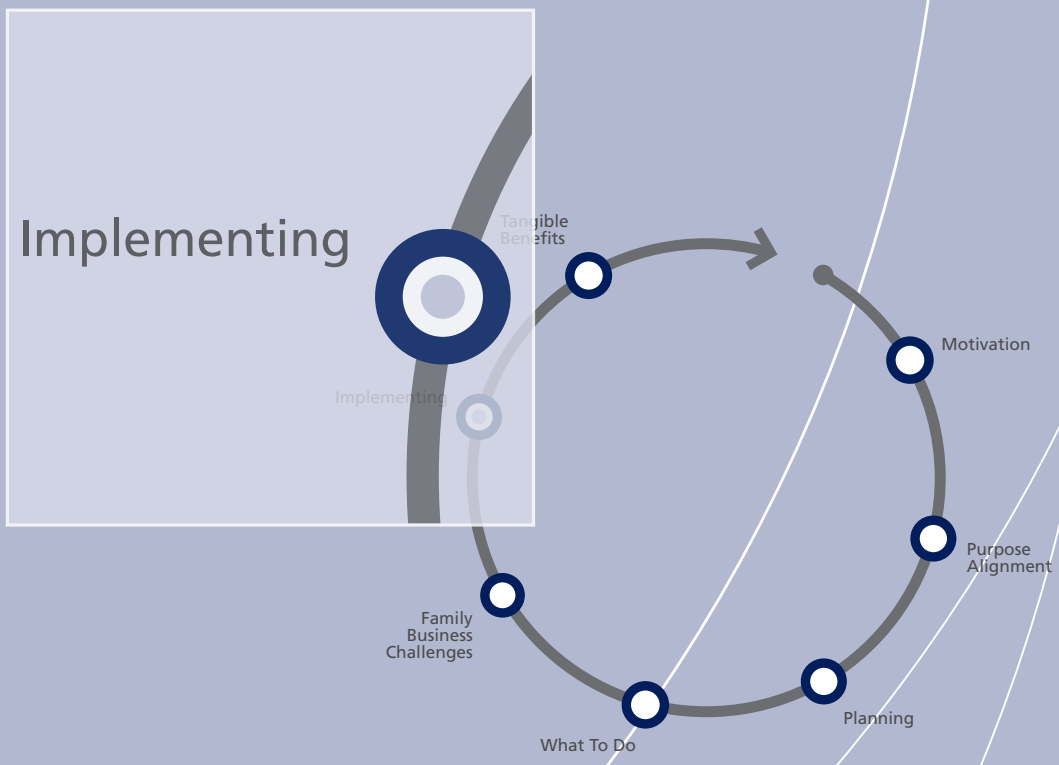
6

IMPLEMENTING GOVERNANCE



Chapter 6
Implementing Governance

KEY MESSAGES

Company leaders are responsible for implementation of changes. Success in improving corporate governance policies and practices requires the company's leadership to take responsibility for ensuring that governance changes are implemented. Such oversight and support for implementation sets the proper tone at the top which, when combined with effective mechanisms for monitoring and following up, can help to ensure successful implementation.

Communicate the changes. Once initial governance improvements are underway, communicate the changes internally and externally. The feedback received from all stakeholders will help the company's leadership to modify the governance improvement plans to fit current needs, demands and reality.

Good governance requires continuous improvement. All interested parties must realize that good governance requires constant improvement as internal and external circumstances change. Companies should stay on top of advances in corporate governance worldwide and in the region. They should implement the best practices possible for the benefit of the company, its shareholders and all stakeholders.

This chapter covers tactics and techniques that should be used to manage the impact of changes in the organization, how they are perceived, and what can be learned from reactions, both internally and externally. Section 1 provides examples of real cases with timelines for implementation of critical governance improvements. The next sections elaborate on how the governance improvement process should be governed, with examples of structures and processes that can help with implementation and provide some examples of ways that Circle members have monitored the governance implementation process to ensure that it stays on track. Section 4 deals with companies in transition. The following section discusses the key role that communications play in the change process. Finally, the chapter concludes by emphasizing the continuous nature of the corporate governance improvement process.

1 Implementation Takes Time

Regardless of the strengths or weaknesses of current company practices, corporate governance improvement is a matter of constant process. Chapter 3 noted the importance of including specific timelines for attaining specific milestones in overall governance policies and practices. Indeed, it takes time for all measures to be implemented. It also takes time for them to become rooted in the company as part of the corporate culture.

Resistance is not always evident in advance, and this can lead to slower than expected results. In developing timelines for action plan implementation, remember to build in time for internal consul-

tations as a way to manage expectations of all stakeholders: it is easier to address known concerns than to move forward with below-the-surface concerns unresolved. Lack of opportunity to express these concerns and have them addressed can cause passive resistance, resulting in project delays that reflect a lack of enthusiasm, belief or commitment to the process of improvements.

