

## **OECD/WORLD BANK CORPORATE GOVERNANCE ROUNDTABLE FOR RUSSIA**

### **AGENDA**

#### **SHAREHOLDER RIGHTS AND EQUITABLE TREATMENT Practices, Rules, Institutions, and Procedures**

**Moscow, 24-25 February 2000**

**DAY 1: THURSDAY, 24 FEBRUARY 2000**

**8:30 - 9:00      REGISTRATION**

**9:00 - 10:00**

#### **OPENING SESSION**

##### Opening addresses:

*Mr. Igor Kostikov*, Chairman, The Federal Commission for the Securities Market, Russia

*Justice Vasiliy Vitriansky*, Deputy Chairman, Supreme Arbitrash Court of Russia

*Mr. Seiuchi Kondo*, Deputy Secretary General, OECD

*Mr. Michael Carter*, Country Director for Russia, Resident Representative in Moscow, World Bank

Introductory remarks: Shareholder rights and equitable treatment in the OECD Corporate Governance Principles: their relevance to Russia by *Mr. Stilpon Nestor*, Head of Corporate Affairs Division, OECD

**10:00 – 11:30**

#### **SESSION I: PROPERTY RIGHTS ENFORCEMENT**

**Chairman:** *Mr. Harry Broadman*, Lead Economist-Russia Operations, World Bank

Presentation on the *Rules and Procedures for Ownership Registration and Share Transfer in Russia* by *Mr. Michail Nedelskyi*, Executive Director, PARTAD (Professional Association of Registrars, Transfer-Agents and Depositories)

##### Panel discussion:

*Mr. Michael Lelyavsky*, President, The Depository and Clearing Company, Russia

*Mr. James Fenner*, Chief Equity Specialist, Troika Dialog, Russia

*Ms. Elena Loginova*, Head of Custody, Deutsche Bank, Russia

**11:30 - 11:45      Coffee break**

11:45 – 13:15

## SESSION II: GENERAL SHAREHOLDER MEETINGS AND VOTING PROCEDURES

**Chairman:** *Mr. Sergei Dubinin*, Deputy Chairman of the Management Board, RAO Gazprom, Russia

Presentation on *Notification and Registration for Participation in AGMs and Voting Procedures in Russia* by *Mr. William F. Browder*, Managing Director, Hermitage Capital Management, Russia

Panel discussion:

*Mr. Jonathan Charkham*, Director, GUS Plc., United Kingdom

*Mr. Dan A. Konigsburg*, Analyst, Global Research, Institutional Shareholder Services, United States

*Mr. Pierre-Henri Leroy*, President, Proxinvest, France

13:15 - 14:30

*Lunch break*

14:30 – 16:15

## SESSION III: MECHANISMS FOR EQUITABLE TREATMENT

**Chairman:**

*Mr. Alexander S. Kolesnikov*, Deputy Chairman, Federal Commission for the Securities Market (FCSM), Russia

Presentation on *FCSM Rules for Disclosure of Ownership and Control Structures* by *Ms. Tatyana Medvedeva*, Senior Advisor, and *Mr. Alex Timofeev*, Advisor, Centre for Capital Market Development Foundation, Russia

Panel discussion:

*Mr. Tomas Jezek*, Commissioner, Securities Commission, Czech Republic

*Mr. Leo Goldschmidt*, Chairman, Corporate Governance Committee EASD (the European Association of Securities Dealers)

16:15 - 16:30

*Coffee break*

16:30 - 18:30

## SESSION IV: ENFORCEMENT OF MINORITY SHAREHOLDERS RIGHTS

**Chairman:**

*Mr. Vasily Vitriansky*, Deputy Chairman, Supreme Arbitrash Court, Russia

Presentation on the *Opportunity to Seek Legal Redress* by Arbitrash Court Judge, *Mr. Ildar Faizutginov*, Russia

Panel discussion:

*Mr. Dmitry Vasiliev*, Chairman of the Co-ordination Centre for the Protection of Rights and Legal Interests of Investors, Russia

*Mr. Manne Airaksinen*, Counsellor of Legislation, Ministry of Justice, Finland

*Mr. Kenichi Osugi*, Associate Professor of Tokyo Metropolitan University, Faculty of Law, Japan

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**AGENDA**

**DAY 2: FRIDAY, 25 FEBRUARY 2000**

**9:00 – 10:30**

**SESSION V: PROTECTING THE INTEGRITY OF THE MARKET**

**Chairman:** *Mr. Willard Workman*, Vice-President, International Division, US Chamber of Commerce and CIPE

Presentation of case studies on *Practices Related to the Manipulation of Capital Markets* by *Mr. Ivan D. Lazarko*, President, NAUFOR (National Association of Securities Market Participants), Russia

Panel discussants:

*Mr. Andrey Shishmarev*, Analyst of Listing Requirements, MICEX (Moscow Interbank Currency Exchange), Russia

*Mr. Leif A. Vindevag*, Manager, Research and International Markets, OM Stockholm Exchange, Sweden

