



Latin American Private Equity &  
Venture Capital Association

# 2012 Scorecard

The Private Equity  
and Venture Capital  
Environment in  
Latin America



Multilateral Investment Fund  
Member of the IDB Group



DEVELOPMENT BANK  
OF **LATIN AMERICA**

In Cooperation with:

**Economist Intelligence Unit**

The  
Economist

## TABLE OF CONTENTS

Executive Summary .....	1
Scoring Criteria .....	2
2012 Scorecard and Overall Score Against PE/VC Investments.....	4
Overall Score and Evolution of Select PE/VC Markets: 2006-2012 .....	5
Argentina .....	6
Brazil .....	8
Chile .....	10
Colombia .....	12
Costa Rica .....	14
Dominican Republic .....	16
El Salvador .....	18
Mexico.....	20
Panama .....	22
Peru .....	24
Trinidad and Tobago.....	26
Uruguay.....	28
Israel.....	30
Spain .....	32
Taiwan.....	34
UK .....	36
Appendices .....	38
Contributors .....	39
AboutLA VCA.....	41

## 2012 Scorecard on the Private Equity and Venture Capital Environment in Latin America

# Executive Summary

The 2012 LAVCA Scorecard on the Private Equity and Venture Capital Environment in Latin America points to a stable regulatory environment across the region. While there were a number of score changes, there were no dramatic shifts within the regional rankings. In several major economies there are ongoing efforts to modify existing regulation that will affect PE/VC development in 2012 and beyond.

Eight of the 12 regional countries saw score changes this year in indicators related to both the broader operating environment and those pertaining directly to PE/VC. Most changes were positive, with only Argentina and El Salvador posting a downgrade in overall scores. The middle and bottom portions of the regional ranking saw slight changes, but the regional leaders maintained their positions. Chile ranks number one with a score of 75, followed by Brazil (72), Mexico (65) and Colombia (60).

This is the seventh consecutive year that Chile has led the regional ranking. The country continues to benefit from an overall environment of institutional and legal certainty, with strong scores for its judicial system and protection of intellectual property rights. But there is still regulatory complexity specific to private equity, including the need to set up feeder funds to raise capital from local institutional investors, which adds expense without contributing real protection for local pension funds. The current administration continues to demonstrate its commitment to the development of a local venture capital industry with major initiatives for entrepreneurs and new fund commitments.

Brazil performs strongly in the majority of indicators, but remains in second place due to weak scores on perceived corruption and protection of intellectual property rights. The country continues to pursue measures that promote investment in the country, including the elimination of the financial transactions tax (IOF) in 2011 for private equity investors.

## SCORING CRITERIA

*The criteria used in this study were chosen in close consultation between LA VCA and the Economic Intelligence Unit (EIU) research team, and reflected LAVCA's internal consultations with its members working in the industry. The real-world relevance of each of the criteria was initially evaluated through in-depth interviews conducted in late 2005.*

*For this seventh edition of the Scorecard, the EIU conducted 22 additional interviews in January and February 2012 with LA VCA members who are fund managers and regulators based in the Latin American region. The primary objective of the interviews was to obtain more in-depth information on the nature and impact of regulations in the country or countries in which they operate. In addition, the EIU received replies from another eight individuals to a set of written survey questions that were circulated in December 2011 and January 2012. The LA VCA Legal Committee conducted a peer review of the score notes in March 2012.*

*Five of the thirteen criteria – tax treatment, minority shareholder rights, restrictions on institutional investors, capital market development and corporate governance requirements – once again this year received double weighting within the 100 point score to reflect their central prominence in investment decisions made by PE/VC funds.*

*Overall score is the weighted total of all Scorecard indicators, ranging from 0-100, where 100 equals the best/strongest environment.*

*See Appendix A for a listing of the sources used by EIU researchers for the 2012 Scorecard.*

Among the top ranked countries, Mexico improved its score due to an upgrade on capital markets and feasibility of exits. Listing requirements for small and medium-sized companies (SMEs) to enter the Mexican stock exchange were eased, and the market is benefitting from added liquidity from the pension funds' participation. New local funds were raised through the Development Capital Certificates (CKDs) structure, and regulators made ongoing improvements to simplify the structure.

Colombia maintains its fourth place position in the regional ranking. While the country's scores did not change this year, positive trends in efforts to streamline regulation, improve the tax code and increase liquidity in capital markets have put the country on alert for possible upgrades in the future in key indicators.

After a downgrade in two indicators in 2011, Peru's overall score improved in 2012 with fund formation returning to its 2010 level. Managers indicate that the delays with new fund approvals have lessened. The country's macroeconomic outlook also remains strong.

Central American and Caribbean countries fared relatively well in the 2012 Scorecard. After downgrades in several indicators in 2010, Trinidad and Tobago returned to growth with an increase in its score for the protection of intellectual property rights. The improvement also affected its regional ranking. The country rounds out the top five, tied with Uruguay.

Both Costa Rica and Panama received score upgrades, in fund formation and entrepreneurship respectively. Due to a new law that went into effect in November, Costa Rica now has a specific legal vehicle for the creation of funds that can invest in privately-held companies. The impact of the regulation will be monitored over the coming years; currently fund operation is managed through offshore vehicles.

The Dominican Republic's overall score also increased due to an improvement in its laws on fund formation. However, due to a generally poor macro investment climate, the country remains ranked at the bottom of the regional ranking, now tied with El Salvador.

**A**rgentina continues to underperform relative to its size. The country's overall score decreased due to a downgrade in its score for registration/reserve requirements on inward investments. The announcement by the Kirchner administration of the nationalization of Argentine oil company YPF creates uncertainty for private investors. The country ranks above only the Dominican Republic and El Salvador in the regional rankings.

The 2012 Scorecard benchmarks Latin American and Caribbean countries by comparing them with four markets outside the region – UK, Israel, Spain and Taiwan. While the UK is known for its strong, established PE/VC industry, the industry in the other three comparator countries emerged more recently. All the countries in Latin America and the Caribbean score lower than the UK, Israel and Spain in this year's Scorecard. However, Chile and Brazil continue to rank above Taiwan, joined by Mexico which moved up due to a positive score change.

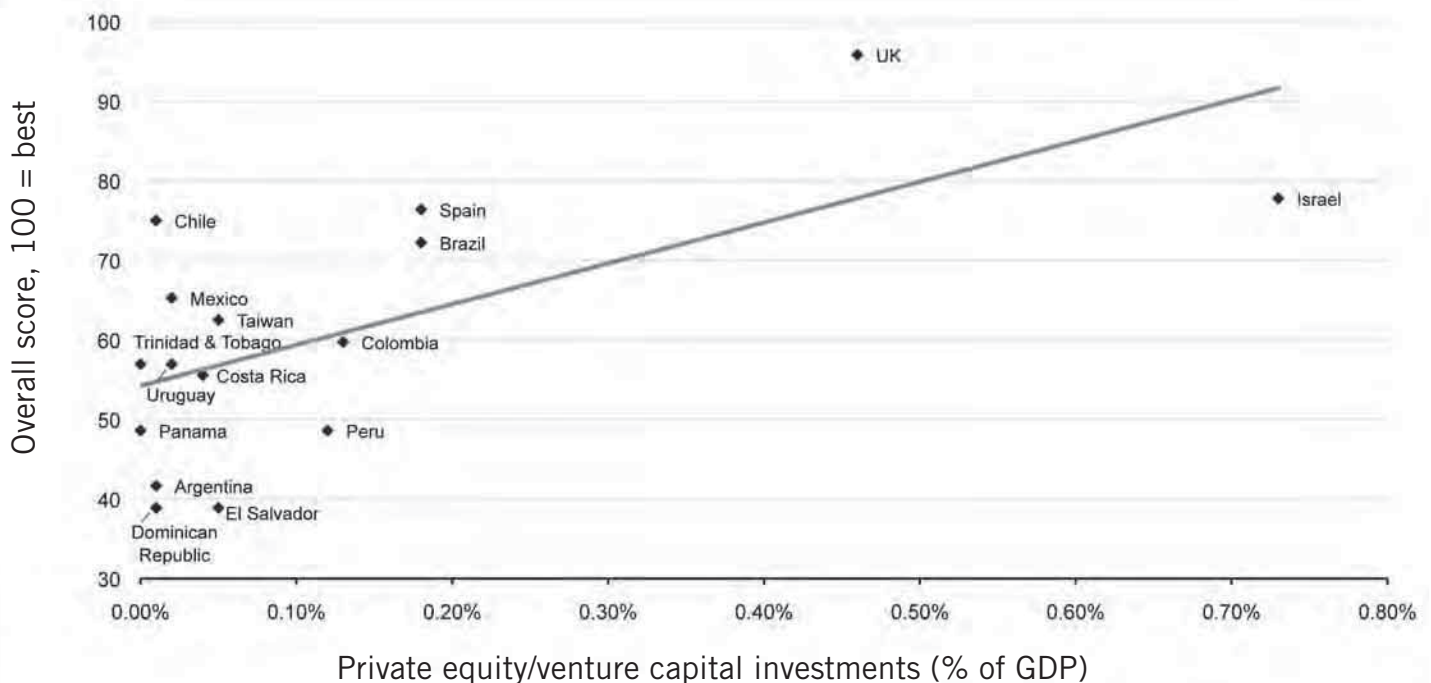
The full list of scoring criteria is:

- Laws on PE/VC fund formation and operation
- Tax treatment of PE/VC funds and investments
- Protection of minority shareholder rights
- Restrictions on local institutional investors investing in PE/VC
- Protection of intellectual property rights
- Bankruptcy regulation (encompassing bankruptcy procedures/creditor rights/partner liability in cases of bankruptcy)
- Capital market development and feasibility of local exits
- Registration/reserve requirements on inward investments
- Corporate governance requirements
- Strength of the judicial system
- Perceived corruption
- Use of international accounting standards and quality of the local accounting industry
- Entrepreneurship

# 2012 Scorecard

	Argentina	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	El Salvador	Mexico	Panama	Peru	Trinidad & Tobago	Uruguay	Israel	Spain	Taiwan	UK
<b>Overall score</b>	<b>42</b>	<b>72</b>	<b>75</b>	<b>60</b>	<b>56</b>	<b>39</b>	<b>39</b>	<b>65</b>	<b>49</b>	<b>49</b>	<b>57</b>	<b>57</b>	<b>78</b>	<b>76</b>	<b>63</b>	<b>96</b>
Laws on PE/VC fund formation and operation	1	4	3	3	2	2	0	2	2	2	2	2	4	3	4	4
Tax treatment of PE/VC funds & investments	1	3	3	2	3	1	2	3	2	1	3	3	2	4	3	4
Protection of minority shareholder rights	2	3	3	3	1	2	1	3	2	1	2	2	4	3	1	4
Restrictions on local institutional investors investing in PE/VC	0	3	3	3	1	1	1	3	2	2	2	2	3	3	2	4
Protection of intellectual property rights	2	2	3	2	3	1	2	2	2	2	3	2	2	3	3	4
Bankruptcy procedures/creditors' rights/partner liability	2	3	3	2	2	1	2	2	2	2	2	3	2	3	3	3
Capital markets development and feasibility of exits	2	3	3	2	2	1	2	3	2	2	2	1	3	3	3	4
Registration/reserve requirements on inward investments	1	3	3	3	3	3	3	3	3	3	4	3	3	3	3	3
Corporate governance requirements	2	3	3	3	2	3	1	3	2	3	2	2	4	3	2	4
Strength of the judicial system	2	2	3	2	3	1	1	2	2	1	2	3	3	2	2	4
Perceived corruption	1	1	3	1	3	0	1	1	1	1	1	3	3	3	2	3
Quality of local accounting/use of international standards	4	4	3	2	4	3	3	3	2	4	3	3	4	4	2	4
Entrepreneurship	3	3	3	2	2	1	2	2	1	2	2	2	3	2	4	4

## Overall Score Against PE / VC Investments



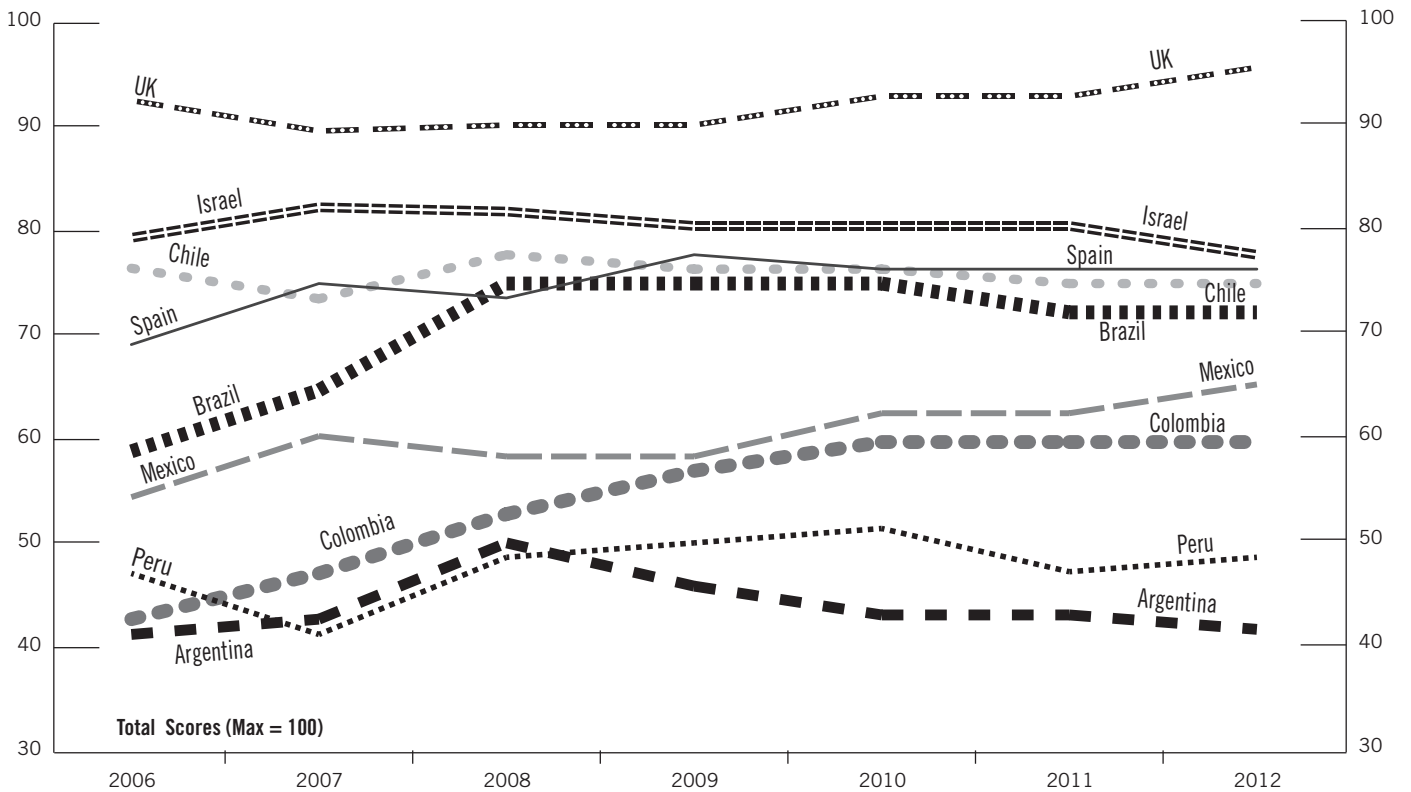
Source: 2012 LAVCA Industry Data

## Overall Score Ranked by 2012 scores

Regional Rank	Country	Score <i>(1-100 where 100 = best)</i>	Change from 2011 (▲▼)	PE/VC % GDP
	UK	96	▲ 3	0.46%
	Israel	78	▼ 3	0.73%
	Spain	76		0.18%
1	Chile	75		0.01%
2	Brazil	72		0.18%
3	Mexico	65	▲ 2	0.02%
	Taiwan	63		0.05%
4	Colombia	60		0.13%
=5	Trinidad & Tobago	57	▲ 1	0.00%
=5	Uruguay	57		0.02%
7	Costa Rica	56	▲ 2	0.04%
=8	Panama	49	▲ 2	0.00%
=8	Peru	49	▲ 2	0.12%
10	Argentina	42	▼ 1	0.01%
=11	Dominican Republic	39	▲ 1	0.01%
=11	El Salvador	39	▼ 4	0.05%

Overall score is the weighted total of all scorecard indicators, ranging from 0-100 where 100=best / strongest environment

## Evolution of Select PE/VC Markets: 2006-2012



## Country Profile

# ARGENTINA

	2012	2011
<b>OVERALL SCORE</b>	<b>42</b>	<b>43</b>
<b>REGIONAL RANKING</b>	<b>10TH</b>	<b>10TH (TIED)</b>

Argentina's overall score fell this year due to a downgrade in registration/reserve requirements on inward investments as a result of a new law that makes reporting requirements more onerous. The lack of a specific regulatory framework for PE/VC and of local institutional capital remains a major constraint for the development of the industry. However, the country continues to attract a number of investments in seed and early stage deals, especially in the IT sector.

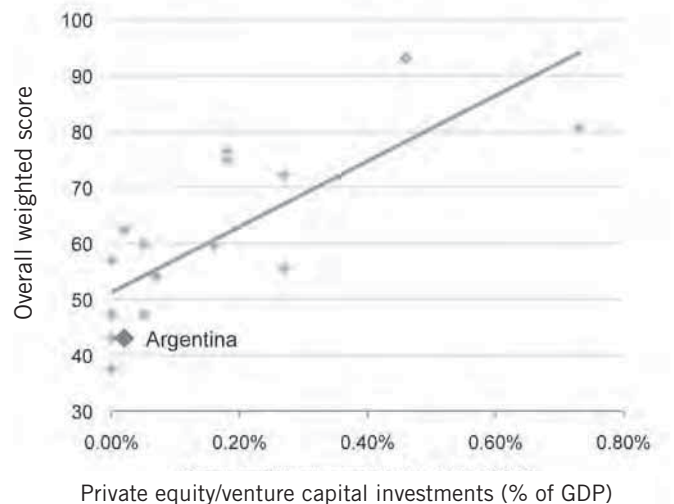
**Strengths:** Argentina has one of the strongest entrepreneurial communities in the region. The quality of accounting standards also remains among the best in the region, but otherwise strengths are limited.

**Challenges:** The country lacks a regulatory framework for PE/VC investors and provisions for local institutional investors to participate in the industry. Argentina also suffers from legal uncertainty, underdeveloped capital markets and a complex, high tax environment.

	score	change
<b>Overall score</b>	<b>42</b>	<b>▼ 1</b>
Laws on PE/VC fund formation and operation	1	
Tax treatment of PE/VC funds & investments	1	
Protection of minority shareholder rights	2	
Restrictions on local institutional investors investing in PE/VC	0	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	2	
Registration/reserve requirements on inward investments	1	▼ 1
Corporate governance requirements	2	
Strength of the judicial system	2	
Perceived corruption	1	
Quality of local accounting/use of international standards	4	
Entrepreneurship	3	

Indicators are scored from 0-4 where 4 = best score  
Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

### Overall score against PE / VC investments



### Argentina ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	1	The lack of a specific regulatory framework for PE/VC is still a major constraint in Argentina. The Funds Law makes general provisions for funds of various types, some of which can be used to operate PE/VC funds. However, most funds, including those managed by Argentine firms, continue to be incorporated abroad, with local managers typically taking the form of <i>sociedades anonimas</i> . It is still difficult for some funds to demonstrate to authorities, particularly the Justice Inspector, that a fund is a non-Argentine entity. This requires documentation establishing that shareholders are foreign nationals and participating entities are registered abroad. An offshore fund wishing to register as a limited partnership must identify its partners in the City of Buenos Aires, though other jurisdictions such as the Province of Buenos Aires do not have such restrictions. (Interviews, January 2012, January 2011; EIU Country Finance November 2011)
Tax treatment of PE/VC funds & investments	1	Argentina remains a complex, high-tax environment for PE/VC. The general corporate tax rate is 35%. Other taxes include a financial transactions tax (an effective rate of 0.4%); taxes on management companies' services (3% local tax on gross income and 21% value-added tax on fees); and in the city of Buenos Aires stamp tax (0.8%) and in some cases financial services tax (4.9%). Capital gains are subject to normal tax rates of 35%, but locally domiciled funds (which are uncommon) investing in Argentine companies can deduct 50% of capital gains. The transfer of shares by a foreign, non-resident company or fund is not subject to Argentine income tax, though dividends paid to Argentine entities by non-resident entities such as PE funds are withheld at a 35% rate if payments exceed accumulated taxable income. (EIU Country Commerce, July 2011, July 2010; Interviews January 2012, January 2011; EIU/LAVCA 2009 Survey; hg.org)



## Argentina ScoreNotes

Aspects	Score (4-0)	Notes
Protection of minority shareholder rights	2	Protection is weak and encourages PE funds to invest in Argentine businesses incorporated abroad and for some funds discourages the taking of minority positions at all. Relevant regulations such as the capital market reform of 2011 are applicable only to publicly traded firms. The 2008 corporate governance code issued by the securities commission is entirely voluntary. The shareholder law does allow for shareholder agreements and domestic and international arbitration clauses, which can be set up by offshore funds so as to use foreign legal jurisdictions for disputes. Enforceability is uneven. (EIU Country Finance, November 2011, October 2010; interviews January 2012, January 2011)
Restrictions on local institutional investors investing in PE/VC	0	The December 2008 re-nationalisation of social security closed the door to the meagre participation of pension funds as institutional investors. While nationalised pension funds can allocate up to 50% of surpluses in government bonds and local private companies' shares, there is no provision for investing in PE/VC funds. Prospects of a return to PE/VC investment in the foreseeable future seem dim. Insurance companies are allowed to invest only in liquid instruments that are externally rated; new measures adopted in October 2011 required insurers to repatriate all investments held abroad in excess of US\$1.6bn, within 50 days. (EIU Country Finance, November 2011, October, 2010.; Interviews, January 2012, January 2011)
Protection of intellectual property rights	2	The Office of the US Trade Representative included Argentina on its Priority Watch List in 2011. While the USTR noted that Argentina has improved its enforcement efforts over the past year, it mentioned that the country does not effectively enforce criminal penalties and fails to provide adequate protection against unfair commercial use of data and tests to gain pharmaceutical marketing approval. (EIU Country Commerce, July 2011, USTR Special 301 Report 2011)
Bankruptcy procedures/creditors' rights/partner liability	2	The 2002 <i>Ley de Quiebras</i> allows firms to restructure debts through an extra-judicial procedure ( <i>concurso de acreedores</i> ) without the unanimous shareholder approval previously required (and with approval of only 2/3 of creditors – a simple board majority suffices). However, employees and tax authorities receive priority over creditors. For the past several years, the government has promoted work-outs outside the court system ( <i>acuerdos preventivos extrajudiciales</i> ) and from 2011 an amendment allows employees to form a cooperative to participate in the reorganization, though one fund manager reports that these can still be lengthy if minority investors raise objections. World Bank Doing Business 2011 finds bankruptcy is slightly quicker and less costly, and yields a somewhat higher recovery rate for creditors, as compared to the regional average. Bankruptcy liability concerns are not a major obstacle to PE/VC investing if provisions are stated. (Interviews, January 2012, January 2011)
Capital markets development and feasibility of exits	2	Argentina's already thin capital markets deteriorated further in 2008 after the government nationalised the private pension-fund system. Markets have remained underdeveloped since that time, with participants pointing out that uncertainty in the domestic capital market prevents the development of a long-term fixed interest rate market. Further capital market development is hampered by a lack of local institutional investors. The country's stock exchange is fairly small and dominated by listings by large foreign companies. Most trades are made in government issued debt instruments. (EIU Risk Briefing, Country Finance 2011, US Department of State 2011 Investment Climate Statement)
Registration/reserve requirements on inward investments	1	A system of complex and frequently shifting exchange controls and reporting requirements became even more onerous in the last quarter of 2011, meriting a score downgrade. Effective October 31 <sup>st</sup> , 2011, all purchases of foreign currency are subject to an audit by the tax revenue agency, with all transactions verified by banks and foreign exchange houses via a new online system. Since late 2010, any Argentine citizen with more than US\$250,000 abroad must report on where the funds originated. Inflows of foreign portfolio funds must remain in the country for a minimum of 365 days, and 30% of the investment amount must be deposited in an interest-free US-dollar account with the central bank for one year. Foreign currency transactions between residents and non-residents must be registered by the central bank, and capital repatriation exceeding US\$5M needs authorization from the central bank. (EIU Country Finance, November 2011, October 2010; EIU Country Commerce, July 2011, July 2010; Interviews, January 2012, January 2011)
Corporate governance requirements	2	Standards exist under the 2001 capital markets reforms, but only for publicly traded firms, and enforcement through the judicial system is lengthy and cumbersome. Shareholder agreements and arbitration clauses are used, though enforceability is uneven. World Bank Doing Business 2012 rates Argentina as average in regional terms on ability of shareholders to sue, above average on disclosure, and below average on director liability. (EIU Country Finance, November 2011; Interviews January 2012, January 2011; EIU/LAVCA 2009 Survey)
Strength of the judicial system	2	The Argentine justice system is slow, though commercial arbitration exists. The government's commitment to an independent judiciary has become increasingly uncertain. The US State Department notes that the judiciary is often reluctant to impose deterrent penalties on criminal cases. Government influence over private enterprise continues, and, in any dispute with the government, the judiciary can be subject to political pressure. (EIU Risk Briefing, US State Department 2011 Investment Climate Statement)
Perceived corruption	1	The influence of special interest groups and a lack of transparency foster a sense of corruption. This perceived political corruption continues to be a hurdle for attracting PE/VC funding. The country scores 105 out of 178 on Transparency International's 2011 Corruption Perceptions Index. Without a strengthening of the legal system, it will be difficult to address the problem of corruption, which permeates many levels of government. (EIU Country Report, Jan 2012, EIU Country Finance 2011, Corruption Perceptions Index 2011)
Quality of local accounting industry/use of international standards	4	Local accounting norms are generally in line with international standards. Argentine GAAP is used by SMEs as a whole, though full international standards are followed by those that also do business abroad and larger firms. International auditors are present and reliable. Listed companies are required to use IFRSs starting in 2012; they remain prohibited for private companies. (Interviews January 2012, January 2011; Deloitte IASPLUS 2012)
Entrepreneurship	3	The cost of starting a business is significantly below the regional average, as is the time required to register a business. Contract enforcement is similarly better than regional averages. The economic crisis earlier this decade promoted a burst of entrepreneurial activity as well as greater public, media, and governmental support for start-ups and small business. (World Bank Doing Business 2012, Interviews, January 2012)

## Country Profile

# BRAZIL

	2012	2011
<b>OVERALL SCORE:</b>	<b>72</b>	<b>72</b>
<b>REGIONAL RANKING:</b>	<b>2ND</b>	<b>2ND</b>

Brazil's overall score did not change from 2011. The country continues to perform well on the majority of indicators, scoring on par or above the regional averages. The IOF tax was lowered to 0% for private equity investors in 2011, after an initial decrease from 6% to 2% in 2010, a positive signal to investors. The impact of a self-regulation code that went into effect in March 2011 remains uncertain, particularly as it relates to the penalty for non-compliance. Brazil's entrepreneurial community continues to gain strength, with a number of early stage deals involving US-based investors announced in 2011.