For Your Consideration

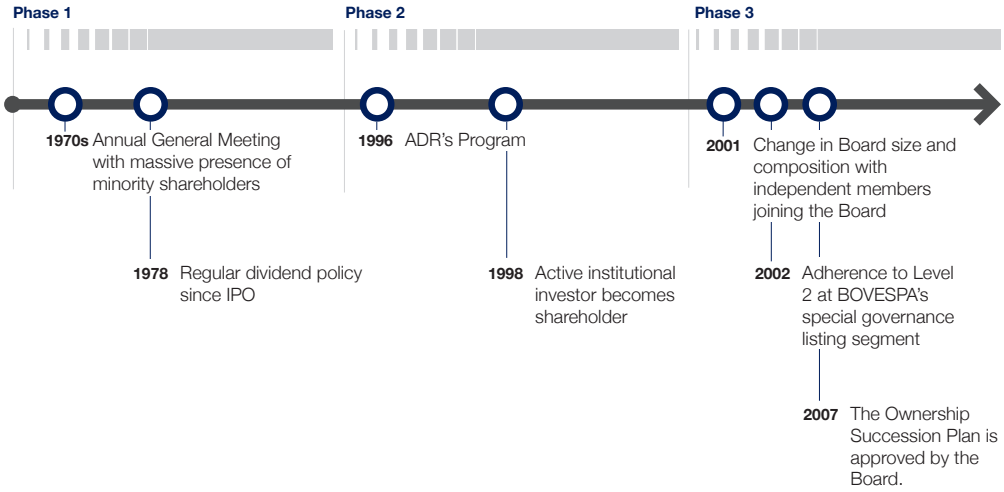
Of course, many internal and external factors will affect the planning of deadlines and achievement of milestones. Each situation is unique. So develop a good plan, but anticipate that there will be adjustments to the original timelines along the way.

Setting deadlines for achieving your milestones is critical. When doing that be flexible, because you will need to make adjustments to the original timeline along the way.

Figures 6.1 and 6.2 illustrate the experiences of two Companies Circle members and the timeline of their governance improvements. These depictions show that some actions are time-dependent—they should be implemented in a specific progression, either before or after other actions have been initiated.

Figure 6.1 Marcopolo's Corporate Governance Implementation Process

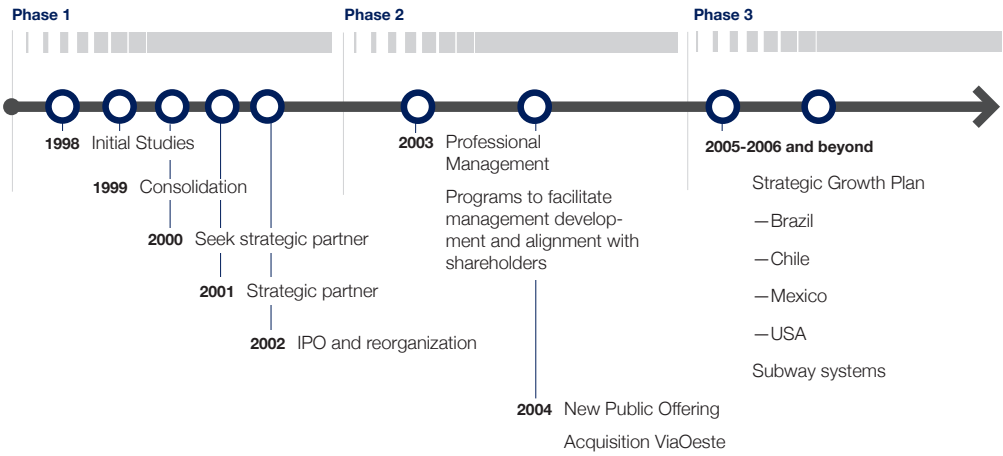
This timeline of Marcopolo's governance reforms illustrates the maturing of governance improvements over time. Some steps may only be achievable once previous actions are settled and a new horizon is in place favoring a new set of improvements—for example, changing the size and composition of the board to include independent members.



Source: Marcopolo, September 2007

Figure 6.2 CCR governance implementation steps

This graphic demonstrates the importance of planning and leaving time for initiatives to take hold within the company and with its relevant stakeholders. For CCR several years passed after the initial assessment before finding the strategic partner who could add value to the shareholder base and to introduce the company to the capital markets. Still more time was needed to implement additional steps to improve the company's governance



Source: CCR, March 2007

2 Governing Governance

Creating an internal structure will ensure the effectiveness of your corporate governance system. There are various alternatives for such internal structures to governing the governance improvements. Rather than creating a separate entity, the approach might involve expanding the scope of responsibility for an existing body or a company official who is tasked with this function.

Regardless of approach, it is important to involve the company's senior leaders—the board, senior management and—perhaps—controlling shareholders. Assign clear responsibilities for monitoring governance-related actions as a way to ensure that company leaders receive relevant and timely information on progress and have sufficient opportunity to intervene and make course corrections, if needed.

Natura faces new governance reality following 2004 IPO

When **Natura** went public in 2004, the company had to review its governance system and adjust accordingly. In addition, company leaders were faced with deploying an international expansion strategy. The board's solution: creation of a corporate governance committee and a new position—the corporate governance secretary.

