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Corporate Compliance and
Responsibility in Russia:
The Way Forward

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Summary of Presentation

- Conceptual Background to the Issue
- Corporate Compliance in International Practice and in Russia:
- Corporate Social Responsibility in International Practice and in Russia
- The Way Forward

Why Good Corporate Conduct Matters

- In the world of globalization: technology, finance and information have become democratized, empowering investors and other stakeholders in companies and in countries to hold them accountable for financial, environmental and social activities and determine capital flows to and away from particular companies and countries.

- Countries and companies that erect walls to the free flow of transparent information and of capital flows will pay the price in terms of reduced efficiency, reduced profitability, reduced ability to attract equity and debt capital, lower share prices. Long-term prosperity depends on keeping the walls down.
- Government-directed economic approaches build walls and are inefficient and ineffective to create wealth. Government policies must foster creative destruction of inefficient enterprises that misallocate resources and fail to respond to the demands of market forces.
- In this context, the state/government matters less. What matters is how the economic actors and the emerging society as a whole operate.

The Right Software: DOS Capital

- Hardware is the basic market system
- Software is the rules that allow it to operate in efficiently in globalized economy:
 - Legal system, including judiciary: rule of law
 - Accounting rules, financial controls
 - Absence of corruption
 - Efficient and honest financial markets
 - Corporate social responsibility
 - Transparency in business and government
 - Free media as a means to transparency
 - Democratized government

Rationale for Good Corporate Conduct

- Ultimately the above demands are those of the market, not of any foreign government or other organization. But they are increasingly reflected in laws and policies abroad, and therefore are being felt in Russia.
- In above context, good corporate legal compliance and social responsibility are hallmarks of companies able to effectively operate, attract capital and profit in a globalized world.

Why Responsible Corporate Conduct?

- Compliance: Mandatory legal requirements
- Beyond compliance:
 - Reduce financial, legal and other risks
 - Demands of stakeholders
 - Marketing, company reputation
 - Competitive advantage
 - Is ultimately more profitable

Legal Requirements

- Sarbanes-Oxley Act
- Securities laws and regulations
- Accounting requirements
- Foreign Corrupt Practices Act (FCPA):
- Stock exchange listing requirements
- Anti-money laundering, wire fraud, and other criminal legislation
- Import-export laws and regulations
- Other regulatory requirements (e.g., environmental, labor, political campaign financing laws)

Sarbanes-Oxley Requirements

- Financial and accounting
- Reporting
- Securities
- Conflicts of interest
- Hot line/whistleblower requirements
- Code of conduct/ethics
- Executive compensation

Foreign Corrupt Practices Act

- Anti-bribery provisions
- Accounting provisions

Securities Laws and Regulations

- Disclosure requirements in law necessitate knowing material details about Russian operations, investments
- Regulations require public companies to have code of ethics applicable to its officers (or if not explain why not). All public companies comply and issue code. It must be published on company website and filed with SEC.

Money Laundering, Wire Fraud

- Anti-money laundering laws prohibit dealing with proceeds of illegal activity. ‘
- Wire fraud law forbids using electronic means of communication to commit fraud. U.S. Supreme Court in *Pasquino* case (2005) ruled that this includes defrauding a foreign government of tax and customs revenues.

Stock Exchange Listing Requirements: NYSE

- Must have audit, corporate governance and compensation committees
- Majority of directors must be independent
- Must annually certify FCPA compliance
- Must adopt formal corporate governance guidelines
- Must adopt code of conduct/ethics
- CEO must annually certify compliance with above

How it Shows up in Russia: FCPA

- Bribery prohibition applies to bribery through intermediaries (sales reps, agents, distributors)
- Importation/customs schemes
- Due diligence required:
 - Questionnaires, certifications for sales reps, agents and distributors
 - Background checks
- Contract provisions regarding FCPA
- Liability for acquiring Russian company with bribery violations. May necessitate asset deal.

