



Summary Conclusions and Proceedings

The 2010 Meeting of the Latin American Corporate Governance Roundtable 21st-22nd October 2010

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Summary of the meeting

The 2010 meeting of the Latin American Corporate Governance Roundtable took place on the 21st and 22nd October 2010 in Rio de Janeiro, Brazil. The event, organised by the OECD, the IFC and the GCGF, was co-hosted by Brazil's Comissão de Valores Mobiliários (Brazil's Securities Regulator), the Instituto Brasileiro de Governança Corporativa (IBGC), BM&FBOVESPA and was supported by the Government of Spain and the Fundação Getúlio Vargas - Escola Brasileira de Administração Pública e de Empresas (FGV/EBAPE). To maximise synergies with key constituencies, this year's Roundtable was organized back to back with the meeting of the Council of Securities Regulators of the Americas (COSRA), the Network of Latin American Corporate Governance Institutes (which met for the third time and brought together 11 institutes from Mexico, Central and South America) and the 11th IBGC annual congress.

The aim of the 2010 Roundtable meeting was to help policy-makers, regulators, investors, businesses and other corporate governance advocates advance in relation to four main themes ([click here to access the agenda](#)):

Strengthening the role of institutional investors in supporting corporate governance of companies they invest in. The discussion focused on updating the Roundtable on new developments in the region and firming up recommendations of the *White Paper on Strengthening the Role of Institutional Investors in Latin American Corporate Governance* (W on II).

Enhancing board effectiveness. The discussion was based on a report featuring a mapping of laws, regulations, voluntary codes, listing requirements and current practices relevant to selected board-related topics as well as a set of preliminary recommendations aimed at enhancing board effectiveness.

Overcoming obstacles to corporate governance-related enforcement. The discussion was based on a presentation of a joint initiative with COSRA/IARC (Securities Regulators of the Americas) to review and exchange experience on how regulators deal with enforcement related to abuse of privileged information/insider trading.

Exploring the impact of stock exchanges on corporate governance: The discussion focused on experiences of stock exchanges as agents of change in Ecuador, Peru and Sao Paulo (BM&FBOVESPA).

In addition to these four core themes, the Roundtable explored an additional three topics in a break-out group format. In these small group discussions, which allowed the opportunity for more active discussion and broader participation, the Roundtable debated issues ***related to corporate governance of non-listed companies***, the link between ***corporate governance and corporate responsibility***, and finally ***board evaluations*** from company and investor perspectives.

The quality of the meeting was supported by **high-level participation**. Maria Helena Santana (President of the Brazilian Securities Commission), Gilberto Milfano (Chair of the IBGC) and Marcello Bianchi (Chair of the OECD Corporate Governance Committee), welcomed the Roundtable's 140 participants with introductory remarks. This meeting attracted the highest number of participants recorded for a Latin American Roundtable meeting, surpassing last year's 130 mark, which is a sign of the continuing interest it generates in the region, but also a warning about capacity limits of this forum. The meeting featured participation from 19 countries, including representation from 15 securities regulators from the Americas plus Spain (Argentina, Bahamas, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Panama, Peru, Trinidad & Tobago, United States and Uruguay). Private sector presence was also substantial, including representatives from 11 companies, most of them from the Companies Circle and investors. This meeting also featured the participation of corporate governance institutes (CGIs) from 11 Latin American countries. These Institutes met after the Roundtable for the 3rd time as a network. A range of international organisations, stock exchanges, academic experts, business associations and other private sector participants (rating agency, proxy advisory services) rounded out the participation.

Session by Session Conclusions

For the first theme, the Roundtable considered a revised version of the White Paper on Strengthening the Role of Institutional Investors in Latin American Corporate Governance, and agreed on improvements to be incorporated before it is published and disseminated early in 2011. The Roundtable discussed recent advances to implement the White Paper in Brazil and Mexico, and will continue to promote further implementation, possibly through a pilot project in a volunteering country. **The Roundtable agreed to issue a final report** for Institutional Investors to strengthen their impact on corporate governance in the region, in early 2011.

As part of the second theme, the Roundtable circulated a draft report featuring a mapping of laws, regulations, voluntary codes, listing requirements and current practices relevant to eight areas important for board effectiveness: board duties; handling of conflicts of interest; board selection and composition criteria; criteria for independence; board committees; separation of the Chair and CEO; board risk management; and board evaluation. Roundtable discussions focused particularly on board evaluation. **The Roundtable agreed to further develop the report** by incorporating best practices information on these themes and firming up recommendations, with coordination from the GCGF and support from the Latin American Network of Corporate Governance Institutes (IGCLA.net), which will be discussing a revised paper in its February 2011 meeting to be held in Bogota, Colombia.

To address the third theme on obstacles to corporate governance-related enforcement, the Roundtable/COSRA (Council of Securities Regulators of the Americas) task force reported on the preliminary conclusions of a joint initiative aimed at reviewing and exchanging experience on how regulators deal with enforcement related to abuse of privileged information/insider trading. **COSRA and the Roundtable agreed to further develop the report** before making it public. The current draft report will serve as input to a final report. The final report will aim at identifying promising practices both for regulators and for other market actors that can help to combat abuses of privileged information (insider trading). The COSRA/Roundtable taskforce also **agreed to continue working jointly with a second survey to combat abusive related party transactions**, with initial findings expected to be presented at the next Roundtable, along with a final report on insider trading/use or privilege information.

As part of the fourth theme on the impact of stock exchanges on corporate governance, the Roundtable considered recent initiatives in Brazil, Ecuador and Peru to raise the level of corporate governance in these countries. **The Roundtable agreed to develop further analysis on the use of corporate governance indexes** across the region.

Furthermore, the Roundtable held breakout session discussions on corporate governance of non-listed companies, evaluations of boards of directors, and achieving a balanced approach to corporate social responsibility. Looking ahead, further breakout discussions are envisaged for next year's Roundtable, with particular interest expressed in support of the topic of family-owned, non-listed companies, while conclusions on board evaluation and corporate responsibility issues will be integrated into the Roundtable's work on boards.

Session 1: Enforcement Priorities in Latin America: Combating Abuse of Privileged Information

Rosario Patron (Chair, COSRA) opened the first session of the Roundtable with a brief introduction about COSRA, and its purpose. She explained that COSRA members are working together to develop the highest quality and most compatible regulatory structures so that market integrity is maintained while the aggregate regulatory burden placed on the market is minimised.

Following Ms. Patron's opening words, Mike Lubrano (Managing Director, Cartica Capital) and co-reporter for the [Survey on Regulation and Enforcement of the Use of Privileged Information](#), presented highlights of the report. The report is a joint Roundtable initiative with COSRA/IARC to review and exchange experience on how regulators deal with enforcement related to abuse of privileged information/insider trading. He explained that the idea of this joint work was originally conceived at the Roundtable meeting in Chile (2009) as a result of the conclusions from the report entitled, [The Legal, Regulatory and Institutional Framework for Enforcement Issues in Latin America](#), which highlighted two areas the Roundtable could constructively build on. These were: abuse of privileged information and oversight of related party transactions. The joint COSRA/Roundtable initiative focused first on abuse of privileged information (COSRA discussed the survey at their meeting in

April 2010, and agreed in their June 2010 meeting to tackle this issue), and will subsequently analyse enforcement of related party transactions.

Mr. Lubrano explained that 19 countries responded to the questionnaire sent in August and that a first rough draft of the summary of these responses was completed shortly before the COSRA/Roundtable meeting (which took place the day prior to this Roundtable meeting). He noted that the Task Force (selected members of COSRA and the Roundtable working on the paper) plans to conduct in-depth interviews with selected survey respondents to further develop the survey. He noted that the current draft, only available to COSRA members at present, was discussed in a closed COSRA/Roundtable taskforce session which targeted the following key questions/issues:

- What are the main areas of concern identified in the survey?
- What are the main commonalities and differences?
- What actions are needed to make enforcement more effective?; and
- What follow-up work should be considered by the Task Force?