The board charged the corporate governance committee with a five-fold mission:

- Monitor the company's entire corporate governance system
- Follow up on the evolution of the best international corporate governance practices
- Propose adjustments and improvements to the company's corporate governance system wherever necessary

› Follow up on the corporate governance metrics approved by the board
› Report to the board on the status and progress of corporate governance

When the secretary's position was created two years later, the board's intent was to provide the organization with a full-time professional who could ensure proper operation of the corporate governance system, and seek and propose improvements on an ongoing basis. The secretary serves as the interface between company executives and company directors on corporate governance issues, facilitating dialogue among these corporate entities.

Two years after completing the upgrade of governance practices, the company made another change, expanding the scope of responsibility for the executive in charge of strategic planning and moving the corporate governance supervision role to this executive's portfolio.

Evolutionary corporate governance process for CPFL Energia

CPFL Energia's experience in oversight of corporate governance has evolved over time, as circumstances changed. When the initial set of governance changes was implemented, the company appointed an executive whose sole task was to advise and support the management on corporate governance practices.

Over the years, things changed—the company reached its first governance goals and there were shifts in both the internal and external environment. For instance, compliance with the Sarbanes-Oxley Act and international stock market regulations expanded the scope of activities performed by the corporate governance professionals, increasing their responsibilities.

So, company leaders realized that it was time to re-evaluate its governance structure. The original governance area was divided into two functions:

- The compliance role was transformed into a risk management function to support the CEO, the CFO and the fiscal council in monitoring internal control processes, among others.
- Work related to the board and its committees, shareholders and governance practices was assigned to another executive who handled legal work related to the decision-making process. Some of the functions of the legal department were transferred to this newly formed governance area as well. This group reports to the chair of the board, rather than to the CEO—another change from the initial structure.

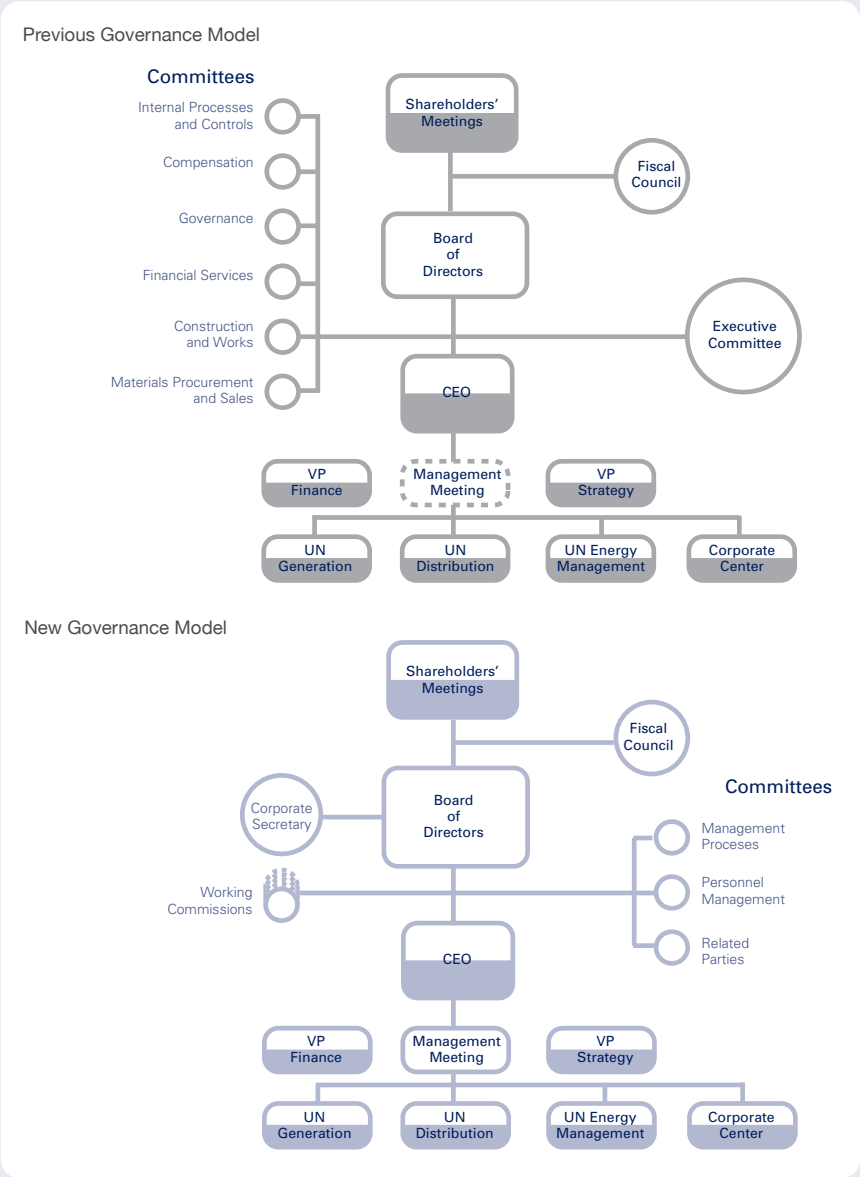
The introduction of the new governance model has been an essential part of the process of monitoring and ensuring that the company's governance improvements stay on track. In addition to the new streamlined governance structure, CPFL Energia created a set of tools to manage the governance process. The tool created for tracking and reporting on decisions is known internally as the "pipeline."

