

FINAL AGENDA

Meeting of the Task Force on Latin American Equity Market Development

2-3 December, 2020

Zoom videoconference

With the support of:



Background and Objectives of the Task Force on Latin American Equity Market Development

The Latin American Corporate Governance Roundtable Task Force on Equity Market Development, involving finance ministries, securities market regulators, stock exchanges and private sector stakeholders from Argentina, Brazil, Chile, Colombia, Mexico and Peru along with other selected experts, has been established to review the state of Latin American equity markets and their corporate governance standards. Its objective is to enhance understanding of the current state of development and barriers to development of Latin American equity markets in the interest of identifying shared priorities for achieving further progress consistent with the G20/OECD Principles of Corporate Governance. This year's Task Force meeting will focus on 1) the private enforcement of shareholders' rights; 2) the public enforcement of corporate governance rules; 3) recent capital markets reforms and temporary measures related to corporate governance due to the current pandemic; and 4) the digitalisation of equities markets' supervision and corporate governance of listed companies.

To support the discussions in this year's Task Force meeting, a survey on public enforcement issues in the six jurisdictions that take part in the Task Force was developed, with the help of securities markets regulators in the region. The survey focuses on how to improve the effectiveness and autonomy of the capital markets regulators in Latin America, including through opportunities provided by new technologies, with the final goal of increasing confidence in the markets and, therefore, the volume of savings invested in them.

As background for the meeting, Task Force participants will also receive the recent OECD publication on [private enforcement of shareholder rights in selected jurisdictions](#), including detailed analysis of derivative litigation and collective arbitration frameworks. The publication is the output of a joint project involving the OECD, Brazil's securities commission (CVM) and the Ministry of Economy to support the strengthening of Brazil's framework for the private enforcement of shareholder rights.

This meeting of the Task Force is organized and co-ordinated by the OECD in collaboration with the host of next year's Latin American Corporate Governance Roundtable meeting (SMV), with funding support from the government of Spain.

Simultaneous interpretation will be provided between Spanish and English.

(CET)

Wednesday 2 December 2020

 15:30 – 16:00 *Log in and testing period*

 16:00 – 16:15 **Introductory remarks**

Daniel Blume, Senior Policy Analyst, OECD

José Manuel Peschiera, Chair, Securities Commission of Peru

 16:15 – 17:15 **Session 1: Private enforcement issues in Latin America**
Moderator:

- Mike Lubrano, principal of Lubrano Advisory Services, United States

Introductory Speakers:

- Martin Gelter, professor at Fordham University, United States
- Gustavo Gonzalez, Commissioner, CVM, Brazil
- Jennifer Permesly, lawyer, US
- Daniel Posse, lawyer, Colombia

Open discussion
Summary

This session will provide an overview of recent research done by the OECD on (i) the governance of the lawsuit filed by the company – or by shareholders as its substitute – against directors, officers and controlling shareholders, in Brazil and 9 other jurisdictions; (ii) rules (including laws and arbitration chambers practices) of arbitral proceedings involving collective rights of shareholders in the same jurisdictions. Discussion will be aimed at extracting what lessons may be learned from these countries' experiences, and how their experience may also be relevant for Latin American countries.

Key Issues for discussion

- What are the main incentives for shareholders to file derivative lawsuits? For example, who bears the costs in the case of an unsuccessful lawsuit and is there a premium in the case of a successful one?
- What are the procedural barriers for filing a derivative lawsuit? For example, do annual shareholders meetings provide broad exoneration to directors and officers? Are there ownership requirements to file a derivative lawsuit?
- Should arbitration be a means of solving corporate disputes? What are the main risks and benefits? How to secure an adequate disclosure of the arbitrations?

 17:15 – 18:30 **Session 2: Public enforcement issues in Latin America**
Introductory Speaker and Moderator:

- Caio de Oliveira, Corporate Governance expert, OECD

Lead Discussants:

- Edson Munguia, General Director of Securities Legal Issues, CNBV, Mexico
- Flavia Mouta, Issuers Director, B3, Brazil
- Offir Eyal, Director of International Business Development, Israel Securities Authority
- Juan Munguira, OECD Corporate Governance Committee Bureau Member, CNMV, Spain

Open discussion

Summary

Without effective supervision and enforcement, laws and regulations have little meaning. This is fully recognised in the opening chapter of the G20/OECD Principles, which emphasises the need for an effective legal and regulatory framework to underpin well-functioning markets that both companies and investors can rely upon. In light of the important role that effective enforcement plays in supporting equity market development, this session will feature the presentation and discussion of a stocktaking exercise on the trends in public enforcement of corporate governance rules over the last few years in Latin America, for the purpose of identifying strengths and weaknesses as well as issues that may merit further attention. Following an introduction to the results of the survey and lead remarks from regulatory representatives, discussion will be opened to all stakeholders. The survey that will be discussed is the revised version of the draft presented in the last meeting of the Task Force, and the goal is to receive final comments and inputs for the survey to be uploaded to the OECD's website.