**Strengths:** The regulatory framework for fund formation and the quality of accounting standards rank as the country's major strengths, though it scores strongly on most indicators.

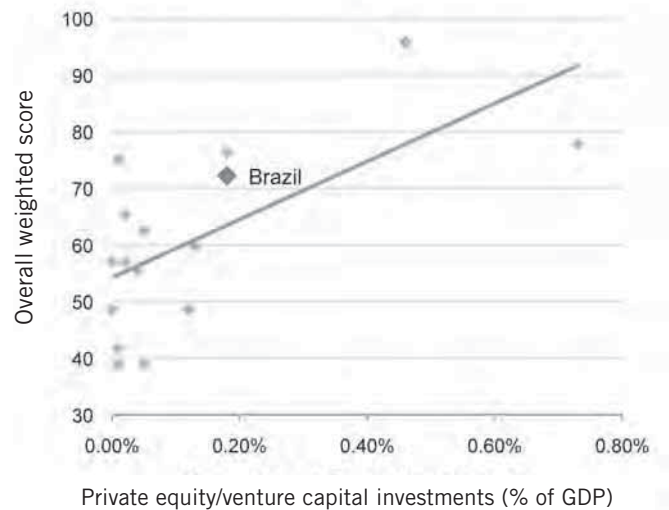
**Challenges:** Brazil still battles perceptions of corruption and a slow-moving judicial system hinders the enforcement of intellectual property rights.

	score	change
<b>Overall score</b>	<b>72</b>	
Laws on PE/VC fund formation and operation	4	
Tax treatment of PE/VC funds & investments	3	
Protection of minority shareholder rights	3	
Restrictions on local institutional investors investing in PE/VC	3	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	3	
Capital markets development and feasibility of exits	3	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	3	
Strength of the judicial system	2	
Perceived corruption	1	
Quality of local accounting/use of international standards	4	
Entrepreneurship	3	

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

### Overall score against PE / VC investments



### Brazil ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	4	Brazil has two main fund frameworks: <i>fundos mutuos de investimento em empresas emergentes</i> (FIEEs), created for VC activity and <i>fundos de investimento em participacoes</i> (FIPs,) created for PE funds. Many Brazilian fund managers also utilize offshore limited partnerships to structure funds. A new "self-regulation" code for both FIEEs and FIPs established by the Brazilian Association of Private Equity and Venture Capital (ABVCAP) and Brazilian Financial and Capital Markets Association (ANBIMA) went into effect in March 2011. Norms address issues in the formation and governance of funds such as transparency, conflicts of interest, related party transactions, and composition of investment committees. Compliance with the code is obligatory for members of both associations, though it is not clear what sanctions would pertain for non-compliance and whether such cases would be divulged publicly. Managers note that impact of the code has not yet been felt, but expect that it will gradually set standards in coming years and help benchmark performance. (Interviews, January 2012, January 2011; ABVCAP website 2011; EIU/LAVCA 2011 Survey; Valor Economico, December 20, 2010)
Tax treatment of PE/VC funds & investments	3	Brazil has a complex and multi-layered tax system with an effective corporate tax rate of 34% (slightly less for smaller companies). Foreign-exchange transactions for portfolio investments are now exempt from the financial operations tax ( <i>Imposto sobre Operações Financeiras</i> —IOF) of 2% that is levied on other types of foreign investment. Since 2006, foreign investment in regulated PE/VC funds is exempt from income and capital gains tax provided it does not come from entities registered in tax haven countries and that the stake in the fund does not exceed 40%. Domestic investors are taxed at 15%. Dividends paid to residents and non-residents are not subject to withholding. Investment funds set up as FIPs are pass-through. (Interviews January 2012, January 2011; EIU Country Commerce, September 2011)

## Brazil ScoreNotes

Aspects	Score (4-0)	Notes
Protection of minority shareholder rights	3	The current corporate law framework was designed to extend greater protections to minority shareholders, and introduced shareholder controls, tag along rights and the mandatory distribution of dividends. Preferred, non-voting shareholders must receive dividends at least equal to common, voting shareholders, and preferred, non-voting shares may not exceed 50% of all shares. Shareholders representing 10% of the capital have the right to elect one member of the audit committee. Minority rights are more limited under a limited liability company or a closed SA. (EIU Country Commerce, September 2012, September 2011; EIU Country Finance, April 2011; ibgc.org.br; Interviews, January 2012, January 2011)
Restrictions on local institutional investors investing in PE/VC	3	Brazilian pension funds have been active investors in PE/VC for over a decade. The fact that some pension funds continue to demand a seat on the investment committees of funds they invest in remains a concern. The practice makes international investors wary due to the governance conflict. "Open" pension funds (those not limited to employees and retirees from specific companies) may invest 60% of AUM in variable income instruments, including funds. Since September 2009 "closed" pension funds may invest 10% of reserves in PE/VC and 10% in offshore funds. Insurance companies may invest up to 50% of reserves in variable income instruments, such as shares. (EIU Country Finance, April 2011; Interviews, January 2012, January 2011; ABVCAP website; Valor Economico, December 20, 2010)
Protection of intellectual property rights	2	Brazil has overhauled its intellectual property legislation in recent years, significantly improving IPR protection and enforcement compared to the 1990s. Despite progress, piracy is still common in the software and music industries, with the formal market representing less than half of all sales. However, the process of registering patents and trademarks has been improved within the National Institute of Industrial Property. In recognition of its efforts to improve the IPR, the Office of the US Trade Representative upgraded Brazil from its IPR Priority Watch List to its Watch List in 2007. (EIU Country Commerce, September 2011, US Investment Climate Statement 2011, USTR 2011 Special 301 Report)
Bankruptcy procedures/creditors' rights/partner liability	3	Bankruptcy procedures enacted in February 2005 are similar to US Chapter 11 and have brought positive results, including closing loopholes that disadvantaged minority shareholders. Brazil's law creates a 180-day window to negotiate restructuring deals with creditors inside or outside the court system and gives creditors 30 days to respond to restructuring plans. Where bankruptcy is inevitable, the law allows for more rapid proceedings and includes creditors. Ease of tax evasion by insolvent firms remains an obstacle. Partner liability beyond capital shares is not an issue. The World Bank's Doing Business 2012 finds that resolving insolvency is more time-consuming, less costly, and yields a much lower recovery rate than regional averages. (Interviews, January 2012, January 2011; US Country Commercial Guide, 2011)
Capital markets development and feasibility of exits	3	Overall, the strength and high turnover rate of the Brazilian stock market offer investors better exit options relative to other regional markets. Brazil's stock exchange, BM&FBovespa, is the largest stock exchange in Latin America in terms of market capitalization and one of the largest in the world. As of end-2011, BM&FBovespa had 373 listed companies and a market capitalization of BRL2.29 trn, a 10.6% decrease compared to end-2010. The market saw 11 IPOs as of October 2011, but announced that 40 companies are waiting to go public once current global market volatility subsides. Despite its size, local currency and derivative markets are relatively underdeveloped. Domestic insurance companies and pension funds are the largest local investors. (EIU Country Finance, April 2011; Bloomberg; BM&FBovespa)
Registration/reserve requirements on inward investments	3	Simple online registration of forex transactions exists for record-keeping. The central bank requires registration of all investments so that foreign parties can secure their right to acquire foreign currency directly from authorized institutions. There are no reserve requirements. (EIU Country Commerce, September 2011)
Corporate governance requirements	3	Public companies are required to use external auditors and publish annual financial reports. In 2001, the Bovespa created three new segments, each with progressively higher governance requirements. As of March 2011, 174 listed companies (up from 160 a year earlier) had voluntarily adhered to these more stringent corporate governance standards, representing about 65% of market capitalization at that time. The Securities Commission (CVM) published voluntary, non-binding governance standards in 2002 and firms are requested, but not required, to report on their non-compliance. While there is no penalty for non-compliance, firms that are at least six months late in filing their annual reports are placed on a list published on the CVM's website. Shareholder agreements are a common and legally enforceable means of dealing with these issues in non-listed invested firms. The "sole proprietor limited liability company" legal figure ( <i>empresa individual de responsabilidade limitada</i> ) introduced in February 2012 may prove attractive to some entrepreneurs since they no longer need to procure a partner to enjoy limited liability; the governance implications and any role for outside investors remains unclear. The World Bank's Doing Business 2012 continues to rate Brazil's shareholder ability to bring suits as well below the regional average, but director liability and disclosure requirements well above. (Interviews, January 2012, January 2011; EIU Country Commerce, September 2011; EIU Country Finance, April 2011; Pellon & Asociados, February 1, 2012)
Strength of the judicial system	2	Generally, contracts in Brazil are upheld. However, cases move slowly through the judicial system. According to the World Bank's Doing Business 2012 report, it takes an average of 731 days to enforce a contract, slightly higher than the regional average of 708, though the average cost of a claim is lower. Brazil's judiciary system is perceived as generally fair. Alternative dispute settlement mechanisms via private arbitration, including recourse to international arbitration where specified in shareholder agreements, are available and function well. (EIU Country Commerce 2011; US 2011 Investment Climate Guide; World Bank Doing Business, 2012)
Perceived corruption	1	Businesses report that corruption is an obstacle to investing and operating in Brazil, despite recent reforms. Enforcement of corruption laws varies by state in Brazil, and corruption is reported to be problematic in business dealings with some divisions of the government. Scandals in recent years have stemmed from accusations of illegal rebates on government contracts. Brazil's tax and social security systems have also been the source of corruption incidents in recent years. Brazil's Transparency International score increased slightly in 2011, though its overall ranking slipped from 69 to 73. (EIU Country Report 2012; US Country Commercial Guide 2011, Transparency International)
Quality of local accounting industry (international standards)	4	Movement toward IAS has been rapid in recent years. Companies listed on the Novo Mercado section of the stock exchange must use US GAAP. All listed corporations as well as financial companies were required to transition to IFRS by 2010, though IFRS are not permitted for non-listed entities. Amendments in 2007 to the Corporate Law bring Brazilian GAAP in line with IAS for both listed and non-listed firms. International auditors are present. (EIU Country Commerce September 2011; Interviews January 2012, January 2011; Deloitte IAS Plus 2012)
Entrepreneurship	3	Though the time and procedures required to start a business in Brazil are above the regional average, start-up costs remain low. The government provides support for the development of small and medium enterprises through subsidized loans and simplified tax procedures. The 2012 budget for government-funded Brazilian Innovation Agency (FINEP), which is tasked with funding investment projects, including entrepreneur-focused initiatives, increased to BRL\$6bn, a 63% increase over 2011. The aforementioned introduction of the "sole proprietor limited liability company" will also help facilitate starts-ups. (World Bank Doing Business, 2012; FINEP)

## Country Profile

# CHILE

	2012	2011
<b>OVERALL SCORE:</b>	<b>75</b>	<b>75</b>
<b>REGIONAL RANKING:</b>	<b>1ST</b>	<b>1ST</b>

Chile remains at the top of the regional ranking, with no score changes year-on-year. While the PE/VC industry is strong, there remain opportunities to improve structures for international investors, particularly as it relates to the continued need to set up feeder funds in order to raise capital from local institutional investors. Overall, the administration remains supportive of the expansion of the PE/VC industry with ongoing announcements of new initiatives and fund commitments.

**Strengths:** Chile scores well in all categories, but is particularly strong in perceived corruption, intellectual property rights and judicial transparency when compared to regional averages.

**Challenges:** The country's overall score would benefit from an improvement in the quality of accounting standards (efforts are underway to require all non-listed firms to implement international financial reporting standards by 2013) and the easing of certain restrictions on local institutional investors.

### Chile ScoreNotes

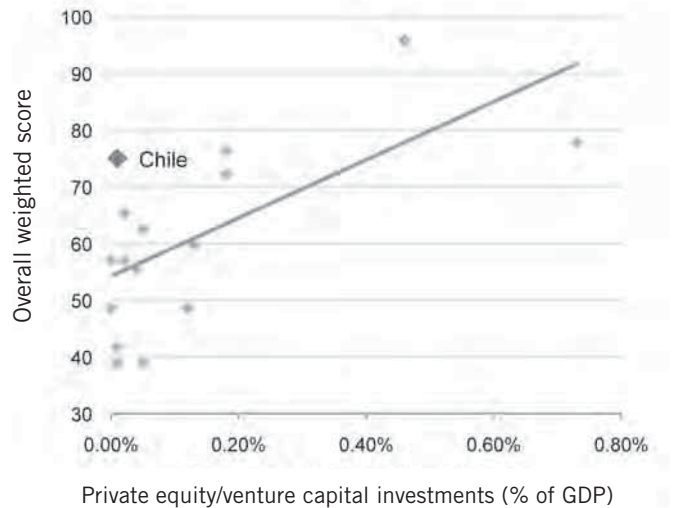
Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	3	The process of opening a <i>fondo público</i> with the <i>Superintendencia de Valores y Seguros</i> (SVS) remains slow and costly. <i>Fondos privados</i> are more flexible and have less oversight. Few PE funds are set up onshore because of the lack of pass-through provisions. Law 18,815 of 1989 allowed the first risk-capital funds ( <i>fondos de inversión de desarrollo de empresas</i> —FIDEs). (EIU Country Finance, May 2011; Interviews, February 2012, January-February 2011; EIU/LAVCA 2011 Survey)
Tax treatment of PE/VC funds & investments	3	Corporate tax is assessed in two stages, with a first stage rate of 20% on income in 2011 (up from 17% in 2010 as a part of an earthquake surcharge) and falling to 18.5% in 2012 and 17% in 2013. A second stage tax of 35% is assessed on profits. Foreign investors still face some obstacles including lack of pass-through provisions, though they also enjoy tax-stability guarantees. A value-added tax of 19% on fund administrator commissions for foreign participants makes Chile less attractive for hosting regional funds. A capital markets reform package (Law 20,190 or MK2), implemented in June 2007, in principle created a series of exemptions from capital gains taxes (assessed at the standard corporate rates) intended to stimulate venture capital investment, but they have remained difficult to access in practice. (Interviews, February 2012, January-February 2011; EIU Country Commerce, January 2012)
Protection of minority shareholder rights	3	The 2000 <i>Ley de OPAS</i> law first established minority rights for public firms. Minorities of less than 10% can request outside inspection of transactions. A new corporate governance law effective January 1, 2010 goes further in regulating issues for public firms with minority investors. For private firms (limited liability companies and closed SAs), there are fewer requirements. Shareholder agreements are a frequent recourse, but their enforcement can be slow. The <i>sociedad por acciones</i> (a share-issuing limited-liability company) allows for additional flexibility in the transfer of shares and the agreement and exercise of corporate control, but is not subject to specific government regulation. (Interviews, February 2012, January 2011; EIU Country Commerce, January 2012; EIU Country Finance, May 2011; EIU/LAVCA 2010 Survey)

	score	change
<b>Overall score</b>	<b>75</b>	
Laws on PE/VC fund formation and operation	3	
Tax treatment of PE/VC funds & investments	3	
Protection of minority shareholder rights	3	
Restrictions on local institutional investors investing in PE/VC	3	
Protection of intellectual property rights	3	
Bankruptcy procedures/creditors' rights/partner liability	3	
Capital markets development and feasibility of exits	3	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	3	
Strength of the judicial system	3	
Perceived corruption	3	
Quality of local accounting/use of international standards	3	
Entrepreneurship	3	

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

### Overall score against PE / VC investments



## Chile ScoreNotes

Aspects	Score (4-0)	Notes
Restrictions on local institutional investors investing in PE/VC funds	3	Pension funds and insurance companies may only invest in funds that are registered in Chile (though they may invest in stocks and other instruments abroad), resulting in international firms establishing local 'feeder funds.' Pension funds can commit up to 0.5% of AUM in any given foreign investment vehicle. The overall limit of asset allocation to PE/VC is also not subject to straight forward regulation but fixed according to a flexible rate determined periodically by the Central Bank. Reporting requirements are onerous. Since June 2007, two other major types of new institutional investors have been able to enter the PE/VC markets; banks (authorized to invest through their affiliates up to 1% of their assets eligible for investing in PE/VC funds as well as the ability set up their own funds); and CORFO, the major state development agency (which can invest up to 40% of a fund's shares, in addition to a wide range of credit lines it offers for PE/VC). (Interviews, February 2012, January 2011; EIU Country Finance, May 2010)
Protection of intellectual property rights	3	The country remains on the USTR's Priority Watch List due to issues with pharmaceutical patents and lack of protection mechanisms for new technology. Chile's government sent Congress a bill to strengthen the protection of pharmaceutical patents, with the aim is to bring to an end a lengthy conflict with the US Trade Representative (USTR), which has threatened to introduce trade sanctions against Chile unless the matter is properly addressed. The country ratified WIPO's Patent Cooperation Treaty in 2008 and created a specialised brigade within the police force to handle IPR crimes. In late 2009, Chile passed a major upgrade to its domestic copyright legislation, albeit without provisions targeting copyright infringement on the Internet. (EIU Country Commerce, January 2012; US Country Commercial Guide 2011, USTR 301 Report, 2011)
Bankruptcy procedures/ creditors' rights/ partner liability	3	The bankruptcy law of 2005 facilitates extra-judicial accords with creditors. Firms may ask courts to call creditors' meetings and name an expert facilitator to help negotiate debt restructuring, but the process can be slow. It remains almost impossible for restructuring firms to obtain fresh injections of capital given the lack of priority in repayment accorded to lenders or investors. Partner liability is limited to capital share. The World Bank's Doing Business 2012 report notes that bankruptcy is slower, slightly less costly, and has a lower recovery rate in Chile compared to regional averages. (Interviews, February 2012, January 2011 EIU Country Report)
Capital markets development and feasibility of exits	3	While Chile's capital markets have developed overall, low levels of market capitalisation and high costs associated with listing requirements have meant that IPO exits are not accessible to the vast majority of SMEs. Fund managers indicate that companies with annual sales of less than US\$100M would have difficulty executing an IPO. The Chilean government is considering a package of reforms intended to boost liquidity and trading activity in capital markets. As part of this reform process, the stock exchanges in Chile, Colombia, and Peru were combined into the Latin American Integrated Market (MILA) in May of 2011, a move which is expected to lead to more IPOs. Chilean stocks accounted for 49% of the total of trades on MILA in 2011. A similar cross-border forex trading platform is being planned for 2012. (EIU Country Finance 2011; MILA website - mercadointegrado.com; Interviews, January 2011)
Registration/ reserve requirements on inward investments	3	A simplified procedure, created in 2000, enables foreign portfolio investors to obtain a Chilean tax ID number from their locally-registered custodial bank or broker. There are no reserve requirements or exchange controls, though a financial analysis unit continues to monitor suspicious financial transactions under money-laundering and terrorist-financing legal restrictions. (EIU Country Commerce, January 2012)
Corporate governance requirements	3	A new corporate governance law effective January 1, 2010 strengthened legal provisions for publicly traded companies regarding board composition and procedures, independent board members, shareholder meetings, and disclosure policies. Yet a scandal erupted in mid-2011 with a prominent publicly traded Chilean firm (which was PE-backed in the past and whose stock was currently held by prominent pension funds), which raised some concerns regarding effectiveness of board control and governance practices, as well as mandated financial disclosure practices in the country. It is possible the widely publicized scandal together with ongoing concerns might lead to additional corporate governance reforms in the near to mid-term. The most recent global country ranking of corporate governance by GPI places Chile well below the emerging market average and well below the scores of Brazil and Mexico. In April 2010, the SVS announced that all publicly listed firms must publish their financial accounts and any relevant information on their websites. The 2000 <i>Ley de OPAS</i> initially set up governance norms for public corporations. Privately held companies have fewer legal requirements. The World Bank's Doing Business 2012 continues to score Chile above the OECD and regional averages on disclosure requirements and director liability, though below average on ability of shareholders to file suit. In practice, investors rely a great deal on shareholder agreements to establish workable corporate governance practices. (EIU Country Commerce, January 2012; Biblioteca del Congreso Nacional de Chile, January 8, 2010; Interviews, January 2011, January 2010; GovernanceMetrics International, 2010)
Strength of the judicial system	3	In general, Chile's judicial system is transparent and independent, though it operates slowly. The government has also been known to attempt to influence the system by dictating who is promoted to the Supreme Court or exerting pressure when a state-dependent firm becomes involved in a dispute. Nonetheless, the judiciary is widely considered to be high quality. The law permits the use of private, alternative dispute resolution mechanisms, such as arbitration centers. (US Country Commercial Guide 2011; EIU Country Commerce 2012)
Perceived corruption	3	Chile stands out among Latin American countries for its relatively low level of perceived corruption. Transparency International ranks Chile as the least corrupt country in Latin America. The quality of the bureaucracy is high and implementation capacity is strong. The country has firm institutional traditions that form a solid framework for public officials. (EIU Country Commerce 2011; Transparency International)
Quality of local accounting industry (international standards)	3	As of 2009, IFRS are required of all listed firms, and by 2013, all non-listed firms are required to have them in place, with implementation dates varying by firm size. International accounting firms are present in Chile. There are currently often two sets of standards in Chilean corporate accounting. Listed firms use IFRS, while non-traded firms often use multiple or parallel systems of accounting standards, and SMEs in particular often have unrecorded transactions. As a result, investors must review financials carefully with outside auditors before entering deals. (Deloitte IAS PLUS 2012, EIU Country Commerce, January 2012, January 2010; Interviews February 2012, January 2011)
Entrepreneurship	3	Chile continues to foster a strong entrepreneurial environment. Government support for SMEs and start-ups is growing through the creation of a national competitiveness council and the activities of the development agency, CORFO. The cost of starting a business is also one of the lowest in the region. In the World Bank's 2012 Doing Business guide, Chile's 'Starting a Business' ranking jumped from number 62 to 27. The government also improved the business registration process through an online system. (World Bank Doing Business 2012, Interviews January 2012)

## Country Profile

# COLOMBIA

	2012	2011
<b>OVERALL SCORE:</b>	<b>60</b>	<b>60</b>
<b>REGIONAL RANKING:</b>	<b>4TH</b>	<b>4TH</b>

Colombia's overall score and regional ranking did not change from 2011. However, Colombian policymakers have been responsive to industry requests for streamlining regulation, with a number of specific efforts underway. A reform to promote a simplified tax code is expected in 2012. In addition, IPO activity increased in 2011 and the merger of stock exchanges in Colombia, Chile and Peru progressed. Current trends could signal positive impacts for the private equity industry in the mid to long term.