Introduced in 2006, the pipeline has played an important role in informing the board and enhancing the efficiency of its decision-making. By making use of the pipeline to monitor relevant issues in advance, directors and officers can make sure that all relevant information for the decision process is provided on a timely basis. The pipeline also sets context for board members as they consider future decisions for approval.

The pipeline is actually a simple list of topics to be discussed by the board over the next three months, presented by the assessor at each board meeting. The document includes terms and deadlines and is used by directors to request information beforehand, or to highlight issues regarding certain topics, such as potential conflicts. Besides streamlining the agenda, the pipeline provides a broader scope and time horizon for matters the company will face.

Case Study: Understanding CPFL Energia's Governance Improvements

CPFL Energia's original governance model featured seven permanent board committees involving 37 different people, including directors, managers, and shareholder representatives. The sheer numbers dramatically increased the interactions required. Board and management were caught up in meetings all the time. Plus, committees included shareholder representatives who were not members of the board and this was causing excess noise and inefficiency.



Source: CPFL. December 2008

The company also realized that it needs to re-evaluate the amount of time spent reviewing documentation during board meetings. For instance, reviewing the progress of engineering works across the country used to involve listening to lengthy presentations, complete with photographs at meetings, taking up to an hour.

As part of the governance restructuring, this process was streamlined: now, photos are uploaded to the directors' private Web site before the meeting. Directors can review the photos and reports on the site beforehand and use board time to ask questions. The result: the same topic is covered in 15 minutes, compared to the hour it used to take.

Management Supporting Functions

The corporate governance functions were also reviewed to ensure that they were in line with the complexity of the corporate structure. The company created a compliance function, reporting to the CEO, with a focus on internal controls to meet all requirements of BM&FBOVESPA and NYSE. Company leaders set up a second entity—an advisory office—for monitoring and improving corporate governance processes and reports to the chairman of the board.

The head of the new advisory office is responsible for:

- Maintaining the link between the chairman, different committees and commissions, and the executive officers, and for ensuring that corporate governance guidelines are followed in the decision-making process
- Coordinating the preparation of legal documents for both shareholders and board meetings, and for the information supplied by management to the board and its committees

The company's pipeline also supports management, providing a broad overview of future issues, improving planning and the organizing process.

3 Monitoring the Progress of Implementation

Having the right set of policies, practices and structures is not enough to ensure that changes in governance will really take place. The implementation and maintenance processes are also key to making things work properly. The governance system has to be monitored along the way so that it can be adapted to new situations, and to ensure that knowledge and information related to earlier governance efforts is captured.

Special attention has to be given to creating and maintaining an efficient decision-making process and ensuring good information flow. This includes the new practices, and the mechanisms to facilitate their implementation and continuous improvement.

Throughout their journeys of improving governance practices, the companies from the Circle needed to develop mechanisms to ensure the reforms were implemented. The companies also sought process efficiency. The examples that follow demonstrate the various ways in which companies can organize themselves to ensure information flow and adherence to effective practices and processes.

ISA's automatic workflow helps monitor compliance

ISA implemented an automatic workflow system in 2004. The system enables monitoring of compliance with every aspect of the corporate governance code. Here is how the system works:

- One month prior to the deadline for the implementation of a given commitment or task, the system sends a message to the employees responsible for a specific activity, reminding them that they must report on the current status of their task.
- Upon task completion, employees must document the accomplishment in the system.
- If for any reason the activity was not completed, the responsible officer must explain why the result was not obtained.

Company leaders responsible for governance implementation say that the system is critical to the company's adherence to corporate governance principles and practices. It helps create a sense of real commitment and a common vision throughout the company. It is also an indication of changes in attitude from employees about better corporate governance practices.

The system helps management and the general public measure and monitor the efforts that the company and its employees are making to bring ISA's corporate governance code to life. It also provides valuable input for the corporate governance code compliance report that is presented on an annual basis to shareholders.

Communication and interaction between the different governance bodies in a company calls for establishing specific procedures. Certain mechanisms can facilitate adherence to the desired practices.

CPFL Energia sets up structure for interaction

CPFL Energia has used a variety of dynamics and processes to develop effective relationships between the executive board, the board of directors and its committees.

Company leaders understood the importance of solid structure with appropriate flow and systems so that the right information gets to the right people. This would enable an optimal decision-making process.

In 2003, the company developed and implemented corporate governance guidelines consistent with existing and most advanced practices in the market. This effort was part of the preparation for the company's IPO, planned for September 2004.

International consultants identified main issues needing improvement and outlined the initial documents to be adopted by the company. The most important corporate governance documents were printed and made available to all interested parties—the board of directors, board committees, fiscal council, senior executive officers of the holding company, and all subsidiaries.

Both the board and the fiscal council approved their own charters defining their functions, duties and obligations. A self-evaluation for the board and fiscal council was created to help their members identify opportunities for improvement and to reveal areas they wish to address.

To ensure the proper flow of information the company codified all important governance rules to be followed and made them available through the company Web site. This proved a major benefit—it engaged all internal stakeholders on the proposed changes as the company

moved towards practices required of a company listed on the NYSE and on the highest corporate governance segment of BM&FBOVESPA.

The directors also asked the management processes committee to analyze all information provided to the board. They wanted to evaluate the various forms of information and channels for disclosure, with a goal of eliminating what is not necessary and identifying information that is critical to decision-making.