Mr. Lubrano discussed some of the main differences encountered between jurisdictions. He noted that some countries have no experience in dealing with actual cases due to their market size or the fact that they are generally debt markets. He identified seven main areas of differences in terms of the regulatory environment and efforts on enforcement, these were:

Definition of privileged information. Mr. Lubrano explained that in some countries, the regulatory framework provides a narrow definition of privileged information generally related to material, price-sensitive information, while others interpret this more broadly. In its broadest sense, Brazil, for instance, defines it as information “you can make money from if someone else does not possess this information,” while other jurisdictions view privileged information as “any information that a rational investor would take into account in the course of doing due diligence on an investment.”

Powers/Jurisdiction of the Supervisory Authority. The powers of the Supervisory Authority over individuals and to investigate or impose sanction varies widely across jurisdictions. Mr. Lubrano noted that the supervisory authority in one of the jurisdictions surveyed does not possess direct enforcement powers and that enforcement is carried out through the Attorney General/Public Prosecutor. This contrasts with Brazil, for instance, where the CVM has very broad powers, to the extent it can even compel individuals to testify.

Degree of Corporate Guidance. Among the surveyed markets, there is considerable divergence regarding the guidance that corporate issuers have on handling privileged information inside a company. Some countries rely solely on general laws, while other jurisdictions have in addition private sector guidance, such as Brazil’s *ABRASCA Guidelines on Treatment of Insider Information Inside a Company*. Mr. Lubrano explained that it is often useful to have more detailed guidelines specifying, for instance, who is responsible for keeping the information from leaking outside the company, who is responsible to ensure the information is not misused, who is responsible for overseeing the existing procedures and reviewing these over time, etc... but not all countries have specific corporate guidance.

Private Rights of Action. With respect to this fourth element identified in the survey responses, the results showed that three countries out of the 19 respondents do not possess “Private Rights of Action”, neither legally nor practically. Many countries pointed to legal provisions in this respect but mentioned that in practice there are no private rights of action. Where they exist legally, these tend to be stipulated in the Securities Law, or sometimes in the general law of remedies for damages (known in the US as “Tort Law”).

Board Responsibility. The degree to which the regulatory framework imposes specific or general responsibilities on the board of directors also varied considerably across jurisdictions. As for other elements of the survey, the degree of specificity in regulation varies widely across countries. In some countries there is little detail on this, while in others the board can be held responsible for the failure of subordinates to follow the rules, for instance.

Adequacy of Market Surveillance. The survey also showed great differences in the adequacy of market surveillance mechanisms across countries. For instance, stock-watches that report suspicious trading activity in advance of the release of information about companies only exist in some limited number of jurisdictions.

Role of SROs and Exchanges. The final element identified in the survey responses was the role of Self Regulatory Organisations (SRO) and Exchanges in both detecting and tracking misuse and imposing sanctions either on their own or in conjunction with the Supervisory Authority. These are not widely used in the region.

Mr. Lubrano explained that these elements were discussed in some detail at the COSRA meeting, noting that all the feedback received will be incorporated into the final document. He cited an additional question he proposes to ask regulators when he conducts the in-depth interviews with certain participants: how individual regulators rate the adequacy of their own enforcement, or enforcement done by the private sector? As part of the follow-up work Mr. Lubrano will revise the draft by early next year in time for the COSRA meeting in South Africa in April 2011.

After Mr. Lubrano's presentation, Ms. Patron noted that although among COSRA constituencies there are different market sizes, stages of development, and resources of the regulator, even advanced markets with well developed mechanisms for enforcement and regulatory framework share certain concerns with smaller markets, in terms of how to prove a case. She noted that even a country with the right framework might have problems proving its case and might end up not punishing effectively. She said that these obstacles need to be analysed, and changes lowering the burden of proof considered.

A Roundtable participant noted that the power of the regulator is related to the tools he possesses. In those cases where the regulator is not very powerful, simple solutions such as "short swing-back" provisions can be effective. This is especially true in countries where tools such as access to phone /bank records or knowledge of ultimate beneficial owners etc. are limited.

An investor mentioned that in Brazil there is a 10-year old law on insider trading making it a crime, but he noted that so far no one has gone to jail for this. He stated that although the CVM has worked hard on this and its partnership with the Attorney General is important, a lot still needs to be done. He explained that a detailed laundry list of what to do and what not to do would not be exhaustive, and therefore not useful in this respect.

From a company perspective, a Companies Circle (CC) member mentioned that two years ago the company had adopted a policy which required board members and top executives to establish parameters for use of privileged information (corporate secretary has to tell directors when they cannot trade).

When the question was posed as to whether regulation was enough, another CC member responded that it had also adopted an internal code of practice on this issue. The participant stated that regulation is not enough, and that it is important for companies to go beyond what is legally required. It was mentioned by a couple of participants that a corporate calendar could greatly enhance transparency to the market, as it would be showing the periodicity of information and type of information being disclosed to the market.

A Roundtable participant mentioned that in Costa Rica the "comply or explain" Corporate Governance Code sets a timeframe of when the directors (top executives, including consultants) of a company cannot purchase shares and recommends companies set their own blackout periods. In Brazil a minimum of 15 days quiet period is recommended.

Mr. Lubrano mentioned that at the closed COSRA meeting, the practice of "reserved information" was discussed. This refers to information certified by the board as material and that cannot be disclosed as it would damage a company (the board also needs to approve how the information will be kept from the market). This practice exists mainly in smaller markets.

A US Securities and Exchange Commission (SEC) representative mentioned that during the 2008 fiscal year, there were 61 cases in the US about insider information (about 9% of all enforcement cases) and that these cases remained a high priority of the US SEC. The SEC expressed its interest in contributing to the survey and promised to provide a response to the questionnaire shortly.

A Canadian participant echoed comments made by the SEC, stating that in her jurisdiction this issue was also a priority area. She mentioned that from 1,000 unusual trading activity events in the last 5 years, only a "handful" have been from people abusing the market. She noted that deterrence is the most effective weapon. Once unusual activity has been detected, the regulator's ability to go to issuers and demand information has served as a powerful deterrent against market abuse.

The discussion concluded with an agreement to continue this initiative. The aim would be to finalise the draft for the COSRA/Roundtable task force to discuss at the COSRA/IARC meeting in South Africa. Prior to the preparation of the final document for the next Roundtable, the IOSCO Standing Committee on Enforcement and Exchange of Information (SC4) will be consulted. The report would be complemented with initial findings from a second survey on combating abusive related party transactions.

Session 2: Implementing the White Paper on Institutional Investors and Corporate Governance

Davit Karapetyan (Policy Officer, IFC) explained that the purpose of this session was two-fold: 1) focus on progress and 2) look at challenges ahead. He noted that the [White Paper on Strengthening the Role of Institutional Investors in Latin American Corporate Governance](#) (WP on IIs) has been in development for the past 4 years, and that at least one session in the previous three Roundtables has devoted time to this topic. He described the process followed for the elaboration of this paper. It was drafted on the basis of country reports, extensive research, as well as several rounds of consultations (with local experts, regional and international stakeholders, other stakeholders, regulators, institutional investors, and companies). At the same time it touches upon and expands on several topics originally discussed in the OECD Corporate Governance Principles and in the 2003 [White Paper on Corporate Governance in Latin America](#).

Mr. Karapetyan pointed out that the version presented at this year's Roundtable was a "pre-publication final version," explaining that it was almost ready to go to print, but that some time would still be allowed for corrections of factual inaccuracies or update of countries' regulatory/legislative changes and invited Roundtable participants to send relevant comments to OECD and/or IFC. He explained that this latest version incorporates many changes in terms of recommendations, changes in regulation and other new developments since the last Roundtable. It also includes an executive summary making this document more digestible and user-friendly.

He noted that the White Paper makes recommendations on three levels: the regulatory level; the institutional investor level; and the market level. To conclude Mr. Karapetyan explained that the current challenge is to move from "paper" to "action plan," and noted that IFC/OECD had been discussing the possibility of launching a pilot project, involving a volunteering country. A task force comprising relevant stakeholders could be formed and could take the WP on II, develop an action plan based on the recommendations (or some of them), and report back in a year's time against the action plan.