*Ms. Holly Nielsen*, Partner, Milbank, Tweed, Hadley & McCloy, Russia

*10:30 - 10:45*

*Coffee break*

**10:45- 12:45**

**SESSION VI: PREVENTING ABUSIVE SELF DEALING**

**Chairman:** *Mr. Dimitry Vasiliev*, Chairman, Co-ordination Centre for the Protection of Rights and Legal Interests of Investors, Russia

Presentation of three case studies on *Abusive Self-dealing* by *Mr. Oleg Fedorov*, Expert, Co-ordination Centre for the Protection of Rights and Legal Interests of Investors, Russia

Panel discussion:

*Mr. Roger Munnings*, Managing Partner, KMPG, Russia

*Mr. Mark V. Jarvis*, Director, Fleming Asset Management, Russia

*Ms. Birgit Malmenstam-Skytt*, Secretary General, World Federation of Investors, Swedish Shareholders Association

*13:00 - 14:30*

*Lunch break*

14:30 - 16:00

**SESSION VII: IMPROVING SHAREHOLDER RELATIONS: THE VIEW OF RUSSIAN COMPANIES**

**Chairman:** *Mr. Dmitry Toulin*, Senior Advisor, EBRD

Panel discussion:

*Mr. Alexander Tsegelsky*, Deputy Head of Securities Department, OAO Gazprom

*Mr. Andrey Gabov*, Deputy Director, Department of Corporate Policy, Unified Energy System of Russia, RAO

*Mr. Sergey Vlasov*, Deputy Director, Sidanco - Siberia-Far East Oil Company

16:00 - 16:15 *Coffee break*

16:15 – 18:00

**CONCLUDING SESSION: FUTURE WORK OF THE ROUNDTABLE**

**Chairman:** *Mr. Rainer Geiger*, Deputy Director, Directorate for Financial, Fiscal and Enterprise Affairs, OECD

Presentation on the Roundtable work programme by *Ms. Fianna Jesover*, Project Manager, Corporate Affairs Division, OECD

Panel discussion by Core Roundtable Members on future work:

Core participants will be invited to:

- ◆ Endorse the work programme, its objectives and outputs;
- ◆ Select the topic of the next Roundtable (transparency/disclosure, responsibility of the boards, or role of stakeholders);
- ◆ Discuss the conceptual framework of the White Paper and agree on a procedure to select a drafting group;
- ◆ Identify future analytical work and empirical research needs.

**CLOSING REMARKS:** *Mr. Rainer Geiger*, Deputy Director, Directorate for Financial, Fiscal and Enterprise Affairs, OECD

**NOTES TO THE AGENDA**

The main presentations will be limited to approximately 20 minutes and discussants will keep their comments restricted to 10 minutes. These constraints are required in order to have ample time for general discussion. The chairpersons will make a summary, limited to 5 minutes each, of the conclusions and recommendations at the end of their respective sessions.

The four main objectives of the meeting are:

- ◆ To review the rules, procedures, practices and institutions for the protection of shareholder rights and equitable treatment in Russia to identify the main impediments to their implementation;
- ◆ To invite Russian companies to share their experience on shareholder relations, with a group of high level Russian regulators, investors and finance leaders;
- ◆ To outline policy recommendations and prioritise reforms efforts aimed at improving the enforcement of shareholder rights, using the OECD Corporate Governance Principles as an analytical framework;
- ◆ To discuss future work of the OECD/World Bank Corporate Governance Roundtable for Russia.

**Session I** will set the stage for discussion on shareholder rights by reviewing the pre-requisite to building sound corporate governance, the framework for property rights enforcement in Russia. This will provide an occasion to examine the rules and procedures for the registration of ownership and transfer of shares, as well as the role of depositories and custodians in their implementation.

*Main issues for discussion:*

- ◆ What are the main rules and procedures for property rights enforcement in Russia? Which institutions are responsible for their implementation? Are responsibilities clearly defined?
- ◆ What are some of the obstacles to registration and transfer of shares? How can monitoring by the regulators be better ensured? What are the latest regulatory developments in this area?
- ◆ To what extent do clearing and settlement services impact on share trading? What can be done to shorten delays and reduce the costs of completing securities transactions?

The aim **Session II** is to assess the procedures for annual general meetings (AGM) as well as shareholder representation and voting practices in Russia. The discussion will focus on identifying the main gaps in practices of notification and registration for participation, voting rules/ procedures, proxy mechanisms, and the organisation of the AGM itself.

*Main issues for discussion:*

- ◆ What are considered to be the most efficient voting structures in modern publicly held corporations? What are the pros and cons of complicated voting and control structures? What are the procedures for various nominations?
- ◆ What are the major challenges in making the AGM an effective instrument of governance? What are the procedures for notification and registration for AGM participation in Russia? What are the main impediments to fulfilling them? How are agendas set? Do procedures allow for equitable treatment? Can shareholders participate in extraordinary meetings?
- ◆ What are the available voting mechanisms? Are shares within the same class given equal voting power? Are cumulative voting arrangements common? Are the proxy mechanisms often used? How does the recently enacted investor protection legislation impact on voting procedures?