> *"We have organized a basic calendar of events to be approved by the board of directors and its advisory committees during the course of the year and related to corporate strategic planning and budget events which we know that we have to undertake. In addition, we have established a Web site for the board of directors where all the information, minutes and presentations can be accessed. This has increased substantially the predictability on what has to be decided. The Web site has also considerably reduced the need for sending documentation and clarification of doubts on the part of the Directors and Committee Members."*

—Marco da Camino Soligo, *CPFL Energia, former Manager of the Corporate Governance Department*

4 Interim Procedures and Situations in Transition

Sometimes, companies will need to create interim procedures as they advance through different stages of development. There will be practices that are applicable only during this period, with the goal of ensuring a smooth transition.

Transitional solution at Embraer

Embraer provides a good example of this interim course, which was well-planned and communicated to the market.

The company's board of directors, elected on March 31, 2006, included 11 members and their respective alternates. To ensure the stability of corporate actions and continuity of management guidelines during the period immediately following the approval of capital restructuring, the first term of the board of directors was set for three years.

Meanwhile, subsequent maximum board terms were set at two years.

The rationale for this approach: to build continuity in already planned short- and medium-term strategies and provide for the company's transition to the new structure without jeopardizing its businesses.

During this transition period, the company's chairman of the board also served as CEO. The board elected a new CEO in April 2007. As of this date, the company. expressly prohibited concurrent service as a member of the board and as a senior manager.

The Embraer board includes a representative from the Brazilian government, two Embraer employee representatives, and five independent directors.[80]

Suzano Petroquímica's temporary management team guides transition phase

Suzano Petroquímica used to be a holding company with co-controlling positions in several Brazilian petrochemical companies. After reviewing the company's position in the national petrochemical sector during the 2004 strategic planning meeting, Suzano Petroquímica's leaders realized that the company had the potential to become an industry leader in Latin America. This leadership potential was due to several factors:

- Quality of assets
- Opportunities for consolidation and growth
- Sound capital structure
- Promising medium- and long-term outlook for Brazil's petrochemical industry

In fact, the company was already an important player in the Brazilian's petrochemical industry. But to become a true industry leader, the company needed to abandon its holding company structure and assume direct control of its own operations with a structure that would successfully support an anticipated future consolidation process.

With the September 2005 acquisition of Polibrasil and its subsequent merger, Suzano Petroquímica became the Latin American leader in the production and trading of polypropylene and the second largest producer of thermoplastic resins in Brazil. To transition following the merger, the company installed a temporary senior management team comprised of executives from Suzano Petroquímica and from Polibrasil. The company created an oversight structure to ensure a harmonious merger of cultures. In addition, the chairman of the board position was combined with the CEO position.

This transitional structure remained until September 2006, when the new senior management was nominated and the positions of chairman of the board and CEO were separated.

This new senior management team included four executives. The team was headed by two co-CEOs, who had successfully led teams to strong results during the post-merger phase as leading executives at the two merged companies. Because of this strong post-merger performance, the board and controlling shareholders determined that these executives had the right combination of skills, styles and leadership to help the company face future challenges as the industry continued to consolidate.

5 Communicating Changes

Once initial improvements in governance practices have been implemented, what's next? How can the changes your company is undergoing best be communicated?

[80] See Appendix 4 for the indicative definition of independent director, International Finance Corporation, 2009.

Going public with the changes comes with internal and external benefits. As the market becomes aware of changes and recognizes their value, it will further reinforce internal commitment to the changes. Plus, awareness of a pending public announcement of a governance initiative can stimulate additional internal commitment.

Still, it is important to realize that not all corporate governance improvements will be immediately recognized and valued by the market. At the time, when many Companies Circle members began to disclose their governance progress, the Latin American market had very little knowledge of the concept of governance.

In fact, the market gave these companies very little credit for their efforts.

In such an environment, strong internal communication of changes and their value is especially important. An overall communications strategy can provide mutually reinforcing benefits that support employee commitment to changes and recognition and understanding by external stakeholders, shareholders and the market.

Argos goes public with governance improvements

Argos publicly announced the adoption of a new corporate governance code in 2004—a pioneering event in the country. Here are the highlights:

- Company develops its governance code in 2004, following a process of internal communication, discussion and documenting of the company's corporate governance policies and practices.
- Board reviews and approves new code, demonstrating further commitment from the top to this process.
- Company embarks on first communications initiative, to share results on improving governance with approval of new code.
- Company meets some initial resistance and unawareness of the importance of corporate governance: market initially views good governance as a passing trend that would not last.
- Attitude changes after Argos educates marketplace: Argos insists on demonstrating the value of the code being implemented and assumes the role of educator, for recognition of governance's value by the market. Today, the target audience is aware of the important role corporate governance values and principles have played in the company's development.

Argos' code itself helps in this continuous communication process. Consistent with its requirements, the management meets frequently with market participants and regulatory agencies to communicate the company's action plans and demonstrate how the company is moving forward. The external auditor is required to inform the shareholders' meeting and the market in general about the company's compliance with its code.

A structured system gives shareholders full access to clear and relevant information on a timely basis. The company believes that it is critical for the market, shareholders and stakeholders to remain up-to-date and familiar with the relevant information from the organization.

