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## Investing in Mongolia: Opportunities and risks

### A booming economy

Mongolia is an enticing investment location. In 2010, its economy was the world's second-fastest growing, and it is expected to be among the top three in 2011. Its equity market is acting accordingly. Mongolia's primary driver of growth, the mining sector, is attracting substantial foreign investment. Companies from North America, Russia, China, and elsewhere are developing significant and profitable operations out of the country's massive deposits of coal, gold, copper, rare earths, and other minerals. Private equity funds, commodity traders, and other investors are also rushing to the country in search of the right opportunities.

### Stamping out corruption

Policy and regulatory changes that have opened up Mongolia to foreign investors and businesses have helped bring about its rapid growth. Now, however, the government faces serious challenges, such as creating a mature, transparent, and stable regulatory environment and establishing controls and enforcement mechanisms to minimise corruption. The country is gradually strengthening and empowering its control institutions. In 2006, for example, the government passed an anti-corruption law and formed a specialised Anti-Corruption Agency.

Nevertheless, efforts to create the necessary environment remain far from complete. The application of laws and regulations is unpredictable. In November 2010, the government surprised the international community by suddenly suspending 254 gold mining licenses, citing a 2009 law which protects Mongolia's forests and river basins. Some international companies have appealed and had their licenses reinstated; others have not yet been successful. These types of incidents damage investor confidence and are not limited to the mining industry. More than one large hotel project in Ulan Bator has been suspended because of disputes over the interpretation of real estate regulations.

### Conflicts of interest

Lines between the public and private sector remain blurry, with conflicts of interest being common. Complicating matters further, investigators in Mongolia cannot rely on the

official public record to identify ownership and control of locally-registered businesses. Instead, Kroll uses human source enquiries and knowledge about Mongolia's elite to understand who actually controls a company. Sometimes these enquiries lead to prominent political families, at which point risks arising from the *United States Foreign Corrupt Practices Act* need to be thoroughly evaluated as well. It is also common to find that company control is quietly exercised by powerful, sometimes controversial, individuals from Mongolia's neighbours, Russia and China.

### A lack of clear information

Information on Mongolian individuals is also hard to obtain, making it difficult for foreign companies to understand the track record, reputation, and liabilities of potential business partners. Currently, litigation, bankruptcy, or criminal record databases do not exist, and Mongolian news research is a tool of limited value. Many domestic news outlets are quietly controlled by politicians who inevitably have a particular agenda. Allegations of corruption against businesspeople or politicians often appear in print with no further mention anywhere in the public record. Those interested have to dig deeper in order to determine which allegations of corruption are grounded in fact and whether any such claims in the press resulted in legal sanctions.

### The importance of sound intelligence

Due diligence in such an environment is exciting work. Interesting intelligence often comes to light which help our clients negotiate the restructuring of financial terms or management structure, and sometimes leads to an exit from the proposed transaction. Such research is essential in a rapidly growing, imperfectly regulated economy and, because the country is small with a powerful business and political elite, we frequently see the same names reappearing in our investigations.

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