Beyond Compliance: Corporate Social Responsibility (CSR) - Elements

- Ethics/conduct
- Governance
- Environmental, health and safety
- Labor practices
- Human rights
- Product responsibility
- Charity and other societal involvement
- Local community relations
- Stakeholder dialogue and management

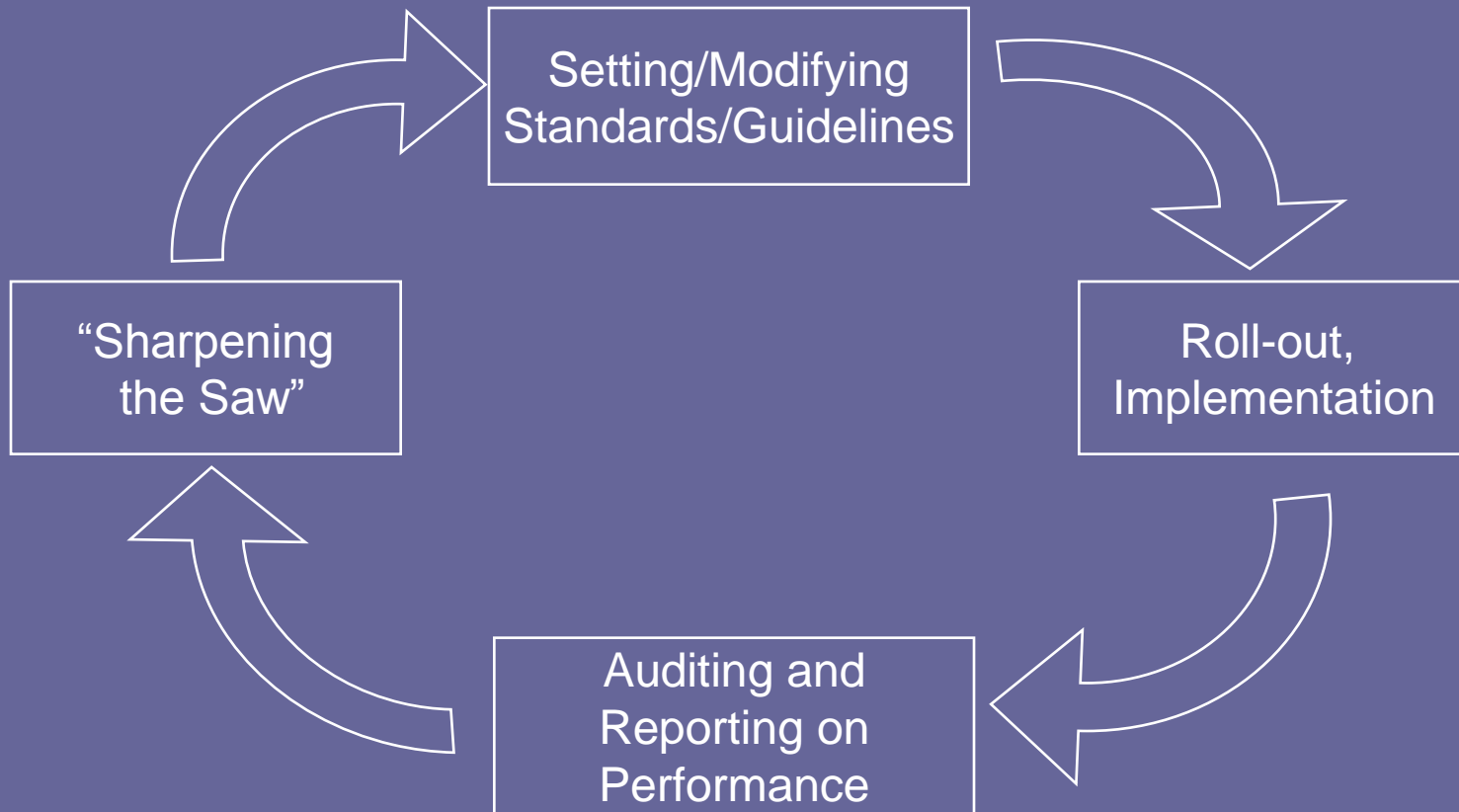
Beyond Compliance: Demands of Stakeholders: Who are they?

