute routine civil violations in OECD countries are treated as criminal cases in Kazakhstan. The government and local business entities are aware of the legal restrictions placed on business abroad, such as the Foreign Corrupt Practices Act and the UK Bribery Act.

14. Bilateral Investment Agreements

The United States-Kazakhstan Bilateral Investment Treaty came into force in 1994, and the United States and Kazakhstan signed an Investment Incentive Agreement in 1992.

In 1996, a Treaty on the Avoidance of Double Taxation between the United States and Kazakhstan came into force. Since independence, Kazakhstan has signed treaties on the avoidance of double taxation with 44 countries, and bilateral investment protection agreements with 47 countries (and ratified 30), including Great Britain, Germany, Italy, France, Russia, South Korea, Iran, China, Turkey, and Vietnam. In 2012, Kazakhstan signed investment agreements with Macedonia and Afghanistan, and joined the investment protection agreement of the Eurasian Economic Community (EVRAZES) in 2006. Some foreign investors have charged that Kazakhstani tax authorities are reluctant to refer double taxation questions to the appropriate bi-national resolution bodies.

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) and the government of Kazakhstan signed an Investment Incentive Agreement in 1992, and OPIC has been active in Kazakhstan since 1994. OPIC seeks commercially viable projects in Kazakhstan's private sector and offers a full range of investment insurance and debt/equity stakes. Kazakhstan is also a member of the Multilateral Investment Guarantee Agency (MIGA), which is part of the World Bank Group and provides political risk insurance for foreign investments in developing countries.

16. Labor

Kazakhstan has an educated workforce, although the proportion of highly technically competent workers is fairly small. Demand for skilled labor generally exceeds local supply. Technical skills, management expertise, and marketing skills are all in short supply. Many large investors rely on foreign workers and engineers to fill the void. The Kazakhstani government has made it a priority to ensure that Kazakhstani citizens are well represented in foreign enterprise workforces. In 2009, and as noted above, the government instituted a comprehensive policy for local content, particularly for companies in the extractive industries. The government is particularly keen to see Kazakhstanis hired into the managerial and executive ranks of foreign enterprises. Local content regulations require a minimum of 1% of a project budget be earmarked for training programs and workforce development, including overseas assignments with the lead operator. Employers' reliance on foreign labor in the face of poverty in rural Kazakhstan has become a political issue in recent years. The current minimum wage as of April 2014 is approximately $109.70 per month, and the minimum pension is $114.20 per month. As of February 2014, the government estimates the unemployment rate is holding steady at 5.2%.

The quota system which restricts the hiring of foreign employees and local content requirements create additional burdens for employers. Several American and other foreign employees doing business in Kazakhstan have informed the U.S. Embassy that immigration authorities continue to closely scrutinize foreign work permits. U.S. companies are strongly advised to contact Kazakhstan-based law and accounting firms and the U.S. Foreign Commercial Service in Almaty for current information on work permits.

The Constitution and 2007 Labor Code guarantee basic workers' rights, including the right to organize and the right to strike. Workers can exercise this right if all arbitration measures defined by law are exhausted. Strike votes must be taken in a meeting where at least half of workers are present, and strikers are required to give five days' advance notice to their employer, include a list of complaints, and tell the employer the proposed date, time and place of strike. The court has the power to declare a strike illegal at the request of an employer or the General Prosecutor's office. Workers who participate in illegal strikes are subject to penalties. The Labor Code prohibits lockouts. The government is drafting a new law on Labor Unions which several international organizations and labor unions believe will unduly restrict workers’ freedom of association by requiring previously independent unions to affiliate with larger unions. Several rights groups have also expressed concern that proposed amendments to Kazakhstan’s Criminal Code would increase penalties for participating in strikes that are deemed to be illegal, which is of special concern given Kazakhstan’s lack of an independent judiciary. Kazakhstan joined the International Labor Organization (ILO) in 1993, and has ratified key ILO conventions pertaining to minimum employment age, prohibition on the use of forced labor and the worst forms of child labor, prohibition on discrimination in employment, equal pay, and collective bargaining.