Key Issues for discussion

- In practice, what have been the roles of capital markets regulators, the Judiciary, self-regulatory organisations and private arbitrators in enforcing corporate governance rules? Has there been a change in the balance between the sanctioning and advisory roles of some of these institutions?
- What would be the reforms that could improve corporate governance regulators' effective autonomy?
- What are the biggest obstacles to improve the effectiveness of the enforcement in the region? Both from political and managerial perspectives, how could one surpass such obstacles?

(CET)

Thursday 3 December 2020

16:00 – 17:15 **Session 3: Recent equities markets reforms and temporary measures related to corporate governance due to the current pandemic in Latin America**

Moderator:

- Luciana Dias, lawyer and former CVM Commissioner, Brazil

Introductory Speakers:

- Matías Isasa, Commissioner, CNV, Argentina
- Marcelo Santos Barbosa, Chair, CVM, Brazil
- Joaquín Cortez Huerta, Chair, CMF, Chile
- Pedro Felipe Lega Gutierrez, Managing Director, URF, Colombia
- Antonio Quesada, Vice President, CNBV, Mexico
- José Manuel Peschiera, Chair, SMV, Peru

Open discussion

Summary

This session will provide an overview of equities market reforms and temporary measures related to corporate governance that have been recently implemented in Brazil, Chile, Colombia and Peru. Discussion will be aimed at extracting what lessons may be learned from these countries' experiences and which temporary measures could become permanent after the pandemic.

Key Issues for discussion

- What are the main recent reforms related to strengthening market regional integration, boosting the number of listed companies, and addressing conflicts of interests that may impair market development or influence competition among financial intermediaries? What are the main obstacles that those reforms try to deal with?
- What are the most important corporate governance and capital markets-related measures taken in response to the economic crisis caused by the COVID-19 outbreak? Which ones could become permanent after the pandemic?
- Could the current crisis alter the way regulators interpret directors' fiduciary duties and other corporate law issues? Is there the willingness to provide better guidance on the management and disclosure of ESG and financial risks (e.g., in relation to high leverage levels in profitable companies)? Is there the perception that share buy-backs, distribution of dividends and executives' remuneration should be subject to revised regulations?
- Do shareholders have access to sufficient information on corporate bonds' covenants and debt restructuring processes? Have companies been able to clearly inform investors on any insolvency risks and on changes in their business plans as a consequence of the current crisis? What have the securities regulators been doing in relation to the previous issues?

17:15 – 18:15 **Session 4: Digitalisation of equities markets supervision and corporate governance of listed companies**

Moderator:

- Marta Vaca Viana, Managing Director at Delphi Consulting & Advisory Firm

Introductory Speaker:

- Daniel Blume, Senior Policy Analyst, OECD

Commentators:

- Fernando Alvarez-Cienfuegos, Deputy Director, Ministry of Economy, Spain
- Maria Fernanda Reyes, SFC, Colombia
- Rodrigo Maia, Investor Relations General Manager, Gerdau, Brazil

Open discussion among all participating countries

Summary

Much has been recently discussed on the potential impact that the use of new information technology, such as machine learning, might have for financial markets and their regulators. In 2019, the equity assets under management by passive funds (i.e., managed by robots) in the US surpassed how much is handled by humans, and those passive funds have been using increasingly sophisticated strategies. COVID-19 outbreak also forced listed companies to adopt electronic voting technologies in order to be able to hold their shareholders meetings. Building upon recent OECD analysis, the session will aim to identify the biggest challenges related to the digitalisation of capital markets' supervision and compliance in Latin America, and set the agenda for future research and discussion.

Key Issues for discussion

- What are the biggest challenges for regulators to adopt more advanced data analysis tools in order to improve the supervision of equities markets?
- What could regulators and private stakeholders do to facilitate the digitalisation of investors` relations activities and to increase participation of shareholders in the meetings?
- What is the potential for companies to use better digital technologies to fulfil their regulatory obligations and better serve their shareholders?
- What are the main risks of executives using social media and more work being done in the cloud, and how to manage them?

18:15 – 18:30 Conclusions, potential recommendations and next steps

Daniel Blume, Senior Policy Analyst, OECD

Summary

This session will provide an opportunity to review main findings of the meeting, and how best to follow up to further advance the work with a view to developing further research and potential recommendations to consider at the next meeting of the Task Force and Latin American Corporate Governance Roundtable scheduled to take place next year in Lima, Peru.