- Customers
- Suppliers
- Shareholders/
investors
- Consumers
- Stock exchanges
- Investment
community
- Governments
- Media/Internet
- NGOs
- Employees and trade
unions

CSR Involves the Whole Company

- Production
- Marketing
- Sales
- R&D, product development
- Customer relations
- Risk management, insurance
- Human Resources
- Environment, health and safety
- Information technology/systems
- Government affairs
- Investor relations
- Finance/accounting/control
- Communications, public relations
- Legal affairs
- Purchasing, supply chain management

Process of Practicing CSR



Setting/Modifying Standards and Guidelines: What Are They?

- Codes of ethics/conduct
- Corporate governance rules
- Environmental, health and safety management systems and standards
- Supplier and customer standards of conduct
- Principles of community involvement and philanthropy
- Principles of engagement with stakeholders, transparency

Setting/Modifying Standards/Guidelines

- Must be based on nature of one's business and corporate values and culture, but also can help define corporate values and culture
- Can use available tools:
 - Generally available guidelines or management systems (e.g., OECD Guidelines for Multinational Enterprises, SA 8000, ISO 14001)
 - Standards/guidelines adopted by particular companies and trade associations
- Set priorities: achievable standards, not too many at once

Guidelines/Standards in Russia

- Social Charter of Russian Business, developed by the Russian Union of Industrialists and Entrepreneurs (2002)
- Russian Code of Corporate Conduct, developed by the Federal Financial Markets Service (2002)
- Independent Director Code, developed by Independent Directors Association (2003)
- Little at individual company level

Roll-Out, Implementation

- Comply with legal requirements first, then voluntary standards
- Set priorities, and don't try to do everything at once
- Bring internal operations into compliance before imposing requirements on other parties
- Need direction from top, centralized effort covering all company functional divisions and geography. Involve legal department.
- Avoid public claims until you know you are basically compliant
- Set up monitoring/auditing system
- Avoid CSR reporting until standards and auditing systems are in place and representative audits have been performed

Auditing and Reporting on Performance

- Concepts of Triple Bottom Line, Sustainability
- Auditing and reporting format must dovetail with company standards/guidelines
- Reporting format (usually GRI format)
- Decide on medium and frequency of reports
- Conduct legal review of report
- Engage stakeholders

“Sharpening the Saw”

- Review:
 - changes in law
 - developments in state of the art of CSR
 - changes in stakeholder demands
 - developments in industry and in one’s business
 - results of audits, violations of law/standards
- Decide upon modifications of standards, systems, procedures in light of above
- Take corrective action, including disciplinary actions
- Engage with stakeholder, issue public statements if necessary

How CSR Shows up in Russia

- Codes of ethics imposed on customers, companies in which investments are made, employees and representatives
- Environmental management systems
- Supplier codes of conduct
- Engagement with community and stakeholders
- Inclusion of Russian operations in TBL reporting, and therefore audits

The Way Forward (1)

- Russia should join OECD and adopt OECD Guidelines for Multinational Enterprises, Convention on Combating Bribery of Foreign Public Officials In International Business Transactions, and subject itself to review of its legislation and enforcement procedures.
- Russia should pass the stalled anti-corruption legislation and take more effective measures to combat corruption.

The Way Forward (2)

- Avoid industrial policy, favored economic actors
- Avoid appointing high government officials to positions at companies.
- Government, trade associations, NGOs and stakeholders should promote understanding of and demand for CSR in Russia, focusing especially on the business case for practicing CSR. Foreign companies and governments and international institutions can play an important role as well.

The Way Forward (3)

- Company codes of ethics/conduct should become the norm
- CSR (TBL) reporting should be encouraged, though not made mandatory
- Classes in CSR should be mandatory in Russian business schools
- Foster rule of law, free media, democracy, civil society

Questions?

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