17. Foreign Trade Zones/Free Trade Zones

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

18. Summary of Investments and Tables

TABLE 2: Key Macroeconomic data, U.S. FDI in Kazakhstan

	Host Country Statistical Source*		U.S. Government or International Source		Source of Data
Data	Year	Amount	Year	Amount	
GDP (*Million USD)*	2012 2013	203,521 224,413.6	2012 2013(est)	203,500.0** 204,614.5	http://www.worldbank.org/en/country/kazakhstan Economist Intelligence Unit
FDI	Host Country statistical source *		U.S. Government or International Source		Source of Data

U.S. FDI (*Million USD)*	12/31/2013	13,794.8	12/31/2012	12,869.0**	http://elibrary-data.imf.org/public/FrameReport.aspx?v=3&c=11666796&pars=Country%2c916
Kazakhstan FDI in the U.S. (*Million USD)*	12/31/2013	611.7	12/31/2012	579.0**	http://elibrary-data.imf.org/public/FrameReport.aspx?v=3&c=11666796&pars=Country%2c916
Total inbound stock of FDI as % host GDP	6.2%	2013	6.3%	2012	

* - Local source is the NBK of the Republic of Kazakhstan: http://www.nationalbank.kz/?docid=679

** - Latest available data

TABLE 3: Sources and Destination of FDI

Kazakhstan, 2012*

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	120,074	100%	Total Outward	21, 228	100%
Netherlands	51,268	43%	Netherlands	11,718	55%
United States	12,869	11%	United Kingdom	4,271	20%
France	8,421	7%	Switzerland	835	4%
People's Republic of China	5,312	4%	Russian Federation	594	3%
Virgin Islands, British**	5,277	4%	United States	579	3%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: http://cdis.imf.org

*Although the NBK of Kazakhstan published the data as of the end of 2013 only, general results in terms of key foreign investors in the country and main destinations of Kazakhstan's outward direct investment are consistent;

** Tax heavens like Virgin Islands, British Cayman Islands, or Luxemburg have always been among top ten and top twenty sources of inward investment and destinations of outward investment.

TABLE 4: Sources of Portfolio Investment

Kazakhstan as of the end of June 2013*

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	67,371	100%	All Countries	9,638	100%	All Countries	57,733	100%
United States	34,508	51%	United States	4,846	50%	United States	29,662	51%
United Kingdom	4,348	6%	United Kingdom	946	10%	Germany	3,788	7%
Germany	4,141	6%	Japan	870	9%	United Kingdom	3,401	6%
Japan	3,915	6%	Switzerland	401	4%	France	3,345	6%
France	3,707	6%	France	362	4%	Japan	3,045	5%

Source: http://cpis.imf.org/

*Although the NBK of Kazakhstan published the data as of the end of 2013 only, results of Kazakhstan's portfolio investment assets are consistent;

Section 5 - Government

Chiefs of State and Cabinet Members:

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

Legal system:

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

International organization participation:

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

Exchange control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other capital flow transactions include:

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

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

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

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

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

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

Treaty and non-treaty withholding tax rates

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

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

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

1 Unless indicated otherwise, the lower rates in this column apply if the recipient company owns at least 10% of the capital or the voting power of the paying company, as the case may be.

2 This rate applies if the recipient company owns at least 25% of the capital or the voting power of the paying company, as the case may be.

3 The rate applies if the recipient company owns at least 20% of the capital or the voting power of the paying company, as the case may be.

4 The zero rate applies if the recipient company owns 50% of the capital of the paying company and that participation has a value of at least US$ 1 million, and the head office's state of residence has secured the participation. The 5% rate applies if the recipient company owns at least 10% of the capital of the paying company.

5 This rate applies if the recipient company has a direct holding of at least 25% of the capital of the company paying the dividends.

6 This rate applies if the recipient holds at least 30% of the capital of the paying company.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

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

Section 3 - Economy

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

(Source: CIA World Factbook)

Section 4 - Foreign Investment

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

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

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

Section 6 - Tax

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

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

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