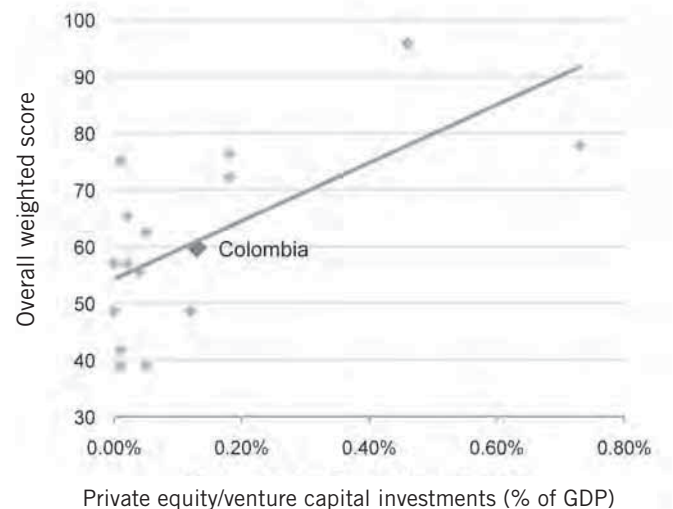
**Strengths:** Colombia continues to score well on laws for fund formation, restrictions on institutional investors and protection of minority shareholder rights when compared to regional averages. Corporate governance requirements are also relatively strong.

**Challenges:** Perception of corruption and the implementation of international accounting standards remain obstacles for the country, though new regulations could bring changes in the future. Colombia also scores below the regional average for its somewhat complex tax environment for the PE/VC industry.

	score	change
<b>Overall score</b>	<b>60</b>	
Laws on PE/VC fund formation and operation	3	
Tax treatment of PE/VC funds & investments	2	
Protection of minority shareholder rights	3	
Restrictions on local institutional investors investing in PE/VC	3	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	2	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	3	
Strength of the judicial system	2	
Perceived corruption	1	
Quality of local accounting/use of international standards	2	
Entrepreneurship	2	

Indicators are scored from 0-4 where 4 = best score  
Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

### Overall score against PE / VC investments



### Colombia ScoreNotes

Aspects	Score	Notes (4-0)
Laws on PE/VC fund formation and operation	3	There have been ongoing improvements in the regulatory structure since the establishment of the basic framework for PE/VC in 2005 and 2007, though areas remain to be addressed. Decree 2555 of 2010 compiled all financial and insurance regulations, including Decree 2175 of 2007, which regulates the formation and management of <i>fondos de capital privado</i> (FCP). Officially, FCPs do not require prior approval from the Superintendent of Finance (SFC) in order to initiate operations. This was clarified under a July 2011 regulation (Circular Externa 031) that establishes automatic registration after 15 business days if the SFC has not acted on a new fund application. However, in practice fund managers prefer to have the approval of the SFC prior to initiating operations and express concerns over delays. Another proposed reform would eliminate the requirement that each fund vehicle be registered with the National Registry of Securities and Issuers (RNVE) - another bureaucratic hurdle - except in instances in which participation units of the funds are going to be traded on secondary markets. (Interviews, January 2012, January 2011; EIU/LAVCA 2012 and 2011 Survey; EIU Country Finance, May 2011; Website, Superintendencia Financiera)
Tax treatment of PE/VC funds & investments	2	A wealth tax of 1.0-6.0% for individuals and companies chartered before January 2011 remains in effect. In principle PE/VC funds are not subject to income tax, but dividends and gains distributed to shareholders may be taxable. Generally, foreign investment funds are not considered independent taxpayers for their normal business operations and are pass-through entities. In September 2010, a ruling by the Colombian Tax Authority clarified that withholding tax must be realized pursuant to the fund's closing or early redemptions. The profit related with the transfer of fixed assets is subject to income tax in Colombia at the standard 33% tax rate. Pass-through for Colombian investors in foreign-domiciled funds is guaranteed, but in general, deals must be structured carefully to guarantee avoidance of double taxation. However Colombia provides unilateral relief for double taxation. A tax on financial transactions of 0.4% applies through 2013, decreasing to 0.2% in 2014, 0.1% in 2016 and terminating at end-2017. A reform to simplify the tax code is expected in mid-2012. (Interviews January 2011, January 2010; EIU/LAVCA 2011 Survey; EIU Country Commerce, January 2012; EIU Country Finance, May 2011)

## Colombia ScoreNotes

Aspects	Score	Notes (4-0)
Protection of minority shareholder rights	3	In general, for the standard corporate form ( <i>Sociedad Anónima</i> ), decisions are approved by a favorable vote of 51% of the subscribed shares represented in the meeting. Law 222 of 1995 and Law 964 of 2005 permit shareholders to execute agreements, which are commonly used to establish voting and special minority rights. The voluntary national corporate governance standards (" <i>Código País</i> ") established in 2007 for public companies address general aspects of corporate governance, with some positive implications for minority shareholders. Awareness of minority rights continues to grow with efforts to promote self-reporting on compliance with a voluntary code for closely-held and family-owned companies. (See Corporate governance requirements) (Interviews, January 2012, January 2011; EIU/LAVCA 2010 and 2012 Survey; EIU Country Commerce, January 2012)
Restrictions on local institutional investors investing in PE/VC	3	In August 2010, Decree 2955 altered rules for mandatory pension funds and insurers, addressing limits on related party transactions, and limits on life insurance companies' and pension funds' holdings within any given PE/VC fund (40%). Also, since August 2010, mandatory pension funds may offer individual retirees a "multi-fund" system of options that are conservative (no PE investments), moderate risk (up to 5% in PE), and high risk (up to 7% in PE). Pension funds and life insurers may invest up to 5% of overall assets in PE/VC funds, with a sublimit of 5% for local funds and locally registered offshore funds. Pension funds have been permitted to invest in funds of funds since 2009. (Interviews January 2012, January 2011; EIU/LAVCA 2011 Survey; EIU Country Finance, May 2011)
Protection of intellectual property rights	2	While Colombia has made a concerted effort to improve IPR, there is further room for improvement in enforcement and prosecution of IPR infringement. The software and apparel industries are significant targets of piracy and counterfeiting. In 2011, Colombia was again listed on the US Trade Representative's lower level Watch List for inadequacies in IPR protection, specifically in the areas of pharmaceutical patents and media piracy. With the ratification of the U.S.-Colombia Trade Promotion Agreement in October 2011, Colombia has promised to extend further IPR protections. (EIU Country Commerce, January 2012; USTR Watch List 2011)
Bankruptcy procedures/creditors' rights/partner liability	2	A new bankruptcy law was created in December 2006 (Law 2116) to shore up existing restructuring mechanisms that seek to make liquidation a last resort. Six decrees regarding crucial implementation procedures were adopted over 2007-09. While there have finally been some experiences under the new framework, the system appears to remain highly skewed toward creditors and liquidation of troubled firms. According to the World Bank's Doing Business 2012, compared to regional averages, resolving a bankruptcy in Colombia takes much less time, costs less, and yields a very high recovery rate for creditors. Limited liability is established under corporations and limited liability companies, the two most common corporate forms in Colombia. (Interviews, January 2012, January 2011; EIU/LAVCA 2009 Survey)
Capital markets development and feasibility of exits	2	While the stock market declined during the global downturn, it is rising steadily. There were seven IPOs in 2011 (up from two in 2010), including IPOs of Avianca Taca, Nutresa, Grupo Aval and Ecopetrol, with a total of USD \$4,805M issued on the Colombian Stock Exchange ( <i>Bolsa de Valores de Colombia, BVC</i> ). Fairly low levels of market capitalization and high costs of meeting listing requirements still hinder stock market access. Firms continue to fear enhanced tax scrutiny after a listing. The local currency bond market is dominated by public sector debt, leaving little opportunity for corporate issues. However, local capital markets are still developing. The BVC attracted its first foreign listing in December 2009. In 2011 the stock exchanges in Peru, Colombia, and Chile established a common trading platform called the Integrated Latin American Market (MILA). A merger of the exchanges is expected to advance the market for IPOs in the medium-term. Regulatory improvements in 2011 included direct investment access to all markets through a local broker without the requirement of establishing a foreign investment fund. (Interviews 2011; Country Finance, May 2011; EIU Risk Briefing)
Registration/reserve requirements on inward investments	3	Foreign investment does not require prior approval, but it must be registered with the Central Bank to guarantee access to foreign currency for repatriation. There are no reserve requirements, minimum-stay requirements, or exchange controls. (EIU Country Commerce, January 2012; Interviews, January 2012, January 2011)
Corporate governance requirements	3	Efforts made since 2005 have yielded some improvements in corporate governance. Law 964 of 2005 required listed companies to have 25% independent directors. The law also created a broad set of corporate governance standards. In 2007, a voluntary code (" <i>Código País</i> ") was adopted with 41 provisions on subjects such as tender offers, related party transactions and audit committees; as of March 2012, 131 companies had adopted the code. A decree in May 2009 increased director and board liability and provided for sanctions against offending parties of listed companies. Since February 2011, under Circular 007, a "comply or explain" regulation has been instituted. According to the World Bank's Doing Business 2012, disclosure requirements, shareholder ability to sue, and director liability are all higher than regional averages for Colombian publicly traded firms. Recent promotion efforts have focused on disseminating awareness and adherence to a separate voluntary code for closely-held and family-owned companies. (Interviews, January 2012, January 2011; EIU/LAVCA 2011 Survey 2011 and 2012; Website: <a href="http://superfinanciera.gov.co">superfinanciera.gov.co</a> ; EIU Country Finance, May 2011)
Strength of the judicial system	2	While the Supreme Court is impartial and respected, some lower levels of the judiciary are susceptible to corruption, and the judiciary is described as slow and cumbersome overall. Domestic arbitration of investment disputes in PE/VC contracts is most commonly conducted through the chambers of commerce and is viewed as effective. International arbitration of investment disputes is also available and valid, and reference to it is typically included in shareholders' agreement at the request of foreign investors. Arbitration clauses are viewed as necessary based on the inefficient and often corrupt judiciary. (EIU Country Commerce, January 2012, Risk Briefing, Interviews, January 2012, World Bank Doing Business Report 2012)
Perceived corruption	1	While political institutions are stable, the illegal drug trade and weak accountability continue to contribute to corruption. However, a number of recent high-profile corruption cases suggest that enforcement may be improving. In 2011, the Colombian government enacted the Anticorruption Statute, which strengthens the mechanisms to prevent, investigate, and sanction corruption in the public and private sector. (EIU Risk Briefing; EIU Country Commerce, January 2012; Transparency International)
Quality of local accounting industry (international standards)	2	Colombia lags on this indicator because national standards diverge significantly from IAS. IFRS are still not permitted for either listed or non-listed firms. International accounting firms are present, but efforts to transition to international standards have been delayed. The country is still adjusting the structure of accounting bodies in order to undertake convergence toward IAS and IFRS, under Law 1314 of July 2009. Though 2014 is the proposed start date, in principle, it should occur for at least larger firms by end-2012, though this deadline may be ambitious. (Deloitte IAS PLUS 2012, EIU/LAVCA 2011 Survey; Interviews January 2012, January 2011)
Entrepreneurship	2	Government initiatives to encourage entrepreneurship are strong. Colombia's Stock Exchange program, "Colombia Capital," encourages the formation of venture capital and small enterprises. The government offers tax deductions on R&D investment and is undertaking various incentive programs for the development and promotion of small and medium enterprises. Additionally, the <i>Servicio Nacional de Aprendizaje's</i> (SENA) program, " <i>Incubadoras de Empresas</i> ," is looking to advance new business growth. (Doing Business 2012, The World Bank; EIU/LAVCA 2012 Survey)

## Country Profile

# COSTA RICA

	2012	2011
<b>OVERALL SCORE:</b>	<b>56</b>	<b>54</b>
<b>REGIONAL RANKING:</b>	<b>7TH</b>	<b>7TH</b>

Costa Rica's score increased this year due to a positive change in its score for laws on PE/VC fund formation and operation. The country now has a specific legal vehicle for the creation of funds that can invest in privately-held Costa Rican companies through a law that went into effect in November 2011. Previously, fund operation in Costa Rica was done through offshore vehicles.

**Strengths:** The country's main strength is the quality of accounting standards. It also continues to perform well in indicators including perceived corruption, tax treatment, protection of intellectual property rights and requirements on inward investment.

**Challenges:** Costa Rica continues to lag in its protection of minority shareholder rights and restrictions on local institutional investors. The country also lacks a strong entrepreneurial community. While the country has developed initiatives to promote small businesses, the number of procedures to start a business acts as a deterrent.

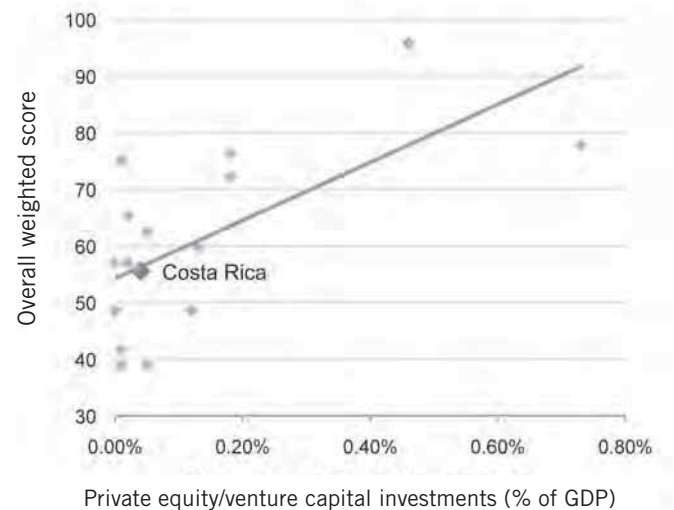
### Costa Rica ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	2	With an amendment to the existing investment fund regulations on October 26, 2011 (effective November 1, 2011) by the National Financial System Supervisory Council (CONASSIF), Costa Rica now has a specific legal vehicle designed for creation of funds that can invest in privately held Costa Rican firms. Until now, all fund operation in Costa Rica has been through offshore, usually regionally oriented, vehicles. The new law provides detailed requirements and procedures for the registration of fund managers ( <i>sociedades administradoras de fondos de inversión</i> ), as either corporations (SAs) or branches of foreign corporations, as well as for the establishment of both closed and open funds, including minimum capital requirements, limits on fund manager participation, prospectus guidelines, and maximum closing times. These general rules now apply to the new category of risk capital investment funds along with specific rules governing their operation, such as diversification and concentration of investments and minority rights. It will be important to closely follow its impact in coming years. In June 2007, the stock exchange launched the Alternative Stock Market (MAPA), a junior market which is not regulated by the securities commission for the sale of shares by registered firms who wish to attract capital from institutional investors. While the initial experience of the MAPA has been frustrating, with only a handful of firms receiving successful MAPA-sponsored assistance, a four-year technical assistance agreement with the IDB's Multilateral Investment Fund signed in May 2011 promises to improve the quality and independence of advisory services through the MAPA. There are reportedly six firms receiving advice on preparing for a private placement as of January 2012 and one which undertook a private share placement in 2011. (Superintendencia General de Valores website; Consejo Nacional de Supervision del Sistema Financiero website; Interviews, January 2012, January 2011; EIU/LAVCA 2011 Survey; EIU Country Finance, February 2011)

	score	change
<b>Overall score</b>	<b>56</b>	<b>▲ 2</b>
Laws on PE/VC fund formation and operation	2	▲ 1
Tax treatment of PE/VC funds & investments	3	
Protection of minority shareholder rights	1	
Restrictions on local institutional investors investing in PE/VC	1	
Protection of intellectual property rights	3	
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	2	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	2	
Strength of the judicial system	3	
Perceived corruption	3	
Quality of local accounting/use of international standards	4	
Entrepreneurship	2	

Indicators are scored from 0-4 where 4 = best score  
Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

### Overall score against PE / VC investments





## Costa Rica ScoreNotes

Aspects	Score (4-0)	Notes
Tax treatment of PE/VC funds & investments	3	There is no capital gains tax except where the purchase and sale of shares is the shareholder's habitual activity, in which case a 5% tax applies to the sale of investment fund assets. Enforcement of these norms is uneven. Interest payments and financial commissions taking the form of foreign remittances are subject to a 15% withholding tax at the source. Dividends paid to non-resident shareholders are subject to a 15% withholding tax; however, no withholding is assessed if dividends are paid to another Costa Rican company or if the home country of the firm does not allow credits for taxes paid in Costa Rica. A tax reform package that was pending in February 2012 (and under constitutional challenge regarding legislative procedures being used to consider it) would raise withholding tax to 30% and assess value added tax of 14% on fund management services. (EIU Country Commerce, October 2011; Interviews, January 2012, January 2011)
Protection of minority shareholder rights	1	In general, the concept of minority rights remains poorly understood with little established jurisprudence or judicial training in the area. No legal requirements exist on the percentage of shares that constitute effective control. Applicable rules must be written into the corporation's own statutes or bylaws. Any shareholder or group of shareholders representing at least 25% of the capital stock may convene a shareholders' meeting. According to the World Bank's Doing Business 2012, Costa Rica has weak disclosure requirements and shareholder rights to take legal action against the board by regional standards, but average director liability. Therefore, issues must be dealt with in shareholders' agreements, and through arbitration clauses given slowness of judicial system. In some cases, funds seek alternative firm structures such as trusts where minority rights can be better enforced. (Interviews, January 2012, January 2011; EIU Country Commerce, October 2011; EIU Country Finance, February 2011)
Restrictions on local institutional investors investing in PE/VC	1	The pension system is partially privatized. The eight registered <i>operadoras de pension complementarias</i> (OPCs) cannot invest more than 5% of assets in a single company. In practice, purchases are still restricted to government and commercial paper, since pension funds can only invest in A-rated instruments and must seek government approval for their investments. Nothing in the new law on PE/VC funds effective November 2011 affects this, though attracting pension fund investment seems to be a medium- to long-term underlying goal. The National Insurance Service (INS) plays a minor role as an investor in the stock exchange, mainly in the markets for bonds and commercial paper. Both insurers and pension funds are restricted from making overseas investments (except for the state insurance company). (Interviews, January 2012, January 2011; EIU Country Finance, February 2011)
Protection of intellectual property rights	3	While the legal framework for IPR protection is in place and progress continues to be made on developing an interagency task force, the country does not adequately enforce these laws due to lack of resources, training and inadequacies in the criminal justice system. In 2008, Costa Rica improved its IPR legislation during the implementation process to CAFTA-DR, but the country remains on the USTR Watch List due to shortcomings in IPR enforcement. The rate of software piracy has declined steadily, but remains high. (US Country Commercial Guide 2011; USTR Watch List notes, 2011; Country Commerce, October 2011)
Bankruptcy procedures/creditors' rights/partner liability	2	Bankruptcy laws are clear and transparent, though enforceability is uneven. In general, regulations tend to promote liquidation rather than restructuring. The World Bank's Doing Business 2012 reports that bankruptcies are resolved somewhat more slowly, at somewhat lower cost, and with a significantly lower recovery rate than the regional average. Equity investors are generally not liable beyond the amount invested, but managers and board members are. (Interviews, January 2012, January 2011)
Capital markets development and feasibility of exits	2	The local equity markets are thin, and IPO exits are difficult but not impossible. The main stock exchange, Bolsa Nacional de Valores, saw average daily turnover of USD\$258.7M in December 2011, the vast majority of which was in public-sector debt instruments. Foreign access to local markets is good. With the acquisition of listed domestic firms by international concerns, de-listings have become common. The creation of the Alternative Market for Shares (MAPA) in 2007 created a possible new opening for private placements of shares, though this practice remains limited to date. (Interviews, January 2011; EIU Country Finance, February 2011)
Registration/reserve requirements on inward investments	3	All foreign-exchange transactions take place through the Banco Central de Costa Rica (BCCR), the national banking system and private banks. But there are no requirements on where proceeds can be deposited. Export and other sources of foreign income are recorded by the BCCR. Registration of capital is not mandatory, but the central bank does not guarantee availability of foreign exchange for repatriation for non-registered investments. (EIU Country Commerce, October 2011; Interviews, January 2011, January 2010)
Corporate governance requirements	2	Legal norms, training and jurisprudence remain weak in such basic areas as conflict of interest and related-party transactions. A system of supervision is optional. No legal requirements exist on the percentage of shares that constitute effective control. Shareholder agreements and arbitration clauses are often deemed necessary to shore up deficiencies in invested firms, but enforceability is sometimes an issue. (Interviews January 2011, January 2010, EIU Country Commerce, October 2011; EIU Country Finance February 2011)
Strength of the judicial system	3	The judicial system is independent and retains high legitimacy, but the legal process remains complex and slow-moving. Frequent recourse by opposition legislators to consultative rulings from the court has frustrated or delayed numerous government initiatives. Respect for the rule of law, which is higher than in most Latin American countries, will reduce uncertainty for foreign investors and ensure continued political stability. Contracts are generally upheld and investments are secure. (EIU Risk Briefing, Business Environment Rankings, USTR Watch List Notes, 2011)
Perceived corruption	3	Costa Rica is widely recognized for its long-standing democratic tradition. Its state institutions have avoided infiltration by interests allied to the illegal drug trade, and corruption is lower here than elsewhere in the region. The independence of the country's judiciary system helped it have one of the lower rankings in the region in Transparency International's 2011 Corruption Perception Index. (EIU Risk Briefing; Transparency International)
Quality of local accounting industry (international standards)	4	International norms are used by medium to large enterprises and international firms are present and competent. IFRS are required for both listed and unlisted companies. The junior stock market for private share placement requires use of IAS. (Interviews, January 2012, January 2011; Deloitte IAS PLUS 2012)
Entrepreneurship	2	There have been increased government initiatives organized to promote SMEs, such as incubators and lower costs and fewer bureaucratic steps for start-ups. However, while the cost of starting a new business remains relatively low, the time and number of procedures required to start a business are still above regional averages and act as deterrents to new entrepreneurs. (World Bank Doing Business 2012; EIU/LAVCA 2011 Survey; Interviews, January 2012)

# Country Profile DOMINICAN REPUBLIC

	2012	2011
<b>OVERALL SCORE:</b>	<b>39</b>	<b>38</b>
<b>REGIONAL RANKING:</b>	<b>11TH (TIED)</b>	<b>12TH</b>

While the Dominican Republic's overall score increased, the country continues to rank at the bottom of the regional ranking. The country's score for laws on PE/VC fund formation was upgraded due to announcement of a new Trust Law that would allow for the formation of domestic investment trusts. Currently, all PE/VC funds operate from offshore vehicles. Uncertainty remains as to whether or not pension funds will become more active investors in PE/VC under the new law. In general, the country still faces a number of obstacles in the improvement of its investment environment. Problems persist with corruption, which permeates the judicial system, and a high tax environment also acts as a deterrent.