At Ferreyros, communication effort is mission-critical

Ferreyros has never been shy about telling its story and showing its progress in corporate governance. This has helped to transform the subject from an academic concept to an action plan in its business environment. The company firmly believes that other companies will follow along if Ferreyros proves to be a success story. For this reason, the company participates in

many seminars organized by different governance institutions in Peru, including academic conferences such as those held at the University of Lima and University of Pacífico. The company also attends corporate seminars sponsored by leading international audit and accounting firms and capital markets organizations, including Procapitales, Asociación de Empresas Promotoras del Mercado de Capitales, and the Bolsa de Valores de Lima. Today, Ferreyros' leaders spend a considerable part of their time communicating the company's results and successes to the market.

5.1 Convincing the Skeptics

Not everyone is going to give you a standing ovation when you implement governance improvements. Sometimes it can take a while before the market understands what the company is doing as the experience of Argos, detailed in the previous section, shows.

> *"Corporate governance is only possible if you truly believe in it. It is tough to precisely measure its results, especially in the short term. But every time that you look back, you know that a long way has been walked and it becomes harder and harder to step back.*

—João Elek, *NET, CFO*

But company leaders say that belief in the value of the improvements will help ensure eventual acceptance and understanding.

Despite challenges, NET complies with Brazilian and US standards

NET's decision to compile and release its financial statements in accordance with Brazilian accounting standards and US GAAP simultaneously marked the first time that this had been done in Brazil's corporate history.

This was not an easy task: it meant several sleepless nights every quarter, especially in the early stages.

Part of the challenge was getting staff, executives and directors who were involved to review the results before they were disclosed. Some questioned whether the marathon was truly necessary.

And despite all the work, it initially seemed that no one in the market noticed or cared. Gradually, though, as the process moved forward, market participants began to realize the importance of what the company was doing.

The real payback came later, as this type of reporting became an actual legal requirement. When most other companies were only just beginning to adjust to the simultaneous publication of the two sets of financial statements, NET was already in the process improvement phase.

Of note, NET has earned Exemplary Disclosure Certification, which attests that all of its communication to the market is only done when the stock market is closed and all markets receive the information within a period of one hour. This process is audited, so investors can have confidence that everyone will receive all announcements from the company at the same time, regardless of their geographic location or time zone.

Case Study: CCR's Early Example: Persistence of Governance Pioneers Pays Dividends

Here, CCR's director and chairman of the Corporate Governance Committee, Eduardo Andrade talks frankly about the early struggles to implement good governance practices in Latin America. Clearly, leaders must be persistent and hold firm to the conviction that what they are doing is truly the right thing.

"The IPO took place at a time when the market was stagnant. There had only been two or three IPOs in Brazil in previous years. Besides that, we did not have any experience in the market. So we decided to bring in an American consultant, a bank, and then we discovered the Novo Mercado. The company felt it was a good match; however, there were many doubts and questions. Many people asked why have only common shares? They thought the Novo Mercado thing was a bit utopian. Others said that money provided by the Novo Mercado was expensive, and that it was the place for naive businesspeople. But we felt that the Novo Mercado would either be a success or the stock exchange in Brazil would have no future. So we decided to place our bet. CCR was the first company to enter the Novo Mercado and we remained there all by ourselves for almost one year.

Then we were joined by Sabesp and just the two of us remained there for quite awhile. At the time of the IPO, distrust began to come to the surface because of the construction companies who were CCR controlling shareholders. Some felt we were like the fox in the henhouse.

We decided we had to change that concept and so we went after some opinion leaders to expose our true intentions. One of the most respectable private equity firms was one of these and it received me very well. We talked for nearly three hours but this private equity firm did not buy a single share. The IPO was not successful and demand was less than the quantity of shares offered. The partners had to buy part of the shares, which opened at R$ 18.00, with the company's value set at R$ 1.5 billion.

I believe that the share price at the IPO should be the least of a company's worries when it goes for an IPO. It is what occurs after that that really matters. CCR launched its shares at R$ 18.00. Six months later, they were at R$ 5.40. That was absolutely ridiculous to us. After all, at that price the company's market capitalization was less than R$ 500 million.

That is when the criticism began. Some wanted the company to buy back the shares. However, good sense prevailed, and with persistence we showed everyone what we were really trying to do and we began to work on the external aspects of good governance: investor relations, transparency and total respect for minority shareholder rights.

One year later, the market woke up from its deep sleep and CCR issued more shares when it purchased ViaOeste.[81] *And this time it was a completely different story. The market has an excellent sixth sense and it correctly values the companies. This time the shares were sold at R$ 23.50, which represents a company value of R$ 2.3 billion, and the demand was six times greater than supply. That demonstrates the market's perception capacity.*

One of the biggest changes in the country over recent years has been the maturation of the capital market, its growth and its sophistication. Society has yet to take notice of the importance of this.

81 Another Brazilian toll-road operator.

Over time, we have improved our relationship with the market. In 2005, we won the IBGC award for best Corporate Governance, and the past three years we have been included among the 10 best publicly held companies in the Agência Estado[82] ranking. That shows we have done our homework and have been recognized for it. Today,[83] after each share has been split into four, share price is around R$ 30.00, which would be R$ 120.00 before the split, and CCR's market value would exceed R$ 12 billion."