Four presentations followed the introduction. First, Maria Helena Santana (Chair of the Brazilian Securities Regulator) presented highlights of two of the most important recent regulatory changes in Brazil (in 2010). These changes have a direct impact on investors and address some of recommendations of the WP on II with respect to measures to facilitate and stimulate participation of investors in the life of the company. The first change (Instruction 480) focuses on disclosure of listed companies, establishing obligations requiring new information and improving the quality and detail of information already required. She mentioned as an example a form (inspired from the US SEC's 20-f) that must be filed once a year and which includes several sections, one of them the Management Discussion & Analysis on financial and operational performance. She noted that previously this was only required in an offering prospectus, but now management needs to produce one and post it on the CVM's website. She also listed additional elements enhanced by this regulation, such as details on management compensations, policies, practices, objectives and means to reach those objectives. The new regulation also requires companies to provide information on Related Party Transactions (RPTs) in a considerable level of detail (compared to previous requirements).

The other regulation (Instruction 481) described by Ms. Santana is intended to improve disclosure before General Shareholders Meetings, and deals with minimum disclosure requirements of proposals brought to the General Shareholder Meeting. The new resolution provides additional details to the existing requirements, for instance for board elections the type of information included on CVs are stipulated. She noted that the problem rests on how to enforce these provisions. She explained that the same rule also contains provisions aimed at facilitating the participation of shareholders. She noted that for the first time the CVM has regulated proxy solicitation. The main features are: any public request for a proxy must be sent to all shareholders with voting rights, the proxy holder cannot decide how to vote, he must follow specific instructions; and a shareholder holding at least 0.5 % of the company capital can present candidates for board election in a company's proxy statement.

In her concluding remarks, Ms Santana referred to a self-regulation Code for investment funds established by the Brazilian National Associations of Investment Banks and Asset Managers (ANBIMA) which states that fund

managers must make their voting policy public and that fund managers are supposed to vote in GSM on relevant matters (such as election of board, approval of stock-option plans, acquisitions etc...). The Code also features a list of exceptions which could result in the fund manager abstaining from voting even if it is on a relevant matter (some of these are: if the GSM is held in a city other than the capital of the state, if remote voting is not possible, if the cost to exercise its voting right is not compatible with the importance of the asset in the portfolio, if the company does not provide sufficient information even after being requested). Ms. Santana stated she would expect more shareholder engagement with these improvements but mainly in companies without a controlling shareholder.

This intervention was followed by a presentation from [CONSAR](#), given by Luis Mario Hernández (Financial Vice-President, Mexican Pension Fund Regulator) in which he pointed out that from the Mexican regulator's stand point the most difficult recommendations from the White Paper were related to conflicts of interest, exercising voting rights and the corporate governance of the pension funds themselves. He provided an overview of regulation in Mexico, explaining that CONSAR (pension funds which manage mandatory private accounts) is one of three main regulators, together with CNBV (which regulates mutual funds), and the Insurance and Sureties Commission. He stated that an important challenge in Mexico is the fact that some regulation overlaps between regulators, but at the same time there are some regulatory gaps which need to be filled.

He highlighted the importance of Pension Funds (PFs) in Mexico. He said that as long-term investors and due to the size of their portfolios they are supposed to be informed and sophisticated investors and exert market discipline in companies they invest in. PFs have very recently been allowed (Feb 2010) to invest directly in stocks (only on the Mexican stock exchange) and also for the first time in IPOs. The regulation for AFORES (mandatory private accounts) only allowed them to invest through equity indexes, because the regulators considered these types of institutional investors unsophisticated entities. He stated that this was an "original sin," as this misconception is reflected in the law and regulation. He stated that AFORES currently have 8% of their assets under management in equity in Mexico and another 6% on equity abroad in "recognised markets". He also noted that in terms of investment in private equity, since 2009, AFORES are allowed to invest in Capital Development Certificates. AFORES have invested around 1.5% of their funds under management in these instruments, as they are very flexible and linked to many diverse projects in Mexico (only). He mentioned that AFORES exert some influence on corporate governance of the companies they invest in and have similar restrictions to those that apply to listed companies. If stockholders have more than 20% of shares they may legally oppose any resolution of the Assembly. If they hold less than 20% but more than 10% , alone or in group, they are allowed to:

- Call for a general meeting but also have the right to postpone up to 3 days any decision made by the board.
- Able to appoint or remove any member of the "Technical Committee" (Mandatory for this type of instruments, it is formed by 21 members, 25% of whom need to be independent).

AFORES are supposed to affect the corporate governance of their investee companies, as they are expected to sit on the boards of the firms they invest in, but there are some restrictions that AFORES need to fulfil with regards to their own regulation and the Securities Market Law.

As main challenges to implement some of the recommendations of the WP on IIs, for regulators and in particular for CONSAR, he mentioned:

- For corporate governance of the pension funds themselves, there are very specific definitions about how AFORES should manage their decisions. On the one hand they have the investment committee and on the other they have a set of controls for investment purposes (the risk unit, the comptroller and the auditors). Although these are given very specific functions, in practice they deviate considerably from their nominal duties. The independence of members of these bodies is also a matter of debate, as some of these people are related to the financial groups controlling the AFORES. He noted that this is something CONSAR could work on.
- He also mentioned that revealing voting policies by PFs could be fixed quickly and would add value, as it would bring more transparency to the market.

Regarding coherence of regulation, he noted that he had three examples where the recommendations from the WP on IIs should be considered. 1) AFORES are forbidden to have control of a company, or own any company

(recommendation that they should appoint directors and take decisions). 2) AFORES cannot exercise ownership rights in certain cases, as they would be violating the law of the Securities Market in Mexico because they could have inside information as they are the main institutional investors in the market, and this would give them an unfair advantage compared to other market participants. 3) Outsourcing the specialisation of advisors, he stated, although permitted by law, is too costly so AFORES do not do this.

He noted that there needs to be an integrated policy in Mexico, that currently there are three types of regulators, and three types of institutional investors (pension, insurance and mutual funds), each one with very different capital requirements or risk assumptions in management of funds (AFORES do not run any risk with their capital), all risk is transferred to the pensioner. For insurance funds there are very strict capital requirements. They are not permitted to invest in the stock market). The last key challenge he mentioned was markets and supervisory clarity.

Mr. Hernandez's presentation was followed by an intervention from Juan Munguira (Legal Advisor, Spanish Securities Commission and OECD committee member), on [Weaknesses in Current Regulation](#), a post-crisis view from a European perspective. His presentation described some of the current problems emerging from the crisis, such as entities not being sufficiently regulated (such as hedge funds), and the existence of concrete risks (such as liquidity and depreciation), to name a few. He explained among other issues that we now know that risk is not static. Therefore rating agencies, for instance need to be better regulated (a process that has already started in Europe). He noted that complex investment vehicles do not properly account for risk, prospectuses do not explain "products" adequately and these are just a handful of examples of areas not currently being properly regulated.

He went on to explain that currently in Europe one of the hot topics is remuneration of collective fund managers (such as Pension Fund Administrators, Investments funds) and the companies that run these funds. The current debate centers on the level of remuneration they should be receiving, extrapolating current requirement approved for top executives in listed firms to these managers of "collective" funds. Similarly institutional remuneration, that is the commissions these institutions received through their activities, is being considered. He concluded by saying that there is a need among others to regulate remuneration policies (individual/and institutional) and regulate institutions not properly regulated (that could have systemic impact).

The last intervention of this session by Simon Wong (Partner, Governance for Owners, United Kingdom) on [recent developments and stewardship considerations for institutional investors](#) was divided into two parts. The first part covered global developments in terms of institutional investors and the second part was on how to promote stewardship by institutional investors (stewardship meaning long term active orientation), including comments on the White Paper. He pointed out that his presentation was from the mixed perspective of practitioner/academic and not as a policy maker. He noted that there are different forces driving the IIs' interests in Environmental, Social and Governance (ESG) issues. He explained that in Europe regulation is forcing more active participation from IIs mainly through disclosure requirements (e.g. UK Pensions Act; in Denmark investments are required to state whether they have a policy on ESG, and if not explain). Society is also paying increased attention to these issues (NGOs, media). He noted that corporate catastrophes have also impacted on ESG. Mr. Wong explained that the United Nations [Principles for Responsible Investment \(UNPRI\)](#) was extremely influential in getting IIs to pay attention to stewardship on a voluntary basis. The UNPRI focuses on six principles:

- Incorporate ESG considerations into their investment considerations;
- Adopt an active ownership policy;
- Encourage investee companies to disclose more on ESG;
- Get together as a group and promote UNPRI;
- Recognise the power of investor collaboration;
- Report on activities.