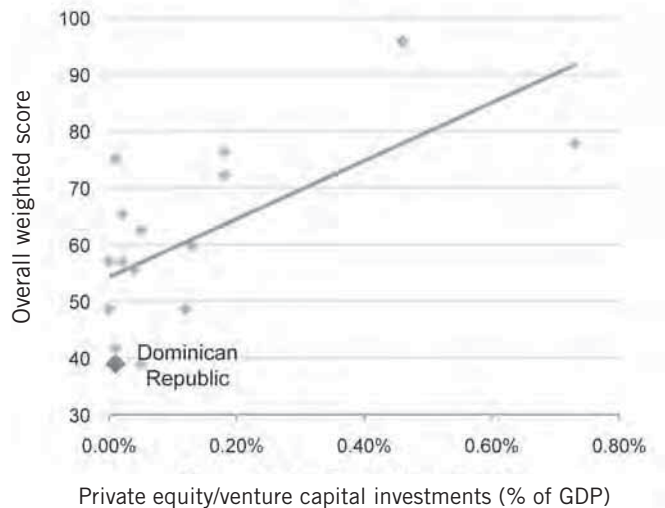
**Strengths:** The country remains open to inward investment and also scores favorably on international accounting standards and corporate governance requirements.

**Challenges:** The Dominican Republic continues to score poorly on the majority of indicators including restrictions on institutional investors, tax treatment, perceived corruption and the strength of the judicial system.

	score	change
<b>Overall score</b>	<b>39</b>	<b>▲ 1</b>
Laws on PE/VC fund formation and operation	2	▲ 1
Tax treatment of PE/VC funds & investments	1	
Protection of minority shareholder rights	2	
Restrictions on local institutional investors investing in PE/VC	1	
Protection of intellectual property rights	1	
Bankruptcy procedures/creditors' rights/partner liability	1	
Capital markets development and feasibility of exits	1	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	3	
Strength of the judicial system	1	
Perceived corruption	0	
Quality of local accounting/use of international standards	3	
Entrepreneurship	1	

Indicators are scored from 0-4 where 4 = best score  
Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

## Overall score against PE / VC investments



## Dominican Republic ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	2	The Dominican Republic has taken a promising step forward with the promulgation of a new Trust Law in September 2011. It allows for the formation of investment trusts ( <i>fideicomisos de inversion</i> ) under the fiduciary responsibility of fund managers, as well as public offering trusts ( <i>fideicomisos de oferta publica</i> ). In principle, the trusts enjoy certain tax exemptions and are eligible for pension fund investments. Until now, all PE/VC funds have operated from offshore in the absence of viable domestic instruments. It appears that this law supersedes previous restrictions on fund managers that prohibited them from any role "in the advising, administration or management" of invested firms under the closed <i>fondos de inversion</i> and the <i>fondos de capital de riesgo</i> . However, details and impacts remain unclear as of February 2012. It is not clear whether the limits of a 5% stake in any invested company under a January 2007 regulation will be applicable to investment trusts. The score has been upgraded in recognition that creation of the investment trust vehicle is an important first step. (Pellerano and Herrera Abogados website, February 2012; Banco Central website February 2012; Superintendencia de Valores website 2011; Interviews, January 2012, January 2011)

## Dominican Republic ScoreNotes

Aspects	Score (4-0)	Notes
Tax treatment of PE/VC funds & investments	1	The country remains a high tax environment in relevant areas, and the burden increased under a July 2011 tax reform. Both individuals and corporations must pay 25% tax on capital gains, and the flat income tax rate for corporations is 29% as of FY 2011 (up from 25%). For fiscal years 2010-2012, financial entities are subject to a 1% tax on productive assets. Payments abroad to non-domiciled persons or entities are subject to 25% retention on the amount paid, except interest payments to financial institutions abroad, which are instead subject to 10% retention. Corporations must retain 25% of the dividends paid to shareholders as a credit against the corporate income tax. Historically, pass-through has not been automatic and must be structured carefully through shareholder agreements and arbitration clauses; however, the September 2011 Trust Law establishes certain tax exemptions (such as capital gains, value added, and income taxes) for both investments in as well as payments to investors by the newly created vehicles of investment trusts and public offering trusts. (Interviews, January 2012, January 2011; Pellerano and Herrera Abogados website, February 2012; Ernst & Young, July 2011)
Protection of minority shareholder rights	2	Minority rights have been weakly protected and understood under the most common SA ( <i>sociedad anonima</i> ) form. However, with expanded auditing and reporting requirements under a new corporate law that went into effect in June 2009 (see corporate governance requirement), minority board members can now gain access to more timely and transparent financial information in SAs. Minority rights are weaker in the limited liability company form, although, a one-tenth minority can vote to appoint an independent accountant to conduct audits. (Interviews, January 2012, January-February 2011; Superintendencia de Valores website, Ley General 479-08; Headrick, Rizick, Alvarez & Fernandez, Boletin Informativo, December 2008)
Restrictions on local institutional investors investing in PE/VC	1	It is not yet clear if pension funds will become active players in the industry under the September 2011 Trust Law, which opens up that prospect for both investment trusts and public offering trusts. The transitional regulations of pension funds' investment regime issued by the pension superintendency and Central Bank pursuant to the new law (in December 2011 and valid for the first six months of 2012 pending definitive regulations) allow for investments of up to 30% of assets in stocks but make no mention of PE trusts. Until now, pension funds could only invest in BBB-rated (investment grade) securities. Under the Insurance Law, companies are restricted from engaging in most equity investing. Though, under the terms of the CAFTA-DR, up to 100% foreign-owned insurance firms are permitted and not governed by such restrictions. However, they remain slow to establish a presence in the country. (Interviews, January 2012, January 2011; www.sipen.gov.do)
Protection of intellectual property rights	1	The Dominican Republic has made minor advances over the past couple of years, such as increasing government use of licensed software and decreasing television broadcast piracy. However, the country remains on the USTR 2011 Watch List. While the US government notes ongoing efforts to implement the CAFTA-DR accords, which have generally strengthened intellectual property rights protection, there are still concerns about lack of sufficient enforcement, the widespread availability of pirated goods, and delays in issuing patents. (US Country Commercial Guide 2011)
Bankruptcy procedures/creditors' rights/partner liability	1	Compared to the regional average, resolving bankruptcies remains a slightly slower and much more costly process, and the recovery rate is much lower for claimants. A bankruptcy bill that would simplify restructuring has languished in Congress since 2007. Partner liability is a grey area that needs to be defined carefully in company statutes and shareholder agreements. (Doing Business 2012, The World Bank; Interviews January 2012 January 2011)
Capital markets development and feasibility of exits	1	The country lacks a viable stock market and local IPOs are not an exit option. The financial system is inefficient relative to its CAFTA-DR partners. The country's domestic exchange is focused on fixed-income and commercial paper, and while it has grown rapidly in recent years, it does not provide a significant channel for equity finance. (Interviews January 2010; EIU Risk Briefing)
Registration/reserve requirements on inward investments	3	There are no reserve requirements or exchange controls, and registration is simplified under CAFTA-DR. (EIU Viewswire; EIU Country Report, January 2012; Interviews, January 2012, January 2011)
Corporate governance requirements	3	A new corporate law came into effect on June 19, 2009 that created limited liability companies and divided corporations ( <i>sociedades anonimas or SAs</i> ) into public and private. The law established important governance standards, annual auditing requirements, obligations to inform shareholders of transactions representing more than 15% of the firm's assets and restrictions on related party transactions. The legal oversight figure of accounting commissars ( <i>comisarios de cuentas</i> ) was strengthened with requirements that they be certified public accountants and separated from the board. With respect to limited liability companies ( <i>sociedades de responsabilidad limitada</i> ), it remains unclear if the benefits of flexibility come at the expense of less rigorous corporate governance. According to World Bank's Doing Business 2012, the country continues to have higher disclosure requirements and shareholder ability to sue than the regional average, and below average director liability. Sanctions and policing of financial reporting remain problematic. (Interviews January 2012,
Strength of the judicial system	1	The implementation of new constitutional regulations remains a slow process. However, there is an alternative system of dispute resolution via the arbitration mechanisms in the chambers of commerce. While the Supreme Court is viewed as being fairly independent, the judiciary is relatively weak and prone to corruption. There have been instances of local firms taking advantage of the courts to quickly end a dispute with a foreign company. However, the risk that a contract will not be enforced remains moderate, and the average contract enforcement period is below regional averages. (EIU Risk Briefing, 2012; US
Perceived corruption	0	Corruption is fostered by a lack of accountability within all government levels, which creates an uneven playing field in the business community. While the current and previous administrations have investigated some cases of corruption, there have been few actual prosecutions. Foreign firms have indicated that they face systematic corruption, limiting their ability to defend their interests. Moreover, the majority of the citizens doubt the government's commitment to transparency. Accusations of government spending irregularities are common. Transparency International ranks the Dominican Republic at 129 in its 2011 Corruption Perceptions Index, down from 101 in 2010. (EIU Country Report, February 2011; EIU Risk Briefing; Transparency International)
Quality of local accounting industry (international standards)	3	A February 2010 resolution of the Institute of CPAs of the Dominican Republic set a clear timeline for implementation of IFRS by public companies after delays in implementing previous targets. Some standards became mandatory in 2010, while others will be phased in by 2014. IFRS are permitted but not obligatory for non-listed firms, and since 2007 standards adapted to smaller firms have been in place for small and medium-sized businesses. International auditors are present and reliable. (Deloitte IAS PLUS 2012; Interviews January 2012, January 2011)
Entrepreneurship	1	While the beginnings of an entrepreneurial culture can be detected, the costs of starting a business are relatively high. The government is slowly beginning to show support for entrepreneurship centers within the educational system. However, public finance is still unavailable for early stage companies, and the country lacks fiscal incentives for research and development. Reflecting the poor entrepreneurial climate, the Dominican Republic is ranked 140 <sup>th</sup> in terms of 'Ease of Starting a Business' and 154 <sup>th</sup> in terms of 'Resolving Insolvency' by the World Bank. The country recently increased the minimum capital requirement for limited liability companies, which acts as a deterrent for new business. (EIU/LAVCA 2011 Survey; Interviews, January 2011, Doing Business 2012, The World Bank)

## Country Profile

# EL SALVADOR

**OVERALL SCORE:**                    2012                    2011  
     39                        43  
**REGIONAL RANKING:** 11TH (TIED) 10TH (TIED)

El Salvador's overall score dropped four points this year due to a downgrade in two indicators. The score for tax treatment, a double weighted indicator, was decreased due to a series of changes that increases the tax burden for investors. In addition, the country saw a change in its score for the quality of local accounting/use of international standards. El Salvador is now positioned at the bottom of the regional ranking, tied with the Dominican Republic.

Since there is a lack of regulation that allows funds to operate domestically, PE/VC activity remains located offshore.

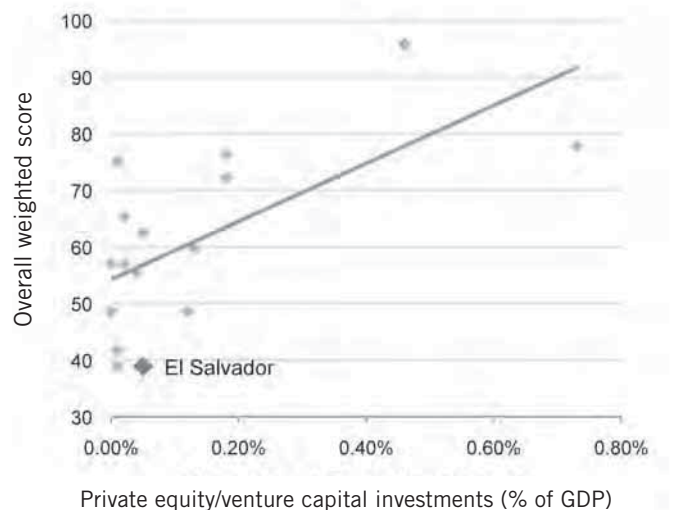
**Strengths:** El Salvador has limited strengths, but does remain open to inward investment.

**Challenges:** The country's PE/VC industry faces many challenges and remains below the regional average on indicators including laws on PE/VC fund formation, restrictions on local institutional investors, corporate governance and strength of the judicial system.

	score	change
<b>Overall score</b>	<b>39</b>	<b>▼ 4</b>
Laws on PE/VC fund formation and operation	0	
Tax treatment of PE/VC funds & investments	2	▼ 1
Protection of minority shareholder rights	1	
Restrictions on local institutional investors investing in PE/VC	1	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	2	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	1	
Strength of the judicial system	1	
Perceived corruption	1	
Quality of local accounting/use of international standards	3	▼ 1
Entrepreneurship	2	

*Indicators are scored from 0-4 where 4 = best score  
 Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)*

### Overall score against PE / VC investments



### El Salvador ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	0	There are no specific regulations allowing for funds to form and operate. At present, all PE/VC activity in El Salvador remains limited to offshore funds or networks of angel investors. (Interviews, February 2012, January 2011; EIU Country Finance, December 2011).
Tax treatment of PE/VC funds & investments	2	This score has been downgraded based on successive moves undertaken in 2010-2011 that increased the tax burden. Under a fiscal reform package effective in January 2010, a 10% withholding tax was assessed on interest income (including dividends) for non-resident individuals or entities, which were previously exempt provided that permission was secured by the respective fund. Under two decrees published in the official gazette on December 15, 2011 and effective on January 1, 2012, corporate income tax rates are increased from 25% to 30% for those entities earning more than US\$150,000 per year. In addition, effective fiscal year 2012, distribution of profits (including dividends) to resident or non-resident shareholders by resident corporations is subject to 5% withholding for residents of most countries and 25% for those deemed to be tax havens (this move would appear to reverse at least part of the impact of the January 2010 withholding tax increase). In a third aspect of the latest tax reform, whose impact remains murky for PE/VC, a 5% final withholding tax on the gross amount of "hidden profit distribution" by resident corporations to shareholders, non-resident affiliate companies, or residents of tax haven jurisdictions is assessed; hidden profits are defined as loans, advance payments or other kinds of financing. There continues to be a reduced tax regime for capital gains. El Salvador has no tax treaties with other countries. (Ernst & Young, February 9, 2012; EIU Country Commerce, June 2011; EIU Country Finance, December 2011; Interviews, February 2012, January 2011)

## El Salvador ScoreNotes

Aspects	Score (4-0)	Notes
Protection of minority shareholder rights	1	This score was downgraded in 2011, and minority rights protection remains problematic. Family-owned businesses dominate and minority rights are not well understood, according to fund managers. Minority shareholders can convene a board meeting, but have few other statutory rights, such as audit committees, access to information, or requirements on timely board disclosure of "material events" affecting a company's situation or stock value. No legal requirements exist on the percentage of shares that constitute effective control, the required minimum number of directors, or precise roles of board members, so applicable rules must be written into each company's statutes or bylaws. Minority rights must be addressed in shareholders agreements and arbitration clauses, though enforceability is uneven. In some cases funds prefer that invested firms incorporate offshore, where better protections exist. (EIU Country Finance, December 2011; EIU Country Commerce, June 2011; Interviews, February 2012, January 2011)
Restrictions on local institutional investors investing in PE/VC	1	There are no formal restrictions on insurance, but in practice funds under management are limited by size of market, which remains small and largely centered on property and casualty coverage. December 2005 changes to pension fund laws increased the share of capital they may invest in foreign shares listed on the Salvadoran exchange to 30%. Nearly all of the pension funds' assets under management take the form of fixed-return instruments, of which the vast majority are held in public sector instruments. While pension funds may invest in listed stocks, they must have two risk classifications. Since September 2006, pension funds are allowed to invest a maximum of 10% of their total portfolio abroad, though at end-March 2011 only 1.5% of total investments were held abroad. (Interviews, February 2012, January 2011; EIU Country Finance, December 2011)
Protection of intellectual property rights	2	CAFTA-DR provisions require the country to continue to strengthen legal protections, but there has been no major crackdown on pirated goods. Software piracy is rampant, with pirated products representing as much as 80% of all software. Judicial and regulatory enforcement are still the weakest parts of IPR protection. The national courts continue to deal with IPR disputes, and despite its overall competence, the court system is extremely slow. (EIU Country Commerce, June 2011; US Investment Climate Statement 2011)
Bankruptcy procedures/creditors' rights/partner liability	2	The Commercial Code, Code of Mercantile Processes, and Banking Law contain sections on bankruptcy, but there is no separate bankruptcy law or court. According to the World Bank's Doing Business 2012, bankruptcy is slower but considerably less costly than the regional averages, and the recovery rate for creditors is much higher. Commercial arbitration is relatively new, and has been resisted by the judiciary. A proposed bankruptcy law has not advanced. There is no partner liability in legal actions against the firm beyond its capital share (though managers and board members are liable), except in cases of fraud. (US Country Commercial Guide 2011; Interviews, January 2010, January 2009)
Capital markets development and feasibility of exits	2	VC and PE are still limited to offshore funds as of November 2011. Despite the fact that foreign investors may invest directly in El Salvador's stock exchange and that no restrictions apply to foreign purchase on any type of portfolio investment, the stock market is not well capitalized. Most activity on the market is focused on public-sector securities, with equity trades playing a limited role. Underdevelopment of capital markets remains a key constraint to El Salvador's long-term growth. At present, the equity market is not a viable option for PE/VC exits from the country. However, after six years of decline, US\$3.6bn was traded in 2011, a 37% increase over 2010. (EIU Country Finance, December 2011; Bolsa de Valores de El Salvador)
Registration/reserve requirements on inward investments	3	The Central Reserve Bank ( <i>Banco Central de Reserva</i> ) oversees persons and institutions that carry out foreign exchange (forex) transactions, which remain unrestricted. The origin and destination of any transaction exceeding US\$10,000 must be reported to central bank officials. The destination of all transactions involving the purchase of forex must be reported to the Ministry of Finance ( <i>Ministerio de Hacienda</i> ) for tax purposes. There are no reserve requirements or exchange controls in this dollarized economy. (EIU Country Commerce, June 2011; Interviews, February 2012, January 2010)
Corporate governance requirements	1	Only minimal corporate governance requirements are in place, such as holding annual meetings, annual publication of financial reports, the ability of minority shareholders to call a meeting, and registering companies in the commercial registry. A 2007 IMF report characterizes the corporate governance framework as "very basic." According to the World Bank's Doing Business 2012, disclosure requirements, non-existent director liability, and average ability of shareholders to sue are below regional averages. Shareholder agreements and arbitration clauses may be used, but enforceability is questionable. Some funds prefer that invested Salvadoran firms incorporate offshore to avoid these problems. (EIU Country Finance, December 2011; EIU Country Commerce, June 2011; Interviews, February 2012, January 2011)
Strength of the judicial system	1	The judicial system is characterized by its inefficiency and weak enforceability, and is widely considered corrupt, despite its formal independence. Proceedings can be costly and some cases have been tainted by manipulation of the legal system by private interests. Recent modifications to the country's arbitration law have resulted in judicial encroachment into arbitration proceedings, raising concerns for the business community. The World Bank has been involved in judicial modernization programs, which may lead to improvements in the long term. (Interviews, January 2012; EIU Country Commerce, June 2011; US Investment Climate Statement 2011)
Perceived corruption	1	Corruption remains a problem, particularly in lower levels of government, but CAFTA-DR has forced El Salvador to tighten and improve its regulatory framework for investment in several areas. The country's rank in Transparency International's Corruption Perceptions index fell from 73 to 80 in 2011. The Attorney General now has a special office, the Anticorruption and Complex Crimes Unit, to handle cases of public corruption, of which there have been a few prominent examples in recent years. (Transparency International; EIU Risk Briefing; US Investment Climate Statement 2011)
Quality of local accounting industry (international standards)	3	In light of accumulated evidence of substandard accounting practices in SMEs, this score has been downgraded. IFRS are permitted but not required for listed companies (of which there are very few on the country's exchange); they are not permitted for unlisted companies. Double-bookkeeping remains common, though criminal penalties for such tax evasion practices have increased substantially in recent years. Outside audits by registered auditors are required of all firms, though standards are considered low in the domestic accounting industry. Funds investing in Salvadoran firms find it important to conduct both financial as well as fiscal audits due to high rates of tax evasion. International auditors are present. (Deloitte IAS PLUS 2012; EIU Country Finance, December 2011; Interviews February 2012, January 2011)
Entrepreneurship	2	While the number of procedures and required time to start a business is below regional averages, the cost to starting a business remains one of the highest in the region. In addition, there are large gaps in business training in terms of investor outreach and internet usage, which constrains the entrepreneurial environment. (Doing Business 2012, The World Bank; Interviews, January 2012)

## Country Profile

## MEXICO

	2012	2011
<b>OVERALL SCORE:</b>	<b>65</b>	<b>63</b>
<b>REGIONAL RANKING:</b>	<b>3RD</b>	<b>3RD</b>

Mexico's overall score rose this year due to an increase in the score for capital markets development and feasibility of exits, a double-weighted indicator. The country remains ranked third overall. Mexico's capital markets are diversifying and regulations for SMEs to enter the market have improved. A partnership with the Chicago Mercantile Exchange in 2011 resulted in direct market access for international investors. While there was a drop year-on-year in the number of commitments to CKDs by pension funds, the structure has gained acceptance as a local fundraising vehicle and has allowed the Afores to become familiar with private equity as an asset class.

**Strengths:** Compared to regional averages, Mexico is strong in tax treatment, corporate governance requirements, protection of minority shareholder rights and restrictions on local institutional investors.

**Challenges:** Due to a weak framework for fund formation, larger funds continue to set up vehicles offshore. Additional areas of weakness include bankruptcy procedures, an inefficient judicial system and a negative perception of corruption.