—**Eduardo Andrade,** CCR,
Shareholder, Director and Chairman of
Corporate Governance Committee

5.2 Learning from Outsiders' Reactions

It is natural for a company that is going through the process of implementing improvements of any kind to expect praise from the outside world, but critical feedback often can prove even more valuable. This is why the eyes of the company must stay open, its ears attuned to external reactions, as Companies Circle members can attest.

NET confronts marketplace rumors

In 2008, there were rumblings in the market that **NET**'s new strategic shareholder would give unfair treatment to minority shareholders in the event of a change in control. NET faced the challenge head-on, sending its management on a road-show and listening tour. The team listened to the main concerns and different views from investors and presented the feedback to its controlling shareholders.

As a result, the strategic shareholders went public and clarified their position to the market. This helped shed light on the issue. The approach is consistent with the active listening attitude developed at the company through its years of enhancing good governance practices. Once again, this open approach demonstrated its value.

Suzano Group learns from market reaction

Suzano Group companies Suzano Papel e Celulose and Suzano Petroquímica decided to issue follow-on offerings as a way to increase share liquidity, an important step in governance strategy as described in Chapter 4.

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82 Brazilian New Agency, related to the newspaper "O Estado de São Paulo".

83 This statement was written in July 2008.

But the effort hit some bumps in the road: Suzano Papel e Celulose's offering in 2003 attracted important new shareholders, many of whom had common long-term investment horizons. This initially frustrated the goal to increase liquidity. Still, other benefits emerged, because investors with this kind of profile, together with the vision of controlling shareholders, are vital for the company's long-term plans.

To avoid a similar re-concentration of liquidity, Suzano Petroquímica introduced a temporary mechanism into its by-laws in preparation for its 2004 follow-on offering. The language limited the holdings of a single preferred shareholder to 8 percent of its preferred shares.

By making the mechanism temporary, the company considered the long-term interests expressed by some of its new shareholders—they wanted the flexibility to purchase more shares. A follow-on offer provided this flexibility, as a small secondary offering. Some important shareholders were prepared to sell part of their position to enhance share trading liquidity and create an initial platform that would allow for new fundraising in the near future. Re-concentration would have defeated the purpose to increase liquidity.

Ultrapar grants tag-along rights

Ultrapar faced a challenging situation in 1999, when its shares were floated on the BM&FBOVESPA exchange in Brazil. At the same time, the company issued Level III American Depositary Receipts on the NYSE. In addition to the rigorous US Securities and Exchange Commission requirements, Ultrapar granted tag-along rights for all of its shares six months after the company's IPO. The market strongly influenced this decision—it viewed the granting of tag-along rights as a way to protect the interests of minority shareholders in case the control of the company is transferred.

At the end of 2001, with the approval of the new Brazilian Corporate Law, tag-along rights became mandatory, providing minority shareholders with the right to receive 80 percent of the price offered to the controlling shareholder and only for the transfer of voting shares. As mentioned in Chapter 4, Ultrapar determined that it would go above and beyond the requirements of the law, guaranteeing tag-along rights for all shares and at 100 percent of the offer price.

"The adoption of tag-along rights for all shareholders at 100 percent of the offer price brought forward changes in the Brazilian Corporate Law and it is still today broader than what is required by the legislation. The tag-along rights were aimed at strengthening the alignment of economic interests of all shareholders. This decision brought trust to shareholders and was instrumental in our follow-on offer in 2005."

—André Covre, *Ultrapar, CFO*

6 Pursuing Best Practices Is a Continuous Learning Process

One cannot overstate the fact that corporate governance is a continuous process. At each stage of governance improvements, a company must continue to reflect on what its new needs are and what new opportunities can be derived from its governance model. This is particularly true as the business landscape and developments in the concept of good corporate governance continue to evolve.

Following the series of scandals in the U.S. and elsewhere involving big corporations, the market has become increasingly demanding regarding improvements in corporate governance practices and internal controls to increase investor confidence. The awareness that followed the scandals created an environment conducive to better governance. This was seen in Latin America, in countries like Brazil: after the initial period when investors were pushing for basic governance measures, they now are refining their requests by seeking improvements in quality of disclosure, composition of boards and more. Lessons learned from the benchmarking process described in Chapter 3 can be used as the starting point and as a continuous learning process, as the path of Circle members illustrates.

CPFL Energia:

As noted earlier in this chapter, **CPFL Energia** carried out a major review of its mechanisms and governance practices in 2006. It brought back the international consulting firm that had supported the company in outlining its corporate governance structure to review it and propose any modifications that might be required. This resulted in a new design of the governance structure that gained much in flexibility and efficiency.

Why did the company make changes in its board and committees? The company felt a strong need to increase efficiency and effectiveness as well as improve the decision-making process. The company had undergone huge growth since the initial governance improvements were implemented—in 2001, the group had only two companies. Today, CPFL Energia has more than 20 companies that share the same corporate governance guidelines. The company had used the governance structure, processes and practices for five years and realized that management and directors were spending too much time in governing the company.