He stated that membership has risen considerably from 550 to 820 during the July 2009-Sept 2010 period, with signatories drawn from 45 countries with aggregate assets under management of US\$22 trillion. He suggested the White Paper should mention this initiative.

In the second part of Mr. Wong's presentation he discussed the UK Stewardship Code, which is seen as a way to formalise the general duty generally attached to IIs. He described it as a "reactive mechanism", as IIs did not

come out very well from the financial crisis in the UK, having been seen as too passive. Other countries such as the Netherlands, France and South Africa have produced similar codes, while Canada is also considering doing so. He explained that in the US, CALPERS is developing a database of directors in anticipation of the introduction of proxy access, which will allow investors to nominate director candidates. In the Netherlands, IIs are looking to engage with companies not only at AGMs, but regularly throughout the year. He noted that even though these are highly positive developments, much more can still be done especially with regards to asset owners taking a greater interest in monitoring their assets managers and driving progress.

He also explained that the integration of ESG considerations into decision-making is another area which needs improving. Currently these are taken into account in voting but not necessarily in buy-sell decisions. He went on to explain how he foresees a promotion of stewardship by IIs:

1. Emphasising active ownership and long term orientation. This is not as explicit in the WP; in Europe a considerable number of pension funds are incentivising their assets managers to act in a very short term manner.
2. Aligning incentives and performance measures of the asset manager. Although there have been accusations of short-termism, assets managers are performing very rationally given the incentives, measurement relative to peers and on a very short-term basis.
3. Be careful of the risk of intermediation. There is a long ownership chain, which is often based on short-term incentives. This means for IIs perhaps building long term expertise (large pensions fund in the world are now doing that), to shorten the intermediation of ownership, and to better link their own long-term thinking with their own investment approach.
4. Another development is the huge portfolios IIs, hold. Academic research shows that in terms of reducing volatility of your returns you actually maximise the benefit of diversification with 30 to 50 stocks, so why invest in 10,000 stocks? This approach benefits assets managers, not asset owners.
5. In terms of II responsibilities, they are usually thought of in a very homogenous way (he noted that the WP on II does try to differentiate). Mr. Wong asked how a system could accommodate different engagement styles of IIs depending on their investment styles. He noted that some II passive funds look at *framework-level* intervention. They seek to set uniformly strong ground rules so that they do not have to intervene at individual-company level. The other extreme is the focus funds. They have a small number of stocks and can devote more time on a broader set of issues, from changing core strategy to capital structure, etc....

After Mr. Wong's presentation and before the general discussion, Mr. Karapetyan explained that Development Finance Institutions are also another type of II whose role is mentioned in both the Latin American White Paper on Corporate Governance and the WP on II, and that have also been changing their CG strategies with respect to investments.

During the discussion a participant supported the need to address other areas of possible systemic risk, including risk related to IIs. The participant explained that the private sector could complement the role of the public sector in improving dissemination of information in a number of ways, such as indexes playing a monitoring role.

A Companies Circle member highlighted the importance of disseminating the WP on IIs recommendations and to continue the trend of getting IIs to disclose to their owners how they manage their funds.

A participant explained that in Peru different instruments have different stewardships, and that the key differentiator was whether the fund was based on mandatory savings or not. He suggested that the paper does not reflect what is happening globally, for instance the concept of universal banks which manage different funds (effectively making the banks several IIs at the same time). He stated that in these cases it is extremely difficult to enforce issues related to CG because of conflicts of interest. He noted that the way to build "Chinese walls" between the banks/ the pension funds/ the hedge funds within the same institution needs to be addressed, especially regarding the management of risk.

Mr. Wong pointed out that in terms of managing conflicts of interest it is perhaps of greater importance to emphasise avoidance and minimisation of conflicts of interest. He noted that when faced with really acute conflicts not managed in large conglomerates, regulation should step in.

The moderator asked for any further comments to be provided in writing as the Roundtable would further revise the White Paper. The Roundtable **agreed to publish this White Paper** shortly, taking on board comments made at the Roundtable and any subsequent comments sent to the organisers. Furthermore, the idea was floated again about a country wanting to create a task force and organise a project to adapt the recommendations to its specificities and work towards implementation. No decision, at this stage, was reached on what country would do this.

Session 3: Improving Board Effectiveness

The third session was introduced by Marcello Bianchi (Chairman of the OECD Corporate Governance Committee) who noted that the Board is at the heart of corporate governance, and also at the heart of every corporate governance problem. This was clearly evidenced in the recent financial crisis. He explained that recent OECD work on the CG lessons emerging from the financial crisis highlighted many failings by boards in carrying out their roles (remuneration setting, risk management, etc....). He noted that the Roundtable had decided in its last meeting to focus on the issue of boards, and to produce a systematic study. The discussion document entitled “[Achieving Effective Boards](#)” was the first draft of this work, provided as a basis for the discussion. It was produced in conjunction with eStandards Forum, in collaboration with Corporate Governance Institutes (CGIs) from seven Latin American countries, and with GCGF support.

Carolina Azar (Estandards Forum) presented features from the report ([click here to access presentations](#)). This report advanced preliminary recommendations for discussion based on the mapping of laws, regulations, voluntary codes, listing requirements and current practices relevant to selected board-related topics. The following board topics provided the main pillars of this paper:

- Board Duties
- Board Handling of Conflicts of Interest
- Board Selection and Structure Criteria
- Criteria for Independence
- Board Committees
- Chairman/CEO Separation
- Board Risk Management
- Board Evaluation

Ms Azar noted that in all surveyed jurisdictions, at least for listed companies, most of the eight topics are covered by a law, regulation or a code, but that the least covered topics were risk management and board evaluations which were not covered by law or regulation in any country surveyed, and mentioned only in some countries’ codes. Ms Azar noted that the requirement to disclose information on board practices is not covered in any jurisdiction, except, to a certain extent, in Brazil through the introduction of the recent CVM instruction 480.

Regarding overall findings of current practices, the information available pointed towards legal compliance by companies, and therefore putting into question the different codes’ ability to promote enhanced practices. She stressed that more information on board practices is needed to better assess the effectiveness and performance of boards.

Regarding preliminary recommendations for discussion, Ms. Azar proposed for consideration the following:

- Making some board requirements mandatory can be one way of improving board practices.
- The need to improve disclosure quality and timeliness of information, and in particular regarding topics that were not addressed such as risk management, nomination and compensation of directors.

She proceeded to discuss the findings from the paper topic by topic. Ms. Azar concluded her presentation by asking Roundtable participants to provide feedback which would be incorporated in the final document.

Some CGIs were asked to introduce each of the topics for discussion by the Roundtable. The first topic discussed was board duties. This topic was introduced by IBGC and Procapitales. IBGC explained that the research it has conducted shows that boards in Brazil still tend to get too involved in managerial duties. With regards to duties of care and diligence, board members' qualifications are improving constantly. IBGC trains over 300 directors annually and its director certification programme, which is less than 2 years old, has awarded over 500 certifications so far. Research has shown that a large number of directors still attend board meetings uninformed, and that generally boards tend to "represent" the controlling shareholders. IBGC mentioned that they would like to recommend that all jurisdictions disclose board activities, namely: number of meetings, attendance, existence of committees (and composition), board evaluations, etc....

Procapitales explained that although Peru has seen considerable progress in corporate governance in the last six years, much remains to be done in this area. He noted that many of the recommendations of the paper were intertwined with other recommendations, making it difficult to comment on any topic in isolation. In terms of prioritising recommendations, he pointed out that board nomination and evaluation are crucial issues, followed by committees' focus and work.

A Colombian participant mentioned that the systems used to provide information to board members are important, for instance in Colombia generally not all board members have access to the same information.