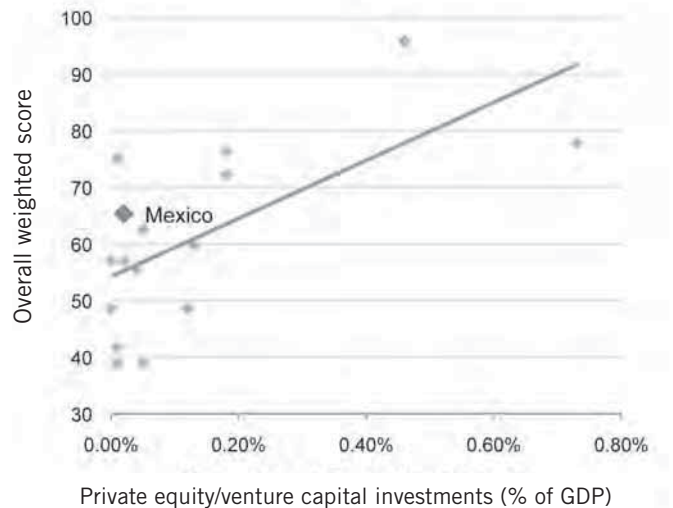
## Mexico ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	2	Most of the larger funds remain offshore as limited partnerships in Canada. The CKD scheme created in 2009 allows for pension funds—as well as some other types of institutional investors—to invest in these exchange certificates ( <i>certificados bursátiles de capital de desarrollo</i> , or CKDs). They are issued by a trust ( <i>fideicomiso emisor</i> ), which is created and managed by a fund manager. The specialised trust vehicle created in 2006 ( <i>fideicomisos de inversion de capital privado</i> , or FICAPs) has difficult requirements: 80% of the fund must be invested within a year and the remainder within ten; the immediate distribution of gains from selling companies in the fund's portfolio; legal responsibility is shared by general and limited partners; and the technical committee of a FICAP does not in principle enjoy a "corporate veil". In recent years some fund managers have indicated that they can structure around some of these difficulties in order to establish FICAPs, which offer limited disclosure for invested firms and ease of fiscal transparency for national investors. Foreign investors continue to prefer the lower costs and lesser legal exposure of limited liability offshore vehicles. In the past two years, separate "funds of funds" have been established for both PE and VC/early stage. (Interviews, January 2012, January 2011; www.iflr.com, September 1, 2010; El Economista, December 21, 2011)
Tax treatment of PE/VC funds & investments	3	While Mexico's tax system offers some advantages for certain aspects of PE/VC investing, a 2007 tax reform raises the tax burden more generally with some impacts on the industry. CKD trusts ( <i>fideicomisos emisores</i> ) are eligible to receive tax transparency if certain requirements are met. Investments in PE/VC funds remain ineligible for tax incentives and exemptions available for investments in listed firms. Management fees are only deductible after the tax year in which they were incurred. Corporate capital gains are considered a part of regular taxable income, with proceeds inflation-indexed. Dividends paid to a company's own shareholders are not taxable if paid out of net after-tax profits and if the company has insufficient funds in its "net tax profit" account to cover the dividend. Under a 2007 tax reform which sought to simplify taxation and cut down on loopholes, companies must calculate their tax obligations under both the flat-tax (IETU, applied at 17.5% from 2010) and standard corporate tax (ISR, set at 30% after eligible deductions from 2011, up from 28% in 2010) schemes and essentially must pay whichever is higher. The flat tax eliminates significant deductions and has met considerable business opposition. (EIU Country Commerce, August 2011, August 2010; EIU Country Finance, April 2011; Interviews, January 2012, January 2011; bakermckenzie.com)

	score	change
<b>Overall score</b>	<b>65</b>	<b>▲ 2</b>
Laws on PE/VC fund formation and operation	2	
Tax treatment of PE/VC funds & investments	3	
Protection of minority shareholder rights	3	
Restrictions on local institutional investors investing in PE/VC	3	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	3	▲ 1
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	3	
Strength of the judicial system	2	
Perceived corruption	1	
Quality of local accounting/use of international standards	3	
Entrepreneurship	2	

Indicators are scored from 0-4 where 4 = best score  
Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

## Overall score against PE / VC investments



## Mexico ScoreNotes

Aspects	Score (4-0)	Notes
Protection of minority shareholder rights	3	Minority shareholders with 25% or more of shares (or 10% for public companies) have the right to appoint directors and can name board members with only 10% of the votes. Companies are required to form independent audit and corporate governance committees. A special corporate category created in 2006, the <i>Sociedad Anónima Promotora de Inversión</i> (SAPI), is now frequently used by PE funds. It provides greater legal protection for minority shareholders by allowing special bylaw provisions, such as “drag-along” and “tag-along” rights, which facilitate exit strategies. In all cases, shareholder agreements and arbitration clauses remain crucial. There are lingering concerns about the uncertain enforceability of shareholder agreements given lack of jurisprudence and prevalence of family and personal ties that can dilute minority shareholder voice. (EIU Country Commerce, August 2011, August 2010; EIU Country Finance, April 2011; Interviews January 2011, January 2010)
Restrictions on local institutional investors investing in PE/VC	3	Reforms adopted in 2009 allow privatized pension funds (AFORES) to invest in PE/VC funds under capital development certificates ( <i>certificados bursátiles de capital de desarrollo</i> or CKDs). CKDs must be traded on the Mexican exchange (BMV). There is no guarantee of payment of principal, interest or yields, and the certificates are tied to the issuing funds’ longer term success. After a large spurt in new CKD emissions in 2010 (13 total were issued), a more modest six were issued in 2011. As of January 2010, AFORES can invest up to 10% of their assets in infrastructure, real estate, and PE funds. In 2011 requirements for pre-funding of CKDs were eliminated. Insurance companies’ portfolio investments in corporations are limited to registered securities, or to those funds which the National Insurance Commission has individually approved for receipt of investment. (EIU Country Finance, April 2011, March 2010; Interviews, January 2012, January 2011; AMEXCAP; bakermckenzie.com; El Economista, December 21, 2011; Private Equity International, January 13, 2011)
Protection of intellectual property rights	2	Mexican law protects intellectual property through a combination of national laws and international conventions. Although recent changes have strengthened penalties for violation, the large informal sector makes enforcement weak and inconsistent. While noting the country’s progress on IPR enforcement issues, the USTR kept Mexico on its 2011 Watch List due to the prevalence of counterfeiting and lack of coordination between federal and state levels. While Mexico initially participated in negotiations related to the Anti-Counterfeiting Trade Agreement, the Senate ultimately voted against participation. (EIU Country Commerce, August 2011, USTR Special 301 report 2011)
Bankruptcy procedures/creditors’ rights/partner liability	2	Bankruptcy reforms of 2000 (amended in 2003, 2005, and 2007) in principle established clearer criteria, shorter time limits, greater ability to use and take collateral, and greater judicial power for restructuring or liquidating firms. In the view of Mexican fund managers, however, legal delays and lack of transparency in inter-firm transactions remain. According to the World Bank’s Doing Business 2012, bankruptcies are resolved much faster and with a considerably higher recovery rate compared to the regional average, albeit at higher cost. FICAPs have shared legal responsibility between general partners and investors, unlike offshore vehicles typically set up under limited liability rules. Partner liability must be addressed clearly in shareholder agreements, though legal enforceability is an issue. (Interviews, January 2012, January 2011; estandardsforum.org)
Capital markets development and feasibility of exits	3	Mexico’s capital markets continue to diversify their presence in the global market. In March 2010, Mexico’s stock exchange partnered with the US-based CME Group to facilitate derivative order routing with the Chicago Mercantile Exchange. In 2011, this partnership resulted in the establishment of direct market access for international investors through the CME. There were three IPOs in 2011. Legislation requiring small and medium-sized companies (SMEs) to enter the market as a SAPI was eased. SMEs no longer have to undertake the long three-year transition to another corporate form, the variable-capital stock-traded corporation. IPOs are being stimulated in part by added liquidity from the pension funds presence in the market. Funds can also directly buy stocks through a type of stock certificate. IPO exits are still not viable for smaller firms but there are prospects for medium-sized firms. PE fund managers cite increasingly favourable conditions for fund exits. (Interviews, January 2012, 2011; EIU Country Finance, April 2011)
Registration/reserve requirements on inward investments	3	Under money laundering regulations, registration is easy and straightforward, and there are no reserve requirements or other exchange controls. (EIU Country Commerce, August 2011; Interviews, January 2012)
Corporate governance requirements	3	Governance rules for listed corporations ( <i>sociedades anonimas</i> ) reflect global standards and provide protections for minority shareholders. Listed Mexican firms must comply with reporting requirements set out by the local securities regulator CNBV. Practices among non-listed firms are improving. The SAPI corporate category created in 2004 allows firms to avoid some requirements established for conventional corporations for three years, in return for adopting the voluntary Code of Improved Corporate Practices, which has led to improvements. Overall, there remain concerns about corporate governance more broadly in Mexico in terms of weak oversight and reporting requirements, prevalence of tight family and interpersonal networks, and full enforceability of shareholder agreements. The World Bank’s Doing Business 2012 continued to rate disclosure requirements in Mexico well above the regional average, director liability on par with the regional average, and shareholder ability to file suit slightly below average. (Interviews, January 2010, January-February 2009; EIU Country Finance, April 2011).
Strength of the judicial system	2	Investors and invested companies avoid using the courts due to delays, a lack of transparency and weak contract enforcement. Delays are especially lengthy in real estate transactions. International commercial arbitration has grown in importance though enforceability of such arbitration settlements can be problematic and expensive. Investors should also be aware that certain commercial cases that are classified as civil cases in the US could be treated as criminal in Mexico. (Interviews January 2010, US Investment Climate Statement 2011, EIU Country Commerce Report 2011)
Perceived corruption	1	Government transparency has improved through contracts and involvement of the private sector, though corruption still impedes private sector development. There are signs that the government is making efforts to reduce red tape and expand SARE, a fast-track scheme for opening businesses. Government transparency is still limited at the state and local levels, however. In 2011, Transparency International ranked Mexico 100 out of 182 countries for perceived transparency, a slight decline from its 2010 ranking of 98. Concerns remain about the ability of Mexican authorities to control the drug trade and about corruption in Mexican law-enforcement and judiciary agencies. (EIU World Investment Data and Forecasts 2011; EIU Country Commerce, August, 2011; US Investment Climate Statement 2011; Transparency International)
Quality of local accounting industry	3	Mexico is converging toward international standards, though practices remain uneven at smaller and family-owned businesses. On November 11, 2008, the securities regulator CNBV announced that all listed companies will be required to use IFRS starting in 2012. Mexican accounting principles require versions of inflation-adjusted accounting but only when three-year inflation cumulatively totals 26% or more. International auditors are present and competent. (EIU Country Commerce, August 2011, August 2010; Deloitte-IAS PLUS 2012; Interviews, January 2012, January 2011)
Entrepreneurship	2	The view on Mexico’s entrepreneurial climate is generally upbeat. While the cost of starting a business is less than half the regional average, the registration process takes more than twice as long as the regional average. In the past year, the government has improved the entrepreneurial environment by launching an online business registration site. (World Bank Doing Business 2012; Interviews, January 2012)

## Country Profile

# PANAMA

	2012	2011
<b>OVERALL SCORE:</b>	<b>49</b>	<b>47</b>
<b>REGIONAL RANKING:</b>	<b>8TH (TIED)</b>	<b>8TH (TIED)</b>

Panama's score in entrepreneurship increased this year, returning to its 2010 level and resulting in an improvement in the country's overall score. After a significant fall in the establishment of new businesses following the financial crisis, the government implemented a number of policies to improve the entrepreneurial climate throughout 2011.

While Panama's overall economy continues to perform well and attract foreign investment, the PE/VC industry is still in very early stages of development. Most activity is from offshore vehicles or funds operating across the Central American region.

**Strengths:** Panama's principle strength remains its openness to inward investment.

**Challenges:** The country faces a number of challenges and ranks below regional averages on most key indicators including tax treatment, minority shareholder rights, laws for fund formation, corporate governance and quality of accounting standards.

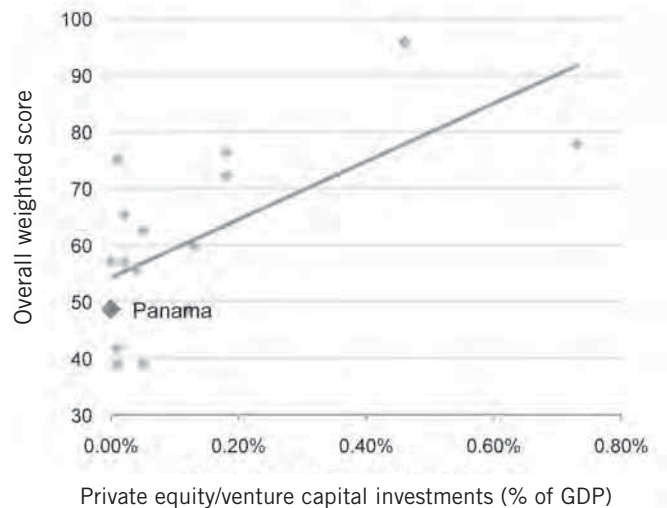
### Panama ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	2	PE/VC activity is scarce and incipient in Panama, but there are a few funds operating across the entire Central American region that operate from and/or in the country. Since specifically designed PE/VC legal vehicles are lacking, in principle other fund instruments (e.g., those intended for mutual funds) can be adapted, but most operate from offshore. (EIU Country Finance, February 2011; Interviews, February 2012, January 2011)
Tax treatment of PE/VC funds & investments	2	A 10% withholding tax applies on dividends to investors from operations in Panama on nominal shares, though some funds using offshore vehicles are able to avoid this. A withholding tax rate of 6% applies on dividends derived from operations outside of Panama, as well as from the export of goods from Panama. The rate is 20% for bearer shares. All payments remitted abroad to beneficiaries not resident in Panama are subject to income tax withholdings if: (1) the payments relate to the generation of income within Panama or conservation of a source of income within Panama and (2) the payments are considered deductible expenses for a payer operating from Panama. The fiscal reform of March 2010 lowered the corporate income tax rate from 30% to 27.5% of net income for fiscal year 2010, and to 25% beginning in 2011. No tax is imposed on capital gains from sales of shares registered with the National Securities Commission if the sale is transacted by an authorised broker, results from a public offer, or from a merger or corporate reorganisation involving the exchange of shares. (Interviews February 2012, January 2011; EIU Country Commerce, October 2011)

	score	change
<b>Overall score</b>	<b>49</b>	<b>▲ 2</b>
Laws on PE/VC fund formation and operation	2	
Tax treatment of PE/VC funds & investments	2	
Protection of minority shareholder rights	2	
Restrictions on local institutional investors investing in PE/VC	2	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	2	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	2	
Strength of the judicial system	2	
Perceived corruption	1	
Quality of local accounting/use of international standards	2	
Entrepreneurship	1	▲ 1

Indicators are scored from 0-4 where 4 = best score  
Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

### Overall score against PE / VC investments





## Panama ScoreNotes

Aspects	Score (4-0)	Notes
Protection of minority shareholder rights	2	No specific laws govern matters such as who can convene a shareholders' meeting or what constitutes effective control. However, in order for decisions made at a shareholders meeting to be valid, all shareholders must either be present or there must be a quorum and all absent shareholders must have communicated their wish to abstain. Funds work with sophisticated, internationally trained lawyers who are able to incorporate minority rights into enforceable statutes and shareholder agreements. In this context, the concept of minority rights is well understood and legally enforceable. (EIU Country Commerce, October 2011; EIU Country Finance February 2011; Interviews, January 2011, February 2010)
Restrictions on local institutional investors investing in PE/VC	2	Insurance companies are allowed to invest only in public sector debt securities, mortgages, mortgage-backed securities and securities issued through the local stock market or duly approved by the National Securities Commission. Insurance companies may invest up to 25% of required reserves abroad, but may only place their funds in investment grade securities of well-established companies. Pension funds may invest 45% of assets in stocks. Pension funds remain an attractive, but only potential, investor for the PE/VC industry. (EIU Country Finance, February 2011, February 2009; Interviews, February 2012, January 2011)
Protection of intellectual property rights	2	Licensing of products in Panama poses no significant challenges, and franchising of recreation, tourism, and restaurants is common. Enforcement of intellectual property rights has improved significantly in the past decade through the creation of a special prosecutor's office and a commercial court that hears IPR cases involving infringements of consumer-protection law. The US government considers Panama's legal framework to be "adequate and effective" in regards to intellectual property protection. However, carrying out such cases is a slow process. (EIU Country Commerce, October 2011; US Investment Climate Statement 2011)
Bankruptcy procedures/creditors' rights/partner liability	2	According to the World Bank's Doing Business 2012, liquidating a bankrupt business remains slightly quicker, but slightly more costly process in Panama than in Latin America as a whole, yielding a higher recovery rate. Legal rights of borrowers and creditors in Panama are rated somewhat above the regional average. Recent high-profile cases of insolvent firms have been handled in an orderly fashion. Liability beyond capital share is not a concern. (Interviews, February 2012, January 2011)
Capital markets development and feasibility of exits	2	The Panama Stock Exchange is well managed but used predominantly as a market for debt securities. The market for equities is small. . There were no initial public offerings (IPOs) on the Panama Stock Exchange (Bolsa de Valores de Panama, BVP) during 2011 and 2010. In 2009, there was just one IPO. Panama achieved investment grade status in March 2010, a significant step forward for its capital markets. In 2006, the SEC approved the Panama Stock Exchange as a Designated Offshore Securities Market, which gives qualified investors the ability to acquire securities on the exchange without having to register with the SEC. (Interviews, January 2011; EIU Country Finance, February 2011; US Investment Climate Statement 2011)
Registration/reserve requirements on inward investments	3	Panama has no exchange controls, and repatriation of capital is unrestricted. But it does have reporting requirements designed to prevent money-laundering and terrorist financing. There are no reserve requirements or restrictions on portfolio investment. (EIU Country Commerce, October 2011)
Corporate governance requirements	2	Corporate governance standards under the commercial code are fairly minimal, and the prevalence of family-owned firms encourages a culture of secrecy. The specific laws of incorporation of each corporation ( <i>sociedad anonima</i> ) determine who can convene a shareholders meeting. For decisions made at a shareholders meeting to be valid, all shareholders must be present, or there must be a quorum and all absent shareholders must have communicated their wish to abstain. No legal requirements exist on the percentage of shares that constitute effective control. Typically, funds establish clear terms on these issues in shareholder agreements, and when registered with authorities, such agreements are well understood and enforceable. Within the regional context, the World Bank's Doing Business 2012 scores Panama very low on disclosure requirements, low on director liability, and high on shareholder ability to sue, as compared to regional averages. (EIU Country Commerce, October 2011; EIU Country Finance, February 2012; Interviews, January 2011, February 2010)
Strength of the judicial system	2	Courts in Panama generally uphold contracts, although the system is slow and tends to be vulnerable to backlogs and corruption. While commercial law is comprehensive, the system has weak capacity to resolve contractual and property disputes. A US government report points to evidence of corruption "at all levels of the judicial system" and notes that enforcement bodies have not been able to successfully prosecute a number of high-profile cases. In December 2010, the acting attorney-general resigned after allegations that suspected drug-traffickers received preferential treatment from some prosecutors. A new attorney general was confirmed in January 2011 and was welcomed by civic groups and lawyers due to his experience prosecuting organized crime and intellectual property cases. (EIU Country Report 2011; US Investment Climate Statement 2011)
Perceived corruption	1	Panama's legal system and civil service suffer from corruption and a lack of independence. Foreign investors regularly complain about corruption and shortcomings in financial transparency. The country slid to a ranking of 86 from 73 in Transparency International's 2011 Corruption Perceptions Index. In late 2010, the same organization stated that Panama had failed in a number of ways to fight corruption, including nepotism, conflicts of interest, lack of international anti-corruption compliance, and pressure on media and anti-corruption activists. There have also been instances of private sector contracts awarded without a bidding process and a lack of pre-auditing of several government department projects. (EIU Country Report 2011; US Investment Climate Statement 2011)
Quality of local accounting industry (international standards)	2	As of tax year 2007, IFRS are required for firms with earnings over US\$1M; as of 2008, for those with earnings of US\$500,000-US\$1M; and as of 2009, for those with earnings of US\$250,000-500,000. However, these laws remain under legal challenge and there has been resistance to implementation of these standards. SMEs, traditionally family-owned, have had poor accounting standards. Large international accounting firms are present. (Deloitte IAS PLUS 2012; US Country Commercial Guide 2010; EIU Country Commerce, October 2011; Interviews, February 2012, January 2011)
Entrepreneurship	1	During the global financial crisis, Panama saw a significant decrease in the new business entry rate year-on-year. Since then, government policy has improved the entrepreneurial climate. Corporate taxes have decreased, and business registration processes have been improved. According to the World Bank, Panama's 'Ease of Doing Business' ranking is better than the regional averages in every category and comparable to or better than OECD averages. (Interviews, January 2011, February 2010; Doing Business 2012, The World Bank)

## Country Profile

## PERU

	2012	2011
<b>OVERALL SCORE:</b>	<b>49</b>	<b>47</b>
<b>REGIONAL RANKING:</b>	<b>8TH (TIED)</b>	<b>8TH (TIED)</b>

Peru's overall score increased this year as the score on fund formation returned to its 2010 level. Fund managers report that issues with the delay of new fund approvals have subsided. As pension funds near the 3% cap on commitments to private equity funds, there is some expectation that the limit will be increased, making new capital available for local funds. Peru's macroeconomic outlook is strong, and the Humala administration worked to forge ties with investors and reduce fears that changes would be made to the country's free market policies in 2011.

**Strengths:** Peru's major strengths are the use of international accounting standards, inward investment and corporate governance.

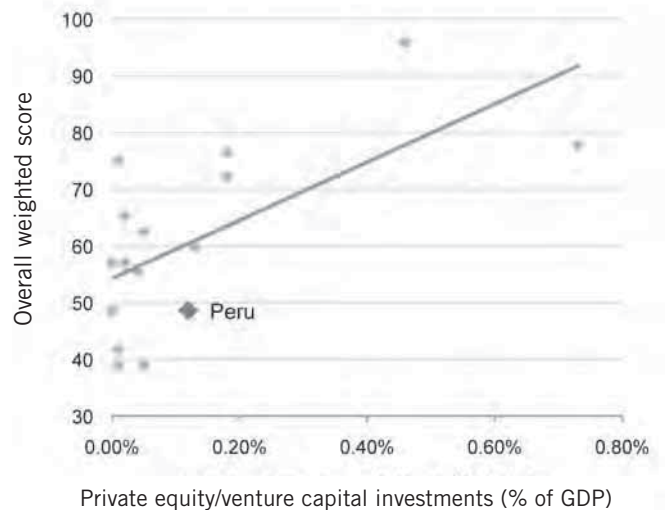
**Challenges:** The country is positioned at the bottom of the region in many key areas for the PE/VC industry, including tax treatment and minority shareholder rights. Though improved, Peru needs further advances in the legal structure for fund formation. Corruption and a weak judicial system remain problematic.

	score	change
<b>Overall score</b>	<b>49</b>	<b>▲ 2</b>
Laws on PE/VC fund formation and operation	2	▲ 1
Tax treatment of PE/VC funds & investments	1	
Protection of minority shareholder rights	1	
Restrictions on local institutional investors investing in PE/VC	2	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	2	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	3	
Strength of the judicial system	1	
Perceived corruption	1	
Quality of local accounting/use of international standards	4	
Entrepreneurship	2	

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

## Overall score against PE / VC investments



## Peru ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	2	This score has returned to its 2010 level despite the continued overlap in jurisdiction of regulation of funds between the securities superintendency (SMV, formerly the securities commission CONASEV) and the banking superintendency (SBS). Fund managers report a decrease in problems which previously delayed the approval of new funds. <i>Fondos de inversion</i> continue to be the only legally established framework and are more suited to PE than VC, the latter of which remains underdeveloped in Peru. Since foreign investors face steep tax rates, offshore co-investment funds typically have to be set up. (Interviews, February 2012, January 2011; EIU/LAVCA 2011 Survey)
Tax treatment of PE/VC funds & investments	1	Although funds are pass-through for income tax purposes since 2004, in general the tax environment in Peru remains complex and burdensome, with a corporate rate of 30%. Since 2010, capital gains obtained by Peruvian legal entities through transfers via the Lima Stock Exchange (LSE), previously tax exempt, are levied at the regular corporate tax rate. Peruvian individuals face a tax of 5% on the sale of Peruvian securities, provided that such gains exceed five tax units ( <i>unidad impositiva tributaria - UIT</i> ). Non-resident legal entities and individuals are subject to a 5% withholding tax on the capital gains derived from the sale of Peruvian securities when such sale is performed through the LSE; otherwise a 30% withholding tax applies. A 4.1% withholding tax is levied on dividend distributions to resident individual shareholders and to non-resident shareholders (legal entities or individuals). Transactions conducted via the financial system are subject to 0.005% financial transactions tax as from April 1, 2011 (previously 0.05%). As of March 1, 2011, the general sales tax rate assessed on management fees charged by VC funds was reduced to 18%. (EIU Country Commerce, June 2011; Interviews, February 2012, January 2011)