Since September 2006, when the board approved the new governance structure and processes, the company has seen strong results:

- Important savings in time and in efforts spent by management and the board
- More fluid process of decision-making
- Considerable reduction in miscommunication

The company also understands that the more flexible and streamlined structure is part of a continuing journey towards improvement and that this too will one day require revision and enhancements.

Homex:

Homex shares with other Circle members the understanding that maintaining sound governance is a continuous process. Even today, observing practices around the world, Homex knows that the market requires constant improvement. Homex is continuously evaluating new sources of benchmarking and, looking for new trends in order to update its model. The company believes that keeping up with international higher corporate governance standards helps the company to ensure dynamic policies and good governance practices that provide great confidence to investors.

The Suzano Group:

The company has substantially improved its practices since 2003, carefully evaluating each measure prior to implementation in a continuous manner. But governance transformation is a dynamic process. The company must be prepared to meet ever more demanding requirements of the market over time so governance must be structured appropriately. Recently, the company has put great effort into mapping out and anticipating tendencies so that the market will view the group as a corporate governance leader.

Ferreyros finds opportunities for continuous improvements outside the company

At **Ferreyros**, company leaders realized that continuous change is best implemented when a company's current status has been assessed internally and benchmarked both domestically and abroad. In 2001, the firm joined a group of companies responding to a questionnaire that assessed ownership and financial transparency, board structure and procedures, and shareholder relations. The company scored well in the assessment, but what they did with the information was even more important. Ferreyros decided to use the questionnaire as a starting point to implement improvements based on areas in which their responses were less satisfactory.

The company has updated this assessment annually, in an on-going effort to identify areas for improvement. The effort enabled compliance when in 2004 Conasev published a list of 26 disclosure requirements for listed companies, taken from the Peruvian Code of Corporate Governance.

In late 2006, the company's assessments were enhanced further, making use of a program prepared by the Andean Development Corporation (CAF, for its acronym in Spanish). Now, Ferreyros can set priorities and appropriately plan what needs to be done.

During this same year, the company participated in a corporate governance contest organized by Procapitales and Universidad Peruana de Ciencias Aplicadas. This contest required the presentation of information related to shareholder treatment, board practices including the presence of independent directors, board committees, information transparency, executive management structure, risk management, and finally relations with internal and external stakeholders. The effort was valuable because it:

- Helped the company assess its current status and identify more changes to be implemented in the future
- Singled out the company for recognition
- Enabled continuous improvements: the company believes that investors will pay more for good corporate governance practices
- Allowed for feedback from the organizers on areas for improvement

The result: Ferreyros has received numerous awards: in 2006, it won a shareholders' rights prize. In 2007, the company received an award for best annual progress in corporate governance.

The process continues to the present. In 2006 the company implemented the board members' self-evaluation and planned to adopt additional changes. This continuous assessment is vital when companies deal with the ever-changing business and corporate governance landscape. Companies must remain agile and flexible, always ready to adapt the course if so needed.

NET's long and winding road

A final good example of the corporate governance journey can be seen at **NET**. Its controlling shareholders and management have been working together at enhancing corporate governance

for many years now. A long, and sometimes winding, road has been traveled ever since Multicanal went public in 1996 and Globocabo joined BM&FBOVESPA's Level 1 in 2001 and then Level 2 in 2002.

Looking back, there were hurdles that had to be overcome by the management and the board together, such as initial concerns about committing to resolve disputes through BM&F BOVESPA's Arbitration Chamber and the impact this could have on the company moving forward. However, it is now widely acknowledged that sound corporate governance practices enhanced outsiders' perception of value creation.

Despite the good results that follow a well-implemented governance reform, there will be new battles to win. New market circumstances, legislation or company initiatives may provoke new waves of resistance. Here is how one of the governance leaders from the Circle sums up the company's journey:

"The corporate governance journey will never end. There will be new discussions and ideas that will come up. Some corporate governance activists will want to lead and implement new measures faster than others; this will trigger new waves of resistance; some ideas may be good but they will require time to be understood. This process will need resilience and persistence. It will need time for people to really understand the benefits of better governance; it will also need people who will have the skills to build compromises at different levels inside the companies and with different groups of shareholders. But I am sure that five years from now, when we look back, we will see a much more mature equity markets in Latin America and we will have good laughs and stories that we will only be able to tell ten years from now."

—Leonardo Pereira, NET, former CFO

This chapter covered ways to implement corporate governance best practices. Companies Circle members provided examples of facing the challenges using the various tools at their disposal and taking organized steps to ensure buy-in and compliance. The chapter demonstrated ways that companies can learn from listening to market clues and highlighted the importance of a transformative process that involves continuous learning.

Now that corporate governance improvements are in place, it is time to assess the benefits of implementing such practices.

For Further Thought and Discussion

- What elements would you include as part of your company's governance implementation process?
- Are there skeptics who would have to be convinced of the value? How would you overcome their hesitations?
- Is your company set up to communicate changes taking place? Where would you need to supplement so that key messages are communicated in a timely manner, both internally and outside?
- Where can your company find feedback on the substance and progress of governance improvements? Identify some of your key constituencies and stakeholder groups.
- What governance mechanisms your company could create to ensure that improvements are made in a continuing basis?