A Roundtable participant suggested that an annual calendar of board meetings and committee meetings, and some of the items in them, be disclosed to the market. This discussion also gave the opportunity to certain Roundtable participants to describe their own companies' practices.

According to survey findings mentioned in the report, certain companies are appointing the minimum number of independent directors to meet the law, but in many cases these are the wrong directors. Some board members are still too involved in managerial duties. Japan was cited as an example where boards have resisted adding independent board members as their boards are management committees and therefore have little use for independent board members. A Roundtable participant pointed out that the recommendations should also include the clear separation of management from board duties. It was also emphasised that boards need to pay particular attention to how they attract and maintain human capital. It was stated that there is a bias towards recruiting directors for their technical skills and not enough focus is given to personal skills, which especially in Brazil is important as board members need to negotiate, and have team spirit etc.

Comments were heard on evaluation of boards. A participant mentioned that disclosure of board evaluation results is not always advisable. He stated that ideally board evaluations should involve a third party to collect information and present it back to the board anonymously. Furthermore, the concept of "busy boards" was discussed, as over-committed board members serving on multiple boards tends to be a widespread concern in the region. Busy boards, which are less active, independent, relevant, are also not keen to be responsible for hiring and dismissing of CEOs.

In Mexico, there have been efforts to enhance corporate governance through training at the Mexican Stock Exchange. Furthermore, a Mexican participant mentioned that the Corporate Governance Code in Mexico has recently been updated to address risk, among other issues.

In terms of conflicts of interest, surveys conducted in some of the jurisdictions shows that in most countries board members usually do not participate in decisions when they have declared a conflict of interest. Roundtable participants mentioned that it was difficult to discuss this issue separately from independence and composition of the board, as the "real" level of independence was considered an important question.

The Roundtable asked for written comments to the study and **agreed to further develop the report**, and proposed to have firmed up recommendations to enhance the effectiveness of boards of directors for the next Roundtable in 2011.

Session 4/6: Break-out Sessions and Reports

Mr. Pedro Mäder Meloni (Principal Advisor - Global Financial Markets Latin America & Caribbean, IFC) introduced the three break-out sessions ([to access presentation click here](#)). Regarding corporate governance of Non-Listed Companies (NLC), he explained that this is an important topic as NLCs form an important segment of the Latin American economic landscape. He noted that family ownership is predominant, with many companies in the first or second generation. These companies have less regulatory oversight. However, they present an interesting segment for investors – close ownership linked to long-term commitment. He reminded the Roundtable that the OECD conducted a review of CG for non-listed companies and issued a report on Corporate Governance of Non-Listed Companies in Emerging Markets in 2006.

Regarding the second break-out discussion topic, Mr. Mäder Meloni mentioned that Corporate Social Responsibility (CSR) is gradually receiving increased attention from markets, companies and investors alike. He mentioned that CSR is largely practiced by bigger companies, particularly listed and those with operations affecting environment, social issues and communities. He also added that good corporate governance and CSR reinforce each other, explaining that if companies do not respect their shareholders' interests they will not respect the stakeholders' interests

Finally, to introduce the third topic on Board evaluations, Mr. Mäder Meloni, noted that it is a critical element for improving board effectiveness and should be used as a tool for self-improvement rather than to punish non-performing directors. He also explained that it is not yet a common practice in the region even in larger listed companies.

The discussions in each of these break-out sessions was summarized the following day.

[*Influencing Corporate Governance of Non-Listed Companies: Regulatory vs Non-Regulatory Approaches*](#) was the first topic introduced by Andres Oneto (CAF). He explained that the discussion was preceded by two presentations: one from Ms. Maria Isabel Cañón (Deputy Superintendent, Supersociedades, Colombia) who talked about the Colombian experience in this respect, as a country with a regulator devoted to non-listed companies; and from Mr. Jose Luiz Osorio (Partner, Jardim Botânico Partners, Brazil) who gave a private-equity investor perspective on drivers to better corporate governance of NLCs.

The ensuing discussion centered on the problems of creating the right incentives for NLCs to adopt better practices. The participants in this session agreed that there is no single model, but different mechanisms can provide the right incentives, such as “comply or explain” codes for non-listed companies. Furthermore, it was established that regulation can form the basis for a minimum set of requirements/rules and the enforcement of these minimum requirement should be strong. To complement regulation, participants of this session agreed, that non-regulatory mechanisms should also be promoted by business associations, CGIs and universities, which would create awareness of the benefits of CG adoption. The group also agreed that financial institutions or private equity funds can serve to promote better practices by creating incentives such as better access to funds directed at companies with better corporate governance standards. Additionally, participants believed that governments, in their role as contractors of services (or buyers of goods) can help promote better practices in the companies they purchase goods or services from. This could be done by evaluating companies' corporate governance as part of their tender process. The groups suggested the Roundtable consider family succession issues at the next meeting in 2011.

[*Corporate Governance: Achieving a Balanced Approach to Corporate Responsibility*](#) was the topic for the second discussion group. The discussion group was summarised by Santiago Chaher (Consultant GCGF) and featured two introductory presentations from Mr. Manuel Isaza (Hermes Equity Ownership Services-Americas, United Kingdom) who suggested that a balanced approach to corporate responsibility is ultimately achieved when these ESG goals are aligned with the creation of long term value to all stakeholders; and Mr. Carlos Eduardo Lessa Brandão (IBGC board member, Brazil, [click here to access his presentation](#)) who emphasized the point that CSR is about long-termism and understanding that business is a wholly owned subsidiary of society. Mr. Chaher explained that the discussion was framed around three questions. The first one was whether CSR should be considered as part of the board's values, or whether it should be considered as an operational risk, or risk-management issue. The participants agreed that it needed to be embedded into the company's core strategy and that it should be part of the company's culture.

The second guiding question was how should boards look at this issue? Was there a role for hard law and strict enforcement, or should this be left to purely voluntary initiatives? The group agreed that the market does recognize the value of CSR through indexes, stock value, etc.... but these incentives are not enough, as they leave out SMEs and non-listed companies. The group agreed that some regulation is needed, but monitoring and enforcement can prove to be more difficult. The group concluded that there was a need for a mix between hard and soft law to encourage the inclusion of these concerns into the core strategy of the company. Good corporate governance was seen as a necessary condition for real CSR.

The last question tackled by the group was where to draw the line with respect to directors' allegiance: was this to shareholders or all stakeholders? The group initially agreed that it was to all stakeholders, but as the discussion went on the dividing line became increasingly blurred. The conclusion coming from the group was that CSR can no longer be ignored by boards.

Board Performance: The Role of Board Evaluations was the final group. The session was moderated by Ms. Sandra Guerra (Companies Circle Co-ordinator, Brazil), who also reported back to the plenary on the discussions of this group. This break-out group featured the presentation from Ms. Patricia Gastelumendi (Administration and Finance Manager, Ferreyros, Peru) who described how Ferreyros conducts board evaluations, Mr. Alberto Mauricio Bernal (Acting Secretary General, ISA, Colombia), who briefly talked about board evaluations at ISA, and finally Mr. Mauro Rodrigues da Cunha (CFA, CIO, Equities, Opus Gestão de Recursos, Brazil), who spoke on the need to make evaluations public (or at least disclose certain elements) as a mechanism to ensure that boards are accountable to the shareholders.

Ms. Guerra briefly summarised the board evaluation processes used by the two companies (members of the Circle who presented their practices). She mentioned that from an investor's perspective, results from evaluations should be disclosed to the market, as this would encourage more accountability from board members. Ms. Guerra also described the three models of boards as explained by Mr. Rodrigues da Cunha during the discussion session, which have an effect on the evaluation of the board. The first model, an Anglo-Saxon model, where shareholders are more distant, and the board often rubber stamps decisions from top executives, as they "run the show". The second model, prevalent in Latin America is basically a model run by controlling shareholders, who set the board. The third model described was called "shareholder democracy", where shareholders can know what transpired in the board meetings and therefore can select board members because of their competencies and to ensure a good mix. Ms. Guerra suggested that this last model is the one we should aspire to. This led to 10 proposed recommendations:

1. A summary of evaluations should be given to shareholders. It should be very detailed with qualitative and quantitative information, ensuring that sensitive issues are withheld. The methodology needs to be very clear and transparent to the market.
2. There need to be a quantitative and qualitative evaluation to measure individual board members' performance and also of the board as a whole.
3. The methodology needs to be directed at improving the functioning of the board.
4. Investors can try to help "break the opposition" that sometimes exists with regards to board evaluations by requesting companies they invest in conduct such evaluations.
5. This is a step by step process. The different levels of corporate governance maturity of each company needs to be taken into consideration when adopting board evaluations.
6. A decision needs to be made as to whether the evaluation should be only of the board as a whole or only of individual board members.
7. There should be at least a yearly evaluation.
8. The evaluation needs to cover the different responsibilities of the top executives as well as the board members.
9. There should be an action plan after each evaluation.
10. Shareholders should use the results of board evaluations when voting.