## Peru ScoreNotes

Aspects	Score (4-0)	Notes
Protection of minority shareholder rights	1	Minority rights remain weakly protected in privately held firms. In general, the minimum quorum for a general meeting is 50% of subscribed voting shares on the first call, and most decisions are taken by a simple majority of shares present. For major decisions the minimum quorum is two-thirds on the first call and 60% on the second, and the decision requires an absolute majority of the total number of voting shares issued by the corporation. Joint stock corporations ( <i>Sociedades Anónimas Abiertas</i> , or SAAs), must disclose non-confidential information at the request of shareholders representing at least 5% of capital. Shareholder agreements and private arbitration are the main recourse to strengthen minorities, though their legal enforceability is sometimes limited. In case of any discrepancies between a shareholders agreement and a corporation's bylaws or articles of incorporation, the latter prevails. (EIU Country Commerce, June 2011; Interviews, February 2012, January 2011)
Restrictions on local institutional investors investing in PE/VC	2	This score was downgraded in 2011 because regulatory authorities stiffened enforcement of due diligence requirements for PE firms raising capital from the country's pension fund administrators (AFPs), making approval for new funds extremely difficult. While that challenge seems to have eased, the score remains because of low limits. Peru's AFPs have reached their legal investment limits. They may invest up to 3% of AUM in alternative assets (including PE/VC funds). The 3% limit may be invested in both domestic and international funds. There is no specific category for PE/VC investments, but rather a broad "variable income" category for AFP's domestic portfolios. Investments in this asset class have to be valued at book rather than fair market ("mark to market") value. Insurance firms face more restrictions and are not active investors in PE/VC. (Interviews, January-February 2012, January 2011; EIU/LAVCA 2011 Survey)
Protection of intellectual property rights	2	In recent years, Peru has improved its IPR protections, in many cases bringing them up to US and international standards. However, enforcement remains weak. Peru remains on USTR's Watch List, due to rampant piracy, low enforcement, and generally weak penalties for violators. Laws remain robust and recognize patents, trademarks, copyrights, and industrial designs and models. Despite the criminalization of intellectual property rights violation and an increase in raids of large-scale distributors, an estimated 98% of music and 68% of software is still pirated. (EIU Country Commerce, June 2011; US Investment Climate Statement 2011)
Bankruptcy procedures/creditors' rights/partner liability	2	Bankruptcy procedures set up under the National Institute for the Defense of Free Competition and Intellectual Property (INDECOPI) remain subject to delays and judicial intervention, but there has been some progress in the ability to restructure or liquidate troubled firms. The creditor hierarchy is similar to that of US bankruptcy law. Compared to regional averages, the World Bank's Doing Business 2012 finds that bankruptcy settlements take a little less time, cost much less, and award a little less to plaintiffs. In general, under Peruvian Business Law, shareholder liability is limited to capital share. (US Country Commercial Guide 2010; Interviews, February 2012, January 2011)
Capital markets development and feasibility of exits	2	In May of 2011, stock exchanges in Peru, Colombia, and Chile began cross-border stock trading in a system called Integrated Latin American Market (MILA). This merger is likely to increase exchange market capacity and could improve the market for IPOs in the medium-term. As of end of 2011, the domestic exchange had 266 registered companies and capitalization of US\$121.6bn, down from US\$157.6bn at the beginning of the year, which was mostly due to global economic uncertainty. Larger private firms sometimes try to restrict outsider interest in their companies (both domestic and foreign) through "cross-shareholding" or "stable shareholder" arrangements. (Interviews, January 2011; Bloomberg; US Investment Climate Statement 2011, Lima Stock Exchange)
Registration/reserve requirements on inward investments	3	Overall registration requirements are simple and straightforward. Foreigners can participate directly in the capital markets, and there are no reserve requirements. A tax on all financial transactions was implemented in March 2004, with rates lowered most recently to 0.005% from April 1, 2011, when the tax became permanent. (EIU Country Commerce, June 2011)
Corporate governance requirements	3	Peruvian public companies face strong financial disclosure requirements and greater ability of shareholders to sue by regional standards, according to World Bank's Doing Business 2012, while director liability is average. Board composition and decision-making are only partially regulated and are often addressed through shareholder agreements. Closed stock corporations ( <i>sociedades anónimas cerradas</i> ) have from two to 20 shareholders, and have fewer restrictions. CONASEV set up a voluntary corporate governance code in 2002 under which open joint stock corporations ( <i>Sociedades Anónimas Abiertas</i> ) could become signatories to a public registry and agree to submit annual reports on governance compliance; thus far adherence has been good. (Interviews, February 2012, January 2011; EIU Country Commerce, June 2011)
Strength of the judicial system	1	Lima's commercial courts have reduced the timeframe for business cases from an average of two years to two months, with enforcement similarly reduced from 36 months to three to six months. Despite these statistics, foreign companies have often found contracts difficult to enforce, and there are ongoing allegations of corruption and interference within the judicial system. According to the World Bank, Peru ranks 111 <sup>th</sup> in the world in terms of enforcing contracts, with costs of claim being higher than regional averages. However, Peru has signed several bilateral agreements, which offer foreigners alternative dispute settlement procedures. (EIU Risk Briefing; US Investment Climate Statement 2011; World Bank Doing Business 2012; Interviews, January 2012)
Perceived corruption	1	Corruption and a large informal economy continue to inhibit efficiency in Peru, with foreign firms regularly complaining about corruption related to public procurement and the judicial system. However, the country is one of four worldwide that is participating in a G8 anti-corruption initiative aimed at improving transparency, which has already led to some positive developments, particularly in the field of e-governance. Nonetheless, recent high-profile scandals have undermined some of new President Humala's support. (EIU Country Report 2012; US Investment Climate Statement 2011; Transparency International)
Quality of local accounting industry (international standards)	4	IFRS are required for listed but not non-listed firms. International standards are widely in use, although inflation adjustment is required. International firms are present in Peru. Standards tend to be more uniformly followed by listed firms. (Deloitte/IAS PLUS 2012; Interviews, February 2012, January 2011)
Entrepreneurship	2	Costs and time associated with starting a business are low by regional standards. The government has recently facilitated the ease of starting new businesses. In particular, Peru has simplified requirements for operating licenses and has also improved efficacy in registering property. Educational programs for entrepreneurs are also actively increasing their geographic scope beyond Lima. (World Business Doing Business 2012; Centre for International Private Enterprise)

## Country Profile

# TRINIDAD AND TOBAGO

	2012	2011
<b>OVERALL SCORE:</b>	<b>57</b>	<b>56</b>
<b>REGIONAL RANKING:</b>	<b>5TH (TIED)</b>	<b>6TH</b>

Trinidad and Tobago moves up one place in the regional ranking this year with an overall score increase due to improvement in the protection of intellectual property rights. Trinidad and Tobago is one of the most developed countries in the Caribbean and was removed from the OECD's list of Developing Countries in November 2011. The country remains open to inward investment, though most activity occurs in natural resources, not PE/VC investment. The country's capital markets are fairly well-developed by Caribbean standards, and it also has a favorable tax environment, but the basic framework for fund formation is inadequate.

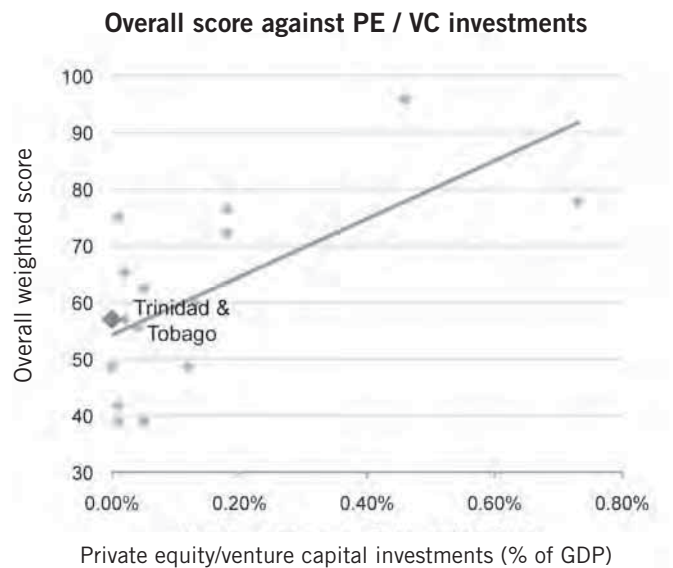
**Strengths:** Trinidad and Tobago's main strength is its openness to inward investments and the free movement of foreign capital. Tax treatment and the use of international accounting standards are also favorable.

**Challenges:** The Island is weak in areas including perceived corruption, laws on fund formation, corporate governance and bankruptcy procedures.

	score	change
<b>Overall score</b>	<b>57</b>	<b>▲ 1</b>
Laws on PE/VC fund formation and operation	2	
Tax treatment of PE/VC funds & investments	3	
Protection of minority shareholder rights	2	
Restrictions on local institutional investors investing in PE/VC	2	
Protection of intellectual property rights	3	▲ 1
Bankruptcy procedures/creditors' rights/partner liability	2	
Capital markets development and feasibility of exits	2	
Registration/reserve requirements on inward investments	4	
Corporate governance requirements	2	
Strength of the judicial system	2	
Perceived corruption	1	
Quality of local accounting/use of international standards	3	
Entrepreneurship	2	

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)



## Trinidad and Tobago ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	2	The basic framework created by the Venture Capital Act of 1994, with amendments in 2004, still remains in place and is less than ideal. It serves primarily as a vehicle for one-off tax incentives and is seldom used. The act requires pre-approval by a government agency, which remains understaffed. It does not allow for closed-end funds, and instead assumes that all investments are "evergreen." It also does not make provision for dividends, and exit strategies are unclear. However, it is possible and customary to register closed-end funds as "reporting issuers" under the Securities Industry Act; the Inspector of Financial Institutions at the Central Bank of Trinidad and Tobago then must grant approval for investment of Statutory Funds under section 1(i) in the Second Schedule to the Insurance Act. Such closed-end funds, intended for institutional investors, are restricted to "sophisticated purchasers" as defined in the Securities Industry Act of Trinidad and Tobago. (Interviews January 2012, January 2011; Inter-American Development Bank, internal document, November 2010)
Tax treatment of PE/VC funds & investments	3	There remains a fairly light tax environment for PE/VC investments, and no concerns about pass-through. Tax incentives are available for funds registered under the Venture Capital Act. Funds not registered under the VC Act are taxed at the standard corporate rate of 25%, fairly low by regional standards. Dividends are tax exempt for local investors after one year, and there is no capital gains tax; this obviates concerns about pass-through laws. An issue for foreign investors remains the withholding tax of 10%-15% on dividend remittances, with the rate depending on the extent of voting shares. However, Trinidad has double tax treaties which would negate the tax for recipients in most relevant countries. (Interviews January 2011, February 2010; US Country Commercial Guide 2010)

## Trinidad and Tobago ScoreNotes

Aspects	Score (4-0)	Notes
Protection of minority shareholder rights	2	Confidence in existing practices and protections remains weak. The Companies Act of 1995 provides some rights, such as disclosure of directors and substantial shareholders, the right to attend meetings and vote, and right to fair notice, including about votes to sell, lease or transfer substantial company assets, and right to equitable buy-out in latter circumstances. The law is based on Canadian regulations, and jurisprudence is similar to that in Commonwealth countries. However, given delays and expense, enforceability of rights and lack of accessible remedies are an issue for minority investors. With weak fiduciary responsibility of management, strong potential for conflicts of interest, and poor checks and balances, minority investors are often in a weak position. (Interviews January 2012, January 2011)
Restrictions on local institutional investors investing in PE/VC	2	As of mid-2008, the Central Bank loosened the cap of 50% of statutory funds that may be invested by pension funds and insurance companies in variable-rate instruments. The firms and funds in question must still be registered with the local securities commission, and must be solvent and have retained earnings and a structure of dividends. Thus far, institutional investors have still not demonstrated an appetite for investing in this risky, unknown asset class due to the corporate governance and minority rights concerns noted above. Also, regulation of the insurance and pension funds remains generally weak and outdated, even though it was reformed under the 2008 Financial Institutions Act. (Interviews January 2012, January 2011; IDB internal document, November 2010; US Country Commercial Guide 2010)
Protection of intellectual property rights	3	IPR legislation is consistent with WTO standards and is rated "TRIPS-plus" by US Department of Commerce. Enforcement issues remain in some copyright areas, especially in music and video industries. In 2008, the government set up a cabinet-level committee to suggest recommendations to regulate media issues, but a new committee has not been appointed since 2010 elections. Despite such concerns, the US State Department notes that IPR enforcement is improving with the seizure and destruction of pirated material and arrests of individuals. (Interview, January 2012; EIU Risk Briefing 2012; US Investment Climate Statement 2011)
Bankruptcy procedures/creditors' rights/partner liability	2	Firms can be liquidated but not reorganized with debt protection, yet liquidations tend to be lengthy and costly. According to a 2005 IDB study, creditors' rights are well protected, with no automatic stay on assets, secured creditors paid first, and restrictions on reorganization. Partner liability is limited to capital share. The World Bank's Doing Business 2012 finds that resolving insolvency is lengthier, costlier, and yields a lower recovery rate than regional averages. (Interviews January 2012, January 2011)
Capital markets development and feasibility of exits	2	Capital markets remain fairly well developed by modest Caribbean standards, with a full range of financing options open to firms. Authorities have announced an effort to set up a junior exchange, which could prove promising for smaller firms and the PE/VC community. The stock market is small but well-functioning, with no restrictions on foreign investor borrowing. The government has its own security and exchange commission for market regulation, and the stock exchange has a takeover and merger code for its listed companies. However, the SEC regulation of the market is perceived to be poor, and though the stock market is generally more robust than others in the region, stockholding is concentrated in the hands of a few institutional investors. The combination of improvements in regulation, along with inflation easing, should increase the contractual savings sector and potentially improve capital market depth. As of end of 2010, market capitalisation was TT\$78.5bn (10.1% increase) with 37 listed companies. (US Investment Climate Statement 2010; EIU Risk Briefing, Trinidad and Tobago Stock Exchange; Interviews January 2012)
Registration/reserve requirements on inward investments	4	There continue to be no reserve requirements or exchange controls. Remittances are unlimited. (Interviews January 2012, January 2011; US Country Commercial Guide 2010)
Corporate governance requirements	2	The Companies Act of 1995 continues to be recognized as incomplete by authorities. Proposals to adopt more stringent standards and a formalized set of codes to improve monitoring and enforcement have not been acted upon. Investors in PE/VC funds report difficulties in areas such as fiduciary responsibility, conflicts of interest, and absence of checks and balances, even when these issues are spelled out in shareholder agreements (whose legal enforceability and lack of actionable remedies remain a concern). Stricter guidelines exist for publicly traded companies such as recommendations for having two independent directors, but they are voluntary. The World Bank's Doing Business 2012 scores Trinidad right at the regional average for disclosure requirements but significantly above average on the ability of shareholders to file suit and above average on director liability. (Interviews, January 2012, January 2011; Eastern Caribbean Securities Exchange)
Strength of the judicial system	2	The judicial system in Trinidad and Tobago upholds the sanctity of contracts and appears to treat domestic and foreign investors equally. However, a backlog of cases can cause long delays in the process. The length of litigation also increases expense, and interviews indicate that shareholder agreements are virtually unenforceable, complicating arbitration procedures. EIU analysts note that the police and judicial system needs further reforms. Still, the Bilateral Investment Treaty with the US allows for alternative dispute resolution procedures for US investors, such as binding arbitration. (Interviews January 2012, January 2011; EIU Risk Briefing; US Investment Climate Statement 2011; US Country Commercial Guide 2011)
Perceived corruption	1	Trinidad and Tobago continues to struggle with corruption. Although it does not appear to seriously damage business or government operations, public perceptions of corruption are strong and hinder investments in and by PE/VC funds. However, a new coalition government was elected in mid-2010 on an anti-crime, anti-corruption platform, and is under pressure to deliver rapid improvements. Nonetheless, the country slid from 73 <sup>rd</sup> place in 2010 to 91 <sup>st</sup> in 2011 in Transparency International's Corruption Perceptions Index. (EIU Risk Briefing; US Investment Climate Statement 2011, Transparency International)
Quality of local accounting industry (international standards)	3	While IFRS are required for all listed and unlisted firms, in the view of fund investors, there are still frequent problems in terms of the transparency of finances. Moreover, private closed companies can elect not to be audited in practice, though those receiving external equity typically will do so under shareholder agreements establishing this obligation. International accounting firms are present, but find that they can not reliably evaluate the finances of some invested companies. In the wake of the high-profile post-2009 bailout of financial services firm CL Financial, auditors are reluctant to give independent asset valuations. There are restrictions on the ability to rectify impaired asset values in such audits. (Deloitte IASPLUS 2012; Interviews January 2012, February 2011)
Entrepreneurship	2	The entrepreneurial climate and public support for entrepreneurship are fairly strong. Costs of starting businesses remain among the lowest in the region, but lack of access to capital and reliable credit information is an issue. The time and procedures required to start a business are largely in line with regional averages. (Doing Business 2012, The World Bank; Interviews, January 2011)

## Country Profile

## URUGUAY

	2012	2011
<b>OVERALL SCORE:</b>	<b>57</b>	<b>57</b>
<b>REGIONAL RANKING:</b>	<b>5TH (TIED)</b>	<b>5TH</b>

There were few changes in the PE/VC industry in Uruguay over the past year, resulting in no changes in the country's overall score. While it remains in the top five in the regional ranking, the country's lack of a legal framework for PE/VC funds and restrictions on local institutional investors continue to hinder the development of domestic funds. However, the country experienced strong economic growth in 2011, and its burgeoning entrepreneurial community is garnering attention from local and regional investors.

**Strengths:** Uruguay's strengths remain its favorable tax treatment, openness to inward investments and bankruptcy procedures. The country also ranks well above the regional average in perceived corruption.

**Challenges:** The country needs to develop its capital markets, strengthen its laws on fund formation and reduce restrictions on institutional investors. Corporate governance requirements should also be improved.

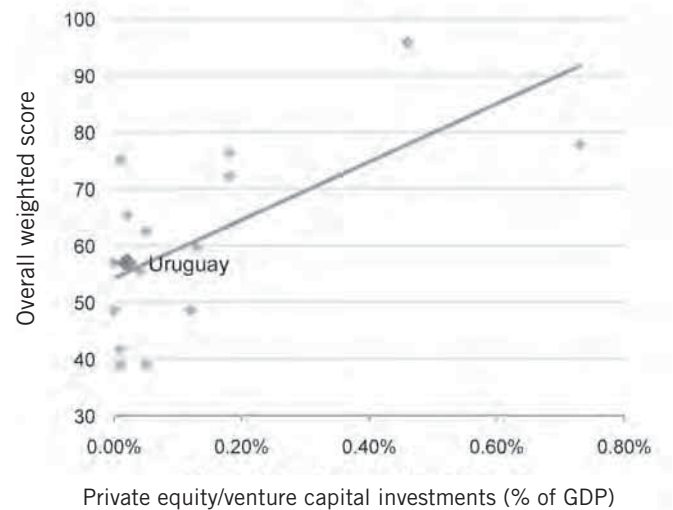
## Uruguay ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	2	A trust ( <i>fideicomiso</i> ) legal figure exists and can be adapted for PE/VC funds, but can be cumbersome for foreign investors. Offshore vehicles can be set up with participation by Uruguayan investors, and are generally more attractive and common. Most PE/VC investment in Uruguay firms comes in the form of funds with a regional focus set up offshore. (Interviews, January 2012, January 2011)
Tax treatment of PE/VC funds & investments	3	Since July 2007 corporate income tax ( <i>impuesto a la renta de la actividad empresarial</i> or IRAE), has stood at 25%. Individuals and entities also pay a net worth tax ( <i>impuesto al patrimonio</i> ) on assets held in country, at a rate of 1.5% generally and of 2.8% for financial institutions. Capital gains are taxed only as part of normal corporate income under requirements to adjust for inflation (though capital gains are subject to personal income tax). Dividends paid to resident individual shareholders and non-resident shareholders are subject to a 7% tax, while those received by resident corporations are exempt. An act that went into effect on January 1, 2011 assesses personal income tax on returns from investments abroad that are directly or indirectly paid to resident individuals, at a rate of 12%, granting a tax credit for tax paid abroad. (Interviews January 2011, January 2010; EIU Country Commerce, April 2011)
Protection of minority shareholder rights	2	Minority rights are moderately protected, though the lack of disclosure requirements and availability of public information hinders, for instance, the successful issuance of securities. Shareholder agreements are a common and generally effective response for PE/VC investments. Transparency with regard to the beneficial owners of corporations with bearer shares (currently protected by tax secrecy laws) would be improved if pending legislation now under consideration is approved as expected. (EIU Country Commerce, April 2012, April 2011; Interviews January 2012, January 2011)

	score	change
<b>Overall score</b>	<b>57</b>	
Laws on PE/VC fund formation and operation	2	
Tax treatment of PE/VC funds & investments	3	
Protection of minority shareholder rights	2	
Restrictions on local institutional investors investing in PE/VC	2	
Protection of intellectual property rights	2	
Bankruptcy procedures/creditors' rights/partner liability	3	
Capital markets development and feasibility of exits	1	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	2	
Strength of the judicial system	3	
Perceived corruption	3	
Quality of local accounting/use of international standards	3	
Entrepreneurship	2	

Indicators are scored from 0-4 where 4 = best score  
Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

## Overall score against PE / VC investments



## Uruguay ScoreNotes

Aspects	Score (4-0)	Notes
Restrictions on local institutional investors investing in PE/VC	2	Pension funds are able to invest only in locally domiciled companies, trusts or publicly traded investment funds, which has effectively barred their participation as LPs in PE/VC funds. Private insurance companies mobilize fewer assets and are virtually absent. (Interviews January 2011, January 2010)
Protection of intellectual property rights	2	Uruguay has tough penalties for intellectual property infringement, but enforcement is weak, especially within the software industry. Uruguay was taken off USTR's Watch List in 2006 and has improved both its copyright and trademark enforcement in recent years, though some industry groups have criticised current licensing requirements and the slowness of the patent system. (EIU Country Commerce 2011, US Investment Climate Statement 2011)
Bankruptcy procedures/creditors' rights/partner liability	3	The Bankruptcy and Business Reorganisation Act (BBRA), or Act 18,387, of October 23, 2008 (and slightly modified in September 2009) improves creditors' alternatives for action against a defaulting debtor, and provides for more expeditious collection proceedings and for expedited payments to creditors ordered by trustees if approved by judges. The bankruptcy law creates a uniform procedure for all types of debtors, makes it easier for creditors to demand a reorganisation before a judge, introduces speedier statutes of limitation not subject to modification by the parties, and reduces the number of privileged creditors who may collect before other creditors. Successful restructurings or liquidations have occurred under the law, though authorities have recently sought to avoid misuse of protected reorganizations for purposes of tax sheltering or evasion. The World Bank's Doing Business 2012 reports that the resolution of bankruptcies is faster, less than half as costly, and with a higher recovery rate than the respective regional averages. Unless there is demonstrated fraud or wrongdoing, limited partners and shareholders bear no liability beyond capital shares in instances of bankruptcy. (Interviews January 2012, January 2011; EIU Country Commerce, April 2011, April 2010; iflr1000.com)
Capital markets development and feasibility of exits	1	The capital markets in Uruguay remain underdeveloped, and the country relies heavily on the banking sector for capital sources, though institutional investors are gaining more space through the issues of bonds and trust interests. Most exits are reached through strategic acquisitions. The enactment of a PPP statute, the imminent launch of several infrastructure projects, and the increase in the percentage of the pension funds' assets that can be invested in these projects from 25% to 50%, are expected to encourage domestic project bond issuances and spur a greater development of the capital markets in the short to medium term. The Montevideo exchange is only comprised of a few firms with little trading, most of which are focused on sovereign bonds and public securities. Most operations are in the public sector, and the country has plans for a domestic debt clearinghouse to attract international capital. Uruguay remains open to foreign investment, and the government does not require screening mechanisms or government authorization to access capital markets. (EIU Country Commerce, April 2010; Bloomberg, US Investment Climate Statement 2011)
Registration/reserve requirements on inward investments	3	Uruguay has simple registration rules with no reserve requirements or exchange controls. The purchase and sale of foreign currency is unregulated, as are payments abroad in foreign currency. However, all foreign-exchange transactions must be made through the banking system or through currency-exchange houses authorised by the central bank ( <i>Banco Central del Uruguay</i> ). Legal remittance must be registered with the Central Bank for statistical purposes. (Interviews January 2011, January 2010; EIU Country Commerce, April 2011)
Corporate governance requirements	2	The system has weak transparency of finances and decision-making, particularly for closed SAs. At the end of each fiscal year, open SAs must publish general balance sheets and profit-and-loss statements, including allocation of earnings. Closed SAs need not publish their financial statements unless they invoice 100,000 re-adjustable units (about US\$2.86M in January 2012) or have total assets exceeding 30,000 indexed units (a unit equivalent to US 11.9 cents in January 2012). Issuers of listed securities are subject to periodic disclosure requirements vis-à-vis the regulator and the stock exchanges, as well as requirements to adopt corporate governance and internal controls practices. Disclosure requirements and director liability remain somewhat weak by regional standards, though shareholder ability to bring suits is still strong compared to regional averages published by the World Bank's Doing Business 2012. Funds deal with these issues effectively through shareholder agreements. Internal auditing is compulsory for open SAs and optional for closed SAs, and is conducted by a fiscal commission appointed by the shareholders meeting. Any shareholder may request copies of certain limited information. If there is suspicion of serious mismanagement in a closed SA, disclosure of company books may also be required in response to a formal legal request by shareholders representing at least 10% of capital. (EIU Country Commerce, April 2011; Interviews January 2012, January 2011)
Strength of the judicial system	3	An improved arbitration process has advanced the strength of the judicial system in previous years. Investors are able to choose between the judicial system and arbitration for dispute settlement. Moreover, the judicial system is highly independent and free from government interference. However, the judicial process still continues to function slowly and decisions can be opaque. Bankruptcy cases are particularly prone to delays and often take over two years to close a business, with around a 40% recovery rate. These judicial delays result in increased expenses and often render trials uneconomical. (EIU Risk Briefing; US Investment Climate 2011)
Perceived corruption	3	There are strong laws to prevent bribery and corruption in Uruguay. The country's rank in Transparency International's 2011 Corruption Perceptions Index improved and is second in the region after Chile. Some perceptions of public sector corruption remain, specifically regarding the awarding of public contracts, but they are not widely seen as obstacles to investment. (US Investment Climate Statement 2011; Transparency International)
Quality of local accounting industry (international standards)	3	By law, all Uruguayan companies must follow IFRSs existing as of July 31, 2007. There are also a few additional local standards which must be met. The auditor's report refers to conformity with Uruguayan GAAP, which is similar to international standards prevalent in Europe. International auditors are present and reliable. The tax authorities are increasingly pushing firms to comply with international standards. (Interviews, January 2012, January 2011; Deloitte IAS PLUS 2012)
Entrepreneurship	2	The creation of new start-up businesses is constrained by a culture of small family businesses. The costs of starting a new business in Uruguay are lower than the regional average, but higher than the OECD average. On the other hand, the country is encouraging entrepreneurship, and in recent years, new processes for facilitating incorporation have been approved. In the World Bank's annual <i>Doing Business</i> rankings, Uruguay rocketed from 139 to 32 in the 'Starting a Business' category in the last year. The jump in ranking partially resulted from the government's "Business in a day" initiative, which has greatly simplified the process of starting a company. (Interviews, January 2011; Doing Business 2012, The World Bank)