Continuing the debate of the previous session, **Session III** will review the transparency of ownership links, including cross-shareholdings and shareholder agreements as well as affiliated party and extraordinary transactions, that enhance the equitable treatment of all shareholders. It is also important that the rules and procedures governing the acquisition of corporate control in the capital markets be clearly articulated so that all investors are treated fairly. The discussion will also address the regulatory function of the Federal Commission for the Securities Market (FCSM), in this respect.

*Main issues for discussion:*

- ◆ Is there appropriate disclosure of ownership links, including cross-shareholdings? How is this regulated?
- ◆ Are there any sanctions attached to misleading or incomplete reporting? What are the requirements and procedures for entering into transactions with affiliated parties in the company? What are the main problems with enforcement in this area?
- ◆ How can non-controlling shareholders be protected against transactions that entail conflicts of interest between the corporation and its major shareholders/management? What are the most common practices in this respect?
- ◆ What are the main trends in merger and acquisition activity? Are all investors treated fairly in this context? Is there a need for further elaboration of rules on tender offers?

The focus of **Session IV** is on improving the enforcement of minority shareholder rights by examining the procedures to seek legal redress and whether the legal system provides mechanisms for non-controlling shareholders to initiate lawsuits, on reasonable grounds and at reasonable cost, when their rights have been violated. This discussion will provide an occasion to review actions by the Supreme Arbitrash Courts and Federal Securities Commission to protect investor rights.

*Main issues for discussion:*

- ◆ Do shareholders have the opportunity to obtain redress for violation of their rights? What are the main judicial or administrative avenues for legal redress in Russia? What is their cost? What has been the experience by the courts in adjudicating disputes for violation of minority shareholder rights? Are derivative suits a common practice? Is there a need for a class action-type of legal remedy?
- ◆ Have there been incidents of foreign shareholders being placed at a disadvantage vis-à-vis domestic shareholders? Can foreign investors employ alternative dispute settlement mechanisms? How is enforcement of judicial decisions being assured and monitored?
- ◆ Can the main problems with shareholder protection be addressed by better court enforcement of judgements or is there a need for a legislative review? Are there institutional issues to be addressed for better shareholder protection, such as giving more responsibility to a regulatory agency? What is the role of private sector self-regulatory bodies?
- ◆ What instruments does the FCSM have to ensure compliance? Have these been effective? What are some of the challenges and how can they be addressed? Is the existing institutional set-up effective?

The integrity of markets will be discussed in **Session V**. In particular, participants will discuss insider-trading rules and problems with their enforcement. These practices are a breach of sound corporate governance inasmuch as they violate the principle of equitable treatment. It is reasonable for investors to expect that the abuse of insider power be prohibited.

*Main issues for discussion:*

- ◆ What legal provisions restrict or prohibit insider trading in Russia? How are these rules enforced? What are some of the obstacles in implementing these laws?

- ◆ How can financial institutions be provided with incentives to undertake some self-enforcement and promote the integrity of the market?
- ◆ What are the main problems in the Russian equity market related to the fair treatment of shareholders, from the perspective of a market regulator? What is needed to attract long-term, patient capital to the Russian equity market? Can tighter listing requirements enhance the credibility of Russian markets?

The objective of **Session VI** is to highlight some of the main shareholder rights abuses in Russia, including asset stripping, abusive transfer pricing and share dilution. These practices are under-scrutinised by either management or controlling shareholder in corporate groups. Three case studies will be presented in this session.

*Main issues for discussion:*

- ◆ Have regulatory measures to prevent asset stripping and abusive transfer pricing been effective? What has been done to ensure their effective implementation? What can be done to create incentives for self-enforcement?
- ◆ Have there been any visible results on the enforcement of the Investor protection legislation? What are some of the obstacles to implementation?
- ◆ How do investors respond to practices involving dilution of shares? Are there adequate provisions in the legal framework to secure pre-emptive rights? Do regulatory measures need to be strengthened to prevent loopholes?

The panel by Russian companies in **Session VII** will provide an opportunity to better understand Russian corporate behaviour toward shareholders directly from the enterprises. A select number of companies will present their views on problems, accomplishments and challenges in managing shareholder relations. They will also identify future steps to improve relations and provide in-put to regulators on what can be done to facilitate and provide incentives for this change.

*Main issues for discussion:*

- ◆ Is there a perceptible change in the behaviour of Russian corporations toward investors?
- ◆ How have investor relationships developed in Russia? What are the elements of change? What is the importance of a large investor base to a Russian corporation? How is this objective promoted?
- ◆ Is there a collective effort to introduce a code of ethics? Would such an effort help in attracting investors?

The future work of the Roundtable will be discussed in the **final concluding session**. The OECD and the World Bank will also brief participants on their global effort to improve corporate governance. Information on the development of the dedicated website and electronic discussion group will be presented.

Core participants will be invited to:

- ◆ Endorse the work programme, its objectives and outputs;
- ◆ Select the topic of the next Roundtable (transparency/disclosure, role of the boards, role of stakeholders);
- ◆ Discuss the conceptual framework of the White Paper and agree on a procedure to select a drafting group;
- ◆ Identify future analytical work and empirical research needs.