After the last presentation, the floor was opened for discussion. A participant highlighted an important conclusion to come out of the group on NLCs, which was that it was crucial to create the right incentive-structure for NLCs, especially family-owned companies. He mentioned that the discussion did not focus enough on the important role financial institutions can play as sources of capital to help steer these companies in the right direction.

A representative from a financial institution in Colombia stated that for money lenders, corporate governance of non-listed companies is a very important topic, as higher corporate governance standards can help reduce the risks related to lending. He explained that his bank is working with a Swiss institution on a project which incorporates corporate governance consideration in lending analysis for NLCs. Environmental protection is already an integral part of their analysis. He concluded by stating that corporate governance is used as “positive discrimination,” which is destined to promote lending to better governed companies, not penalise companies with lower standards. A representative from an insurance company from Colombia explained that when conducting due diligence before an investment, corporate governance of potential investees is an important part of the analysis. He noted that this has incentivised certain companies to adopt better practices in order to attract investment.

One of the lead speakers from Group 2 (on CSR) stated that the discussion also touched upon the urgency for company directors and top executives to also integrate ESG considerations into their decisions. He suggested that the Roundtable keep a focus on this area.

On this theme another participant welcomed the Roundtable’s decision to discuss ESG, as corporate governance should not be regarded as dealing only with shareholders, but should pay special importance to all stakeholders. He mentioned that financial institutions have started to also incorporate this in their analysis of credit. He stated that there no longer is doubt about the importance of ESG, and the fact that it is not altruism or philanthropy, but a crucial framework to be responsive to all stakeholders.

The Roundtable agreed to take up issues related to family-owned NLCs next year, possibly in a break-out group format. It also agreed that conclusions from the discussions on board evaluations and corporate responsibility issues would be integrated into the Roundtable’s work on boards.

Session 5: How Have Stock Exchanges in the Region Impacted Corporate Governance?

This session received the highest rating from participants’ evaluations, both in terms of the speakers and discussions ([see final section of report](#)). Pasquale di Benedetta (World Bank) introduced this session, which featured four presentations.

The first one was from Elvira Schamann (Secretary General, FIAB-Ibero-American Federation of Stock Exchanges). She explained that FIAB has been following corporate governance developments since the first Roundtable in 2000. She presented the [results of a survey the FIAB](#) has been conducting since 2003 to understand the level of adoption of corporate governance rules and its evolution in member countries. She noted that there has been a considerable increase in member countries having adopted a corporate governance codes since the survey was first launched, as well as specific regulation/law dealing with corporate governance. This considerable increase in awareness of these issues, according to Ms Schamann is in no small measure thanks to the work of the Roundtable, which has been instrumental in the development of this topic in the region.

Her presentation was followed by Mr. Patricio Peña (Chairman, of the Quito Stock Exchange) who presented the programme the Quito Stock Exchange ([click here to access presentation](#)) has been working on in conjunction with the Inter-American Development Bank to develop corporate governance in Ecuador. He mentioned the positive influence the Roundtable has had in encouraging this project. He explained that the programme was based on two central pillars: supply and demand of corporate governance. He noted that demand for corporate governance was increased through conferences, awareness-raising events etc...as well as through supply of corporate governance services (through training of trainers etc..). He explained that the programme involved four stages: awareness raising, specialized training, implementation of good practices, and evaluation and dissemination. He noted the programme exceeded all expectations, and described the following elements as proof of the success of the initiative:

- Attitude change in Ecuadorian businessmen;
- Increase in IPOs in the Quito Stock Exchange; and
- The decision by the supervisory authority to evaluate good CG in Ecuadorian companies.

Mr. Peña’s presentation was followed by Ms. Liliana Casafranca’s intervention which focused on the Good Corporate Governance Index of the Lima Stock Exchange ([click here to access presentation](#)). She explained that in Peru, prior to the existence of the index, a number of initiatives were launched to promote good corporate

governance. First the release of the Peruvian Code of Corporate Governance (a voluntary code) in 2002, then Procapitales in conjunction with a university in 2005 launched a contest to see what the level of CG was in Peruvian companies. In 2006 the regulator began requiring companies to disclose their level of compliance against the Code of corporate governance in their annual report. The Stock Exchange was carefully monitoring all these initiatives but considered that a piece was missing to show companies the importance of taking the path towards better governance. Therefore, in 2008 the Index was born. It was based on a number of premises. These were: visibility to the market of companies' practices, market credibility, validation by independent consultants, and uniformity of evaluation (as these would be done by different companies). She noted that rating agencies meet up annually with the stock exchange to discuss how the process is going, and process simplicity.

In terms of the index itself, she mentioned that the index has a lower capacity limit of eight companies, and an upper capacity of 10, all with a certain freefloat. She noted that the limited number of places has created a healthy competition between companies wanting to be included in the index. She explained that companies are rated according to three criteria:

1. Scoring, which is done by the rating/validating companies, based on the 26 points from the CG code. Each Principle is given a certain weight depending on its degree of importance. After computing the total, if this total is greater than a minimum standard it is then recognised by the BVL as having good practices;

2. Freefloat calculation; and

3. Selection (the last two are conducted by the stock exchange itself).

Ms. Casafranca noted that since the start of the index, there has been a very visible improvement in practices, and in the overall compliance of the companies making the index. Companies participating in this process in the last three years have recorded compliance levels of 94%, a very encouraging sign. Ms. Casafranca also mentioned that two companies have reached the maximum number of points, which has prompted the BVL to increase the bar for next year.

In qualitative terms, these initiatives have been very positive in creating awareness of the benefits of corporate governance among companies and board members. As the scoring system is generally very objective, this has encouraged companies to start documenting their processes and practices. Overall, the tangible benefits of corporate governance are clear, as companies that are part of the index tend to be better valued than those in other indexes, with a premium of up to 40%.

She ended her intervention with a few words on the integration of the Lima, Santiago and Colombian stock exchanges into a regional trading platform. She said that this process poses many challenges in terms of corporate governance, including issues such as the requirement of independent directors (which does not exist in Peru), but integration will offer investors many more options.

Mr. Arminio Fraga (Chairman, BM&FBOVESPA) gave the last presentation of the session ([click here to access presentation](#)). His presentation centred on the experience of Brazil and the role the stock exchange has played in raising standards. Historically, the Brazilian market was characterised by weak performance, and not raising capital etc. The stock exchange decided to raise standards through corporate-governance differentiated listing tiers. One of the driving ideas behind this initiative was to protect minority shareholders, and the logic was to reduce risk. The Novo Mercado (NM) would supplement Corporate Law. It introduced several important concepts such as one-share one vote, tag-along, disclosure practices, at least one independent board member, for instance. Mr. Fraga mentioned that the results have been very positive and quite consistent. He noted that there are currently 107 companies in the NM. He noted that this initiative had a slow start. The NM was introduced in 2000, and up until 2003 the market had not responded. It was not until 2004, that activity started. Even in 2008 there were some new listings. Mr. Fraga commended Peru's work in this area and suggested studying their Index closer to see if he could import the idea.