## Country Profile

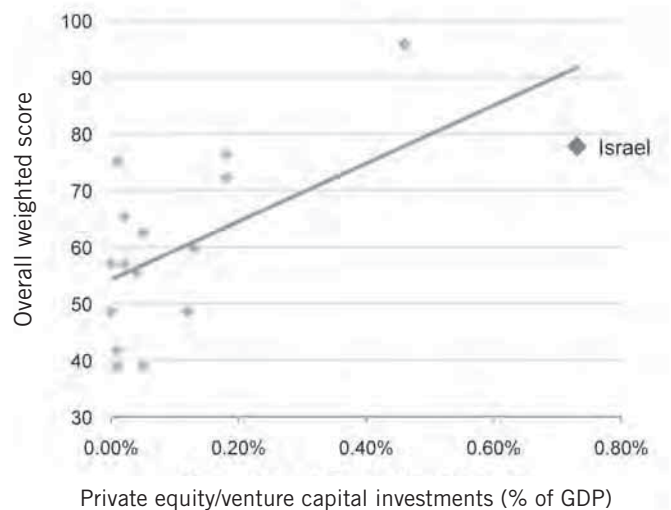
# ISRAEL

	score	change	
<b>Overall score</b>	<b>78</b>	<b>▼</b>	<b>3</b>
Laws on PE/VC fund formation and operation	4		
Tax treatment of PE/VC funds & investments	2	▼	1
Protection of minority shareholder rights	4		
Restrictions on institutional investors investing in PE/VC	3		
Protection of intellectual property rights	2		
Bankruptcy procedures/creditors' rights/partner liability	2		
Capital markets development and feasibility of exits	3		
Registration/reserve requirements on inward investments	3		
Corporate governance requirements	4		
Strength of the judicial system	3		
Perceived corruption	3		
Quality of local accounting/use of international standards	4		
Entrepreneurship	3		

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

Overall score against PE / VC investments



## Israel ScoreNotes

Aspects	Score	Notes (4-0)
Laws on PE/VC fund formation and operation	4	Clear, favorable laws have permitted a large-scale VC industry to develop since the early 1990s, with a smaller PE industry. The scope of VC activity remains high relative to the size of the economy, and there is a mix of domestic and foreign fund managers with a heavy reliance on foreign fundraising. After a sharp decline in 2009 due to the global recession, fundraising has begun to rebound. Israeli high-tech companies raised US\$2.14bn in 2011, the largest amount in eleven years; however Israeli VC funds did not raise any capital in 2010. In an effort to decrease Israel's reliance on VC capital raised abroad, the Cabinet voted in mid-July 2010 to allocate government funds during 2011–12 to hedge risks for local institutions investing in VC. The program will cover up to 20% of any future losses by institutions investing between US\$7m and US\$36m in a VC fund. There were 29 Israeli PE funds active in the third quarter of 2011, with US\$7.4bn under management; for the year as a whole they raised US\$2.88bn, up 18% from 2010. (EIU Country Finance, December 2011; IVC Research Center, January-February 2012)
Tax treatment of PE/VC funds & investments	2	Companies are generally subject to tax on their corporate income, and dividends and interest paid to shareholders are usually subject to dividend tax where income is distributed, though double-tax treaties may affect this for foreign shareholders. The December 5, 2011 Law for Changing the Tax Burden called for a number of tax increases, which resulted in a downgrade in this score. On January 1, 2012 the following increases went into effect: capital gains rates, 24% to 25%, taxes on interest, 20% to 25% and dividend income, 25% to 30%. In addition, the law reversed the previous multi-year corporate income tax reduction schedule set in place in July 2009, and instead raised the rate from 24% to 25%. Since January 1, 2009, foreign investors are exempt from tax on all equity investments made from that date. In May 2009, the Ministry of Finance exempted foreign investors from tax on profits derived from PE funds, aligning tax benefits on these funds to those of Israeli VC funds. (EIU Country Finance, December 2011; Israel Venture Association www.iva.com)
Protection of minority shareholder rights	4	For all limited liability companies (publicly traded or not) a minority exceeding 25% may block most decisions. Election of board members is determined by simple majority of those attending the annual meeting. Institutional investors with more than a 5% share must attend and vote. The role of minority investors is bolstered in public companies by amendments to the Companies Law passed by the parliament in April 2011. (EIU Country Commerce, August 2011; EIU Country Finance, December 2011)
Restrictions on local institutional investors investing in PE/VC	3	Since 2002, all restrictions have been lifted for insurance companies, subject only to prudential oversight by regulators. Insurers play the central role in the management of financial assets in Israel. Despite the insurance industry's recovery from the global crisis, it has undergone considerable consolidation. In recent years, the government has tightened regulations on risk management and capital adequacy and instituted stress tests, though no specific limits have been established on investment categories. Israel is still in the process of adopting the European Union's Solvency II requirements for insurance companies, which impose economic-based solvency standards. While pension funds have enjoyed a similar freedom to invest in alternative assets such as securities and have played an important role in infrastructure, they too have come under tighter financial supervision and regulation. Precise impacts on PE/VC going forward remain unclear. (EIU Country Finance, December 2011, December 2010)



## Israel ScoreNotes

Aspects	Score Notes (4-0)
Protection of intellectual property rights	2 In February 2010, Israel reached an agreement to modify its intellectual property laws in light of concerns raised by the US. This agreement was made after Israel agreed to improve data protection, the term of pharmaceutical patents, and the provisions on publication of patent applications. However, the country has yet to enact legislation to implement the agreement, and thus it was placed on the USTR's Priority Watch List. Generally, patents, trademarks, industrial designs and copyrights are legally recognised in Israel, and there is adequate enforcement of property rights. Jurisdiction problems regarding intellectual property (IP) protection still exist since responsibility for IP protection in the West Bank and Gaza was transferred to the Palestinian Authority in September 1995. In practice, the transfer of responsibility has resulted in less enforcement in those regions. Infringement of patents, trademarks and designs is usually met with civil remedies, including an injunction and damages in Israel. For flagrant infringement, a company may sue for double damages. (EIU Country Commerce, August 2011; US Trade Representative)
Bankruptcy procedures/creditors' rights/partner liability	2 Settling a bankruptcy continues to be a very lengthy and costly process as measured against OECD standards, with claimants averaging a considerably lower recovery rate, according to World Bank Doing Business 2012. The Companies Act provides general guarantees of limited liability similar to most Western countries, though courts may lift it in cases of criminal abuse or malfeasance. (EIU Country Commerce, August 2001, August 2010, August 2007)
Capital markets development and feasibility of exits (ie, local IPOs)	3 The Tel Aviv Stock Exchange (TASE) delivered mixed performance in 2011 owing mostly to global trends and slower domestic growth, though its market capitalization grew by 21% compared to 2010. The post-crisis economic recovery led to an increase in IPOs on the TASE, though the number of IPOs slowed in 2011 due to global uncertainty. IPO activity remains far below levels preceding the 2008-09 global financial crisis. According to TASE figures, there were seven IPOs in the first ten months of 2011 compared with 56 IPOs in 2007. Nonetheless, the decision of biotechnology and alternative energy companies to go public on the domestic exchange demonstrates its success in attracting high-tech companies to Israel—in the past, they most likely would have turned to foreign exchanges, particularly the US Nasdaq. (EIU Country Finance, December 2011)
Registration/reserve requirements on inward investments	3 There is registration for monitoring purposes by Bank of Israel, but there are no reserve requirements or exchange controls. (EIU Country Commerce, August 2010)
Corporate governance requirements	4 In 2007, the Israel Securities Authority (ISA) adopted the recommendations of a 2006 government committee and has been formulating corporate governance regulations for public companies. Some of the regulations approved by parliament in December 2009 and applied from 2010 include: declarations of accurate financial statements by senior executives; an appendix by the board and management regarding effectiveness of internal auditing and principles of disclosure. In March 2011, the parliament amended the Companies Law to make the audit committees more independent and to strengthen the power of directors representing the public and minority investors. There are fewer formal requirements for privately held companies. Election of board members usually requires a simple majority of voters in attendance. Israel continues to score well above OECD averages on disclosure requirements, director liability, and power of shareholders to file suit. (Doing Business 2012, The World Bank; EIU Country Finance, December 2011)
Strength of the judicial system	3 Despite the absence of a written constitution, Israel has a system of basic laws which lay out civil and political rights. The Supreme Court has also become particularly active in strengthening the constitutional protection of basic laws. The country has a strong and independent judiciary and a solid framework covering issues, such as monopoly power and competitive practices. Contractual arrangements in Israel are generally secure. In addition, laws governing commercial activity and the status of foreign firms in the country are clear. However, according to the World Bank, the time and cost associated with enforcing contracts are higher than average OECD levels. (EIU Risk Briefing; EIU Country Commerce, August 2011; US Investment Climate Statement 2011; World Bank Doing Business 2012, The World Bank)
Perceived corruption	3 Out of 180 countries surveyed for public-sector corruption, Transparency International's Corruption Perceptions Index lowered Israel's ranking to 36 <sup>th</sup> place in 2011 from 30 <sup>th</sup> in 2010. Israel ranked third for the Middle East region, behind Qatar and the United Arab Emirates for 2011. Despite several high-profile political corruption scandals, overall corruption is not a major issue. Israel signed the OECD Bribery convention in 2008 and has criminalized bribery. (Transparency International; EIU Country Commerce, August 2011; EIU Risk Briefing)
Quality of local accounting industry (international standards)	4 IFRS continue to be required for listed companies (except banks), and permitted for non-listed firms (but not banks). The process of adjustment of Israeli standards to IAS was completed in the first quarter of 2008. The largest international accounting firms maintain offices in Israel. (Deloitte IASPLUS 2012; EIU, August 2011, August 2009)
Entrepreneurship	3 According to the World Bank, the ease of starting a business improved between 2011 and 2010. While the number of procedures and cost of starting a business are on par with the OECD average, the time required to start a business is far above the OECD average. (Doing Business 2012, The World Bank)

## Country Profile

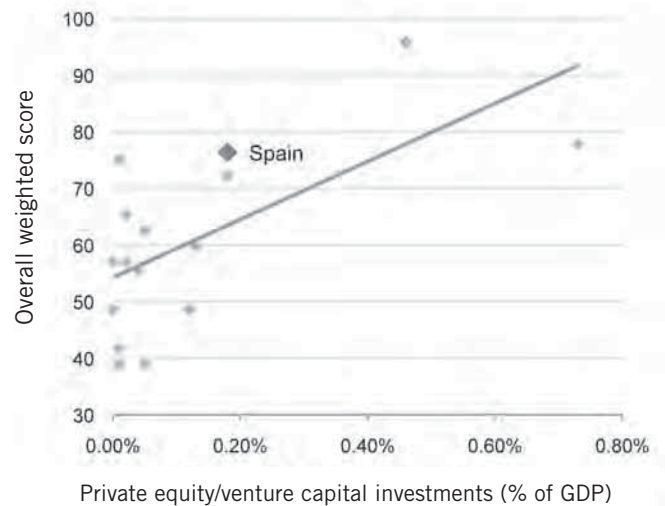
## SPAIN

	score	change
<b>Overall score</b>	<b>76</b>	
Laws on PE/VC fund formation and operation	3	
Tax treatment of PE/VC funds & investments	4	
Protection of minority shareholder rights	3	
Restrictions on local institutional investors investing in PE/VC	3	
Protection of intellectual property rights	3	
Bankruptcy procedures/creditors' rights/partner liability	3	
Capital markets development and feasibility of exits	3	
Registration/reserve requirements on inward investments	3	
Corporate governance requirements	3	
Strength of the judicial system	2	
Perceived corruption	3	
Quality of local accounting/use of international standards	4	
Entrepreneurship	2	

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

## Overall score against PE / VC investments



## Spain ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	3	<i>Sociedades de Inversión</i> (SICAVs) are the main juridical form. <i>Ley 25/2005</i> simplified the regulatory burden to establish SICAVs, allowed acquisition of non-financial firms in order to de-list them (within a one-year maximum), and permitted the creation of private funds of VC funds aimed at institutional investors. SICAVs may not invest more than 25% of their assets in a single company or more than 35% in companies belonging to the same group. Companies that manage collective investment institutions are allowed to manage VC funds or the assets of VC corporations. Minimum capital of €1.2M is required for stand-alone firms and 1.5M for funds. SICAVs may invest up to 20% of their assets within the mandatory investment co-efficient in other VC firms, so long as the latter do not hold more than 10% of their assets in other VC firms. According to the most recent figures from the Spanish Venture Capital Association (ASCRI), a total of 191 fund managers were operating in Spain with 25bn AUM at end-2010 (up from 185 fund managers with €22.7bn AUM a year earlier). A European Union directive proposed in July 2011, which may go into effect by end-2012, would end remaining legal and bureaucratic obstacles to cross-border flows of PE/VC investment among member countries. The EC Directive on Alternative Investment Fund Managers, another 2011 directive, must enter into national law of member states by 2013 and will align regulation of PE/VC investing across the EU. (EIU Country Finance, September 2011; Interview February 2008; www.ascric.org)
Tax treatment of PE/VC funds & investments	4	Capital gains obtained from sales of portfolio companies between the second and 15 <sup>th</sup> year of the investment are tax-exempt for up to three years from listing, provided the VC funds are listed with the <i>Comisión Nacional del Mercado de Valores</i> . The period may be extended up to 20 years with prior CNMV authorization. Dividends are not taxed as long as the fund owns at least 5% of a company and has held that stake continuously for a year before dividends are distributed. The law also provides a 100% deduction for double taxation of dividends for companies and shareholders, and it exempts fund managers from value-added tax. Pass-through provisions are absolute for non-resident entities and individuals, but an exemption of €1,500 applies for resident investors. Spain's withholding tax on dividends, which rose 18% to 19% as of January 2010, is generally applicable to both dividends paid by a Spanish company to a foreign parent company and dividends paid to a resident individual or corporation; an exception and exemption applies to EU-member residents in cases in which they have held at least 5% of share capital of a Spanish company for at least one year continuously. The basic corporate tax rate (which also serves as the base rate for capital gains taxation) remains at 30%. Newly issued shares, dissolutions, and capital reductions and increases are subject to a 1% transfer tax. (EIU Country Commerce, February 2011; EIU Country Finance, September 2011; Interview, February 2008; EVCA Tax and Legal Committee/Baker & McKenzie, 2010)
Protection of minority shareholder rights	3	The Company Law, as unified under Royal Decree 1/2010 of July 2010, allows for registration of companies with strong protections of minority rights established in their charters. A 5% minority can call an extraordinary meeting or demand an outside audit in a <i>sociedad anonima</i> (corporation) or in a <i>sociedad de responsabilidad</i> limited (SRL, or limited liability company). In SRLs, shares are transferable only with the consent of other controlling shareholders. However, since July 2010 SRLs may opt for a traditional structure or a holding company structure ( <i>sociedade comanditaria por acciones</i> ) for the SRL-issued shares. The lack of mandatory board votes on executive appointments and compensation, or detailed information on compensation, raises concerns. It is unclear if these issues will be alleviated in practice by the latest amendments to the corporate governance code regarding executive and director compensation (see Corporate governance requirements). (EIU Country Commerce, February 2011; Interview, February 2008)
Restrictions on local institutional investors investing in PE/VC	3	Regulations on insurance companies and pension funds, which took effect in February 2007, made shares in VC entities' assets suitable for investment by insurance companies and opened the way for them to invest in VC funds. There continue to be limits on concentration: insurance companies may not invest more than 10% of their assets in securities issued by a single company and no more than 20% may be in a single investment fund. For pension funds, 90% of a fund's assets must be invested in four categories: mortgage loans, bank deposits, property assets and financial assets that are traded on organised markets. No more than 5% of financial assets of a single pension fund may be invested in securities issued by the same institution, and no single pension fund can make an investment in a security that exceeds 25% of the investor's equity. (EIU Country Finance September 2011; Interview, February 2008)

## Spain ScoreNotes

Aspects	Score (4-0)	Notes
Protection of intellectual property rights	3	Spanish laws are consistent with European Union intellectual property legislation. Spain has ratified all the main international conventions that allow non-Spanish nationals to protect their local rights. In fact, Spain has a dedicated Centre for the Technological Development of Industry, which encourages and financially supports technology exchange agreements between Spanish and multinational companies. Patents, industrial designs, trademarks and copyrights are all recognized in Spain. (EIU Country Commerce 2010; US Investment Climate Statement 2010)
Bankruptcy procedures/creditors' rights/partner liability	3	A 2004 law increases the penalties for firms that do not undertake a reorganization negotiation ( <i>concurso voluntario</i> ) with creditors when they face insolvency, by enabling creditors to hold owners materially and personally responsible for debts. Bankruptcy reorganizations are now more common. In the most widespread corporate form ( <i>sociedad anonima</i> ), liability of shareholders is limited to the amount of capital contributed as long as there is no proof of malfeasance or fraud; limited liability companies also exist. Under both forms, non-voting shareholders have preferential rights in the event of liquidation. World Bank Doing Business 2012 continues to show that resolving bankruptcies is a shorter but somewhat more costly process and yields a higher recovery rate for creditors in Spain, compared to OECD averages. (EIU Country Commerce, February 2011; Interview, February 2008)
Capital markets development and feasibility of exits	3	The Spanish Bourses and Markets ( <i>Bolsas y Mercados Españoles</i> or BME) was formed at end-2001 as Spain's national unified stock exchange and debt and derivatives market. It was created through the merger of four separate exchanges in Madrid, Barcelona, Bilbao and Valencia into one holding company. According to the World Federation of Exchanges, there were two IPOs on the BME in 2012, one in 2009, zero in 2008 and seven in 2007. Three IPOs of savings banks took place in the month of July 2011, raising a total of 5.7bn. (EIU Country Finance, September 2011, EVCA website: www.evca.eu)
Registration/reserve requirements on inward investments	3	There is simple reporting of transactions by the resident party to the Ministry of Industry or the Bank of Spain for statistical purposes and to avoid money laundering. Provisions vary slightly depending on the nature and size of the transaction. There are no exchange regulations and no reserve requirements. (EIU, Country Commerce, February 2011)
Corporate governance requirements	3	In 2006-07, a somewhat strengthened code, called <i>Codigo Conthe</i> , was adopted for listed firms, with 58 specific recommendations dealing with issues relating to bylaws, general meetings, board operations, and remunerations for directors and senior management. Listed firms are required to report annually on their compliance, which is evaluated by the National Securities Markets Commission (CNMV). All <i>sociedades anonimas</i> (SAs) are required to undergo external audits by a registered auditor, but companies with smaller assets, turnover, or workforces may submit abbreviated annual accounts not reviewed by an auditor. Subsequent modifications in 2011 were made to the code regarding director pay and performance-based pay structures, pursuant to various European Union directives. Yet despite these standards, concerns remain, particularly about privately held companies. In the World Bank's Doing Business 2012, Spain ranks below the OECD average in scores on disclosure and shareholder ability to sue but above average on director liability. (Interview, February 2008; EIU Country Commerce, February 2011; EIU Country Finance, September 2010)
Strength of the judicial system	2	The Spanish judicial system is largely transparent. The judicial branch is independent of the executive branch, and judges are in charge of both prosecution and criminal investigation. Reforms are planned to improve speed and efficiency, but the authority of the judiciary will continue to be compromised by the extent to which it is politicized. Cases that involve piracy can take up to two years to reach the courts, by which time the offending companies have already ceased operation. Firms that frequently deal with the legal system should plan for costs and delays involved in litigation. (EIU Country Commerce 2011; US Investment Climate Statement 2011)
Perceived corruption	3	Spain scored a 6.2 out of 10 in Transparency International's 2011 Corruption Perceptions Index, a slight increase over its 2010 score of 6.1. Spain has a wide variety of corruption laws, penalties, and regulations that are generally enforced on a uniform basis, with no obvious bias against foreign investors. (EIU Country Report, February 2011; US Investment Climate Statement 2011; Transparency International)
Quality of local accounting industry (international standards)	4	Spain completed its gradual transition to the EU version of IAS in 2007 and has followed subsequent modifications of EU accounting guidelines. Since end-2005, IFRS have been legally mandated for listed companies. As of 2007, unlisted companies may use IFRS in consolidated statements but may not use it in separate statements. International auditors have a strong presence. (Deloitte/IAS PLUS 2012; EIU Country Finance, September 2011; Interview, February 2008)
Entrepreneurship	2	According to the World Bank, Spain has improved its environment for new businesses, though the number of procedures and time required to start a business are above the average of OECD countries. Over the last year, Spain reduced the cost to start a business and decreased the minimum capital requirement. (Doing Business 2012, The World Bank)

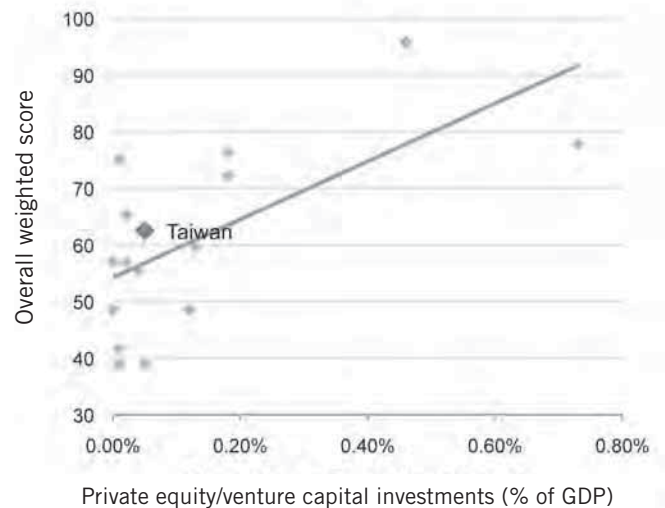
# Country Profile TAIWAN

	score	change	
<b>Overall score</b>	<b>63</b>		
Laws on PE/VC fund formation and operation	4		
Tax treatment of PE/VC funds & investments	3		
Protection of minority shareholder rights	1		
Restrictions on local institutional investors investing in PE/VC	2		
Protection of intellectual property rights	3		
Bankruptcy procedures/creditors' rights/partner liability	3		
Capital markets development and feasibility of exits	3		
Registration/reserve requirements on inward investments	3		
Corporate governance requirements	2		
Strength of the judicial system	2	▼	1
Perceived corruption	2		
Quality of local accounting/use of international standards	2		
Entrepreneurship	4	▲	1