Mr. Fraga explained that more recently there were attempts to enhance listing requirements, some of which were successful and some of which although not successful helped create awareness about the actual benefits of corporate governance. A year and a half ago, in order to keep the stock exchange at the cutting edge of corporate governance it was felt necessary to keep improving its special corporate governance segment listing standards. Furthermore when the NM initiative was launched, most companies had one owner. Therefore the driving force

was to protect minority shareholders. Nowadays many companies have dispersed ownership in Brazil and the governance issues are different, so these matters needed to be addressed. He noted that much of the battle is of communication and awareness-raising. Some of the key proposals were:

An automatic tender offer for all shareholders, when someone reaches 30% of the votes (idea based on a recent European directive). The idea was to introduce something simple and provided a tag-along mechanism for shareholders at large. Although this proposal did not succeed, it was important in raising awareness of the issue.

He noted a number of proposals on boards as well, such as:

- An increase from 20% to 30% of independent members on the board. This was not approved either. Companies argued that it would be too costly, and many smaller companies would need to increase the size of their boards.
- Have separate chairman and CEO. Mr. Fraga noted that this measure was approved.
- Establish an audit committee. Mr. Fraga explained that Brazil already has a “fiscal board” (conselho fiscal.), which is thought by many to perform the same duties as an audit committee but he suggested that in reality this conselho fiscal is a “backward looking creature”, as for the most part it only reviews the books. He explained that this idea was to introduce a more forward-looking risk-based body. This proposal also failed as it was deemed too costly and duplicative by some companies.
- Requirement for the Board of Directors to advise the shareholders and the market on the terms and conditions of any tender. Mr. Fraga cited this and some other proposals which were approved by companies.

To conclude Mr. Fraga explained that the decision-making process within companies was difficult possibly because boards did not seriously look at the proposals, as it was generally the Investor Relations areas through the legal departments that took the decisions. The process took about a year, during which BM&FBOVESPA ran seminars and debated the proposals in the press. Mr. Fraga noted that this exercise was worthwhile as it increased awareness about many of these issues.

In the ensuing discussion, one participant described the evolution of corporate governance in Panama, where in 2003, the stock exchange rallied the issuers (25) not to voluntarily adopt CG practices and even threatened legal action if corporate governance principles (based on the OECD and Novo Mercado) were imposed on them. A few years later the stock exchange, in seeking membership to the FIAB, had to change its stance, and now fully supports and is committed to corporate governance. The stock exchange is now involved in the local CGI (which was created thanks to Roundtable meetings and international support from GCGF).

Another participant highlighted the fact that better corporate governance is not only the result of more regulation and policy-makers, but is increasingly being advanced by market forces. The participant asked two questions to the Roundtable:

The first question was on the evolution of stock exchanges and their role in corporate governance, especially since after demutualisation there is a move towards concentration with integration at international level. The experience of Italy was that the Stock Exchange was instrumental in promoting corporate governance, the CGI and the code, as well as its implementation through listing rules. But after integration within the London Stock Exchange group, the Italian Stock Exchange reduced its role in corporate governance because corporate governance is no longer a priority for the group. The code was last revised in 2006 and there is no revision in sight, as the stock exchange does not see this as a priority anymore. Corporate governance has a national dimension because it reflects the specific features of the local market, and it can probably be difficult for an international stock exchange to help set/or promote codes in all the markets it is active in.

The second question he posed was how securities regulators oversee the continuous compliance with corporate governance, for higher segments. In Italy, last year two companies listed on the higher segment were found to have poor practices. This is dangerous as investors rely on these tiers as a quality mark.

Mr. Fraga replied to the question stating that the issue of concentration is still not an issue in Latin America largely because it is already concentrated in most countries (though Argentina still has a few stock exchanges).

He suggested that dilution of corporate governance due to mergers of Stock Exchanges is wrong, and that as BM&FBOVESPA is competing internationally, it needs to ensure they have “a better quality product.” He explained that regarding compliance, the NM is a contract, and as with any contract there is the potential to find loopholes.

The last participant to speak at the session proposed that the OECD look at indexes of sustainability, of CG. Taking this last comment into account, the **Roundtable agreed to further develop analysis on the use of corporate governance indexes** across the region.

Session 7: Conclusions and next steps

The concluding session featured three scheduled interventions:

A presentation from Miguel Mora (Senior Advisor, Ministry of Economy and Finance, Spain) in which he spoke positively of Spain’s support for the work of the Roundtable for the last 10 years. He also took the opportunity to suggest ways in which the work of the Roundtable could be improved. He suggested some preparatory work for the Roundtable could be carried out by “task forces” prior to the meeting, so discussion topics arrive to the table in a more “finished” manner. Echoing remarks made in previous Roundtable meetings, Mr. Mora reiterated his skepticism of the effectiveness of self-regulation, or voluntary measures to improve corporate governance practices. He suggested that the financial crisis was to a large extent the outcome of too much reliance on self-regulation. He also described the current European movement towards strengthening regulation in a number of areas previously unregulated, such as the new controls on rating agencies, or hedge funds. He concluded his remarks by stating that there have been considerable improvements in corporate governance in the last 10 years in the region, and that Spain wants to reiterate its support of the Roundtable.

The second intervention was from Sandra Guerra who welcomed the new members of the Companies Circle (CC), which now comprises 19 Latin American companies. The Circle met the day before the start of the Roundtable. At its annual meeting, the CC welcomed eight new members, three from Brazil (Algar, Bematech and Brazil Foods), one from Argentina (Los Grobo), Colombia (Carvajal), Costa Rica (Florida Ice and Farm), Mexico (Banco Compartamos) and Peru (Graña y Montero). Ms. Guerra noted that the annual meeting also elected a new Steering Group of the Companies Circle. The Circle would now enjoy the leadership of Mariela Garcia di Fabbri (Ferreyros) who would be supported in her role by four vice-chairs from Ultrapar, Homex, CPFL and also Los Grobo. Ms. Guerra ceded the microphone to Patricia Gastelumendi from Ferreyros, representing the chair of the Circle, to briefly describe the outcome of the Annual Meeting. Ms Gastelumendi noted that the meeting devoted a considerable amount of time to discussing the topics for its Working Groups to concentrate on in 2011. She mentioned that one group will focus on AGMs and the other one on board evaluations, and that a document on these issues will be presented at the next Roundtable. She also noted that the Circle agreed in its meeting on an ambitious work plan which included two new launches of the Practical Guide, one in Argentina and one in Panama.

Finally, Mr. Santiago Chaher took the floor to describe the progress of the CGIs network, which was formed a year ago thanks to GCGF/OECD coordination and by suggestion from IBGC. The network has met once again since it met in Chile, in Panama (May 2010), where 11 CGIs from the region participated. The Network would meet again after the end of the Roundtable. Mr. Chaher explained that this initiative has been very successful in encouraging institutes to share experiences, practices and challenges and to learn from each other. Furthermore, this initiative has also served to provide input to the work of the Roundtable. The “Achieving Effective Boards” paper is proof of the importance and useful collaboration between the Network and the Roundtable.

Ms. Yvonka Hurtado (CONASEV) took the floor to thank the organizers and to invite, on behalf of her organization the Roundtable to meet in Lima, Peru in 2011. She explained that Peru continues to improve its corporate governance framework, and believes that hosting the Roundtable could greatly contribute towards this goal. Her invitation was echoed by Marco-Antonio Zaldivar (President of PROCAPITALES) who mentioned that his organization also wanted to extend an invitation to the Roundtable to convene in Lima in 2011.

Mr. Patricio Peña also took the opportunity to invite the Roundtable to meet in 2012 in Quito, Ecuador.

A Brazilian participant mentioned that in his opinion the problems facing each country in the region are generally the same, or at least very similar, but the solutions are, or can be very different. Therefore all countries can learn from each other's solutions, regardless of size or stage of development. He invited participants to get in contact with IBGC to keep working, and learning from each other throughout the year.

Daniel Blume (OECD) concluded by summarizing the proceedings, stating that this year's Roundtable involved a larger number of partners and countries than ever before. This increased its reach and impact, including through back-to-back meetings with COSRA, IBGC and the CGIs, but also made managing the discussions more challenging. He explained that this year the fruitful collaboration with COSRA also made clear the sensitivity certain jurisdictions have *vis a vis* certain topics. Therefore the document prepared on enforcement could not be shared, making it difficult for the Roundtable to contribute as much to this session. He explained that going forward, the work with COSRA will continue on two issues, use of privileged information and related party transactions, and that a document will be circulated in advance of next year's Roundtable to ensure a more concrete input from the Roundtable (contributions/remarks will be sought prior to the meeting) into these work streams.