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

Overall score against PE / VC investments



## Taiwan ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	4	Transparent laws permit widespread fund activity, though with some requirements and restrictions (minimum capital of NT\$200M to start a fund; banks with a limit of 5% ownership in any one fund; and qualified securities houses limited to a 10% stake in any one firm and their investments must not exceed 5% of their net worth). Taiwan had 183 venture capital companies at end-December 2010, according to the most recent annual figures published by Taiwan Venture Capital and Private Equity Association (TWVCA). Their aggregate investments at that time were NT\$164.0bn, down from NT\$176.1bn at end-2009. (EIU Country Finance, September 2011)
Tax treatment of PE/VC funds & investments	3	Taiwan has a single flat tax rate of 17% (lowered from 20% in May 2010) on all corporate income exceeding NT\$120,000. Capital gains are taxable as normal income. A 0.3% financial transaction tax is levied against the seller on all securities sold, and there is a 2% levy on all financial institutions. Since 1998, income from business operations is taxed only once, as part of personal income. Individuals are subject to a 15% withholding tax on dividends, but local firms and registered foreign companies are not. Withholding tax on dividends paid by registered non-resident companies to non-residents is 20% (25% for registered companies and 30% for non-resident individuals), though a 10% surtax on undistributed earnings can offset the 20% withholding tax. Resident enterprises are taxed at 15%. Dividends received by a resident company from portfolio investments are fully exempt. Those received by shareholders as a result of an expansion are not taxable until transferred, and those derived from securities-exchange transactions by a VC fund are tax-exempt during a limited period. Dividends of foreign institutional investors subject to home country taxation are 100% tax exempt. (EIU Country Commerce, December 2011)
Protection of minority shareholder rights	1	Minority rights remain weak in both law and practice among Taiwan's family-run businesses. For both limited companies and companies limited by shares, most resolutions require a simple majority shareholder vote, with more than one-half of votes represented. If a quorum is not reached after two meetings within one month, a majority of shareholders who represent one-third or more of total issued shares may carry a vote. For special resolutions, a majority is required from at least two-thirds or three-fourths of shareholders present. Regarding mergers and acquisitions, companies can use a compulsory share exchange during a transaction, and approach the management of target companies and request a shareholders' meeting, at which a two-thirds majority could force minority shareholders to sell. (EIU Country Commerce, December 2011; EIU Country Finance, September 2011).
Restrictions on local institutional investors investing in PE/VC	2	For insurance companies, stakes in an individual company's stocks or bonds must not exceed 10% of its capital, and its stakes in all stocks and bonds cannot exceed 35% of capital. As of June 2007, insurers are allowed to engage in the discretionary investment business, and their limit for overseas investments is 45% of enterprise funds. Pension funds remain underdeveloped and government-run and invest very conservatively. (EIU Country Finance, September 2011, September 2010)
Protection of intellectual property rights	3	The US Trade Representative (USTR) removed Taiwan from its Watch List in January 2009, signalling improvements in its intellectual property (IP) environment. However, in its March 2011 annual report, the USTR highlighted continuing IP problems in Taiwan, including availability of counterfeit pharmaceuticals, illegal textbook copying, online infringement of copyrighted material, and inadequate protection for the outward appearance of products. Furthermore, the report stated that Taiwan had become a trans-shipment point and market for counterfeit clothing and luxury goods smuggled in from China. Nevertheless, Taiwan has undertaken actions to continue to improve its intellectual property protection, including the 2008 creation of an Intellectual Property Court for all new civil and administrative IP litigation, as well as criminal case appeals. (EIU Country Commerce, December 2011; US Investment Climate Statement 2011)

## Taiwan ScoreNotes

Aspects	Score	Notes
Bankruptcy procedures/creditors' rights/partner liability	3	Corporate reorganization, which is part of Company Law, applies only to public companies or those issuing bonds, and can be time-consuming. Firms often use recourse to it as a bargaining chip to extract better terms from creditors. The law favors creditors and liquidation. According to the World Bank's Doing Business 2012, the cost of resolving bankruptcy is much lower than the OECD average, time period is shorter, and creditor recovery rates much higher. Reorganization allows creditors to share in a bankrupt firm's assets on a proportional basis. (EIU Country Finance, September 2010, September 2009; EIU Country Commerce, December 2011)
Capital markets development and feasibility of exits	3	Taiwan's capital market is mature and active; both domestic- and foreign-invested firms can access an array of credit instruments, which are allocated on market terms. In May 2010, Integrated Memory Logic, a US-based chip designer, raised NT\$1.4bn in an IPO and made history as the first foreign company to list on the Taiwan Stock Exchange. There have been at least seven other IPOs over the last year. Recently, to broaden the range of options for traders, Taiwan amended its regulations to allow domestic issuers to issue warrants linked to foreign securities and indices of foreign securities exchanges. (EIU Country Finance, September 2010; US Investment Climate Statement 2010)
Registration/reserve requirements on inward investments	3	Exchange controls were relaxed pursuant to Taiwan's accession to the WTO. Reporting requirements remain, though there are no reserve requirements. In response to the global financial crisis in late 2008, the Central Bank of China (CBC) stepped up its monitoring of the exchange rate system and reinforced its system of real-time reporting of foreign exchange transactions. In January 2010, the CBC ordered foreigners who had remitted funds into the country to buy stock to purchase shares within one week. (EIU Country Commerce, December 2010)
Corporate governance requirements	2	Transparency of governance remains a problem in privately held firms since small families or family conglomerate tend to run the SMEs that dominate the island's economy (constituting over 90% of firms) with little input from outsiders. Distinctions among owners, managers, directors and supervisors are often blurry. Since 2002, listed companies must include independent directors. The exchange introduced a voluntary code of governance in 2002, including provisions for at least two independent directors and a supervisor, liability insurance for board members, and separation of chairman and CEO roles. Minimal requirements exist for privately held firms: quorum with one-half of votes present, most resolutions passed by simple majority, and if no quorum after two meetings within a month a one-third presence of votes suffices for quorum. For special resolutions, a majority is required from at least two-thirds or three-fourths of shareholders present. For both limited and share-holding companies, companies with capital of NT\$30M or more must have their accounts audited. As compared to OECD average, the World Bank's Doing Business 2012 continues to rate the country slightly below average in director liability and shareholder ability to sue and slightly above average in disclosure requirements. (EIU Country Commerce, December 2011; EIU Country Finance, September 2011)
Strength of the judicial system	2	Taiwan's judicial system consists of a lower court, a court of appeals and a supreme court. The courts are free and independent from the executive branch influence, but the influence of organized crime is a threat. Moreover, President Ma Ying-jeou and the ruling Kuomintang have recently been accused of undermining the independence of the judiciary by encouraging the pursuit of cases against their political opponents. Other problems include slow decision-making, lack of judicial training for complicated commercial or technological cases, and over-worked judges. Investment disputes, while rare, are settled according to domestic laws and regulations because Taiwan is not a member of the major international arbitration conventions. (EIU Risk Briefing; EIU Country Report January 2012; US Investment Climate Statement 2011)
Perceived corruption	2	While corruption cases are still filed against Taiwan civil servants, the number has been dropping each year, and perceived favoritism against foreign investors is more common than actual criminal corruption, such as bribery. Laws, regulations, and penalties against corruption are strengthening. The US government reports that corruption allegations are generally investigated, even when they involve senior and elected officials. Taiwan improved its score slightly in Transparency International's 2011 Corruption Perceptions Index with its overall country ranking moving from 33 to 31. (EIU Country Commerce, December 2011; US Investment Climate Statement 2011; Transparency International)
Quality of local accounting industry (international standards)	2	Many firms maintain subpar accounting practices. Multiple sets of accounts are common, and often not all of a company's borrowings are recorded, or are spread across multiple corporate entities to lower tax obligations. In May 2009, Taiwan enacted a plan to adopt IFRS in two phases —listed companies and supervised financial institutions starting 2013 (with early adoption in 2012 optional for certain larger companies or firms traded abroad) and for all other firms Taiwan-IFRS starting 2015 (with early adoption available starting 2013). (Deloitte IASPLUS 2012; EIU Country Commerce, December 2011, November 2010; EIU Country Finance, September 2011)
Entrepreneurship	4	The number of procedures, time, and cost required to start a business are significantly lower than the regional average in East Asia and on par with OECD countries. In 2010, Taiwan reduced the corporate tax rate. In 2012, Taiwan implemented measures to facilitate online business registration. (Doing Business 2012, The World Bank)

## Country Profile

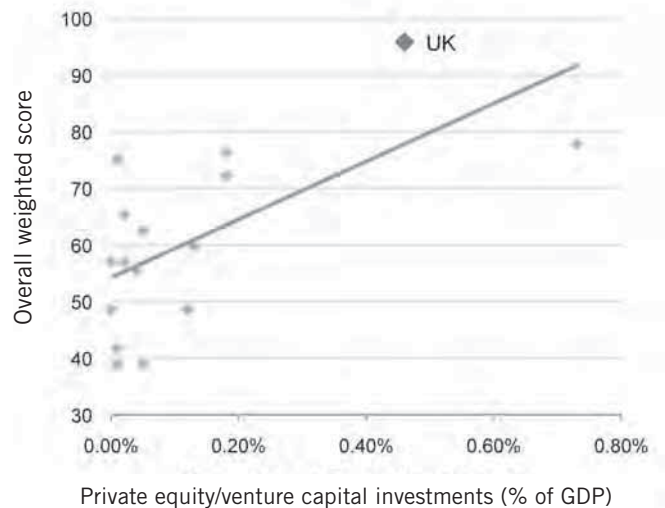
## UK

	score	change	
<b>Overall score</b>	<b>96</b>	<b>▲</b>	<b>3</b>
Laws on PE/VC fund formation and operation	4		
Tax treatment of PE/VC funds & investments	4		
Protection of minority shareholder rights	4		
Restrictions on local institutional investors investing in PE/VC	4		
Protection of intellectual property rights	4		
Bankruptcy procedures/creditors' rights/partner liability	3		
Capital markets development and feasibility of exits	4		
Registration/reserve requirements on inward investments	3		
Corporate governance requirements	4	▲	1
Strength of the judicial system	4		
Perceived corruption	3		
Quality of local accounting/use of international standards	4		
Entrepreneurship	4		

Indicators are scored from 0-4 where 4 = best score

Scores reflect the effect of double weighted indicators (see Scoring Criteria for detail)

## Overall score against PE / VC investments



## UK ScoreNotes

Aspects	Score (4-0)	Notes
Laws on PE/VC fund formation and operation	4	The UK has the largest venture capital sector in Europe and clear laws facilitate the formation of PE/VC funds, which are not distinguished from each other. Many different forms exist: stand-alone funds, funds established as subsidiaries of large financial institutions, venture capital trusts, closed-end investment funds, funds set up by "qualified investors" with high net worth, and Enterprise Investment Schemes. Many large financial institutions, including banks and insurance companies, operate their own VC funds. The scope of venture capital activity remains high relative to the size of the economy, though the financial crisis caused a decrease in 2009-2010. According to a May 2011 survey released by the BVCA and conducted by PriceWaterhouseCooper, the total stock of VC funds invested in the UK stood at £8.2bn in 2010, up from £4.5bn in 2009. Fundraising stood at £6.6bn in 2010, up from £3.0bn in 2009. A July 2011 draft European Union Directive, which could enter into force by end-2012, would allow for a single set of regulations for "European venture capital funds" which would enable them to operate seamlessly across all EU member countries. (EIU Country Finance, June 2011; BVCA website; European Commission website)
Tax treatment of PE/VC funds & investments	4	Incentives are generous, and tax rates are low and advantageous. Under the Enterprise Investment Scheme (EIS) type of fund, private individuals obtain tax relief on investments in unquoted companies and offset losses against income tax if there are no capital gains against which to offset them. Shareholders in venture capital trusts enjoy tax incentives and capital gains are not taxed. Corporate taxes are on a progressive scale from 20% to 26% (28% prior to April 2011) that benefits smaller enterprises. Corporate capital gains on portfolio investments are taxable in the country of residence of the investor unless they make the investment via a subsidiary, in which case, corporate capital gains are taxed at the same rate as income. However, in many cases, inflation indexation provisions may turn a nominal gain into a deductible loss. The UK has no withholding tax on dividends. A dividend paid by a UK company to a resident individual carries a tax credit of 10% of the value of the dividend. UK resident individual portfolio shareholders in foreign companies are also eligible for the 1/9 tax credit under domestic law from April 6, 2008, and this was extended to non-portfolio (greater than or equal to 10%) holdings from April 22, 2009. (EIU Country Commerce, October 2011; EIU Country Finance, June 2011)
Protection of minority shareholder rights	4	Formal governance requirements remain less stringent for private limited than public limited companies, and are more relaxed for small and medium-sized private companies. PE/VC funds generally seek to bolster their voice through minority rights provisions in shareholder agreements and through dispute settlement provisions involving commercial arbitration, which are readily enforceable. For private limited companies, there needs to be at least one director. Private companies defined as "small" (based on turnover, balance sheet, and workforce criteria) may submit a shortened balance sheet and notes, and a special auditor's report (unless claiming audit exemption). At minimum, medium-sized companies must submit an abbreviated profit-and-loss account, a full balance sheet, special auditor's report, directors' report and notes to the accounts. (EIU Country Commerce, October 2011; EIU Country Finance June 2011)
Restrictions on local institutional investors investing in PE/VC	4	Insurance companies may invest where they choose, provided they take a responsible attitude to investing. Investment must be within the bounds of solvency requirements for insurers set since January 1, 2005, introducing a more risk-based approach to calculating capital. Firms possessing with-profits liabilities of more than £500M must hold capital equivalent to the greater of their statutory requirements and make a new, more realistic calculation of expected liabilities. Other insurance companies only have to meet the statutory solvency requirements, but must provide the Financial Service Authority (FSA) with risk-based calculations. Since 2003, the same basic freedom is granted to pension funds established since 1995. Of the £6.0bn raised by BVCA member firms in 2010, 25% came from pension funds. (EIU Country Finance, June 2011, June 2009)

**UK ScoreNotes**

Aspects	Score (4-0)	Notes
Protection of intellectual property rights	4	Intellectual property rights are fundamentally secure in the UK. Enforcement mechanisms are comparable to those found in the US, although as in other European countries, pirated software and fraudulent trademarked goods are widely available. The courts are reliable in enforcing licensors' rights, except in the case where IPR interferes with free trade within the European Union. The UK has also launched independent reviews of its IPR framework and hopes to modify it by the end of the present Parliament. Companies are usually able to obtain legal judgments against systematic and large-scale violations of their patents, trademarks, registered designs and copyrights. Software piracy is generally below average European levels. (EIU Country Commerce, October 2011; EIU Risk Briefing; US Investment Climate Statement 2011)
Bankruptcy procedures/creditors' rights/partner liability	3	Regulations adopted in 1999 govern insolvency procedures for liquidating distressed firms in an expedited fashion. There is no precise analogue to US-style Chapter 11 in which a firm can be restructured while enjoying considerable short-term relief from its debts. A 2005 IDB study rates UK creditor rights as among strongest in world. Resolving a bankruptcy is significantly quicker and less costly and yields a significantly higher recovery rate as compared to OECD averages. (EIU Country Finance, June 2011, June 2010; EIU Country Commerce, October 2009; Financial Times, 31 August 2010)
Capital markets development and feasibility of exits	4	The UK's financial markets are among the most sophisticated in the world, and London is one of the world's leading financial centres. The London Stock Exchange has strengthened its position after a merger with the Italian exchange in 2007. The LSE remains a sought-after destination for stock offerings; 2011 saw a 27% increase in the amount of money raised through initial public offerings, though the overall number of IPOs declined slightly to 73 from 89. (EIU Country Finance, June 2011; London Stock Exchange; EIU Risk Briefing)
Registration/reserve requirements on inward investments	3	There are no exchange controls in the UK, and European Union rules require free movement of capital throughout the bloc. Banks monitor transactions for suspected money-laundering, and the law requires them to have a Money-Laundering Reporting Officer. Registration exists for monitoring purposes but there are no reserve requirements. (EIU Country Commerce, October 2011)
Corporate governance requirements	4	All UK-incorporated companies, which are listed on the Main Market of the London Stock Exchange, are required to report on how they have applied the UK Corporate Governance Code issued by the UK Financial Reporting Council. From April 2010, all companies with a premium listing, regardless of their country of incorporation, are required to report on how they have applied the code. Changes in the most recent edition of the code, published on May 28, 2010, include a recommendation that directors of FTSE 350 companies face re-election every year (rather than every three years); a clearer statement of a board's responsibilities relating to risk; and measures to encourage boards to appoint more female directors. Questionable remuneration practices were the subject of an August 2009 code issued by the Financial Services Authority, which was given legal backing with the April 2010 passage of the Financial Services Act. The code calls on compensation procedures and practices that are consistent with effective risk management. Outside auditing and annual financial reporting are looser for small and medium-sized private firms. Such firms are subject, however, to the Companies Act 2006, which requires all firms upon registration to detail the rights of the shareholders, borrowing powers and the duties of directors, but also removes GMI's previous requirement of an annual general meeting. The UK received the highest score on the latest global country rankings on corporate governance, with a score of 7.6 out of 10. The World Bank's Doing Business 2012 rated UK's strength of investor protection index at 8.0 on a scale of 10, two points above the OECD average, and ranking 10 <sup>th</sup> globally. (EIU Country Finance, June 2011; EIU Country Commerce, October 2011; Financial Reporting Council, 2010; GovernanceMetrics International, September 27, 2010)
Strength of the judicial system	4	The UK is an established market-based economy in which contracts are enforced by an independent and reasonably efficient judicial system. EIU Business Environment Rankings score the country's fairness and transparency of legal system favourably. (EIU Risk Briefing; EIU Business Environment Rankings; US Investment Climate Statement 2011)
Perceived corruption	3	Foreign investors generally do not perceive corruption to be a problem within the UK public sector. The UK retains a fairly stable position in the Transparency International's Corruption Perceptions Index, ranking 16 out of 182 countries in 2011. The UK introduced the Bribery Act of 2010 to bring its legislation up to OECD standards. The law, which covers the criminal law in relation to bribery, imposes increased regulation. (EIU Risk Briefing; US Investment Climate Statement 2011)
Quality of local accounting industry (international standards)	4	International financial reporting standards, as adopted by the European Union, continue to be required for listed companies. In order to be listed on the Main Market of the London Stock Exchange, companies must prepare their accounts following IAS. IFRS are permitted in both consolidated and separate company statements for non-listed firms. Inflation-adjusted accounting is still in use for tax purposes although not for financial reporting. The Finance Act 2009 institutes a new senior accounting officer penalty regime, with annual certification of the adequacy of accounting systems for tax purposes. (Deloitte/IAS PLUS 2012; EIU Country Finance, June 2011; EIU Country Commerce October 2011)
Entrepreneurship	4	The cost of starting a business ranks as one of the lowest in the world. In 2012, the UK passed reforms to enhance the entrepreneurial climate, improve efficiency of contract enforcement and added amendments to streamline bankruptcy procedures. According to the World Bank, costs and time associated with starting a business are on par with OECD country averages. (Doing Business 2012, The World Bank)

## APPENDICES

### Appendix A: Select bibliography

The following cross-national data and information sources were used in the preparation of the 2012 Scorecard:

Economist Intelligence Unit, Country Finance and Country Commerce series (by country), Business Environment Rankings and Market Indicators and Forecasts series, 2011

Deloitte IAS PLUS, "Use of IFRS by Jurisdiction," <http://www.iasplus.com/country/useias.htm>

European Corporate Governance Institute, "Index of Corporate Governance Codes" (by country)

The World Bank, World Bank Group Entrepreneurship Database, "Doing Business In" series, various countries, 2011

U.S. Department of State, Country Commercial Guide series (various countries and years)

Transparency International, Corruption Perceptions Index, 2011

### Appendix B: Interviews

For this scorecard, the EIU conducted new interviews in January and February 2012 with LAVCA members who are fund managers based in the Latin American region. These aimed primarily to obtain more in-depth information on the nature and impact of regulations in the country or countries in which they operate. We promised these individuals anonymity.

As in 2011, the interviews for the 2012 Scorecard were designed, first, to hear from fund managers working in all the focus countries about their experience in making investments. Second, the interviews sought to gauge the extent to which recent legislative change--or accumulated experience with existing legal frameworks--had affected the business environment for fund managers.

For the debut Scorecard released in 2006, the interviews had served a somewhat different purpose. They were conducted with a broader range of market participants, including attorneys and service providers as well as some US-based fund managers active in multiple countries of the region. Their primary focus at that time was to refine the original 12 criteria and assign them different weights.



## CONTRIBUTORS

The 2012 Scorecard on the Private Equity and Venture Capital Environment in Latin America is prepared annually by the Economist Intelligence Unit on behalf of the Latin American Private Equity & Venture Capital Association (LAVCA). LAVCA provides additional analysis for the report.

### Economist Intelligence Unit



The Economist Intelligence Unit is part of the Economist Group, the leading source of analysis on international business and world affairs. Founded in 1946 as an in-house research unit for The Economist newspaper, we deliver business intelligence, forecasting and advice to over 1.5m decision-makers from the world's leading companies, financial institutions, governments and universities. Our analysts are known for the rigor, accuracy and consistency of their analysis and forecasts, and their commitment to objectivity, clarity and timeliness.



The Latin American Private Equity & Venture Capital Association is a not-for-profit membership organization dedicated to supporting the growth of private equity and venture capital in Latin America and the Caribbean. LAVCA's membership is comprised of over 130 firms, from leading global investment firms active in the region to local fund managers from Mexico to Argentina. Member firms control assets in excess of US\$50 billion, directed at capitalizing and growing Latin American businesses.

LAVCA's mission – to spur regional economic growth by advancing venture capital and private equity investment – is accomplished through programs of research, networking forums, education and advocacy of sound public policy. More information at [www.lavca.org](http://www.lavca.org)



### *Additional Contributors*

The 2012 Scorecard was made possible by generous contributions from the Multilateral Investment Fund (FOMIN) and the Corporación Andina de Fomento (CAF).



*The Latin American Private Equity & Venture Capital Association (LAVCA) is a not-for-profit membership organization dedicated to supporting the growth of private equity and venture capital in Latin America and the Caribbean. LAVCA's membership is comprised of over 130 firms, from leading global investment firms active in the region to local fund managers from Mexico to Argentina. Member firms control assets in excess of \$50 billion, directed at capitalizing and growing Latin American businesses.*

## LAVCA Membership

LAVCA Members are some of the most active players in Latin American PE/VC. They join LAVCA to stay informed of the latest activity in the region and to connect with a network of global and regional peers.

LAVCA Members gain a competitive edge through:

- An unparalleled platform linking managers, institutional investors and other industry players
- Access to proprietary industry data, information and analysis
- Opportunities to raise their profile among local, regional and global audiences
- Representation and participation in LAVCA's regional agenda for advocacy of sound public policy
- Privileged knowledge through access to LAVCA's board, membership and staff

### 2012 LAVCA Events Calendar

**Annual Summit  
and Investor Roundtable**  
September 12-13, 2012  
New York City

#### *Country Specific Conferences*

**Chile Private Equity &  
Venture Capital Forum**  
June 4-5, 2012  
Santiago, Chile

**Colombia Private Equity &  
Venture Capital Forum**  
November 7, 2012  
Bogota, Colombia

*For more information on Member benefits, please visit the Membership Section of our website ([www.lavca.org](http://www.lavca.org)) or contact Lindsay Walsh at [lwalsh@lavca.org](mailto:lwalsh@lavca.org) / +1 646.315.6739*

## Stay Connected

In addition to membership, LAVCA offers the following ways to stay up-to-date on developments in Latin American PE/VC:

**Latin America PE/VC Report** – Each issue of LAVCA's bimonthly newsletter includes profiles on LAVCA member firms, institutional investors and entrepreneurs from the region, as well as feature articles from reputable third parties and information on the latest industry news and events. **The Latin America PE/VC Update**, a biweekly email with announcements from the industry, is delivered to your inbox every other Tuesday. **Sign up at [www.lavca.org](http://www.lavca.org)**

**Follow us on Twitter:** @lavca\_org

**Join us on LinkedIn:** Latin America Private Equity & Venture Capital Association (Group)



Latin American Private Equity &  
Venture Capital Association  
589 Eighth Avenue, 18th floor  
New York, NY 10018, USA  
Tel: 1-646-315-6735 Fax: 1-646-349-1047

[www.lavca.org](http://www.lavca.org)