Regarding the WP on IIs, Mr. Blume noted that many good comments/contributions have been received which will be incorporated into the final document. He mentioned that Davit Karapetyan's suggestion of a pilot project to implement some of the recommendations can be considered for the next Roundtable, as participants have not had enough time to consider the proposal. He suggested considering having a specific session at the Roundtable in Peru, which would be devoted to this issue, looking at just one country's case, for instance the Peruvian case, as a way forward.

On board effectiveness, the Roundtable agreed to further develop the report by incorporating best practices information on these themes and firming up recommendations, with coordination from the GCGF and support from the Latin American Network of Corporate Governance Institutes (IGCLA.net), which will be discussing a revised paper in its February 2011 meeting to be held in Bogota, Colombia.

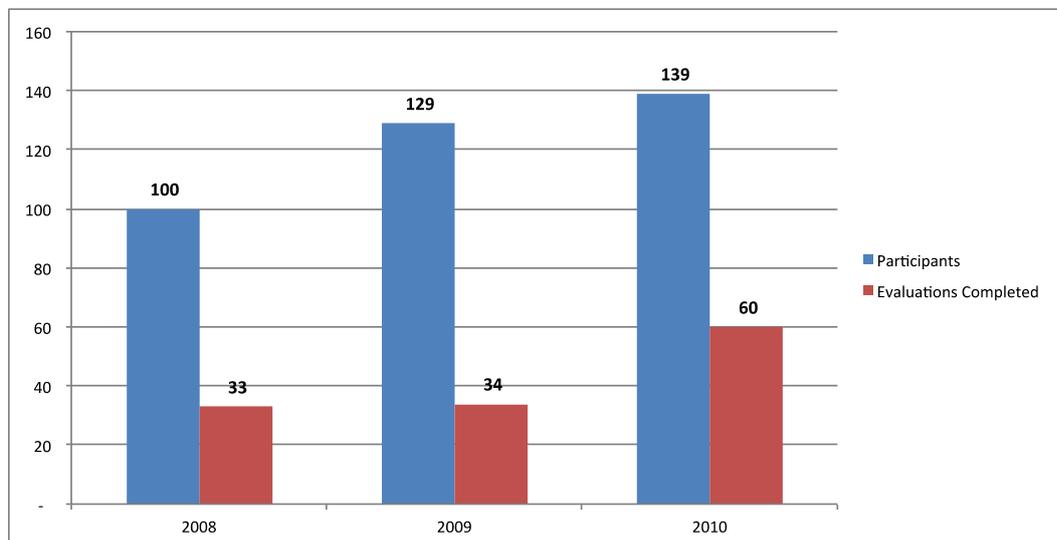
With regards to the topic on the impact of stock exchanges on corporate governance, the Roundtable, agreed to develop further analysis on the use of corporate governance indexes across the region.

Mr. Blume also mentioned that the Roundtable will consider further breakout discussions on NLCs in next year's Roundtable, probably concentrating on family-owned companies, while conclusions on board evaluation and corporate responsibility issues will be integrated into the Roundtable's work on boards.

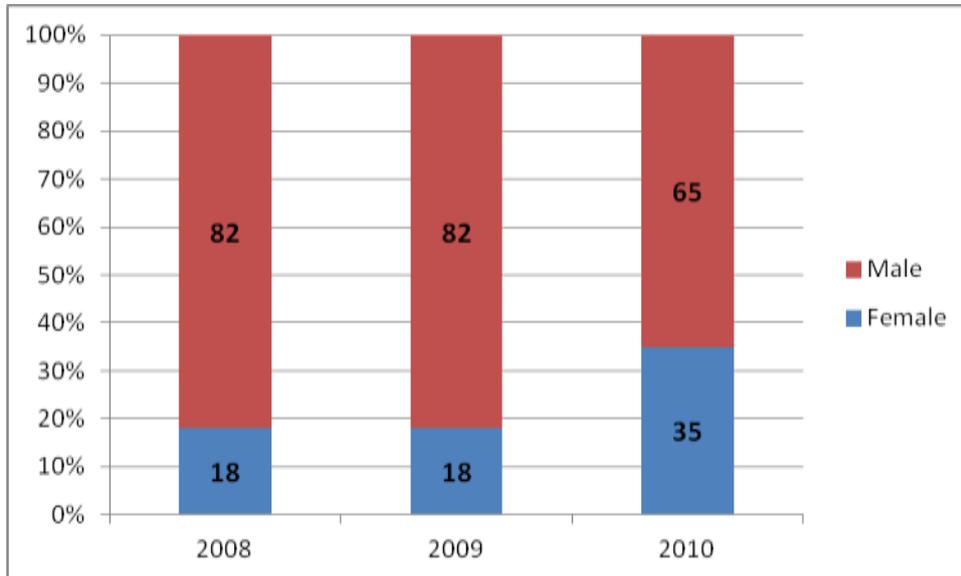
Mr. Blume explained that the OECD will also carry forward work on corporate governance of state owned enterprises through the establishment of the Latin American Network on Corporate Governance of State-Owned Enterprises, which will meet for the first time in 2011 in Brazil with support from the Ministry of Planning, Budget and Management, CAF, IADB and the World Bank.

Some Key Performance Indicators (based on written evaluation from participants)

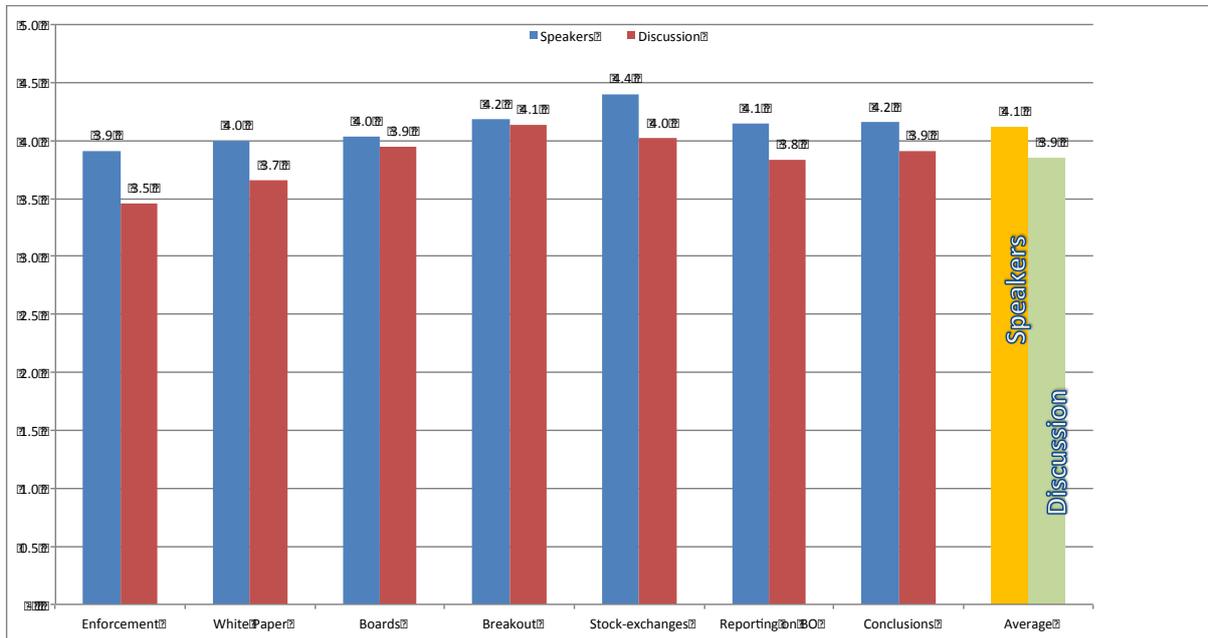
Total participation (and evaluation forms completed) 2008-2010



Gender Participation:



Individual session marks (speakers/discussion) 2010 Roundtable



Breakout session , 2010 Roundtable evaluation:

