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OECD Russia Corporate Governance Roundtable

2012 Roundtable Meeting

25-26 October 2012
Lotte Hotel, Moscow, RF

Co-sponsored by European Bank for Reconstruction and Development

Information partner Interfax

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SUMMARY OF PROCEEDINGS FROM THE OECD RUSSIA CORPORATE GOVERNANCE ROUNDTABLE MEETING OF 25-26 OCTOBER 2012

December 2012

The purpose of this report is to summarise the proceedings and report on the results of the two-day Roundtable meeting that took place on 25-26 October 2012 in Moscow. The meeting addressed the following three main topics: i) board formation; ii) takeovers, tender offers and squeeze outs; iii) alternative dispute resolution mechanisms in the securities market. Moreover, 15 recommendations were adopted at a plenary session elaborating on the results of the discussions of the March 30 2012 Technical Seminar in the following areas: a) the role of the stock exchange in setting corporate governance standards; b) disclosure and transparency; and c) enforcement of insider trading and market manipulation laws.

1. Executive summary

1. The Roundtable held on 25-26 October in Moscow has become the first key annual event in the framework of the OECD Russia Corporate Governance Roundtable re-launched by the OECD Secretary General and the CEO of MICEX in December 2011. The meeting was co-organized by the OECD and the Moscow Exchange, co-sponsored by the EBRD and Interfax acted as an information partner.

2. The objective of the Roundtable is to tackle outstanding corporate governance challenges in Russia and help develop a robust legal and regulatory framework. Through dialogue, research and access to international expertise, it will encourage necessary reforms and fine tuning of existing regulations. Importantly, it will press for better implementation and effective enforcement. The Roundtable is also an opportunity to improve the international understanding of Russian corporate governance developments and ongoing efforts.

3. The key objective is to contribute to the Russian financial market realizing its full potential. A better corporate governance framework in Russia will facilitate entrepreneurs' and companies' access to finance, so they can seize business opportunities and create jobs. It will also offer investors and the saving public with more reliable investment opportunities, and foster a mature and credible equity culture.

4. The Roundtable is a long term commitment involving a wide circle of Russian and foreign participants, expert groups, associations, firms and market participants who want to improve corporate governance in Russia. It also has the support of the Ministry of Economic Development, the Bank of Russia, the Moscow International Financial Centre Initiative, and the Federal Service for Financial Markets, among many other authorities.

5. A preparatory meeting for the annual Roundtable took place in Moscow on 30 March 2012, and involved a technical discussion of three topics: i) the role of the stock exchange in setting corporate governance standards, ii) disclosure and transparency; iii) enforcement of insider trading and market manipulation laws. These issues were further addressed again at the Roundtable meeting at three parallel break-out sessions. On the basis on these discussions, a set of 15 recommendations were adopted to feed the Russian reform agenda and provide further guidance in the respective areas of Russian corporate governance framework. The list of recommendations is provided in Annex 3 of this report.

6. Beyond the recommendations, the Roundtable meeting focused on three main topics: i) board formation; ii) takeovers, tender offers and squeeze outs; iii) alternative dispute resolution mechanisms in the securities market. These topics were addressed by high level speakers, commentators and moderators, both from Russia and abroad, over the basis of papers commissioned especially for the meeting. Speakers included experts and practitioners from Russia, Brazil, the UK, Netherlands, and the United States. Alexander Afanasiev, CEO of the Moscow Exchange, Dmitriy Pankin, Head of the FFMS and Robert Ley, Deputy Director of the OECD Directorate for Financial and Enterprise Affairs, opened the Roundtable.

7. The meeting was extremely well attended by a wide circle of Russian and foreign participants, including representatives of issuers, regulators, authorities, experts, academia and other participants concerned by the development of corporate governance in Russia (about 400 people registered for the Roundtable and over 200 attended the meeting). Participants had an opportunity to actively participate in the discussion and showed real engagement. Discussions confirmed that the topics selected for the October Roundtable fit key challenges and the reform agenda in Russia.

2. Opening remarks

2.1. Alexander Afanasiev, CEO, Moscow Exchange

8. Mr. Afanasiev opened the Roundtable outlining the main reasons why the Moscow Exchange is interested in the promotion of international standards and good practices in the area of corporate governance. Firstly, he said that openness and transparency should be ensured for investors, regulators and other market participants and that listing rules play a prominent role in promoting this openness. Good corporate governance opens access to financial markets and the role of the exchange is key in supporting the development of good corporate governance practices. The trust of investors in companies relates to their trust in a stock exchange which, in turn, is supported by good listing rules. The current listing rules of the Moscow Exchange need to be reviewed and reinforced to provide a better basis for this openness.

9. Secondly, Mr. Afanasiev said that good corporate governance is a key factor for successful implementation of the announced Russian privatisation plans. Foreign investors should trust the infrastructure of the Russian financial market as they trust their own markets' infrastructure. Providing good mechanisms of legal protection, particularly of minority shareholders, is also important in this regard. Listing standards, here again, should be improved to facilitate the participation of foreign investors in the privatisation process. Moscow Exchange and FFMS are currently discussing the possible options of listing reform and there is an agreement on three basic principles: (1) simplification of listing structure; (2) harmonisation with the international standards; and (3) development of the premium segment for issuers with higher transparency and corporate governance requirements.

10. And finally, he stressed that the Moscow Exchange should itself, as a company, follow and comply with high corporate governance standards to be an example for others. Therefore, the Exchange is always keen on learning more on international standards and good experiences and the Roundtable provides a unique opportunity for this.

2.2. Robert Ley, Deputy Director, OECD

11. Robert Ley emphasised that the OECD was delighted to be part of the Russian efforts to improve and develop its corporate governance framework. Effective corporate governance is a key tool for the transformation of Russia into a hub for international business and the promotion of Moscow as a global financial centre, as the highest Russian authorities wish. He stressed that the quality of corporate governance is a key factor affecting the country's investment climate. Investors are increasingly willing to pay for well-governed companies that adhere to good board practices, provide for information disclosure and financial transparency, and respect shareholder rights. And it is not right that Russian equities trade at a discount compared to other BRIC countries.

12. Mr. Ley further explained why the OECD is so interested about corporate governance. He said that the presence of an effective corporate governance system, within an individual company and across an economy as a whole, helps to provide a degree of confidence that is necessary for the proper functioning of a market economy. As a result, the cost of capital is lower and firms are encouraged to use resources more efficiently, thereby underpinning growth. The OECD's mission is to promote policies that will improve the economic and social wellbeing of people around the world. The OECD provides a forum in which governments can work together to share experiences and seek solutions to common problems. The common thread of the OECD work, he highlighted, is a shared commitment to market economies backed by democratic institutions and focused on the wellbeing of all citizens.

13. This Roundtable meeting, he explained, is part of the bilateral work with the Russian Federation, which began more than a decade ago, and is a great example of what the OECD – Russia cooperation could develop. He listed the topics to be addressed at the meeting and stressed that the discussion would

engage in dialog knowledgeable and high level speakers, moderators and commentators and would be supported by background materials prepared especially for the meeting. Finally, he wished participants a fruitful meeting.

2.3. Dmitriy Pankin, Head, FFMS

14. Mr. Pankin opened his presentation by expressing his satisfaction for the re-start of the Roundtable programme by the OECD and the Moscow Exchange. He mentioned that it would serve as a complement to the work of FFMS and the Moscow Exchange with regard to developing corporate governance in Russia and reinforcing transparency at the financial markets. He highlighted that promoting corporate governance standards and transparency of issuers is crucial for making progress at the securities market.

15. He outlined a new listing concept, according to which there would be a category (list) of listed issuers and another category (list) of issuers whose securities would be admitted to organised trading but not considered to be listed. The latter category would not require a state registration of prospectus for the admission to the list and transparency and corporate governance requirements to the issuers on this list would be set by the exchange. For listed issuers there will be a new premium listing segment with higher corporate governance and transparency requirements, supported by a special arbitration commission. The securities of this segment are expected to be more trustworthy and would change foreign investor's perception of Russia's equity capital market.

16. Mr. Pankin also emphasised progress in adoption of IFRS reporting by Russian companies. From 2013 it would be mandatory for listed companies to provide consolidated IFRS reports that will bring them closer to international practices and will reinforce investor's trust and transparency of the Russian securities market.

17. The final point raised by Mr. Pankin concerned the enforcement of the new law on insider trading and market manipulation adopted in July 2010. He mentioned that there have been significant discussions around the adoption of the Law and work carried out in order to implement the Law (including the adoption of secondary legislation), but also recognised that despite all those efforts and the best intentions of the Law, its implementation has been complex. He said that experience has evidenced that the required reporting structures and some of the legal requirements were not optimal, and have become cumbersome. He said that basic mechanisms and institutions were still missing and there is over-regulation. Mr. Pankin argued that a better balance between regulation and flexibility, supported by institutional arrangements, was necessary to develop the securities market.

3. First Panel: Board formation

3.1. Participants

Speakers:

- Héctor Lehuedé, Senior Policy Analyst, OECD
- Roger Barker, Head of Corporate Governance, British Institute of Directors
- Alexander Ikonnikov, Chairman, IDA
- Alexander Chmel, Partner, PwC
- Paul Ostling, Independent Director, MTS, Uralkali

Commentators:

- Alexander Shokhin, RSPP
- Christopher Clark, Severstal

- Olga Dergunova, Rosimushchestvo
- Vladimir Gusakov, Moscow Exchange

Moderator: Ruben Aganbegyan, Otkritie Financial Corporation

3.2. Description of the topic and issues for debate

18. The OECD Principles of Corporate Governance establish that it is basic shareholder right to elect and remove board members of the board (principle II.A) and call for the facilitation of effective shareholder participation in the process (principle II.C.3). Principle V.A.4 requires disclosure about board members, including their qualifications, the selection process, other company directorships and their status, particularly whether they are regarded as independent or not by the company. Finally, principle VI.D.5 recommends that the board play an essential role in the nomination process and in identifying candidates.

19. A recent study by the OECD shows that practical implementation of the Principles is challenging for many countries, particularly when facing controlling groups, but also in cases of dispersed ownership. Shareholder participation is neither always facilitated nor effective, and boards do not always understand their role in the nomination process. The search for independent judgment at the board is also challenging, either in terms of finding the right definition of independence, finding ways to get the independent directors elected, or even finding a way for them to have influence once on the board.

20. Some of these issues are also present in Russia. Although they have improved significantly both in terms of regulations and successful stories, boards of Russian listed companies often still have to struggle with an underdeveloped corporate governance culture. With fiduciary duties still in the drafting stage and board committees not legally recognized, challenges are present in the framework itself. Four competing sets of rules establishing the independence criteria also make it hard to say who is really an independent director. Boards of State-owned enterprises (SOEs) also have adopted positive measures like reducing the presence of high level officials and with civil servants not holding chairpersons positions. However the use of the so called "instruction system", where State representatives (named "professional attorneys") are expected to follow the voting preferences of the State has a number of drawbacks, both in principle and practice.

21. The panel commenced with a presentation by Mr. Lehuedé about the main findings of the report on board formation practices he and Ms. Kostyleva prepared for the Roundtable. He described the OECD standards and practical recommendations regarding board formation, both for the private and State-owned sectors. He also summarised the results of a comparative study regarding board formation rules and practices, which he used as a benchmark to assess the Russian framework. He reviewed the rules and practices for nominating and electing board members in Russia and concluded that they are a mixture of strong and weak points, and that ongoing reforms aiming to mitigate and remove these weaknesses should be encouraged.

22. Mr. Barker followed with a presentation focused on key features of UK corporate governance, on the board formation process in the UK and recent developments in board formation. He described some of the key lessons from the UK experience and particularly stressed that the objective should be to facilitate the creation of competent boards that are capable of objective and independent judgement although 'independence' and 'objectivity' in the board formation process are not easy to achieve. He also highlighted that a nomination committee that fulfils formal independence criteria avoids some obvious conflicts of interest. However, he also warned that formal processes do not guarantee a genuinely independent and objective board appointments process.

23. Mr. Ikonnikov and Mr. Chmel presented the results of the survey of the boards of some 50 Russian companies that they have conducted for the Roundtable. Some of their conclusions included that

there is an increase in the number of Russian companies where boards elect independent chairmen; that women are still poorly represented on Russian boards; that the nomination committees have a bigger role in the board formation procedures; and that the demands on board members are increasing.

24. Mr. Ostling closed the round of presentations by sharing his experience as independent director on boards of Russian companies. He stressed that proper corporate governance and board practices are the necessary prerequisites for successful IPOs and high enterprise valuations. Also, that companies taking the time and effort to create corporate governance as a strategic competitive advantage are being rewarded by the investment community for their effort. He also promoted moving from a "controlling/dominating" operational/management model to a "shared oversight/ 'governance' model". He commented on the dynamics in the work of independent directors and shared his observations on the implications it could have on the design of future reforms.

25. Following these presentations, high level commentators offered their view and participants from the audience also engaged in vivid discussions on the topic. Ms. Dergunova, outlined the key milestones and achievements in improving board formation in the State-owned sector. Mr. Shokhin described the commitment of the RSPP towards the improvement of corporate governance in Russia and suggested a way forwards regarding some of the pending legal reforms. Mr. Clark offered some suggestions based on his vast professional experience and suggested areas for future work. Finally, Mr. Gusakov, who was awarded as best independent director of the year by the manager's association the day before the meeting, described some of the key elements of the role of good practices in the nominations committees of some Russian companies.

26. Participants representing different interests and opinions debated the challenges in defining independence of directors as well as in determining appropriate board directors skills. A relevant issue was the incentives for attracting directors complying with high expectations and ways to achieve better diversity and gender balance in boardrooms. The role of the board itself, vis-à-vis the controlling shareholders was also highly debated.

3.3. Background materials

- Background paper prepared by V. Kostyleva and H. Lehuedé English Russian
- Survey of Russian boards practices prepared by the IDA and PwC English Russian

4. Breakout sessions and adoption of recommendations

27. The afternoon of the first day of meeting was devoted to conclude on the work initiated in March 2012 at the Roundtable Technical Seminar. Three parallel breakout sessions addressed: i) the role of the stock exchange in setting corporate governance standards, ii) disclosure and transparency; iii) enforcement of insider trading and market manipulation laws.

28. Over the basis on these discussions, a set of recommendations was proposed to the plenary of the Roundtable the following morning. An electronic voting system, allowing all participants to accept or reject a recommendation on a confidential basis, was used for this purpose. The organisation team adopted an editorial decision to require a three-fourths approval of the participants present at the plenary for adoption of recommendations. Three of the proposed recommendations failed to meet that level and where therefore rejected.

29. The plenary session was moderated by Alexander Ikonnikov, Chairman of the IDA, and included the participation of the three moderators of the breakout sessions, who presented the results and the proposals to the participants.

4.1. Session A: The role of the stock exchange in setting corporate governance standards.

30. In Russia, as now MICEX and RTS have merged, an opportunity has been created to revise the role of the exchange in setting corporate governance standards. The FFMS and MICEX-RTS are discussing the options already and a debate could raise relevant issues for this dialog.

Materials:

- Summary of the March 2012 Technical Seminar English Russian
- March 2012 Technical Seminar Background paper English Russian

Commentators:

- Alexander Filatov, Ernst & Young
- Igor Petrov, Sistema JSFC
- Maria Klimashevskaya, Uralkali
- Mikhail Kuznetsov, Center of Corporate Development
- Oksana Derisheva, Moscow Exchange
- Oleg Tsvetkov, Severstal
- Pavel Nezhutin, Rostelecom

Rapporteur: Oleg Shvyrkov, Deloitte CIS

Secretariat: Tatyana Yefimova, Moscow Exchange

31. Mr. Shvyrkov presented the results of the discussion taken place the day before at the moderated by him breakout session. He reminded that the outcomes of the March Technical Seminar served as a ground for the debate and the objective was to shape a list of recommendations with regard to the role of the stock exchange in setting corporate governance standards. He emphasised that there was a common agreement between participants that an active role of a stock exchange in regulating corporate governance would be beneficial for all participants of the securities market. He then presented five recommendations for the voting and developed each of them.

Recommendations:

- Recommendation: *The Moscow exchange should continue increasing its efforts to promote and monitor better corporate governance practices in Russia.*

  Explanation: After the merger between MICEX and RTS, the exchange is in an excellent position to lead in promoting and monitoring corporate governance practices in Russia's listed sector. The participants encouraged the exchange to use all available tools, particularly the use of listing segments with stronger corporate governance requirements, to continuously foster and recognise best practices among listed companies. Many Russian issuers currently exceed the regulatory requirements in place, in part due to cross-listings, and would welcome a listing regime that would recognise and highlight these governance practices.

  Decision: Adopted by 88% of the votes.

- Recommendation: *Regulations should cover the essential issues, and be as simple as possible, demanding yet attainable.*

Explanation: When developing listing rules, participants agreed that it would be sensible to focus on the most value-laden, simple and attainable key elements, rather than embracing all governance issues at once. Promotion of the exchange-based arbitration procedures, as an alternative to courts of general jurisdiction in conflict resolution, should be a part of exchanges' initiatives. Also, special attention needs to be paid to de-listing procedures under the revised regulatory regime.

Decision: Adopted by 90% of the votes.

- Recommendation: *"Soft law" measures would be, if properly applied, beneficial to complement key "hard law" rules defining the corporate governance framework of listed companies in Russia.*

  Explanation: Participants agreed that for Russia the "hard law" approach is the traditional way of inducing behaviour, but that the framework could greatly benefit from some elements of "soft" regulation. Both "comply or explain" and "opt in" regimes, or possibly, a combination of the two, would be beneficial for Russia when used to add to the essential rights and obligations, which should be set in "hard law". The "comply or explain" regime currently in effect is welcomed, even though that its scope is too limited. Also, participants signalled the need to update the Code of Corporate Governance so that it could provide effective guidance in the envisaged "soft law" regulations.

  Decision: Adopted by 90% of the votes.

- Recommendation: *To facilitate its leadership in corporate governance, best practices suggest that profit-making and regulatory functions pertaining to listing rules should remain separated and conflicts of interest should be avoided.*

  Explanation: Best practices suggest that separating the profit-making areas of the exchange from the structures responsible for monitoring issues related to listing requirements and market surveillance promotes better results with less bias and more independence.

  Decision: Adopted by 92% of the votes.

- Recommendation: *Decision making in setting corporate governance requirements would benefit from inclusive dialogue and consultations with market participants, regulators, and the professional community.*

  Explanation: This recommendation implies that the regulatory framework can best accommodate the needs of the market participants if their opinions are taken into account in finding the appropriate responses, incentives and disincentives. The experience of the MIFC project is regarded as a good example of such process.

  Decision: Adopted unanimously.

4.2. Session B: Disclosure and transparency

32. Currently, the listing requirements in Russia establish the obligation of the issuers to submit information on their compliance with corporate governance requirements on a quarterly basis. At the same time, the FFMS regulation on information disclosure stipulates the obligation of the issuer to include information on its annual report about its adherence to recommendations of the Corporate Governance Code of 2002. Nevertheless, in practice, there is a formalistic approach to the fulfilment of these obligations and the information disclosed does not give potential investors and other concerned parties a clear picture of the company's corporate governance arrangements and practices. Opaque beneficial ownership information is one of the controversial aspects.

Materials:

- Summary of the March 2012 Technical Seminar English Russian
- March 2012 Technical Seminar Background paper English Russian
- Erik P.M. Vermeulen, Beneficial Ownership and Control, 2012, OECD English only

Commentators:

- Alexander Chmel, PwC
- Alexander Maslennikov, VTB
- Maksim Zavalko, RusHydro
- Sergey Tsygankov, MED
- Svetlana Chuchaeva, INTER RAO UES
- Thomas Krantz, Thomas Murray
- Vladimir Gerasimov, Interfax
- Vladimir Gusakov, Moscow Exchange

Rapporteur: Gian Piero Cigna, EBRD

Secretariat: Valentina Kostyleva, OECD

33. Mr. Cigna provided a description of the breakout session highlighting that the discussion started by scrutinising the results of the March Technical Seminar and that the most important message from that debate was to promote meaningful disclosure versus formal disclosure. He further highlighted three lines of issues that were discussed at the breakout session. First, financial disclosure. There, the convergence to IFRS was going well and no particular problems were identified. Second, non-financial disclosure where the challenges for the Russian market were more prominent, like in the case of disclosure of beneficial ownership or disclosure of top management remuneration. He mentioned that some doubts existed about the effectiveness of "comply or explain" approach provided by the Russian CG Code, as there seems to be a formalistic approach to it, with little meaningful disclosure. Third, disclosure of group information. This issue raised a lot of questions and concerns among participants and there is still room for improvement in disclosure of group information that would contribute to reducing uncertainty. There is also uncertainty about who does what within the group, Gian Piero mentioned. The key message was that having a meaningful disclosure driven by economic interests of all stakeholders is crucial.

Recommendations:

- Recommendation: *The legislation should provide for better and harmonised beneficial ownership and related parties definition.*

  Explanation: Only the legislation, not "soft law", can identify these important issues and their relations with a number of other concepts. The discussion pointed out that due to the fact that a lot of pieces of legislation conflicted with each other there was lack of clarity. Beneficial ownership and related parties are connected definitions and without understanding one of them it wouldn't be possible to understand another. Therefore, it is important to start with clearly defining these issues in the law.

  Decision: Adopted unanimously.

- Recommendation: *The law should define the rationale on which disclosure should be based upon. Secondary legislation and the Corporate Governance Code will then define the key issues to be disclosed and provide for mechanisms to make sure companies disclose relevant information.*

Explanation: The law should not provide a rigid list of criteria for disclosure, but rather define a rationale and purposes for disclosure, while further guidance can be given by the secondary legislation and soft law, which are more flexible instruments. The regulation should allow a certain level of flexibility, in lines with the "comply or explain" regime, for example. To support this there should be a general commitment among participants of the securities market to play by the rules, and comply with their spirit and not just the letter of the laws and regulations.

Decision: Adopted by 88 % of the votes.

- Recommendation: *Boards should consider using a communication facilitator in disclosing information in a simple and effective manner to stakeholders.*

Explanation: The boards are not always able to communicate important information in an effective and simple manner to stakeholders. Therefore it was suggested that the board should have a communicator facilitator who would help boards to deliver a clear message, in a professional user-friendly manner. This relates to the underlying principle of providing meaningful, simple and straightforward information for stakeholders. There was agreement that the facilitator could be an external person who provides advice to the board.

Decision: The recommendation was rejected.

- Recommendation: *Companies should make meaningful disclosure, driven by economic interests and avoid formalistic reporting*.

Explanation: Information provided by issuers often has a formalistic approach and does not permit the identification of the components presented in an aggregated manner. Therefore, this issue should be considered and approached properly in the updating process of the Corporate Governance Code. The accent in the area of information disclosure should be shifted from providing extensive information to providing relevant information. This would imply that disclosed information, both financial and non-financial, should provide all facts material to investment and voting decisions, and should be timely and precise. Disclosure should also be tailored proportionate to the size, complexity, structure, economic significance and risk profile of the company. The economic interests should underlie the selection of information for disclosure.

Decision: Adopted by 91 % of the votes.

- Recommendation: *The exchange should enhance disclosure requirements for the premium segment.*

Explanation: This recommendation reflects the importance of the stock exchange's active role in setting and reinforcing disclosure requirements. It is especially relevant now when there are ongoing discussions about the creation of a premium segment and may imply that the stock exchange should require and promote the disclosure of meaningful information for all segments but for the premium sector the requirements should be even more advanced.

Decision: Adopted by 91 % of the votes.

- Recommendation: *Pros and cons for integrated reporting should be considered*.

Explanation: Integrated reporting is also an instrument to insure meaningful information disclosure, as it goes beyond corporate governance and includes also environmental and social issues. Some jurisdictions have introduced in their practices integrated reporting to improve the delivery of information to stakeholders.

Decision: The recommendation was rejected.

4.3. Session C: Enforcement of insider trading and market manipulation laws

34. The OECD Principles of Corporate Governance (Principle III.B.) call for the prohibition of insider trading and self-dealing. In Russia, the prohibition was established by Federal Law No. 224-FZ "On Counteracting the Abuse of Inside Information and Market Manipulation and on Amendments to Certain Laws of the Russian Federation". It was adopted on July 2010 and has come into force in stages starting in January 2011. Certain relevant provisions, including those setting out what data constitutes inside information and regulating the maintenance of the insider lists at companies, have entered into force only on January 2012. Provisions establishing criminal liability and the possibility of revocation of a banking license will only be effective next year.

Materials:

- Summary of the March 2012 Technical Seminar English Russian
- March 2012 Technical Seminar Background paper English Russian
- COSRA/IARC/OECD Latin American Roundtable Survey, *Misuse of Privileged Information*, 2011, OECD English only
- IOSCO Emerging Markets Committee, *Insider Trading, How Jurisdictions Regulate It*, 2003, IOSCO English only

Commentators:

- Alexander Sinenko, FFMS
- Valeriy Lyakh, FFMS
- Dmitriy Kheilo, Sberbank CIB
- Evelina Evtimova, Barclays Capital
- Elena Kutkina, UBS Securities
- Elena Marchenko, the Moscow Exchange
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- Tamara Manukova, NAUFOR
- Yuriy Danilov, CCMD

Rapporteur: Andrey Salaschenko, NP RTS

Secretariat: Ludmilla Kagarmanova, NP RTS

35. Mr. Salaschenko briefly described the discussion of the previous day and highlighted the enthusiasm and commitment of all participants in scrutinising the issues of enforcement of insider trading laws. He further presented 7 recommendations from the breakout session group.

Recommendations:

- Recommendation: *Control and prevention of privileged information misuse should be a key element of risk management, and the Board of Directors should be responsible for it.*

  Explanation: The responsibility for both preventing and enforcing improper handling of material non-public information should not only be assigned to the authorities, but shared proactively by the companies themselves and particularly their boards. Boards should strengthen corporate policies and practices on privileged information and regard its control and the misuse prevention as a key element of risk management. Providing an adequate attention to internal policies and practices relating to the

handling of privileged information should be a priority for issuers. It should be regarded as an element of risk management and not merely a matter of technical compliance.

Decision: Adopted by 84 % of the votes.

- Recommendation: *Positive environment should be established for elaboration and efficient implementation of market industry standards and codes in relation to prevention of privileged information misuse.*

  Explanation: Standards exist but their implementation and enforcement are poor, because of the lack of the guidance for users and lack of trust in positive outcomes of their implementation. Standards and codes should provide comprehensible guidance to companies on appropriate policies and practices with respect to handling of privileged information. The weakness in the Corporate Governance Code and in other potential sources of guidance is that there is not sufficient or specific enough indication on appropriate policies or practices with respect to handling of privileged information and the prevention of its misuse. There should also be more clarity in defining who is responsible for the implementation and oversight of preventive frameworks.

  Decision: Adopted by 83 % of the votes.

- Recommendation: *The purpose of the law should be to establish main principles of prevention of privileged information misuse. The process of implementation of such principles should be regulated by underlying regulatory acts.*

  Explanation: The idea behind this recommendation is to allow the regulation to quickly react to the changing conditions of the market and adopt in the most appropriate arrangements for preventing privileged information misuse. When the rationale is stipulated in the legislation, the secondary legislation can further prescribe specific procedures, which could be adopted shortly and efficiently. Uncertainty about the interpretation and application of certain provisions of these laws by the authorities should be minimized. The timely adoption of additional and complementary regulation that could facilitate compliance with the new requirements should be provided.

  Decision: Adopted by 80 % of the votes.

- Recommendation: *Information notification and reporting requirements among persons that are subject to the law, infrastructure and regulators as well as the process around such notification and reporting should be established in accordance with principles of rationality and reasonability.*

  Explanation: The securities regulator, the stock exchange and other regulators should improve coordination of their information requests and share the information flow, simplifying the disclosure burden for issuers. Different supervisory bodies at different times can require the issuers to report the same information under different formats and timelines. This causes additional costs and discourages companies from working towards better quality of the information disclosed. It is necessary to streamline reporting frameworks and to enhance information sharing among authorities. The information should be meaningful and a formalistic approach should be discouraged.

Decision: Adopted by 93 % of the votes.

- Recommendation: *Established measures for prevention of privileged information misuse should be regulated by the home jurisdiction law (lex personale).*

  Explanation: This recommendation implies that a foreign issuer from an advanced jurisdiction who complies with the requirements of its home jurisdiction should be allowed to trading in Russia without additional checks under the Russian legislation.

  Decision: The recommendation was rejected.

- Recommendation: *It is recommended to ensure a step by step harmonization of Russian insider dealing legislation with international standards.*

  Explanation: Currently legislation tends to over-regulate all kinds of relations in the area of corporate governance and establish requirements in details. For instance, the definition of insider information proposed by the law is very rigid and the list of insider information is extensive. This approach should be avoided and harmonisation of Russian insider dealing legislation should be implemented step by step.

  Decision: Adopted by 88 % of the votes.

- Recommendation: *The regulation preventing the misuse of privileged information should not have as a consequence prevention of persons in good faith, having the status of insiders, to trade with relevant financial instruments.*

  Explanation: The regulation should not create situations when good faith market participants would refrain from dealing only because of the fear to be sanctioned by the law on insider trading and market manipulation. The environment should remain business-friendly and not scare away diligent market participants. This implies avoiding over-regulation, ensuring appropriate implementation and increase the capability of the company's relevant staff and of the regulators' staff to identify, understand and master the issues. Developing and expanding training and educational programmes for companies and regulators also play important role in this process.

  Decision: Adopted by 88 % of the votes.

5. Second Panel: Takeovers, tender offers and squeeze-outs

5.1. Participants

Speakers:

- Alessio M. Pacces, Professor, Rotterdam Institute of Law and Economics
- Dmitry E. Lovyrev, Partner, MZS & Partners
- Alexander Branis, Director, Prosperity Capital Management

Commentators:

- Andrey Gabov, Institute of Legislation and Comparative Law
- Denis Novak, Supreme Arbitrazh Court
- Elena Kuritsina, FFMS
- Marina Kozina, Rostelekom

- Rostislav Kokorev, MED

Moderator: Aneta McCoy, Managing Partner, AMAG

5.2. Description of the topic and issues for debate

36. According to the OECD Principles of Corporate Governance, markets for corporate control should be allowed to function in an efficient and transparent manner (principle II.E). This implies that transactions should occur at transparent prices and under fair conditions that protect the rights of all shareholders according to their class.

37. Takeovers offer a number of benefits for companies, investors and ultimately for the economy as a whole. They may be efficient drivers of value creation, can facilitate corporate restructuring or consolidation, and provide means for companies to achieve an optimal scale, which may be a precondition for competing effectively on global markets. A good corporate governance framework aims at facilitating takeover activity through promoting efficient takeover mechanisms and by removing the main company-related formal and informal obstacles.

38. OECD country experience can illustrate how difficult it is to establish a contestable and efficient market for corporate control and the challenges to draft rules for takeover bids that can protect shareholders (especially minority shareholders), employees and other stakeholders. In order to protect shareholders, a number of OECD countries have mandatory bid rules giving an early exit option for shareholders whenever there is a change of control or the acquisition of control. A key issue is achieving the right balance between the equitable treatment of shareholders, including an equitable distribution of the control premium being offered by a bidder, and facilitating contestability of control. At the EU level, the Takeover Directive aims to ensure a level playing field between Member States by setting common rules that facilitate takeover activity through efficient takeover mechanisms.

39. The participants of the panel sought to look into Russian practices in this area as they seem not to be fully aligned with those of OECD countries. The Russian JSC Law regulating voluntary and mandatory tender offer has exhibited weaknesses and a variety of technical grounds had been used to avoid launching or completing a mandatory tender offer after acquiring a majority stake. Russia is also considering new rules in relation to the requirements to delisting and downgrading companies from one listing tier to another in the exchange. In many countries when that occurs, the company or the controlling shareholders are required to tender for the shares of all minority shareholders. That rule does not yet exist in Russia. Squeeze-out rights are also related and can present challenges of their own, such as the determination of the fair price and effective ways to obtain redress for affected parties.

40. The first speaker, Mr. Pacces, presented a comprehensive law and economics view of takeovers. He raised the issues of trade-off between investor protection and the market for corporate control and elaborated on the key takeover rules from the perspective of who decides to accept or reject offers, exit rights and compulsory acquisitions. His main conclusion was that a vibrant market for corporate control can allocate production resources to the best available entrepreneur and that overprotective takeover rules reduce takeover activity. However, if investors are not properly protected from expropriation in the first place, takeovers allocate control to the best ‘thief’. He also described the main features of the EU takeover directive.

41. Mr. Lovyrev, who authored the background paper for the panel, continued with a description of the situation in Russia. He addressed the forms and methods of acquiring a controlling interest in Russian companies. Among key problems hindering the normal functioning of mandatory bids and forced buy-outs he mentioned insufficiently developed and fragmentary nature of the JSC Law; the contradiction of certain provisions with other federal laws; lack of a truly functional mechanism to establish the existence of affiliation and groups of entities; and an insufficiently active attitude of the regulators in corporate disputes

involving the acquisition of major shareholdings, which may be due to the inadequacy of the regulator's powers and resources. He particularly emphasised the important role of the draft Informational Letter of the Russian Supreme Arbitrazh Court Presidium in broadening investor protection and in solving contradictions arisen in judicial practices when applying the JSC Law.

42. Finally, Mr. Branis, described the work on the topic conducted by the corporate governance project group within the "Moscow International Financial Centre" Taskforce. He focused on possible solutions to existing shortcomings and described main challenges and abuses in the takeovers framework. He highlighted that the absence of a good definition of affiliated parties is the most significant problem. He then explained that proposed amendments to the Civil Code that are now considered at the second reading by Duma aim to solve this problem and establish a proper criteria of affiliation. He also mentioned that the present legislation creates unfavourable situations and risks for minority shareholders when accepting offers in takeovers. He proposed mechanisms to minimise these risks and also suggested how the system of mandatory offers could work better. He concluded by encouraging to support the adoption of relevant amendments to the Civil Code by the State Duma.

43. High level commentators and participants followed. Mr. Gabov addressed some problems of defining the framework and participants of markets for corporate control in Russia and made a number of suggestions about finding a better balance between interests of majority and minority shareholders, while not forgetting the interests of other stakeholders. Mr. Kokorev explained the risks of focusing only on protection of minority shareholders' interests in takeovers regulation and thus reducing activities on the market of corporate control. Ms. Kuritsina commented on the position of the FFMS with regard to the takeovers and squeeze outs and emphasised that the main mission of the FFMS is the protection of shareholders rights. Ms. Kozina approached the issues from the perspective of an issuer and outlined the many challenges in fulfilling all relevant legal requirements that Rostelekom has encountered when trying to undertake a takeover. Mr. Novak provided some insights on the drafting of the Informational Letter of the Russian Supreme Arbitrazh Court Presidium and outlined the motivation and concerns behind this process.

44. Further discussion at the panel turned around the key challenges of acquiring control stakes in companies in Russia, policy and economic implications, possible solutions and the relevance of international experiences. Controversial opinions were provided, for instance, on whether it was necessary to keep the 30% threshold for control established in the legislation for triggering a mandatory bid. All participants agreed on that there is an ample room for improvements and that the existing practices should be brought closer to international practices.

5.3. Background materials

- Background paper prepared by D. Lovyrev English Russian

6. Third Panel: Alternative dispute resolution mechanisms in the securities market

6.1. Participants

Speakers:

- Andressa Bondioli, Head of Litigation at Arbitration Chamber, BM&FBOVESPA Brazil
- Alexander Cohen, Co-Chair, Latham Watkins' national office U.S.
- Alexei Panich, Partner, Herbert Smith Freehills

Commentators:

- Andrey Novakovskiy, Liniya Prava
- Elena Kabatova, Arbitration Panel at Moscow Exchange
- Kirill Udovichenko, MZS & Partners
- Oksana Derisheva, Moscow Exchange
- Valentina Kostyleva, OECD

Moderator: Alexei Zverev, Senior Counsel, EBRD

6.2. Description of the topic and issues for debate

45. Principle I.B of the OECD Principles of Corporate Governance states the legal and regulatory requirements that affect corporate governance practices in a jurisdiction should be consistent with the rule of law, transparent and enforceable. Poor regulatory and judicial enforcement can be a significant impediment to shareholder protection and discourage foreign investment. Different dispute resolution options in the areas of company law and corporate governance, beyond the traditional mainstream judiciary system, have been developed and used around the world to deal with investor uncertainty.

46. Principle III states that "all shareholders should have the opportunity to obtain effective redress for violation of their rights". The annotations to this principle point out that "many countries have found that alternative adjudication procedures, such as administrative hearings or arbitration procedures organised by the securities regulators or other regulatory bodies, are an efficient method for dispute settlement, at least at the first instance level".

47. There are two main alternatives to the judicial system that countries have used more often: specialised courts and arbitration panels. When exploring the role of specialized courts in resolving corporate governance disputes, the experiences of the Delaware Chancery Court, the Netherlands' Enterprise Chamber, and of the EU Corporate Governance Court in dealing with corporate governance related issues and the impact of its decisions are relevant. These examples may help to identify the incentives for, and benefits of, setting up specialized courts in Russia.

48. Arbitration of company-law disputes has become the preferred method of dispute resolution for private-equity investors in many markets. Typically, investors in non-listed companies contractually agree (often in the charter of the company or through shareholders agreements) to submit disputes to binding arbitration pursuant to the rules of an established arbitration institute. There are also examples of arbitration mechanisms provided by stock exchanges and specialized on resolution of disputes related to listed companies. One example is the Sao Paulo Stock Exchange, where companies listed in the New Market and Level 2 listing segments, as well as all their controlling shareholders, administrators and board members are obliged to solve their disputes at the Market Arbitration Panel and follow its rules. Investors buying shares of companies listed in those segments have a guarantee that they would not have to litigate at the Brazilian courts.

49. Russia faces challenges with its judicial system that affect enforcement. Although progress has been made, investors still do not always trust the Russian courts with their disputes and often resort to foreign courts instead. Therefore the debate at the panel turned around the questions whether there is a role for specialised courts or mandatory arbitration tied to exchange listing levels in the development of the Russian capital market and what would be the challenges for implementing this, from setting up to securing the enforcement of the decisions, what could be learnt from other countries' experience?

50. Ms. Bondioli shared the experience of Brazil's BOVESPA Stock Exchange Arbitration Chamber. She outlined the background against which the Novo Mercado premium listing segment was created and explained why in July 2001 the Exchange decided to establish an Arbitration Chamber. For three of the

four segments at the exchange there is a mandatory arbitration clause. It took them 10 years however to have the first arbitration case initiated at the Arbitration Chamber as they had to clear legal issues first and gain the confidence of issuers and investors. In 2010 there were 4 cases initiated and 11 cases were initiated in 2012. Ms. Bondioli also commented on the importance of providing simplicity and flexibility to the arbitration proceedings.

51. Then Mr. Cohen described the experience of the U.S. in resolving corporate law disputes and the role played by the specialized court, the Delaware Chancery Court. Delaware is the State of choice for the setting up of corporations in the U.S. and offers an advantageous corporate law statute (Delaware General Corporate Law) providing a very flexible company-friendly framework as well as swift procedures. At the Chancery Court, cases are solved by highly competent and reputed judges and appeals lie directly with the Delaware Supreme Court, without intermediate or additional levels. This avoids inconstancies in decisions and makes the procedure faster and more efficient. Precedents are also another relevant feature of the Chancery Court, as it has created a rich body of precedents to look in that and helpful in interpreting new corporate law provisions. He then stressed that one of the reasons of this success is that the regulator in the U.S. prevent listed companies to impose arbitration. This essentially makes the Chancery Court the only forum for dispute resolutions for public companies in the U.S.

52. Mr. Panich followed with a description of the judicial system in the Russian Federation and the role Russian Arbitrazh (Commercial) Courts play in this system. He highlighted that these courts cannot be considered as an appropriate specialised court for corporate conflicts in Russia because of some key institutional weaknesses. These include an insufficient number of judges, issues with their independency and a lack of specialised training. In Russia, he argued, there is only one specialised court, for intellectual property rights that will start operating from February 2013. Mr. Panich expressed some ideas about possible challenges and options in creating a specialised corporate court in Russia. He also touched upon arbitration as a mechanism of corporate dispute resolutions in Russia and raised key related issues, like the arbitrability of corporate disputes, enforcement of arbitration awards and the lack of support from State courts.

53. High level commentators and participants engaged in dialog about what would be the best dispute resolution mechanism for Russia. Mr. Novakovskiy discussed if Arbitrazh courts can be considered as specialised courts for corporate dispute resolutions and called for extending their jurisdiction to all conflicts on the securities market. Based on her experience as judge at the Arbitration Panel at Moscow Exchange, Ms. Kabatova commented on the disputes initiated in the Commission in the past years. Ms. Derisheva spoke about the Moscow Exchange project to create a premium segment and require an arbitration clause for the companies in this segment. Mr. Udovichenko focused on the issue of arbitrability in Russia and how to address it. Ms. Kostyleva made a brief review of past OECD work on how jurisdictions provide effective redress for violation of shareholders' rights.

54. Participants argued that specific legislation governing arbitration in Russia does not contain restrictions on the arbitrability of corporate disputes, but there is a real problem of interpretation by the courts of the relevant provisions of the Commercial Procedural Code. The role of all available and potential mechanisms of dispute resolution in contributing to reinforcing investor's protection and trust has been also scrutinised. The debate concluded in a number of suggestions regarding possible solutions for improving the quality and independence of the commercial courts, creating a separate specialized court for corporate disputes and promoting arbitration as a means of resolving corporate conflicts.

6.3. Background materials

- Background paper prepared by D. Lovyrev and K. Udovichenko English Russian

7. Closing remarks

7.1. Vladimir Gusakov, Managing Director, Moscow Exchange

55. Mr. Gusakov highlighted that he had received positive feedback from the Roundtable participants, who highly appreciated the selection of speakers, commentators and moderators. Also, there was a great appreciation for the chosen topics, the quality of supporting background reports and the overall organisation. He mentioned that all the Roundtable topics raised a lot of interest and engagement among participants and that the topics discussed in March have been further developed to conclude in the adoption of 15 recommendations which are very useful for further development of corporate governance in the Russian Federation.

56. Mr. Gusakov mentioned that the Code of Corporate Governance would be in the centre of the discussion at the upcoming spring 2013 Roundtable Technical Seminar and he expected that by then a draft of the new Code would be advanced and would allow for an interesting, focused and meaningful discussion. All Russian relevant participants of the drafting process are fully committed to advance in preparing the draft Code for the discussions at the seminar.

57. On behalf of the Moscow Exchange he highlighted that the Exchange is very satisfied with the ongoing work on the Roundtable project and with its first outcomes. Mr. Gusakov said that these results confirm their engagement in the project, both in terms of financing and in driving the process in Russia at even a higher pace towards better corporate governance.

7.2. Robert Ley, Deputy Director, OECD

58. Mr. Ley commenced by saying that the Roundtable has made evident that there is a good understanding between the OECD and the Moscow Exchange and a shared expectation for the future. He then gave a short assessment of the outcomes of the last two days, highlighting a relevant and interesting selection of topics that allowed contributing to on-going reform efforts, beyond providing for an interesting academic discussion. He also praised the high level of participation, both from people at the podium and from the audience. He then stressed that the adopted recommendations will provide the baseline for the future work.

59. With regard to future work, Mr. Ley said that the experience of the two last days justifies that we should continue this work and a high level of commitment. There are all the essential ingredients for producing something useful, particularly if the topic of the upcoming events should be the update of the Corporate Governance Code. Finally, from the OECD point of view, Mr. Ley expressed his satisfaction for being part of this initiative and having a chance to contribute to the improvement of corporate governance in Russia.

ANNEX ONE: SPEAKERS' BIO

Alessio Maria Pacces: Alessio is Professor of Law and Finance at the Erasmus School of Law, Erasmus University Rotterdam, where he was previously Associate and Assistant Professor of Law and Economics. Since 2009 he is a Research Associate of the European Corporate Governance Institute (ECGI). Before joining academia, Alessio was a senior researcher in the Law and Economics Research Department of the Bank of Italy, a financial economist at the Italian Securities Authority (Consob), and he served as junior officer in the Italian Financial Police. He holds a degree in economics from Luiss University in Rome (cum laude, 1994), a European Master in Law and Economics (with distinction, 1995), and a Ph.D. from the Erasmus University of Rotterdam (cum laude, 2008). His research is mainly concerned with the economic analysis of corporate law and of financial regulation; he has published books, chapters and peer-reviewed articles on these topics.

Alexander Afanasiev: Alexander is CEO of the Moscow Exchange. He was born in 1962, graduated from the Moscow Financial Institute with a degree in international economic relations and also holds a PhD in economics. Alexander has been working in the Russian bank industry since 1991. In the Bank of Russia he participated in creation of the Russian Project Finance Bank, the first investment bank with foreign capital in Russia, and then served as its Managing Director. In 1996 he joined the executive board of Joint Stock Bank "Imperial". From September 1998, he worked as a Deputy CEO for Bank WestLB Vostok (ZAO), a subsidiary company of the German banking group WestLB AG. In 2005 Alexander was appointed Chairman of the MICEX FX Market's Council. He also co-chairs the National Foreign Exchange Association and National Securities Market Association.

Alexander Branis: Alexander joined Prosperity Capital Management in early 1997 and is now Chief Investment Officer of the company. Alexander is Chairman of Russia's Investor Protection Association as well as of heat/power generator TGK6 and also a board member of MRSK Center, MRSK South and MRSK Center Volga. In 2010 he was appointed to act as Chairman of the Corporate Governance Sub-committee, set up by the government as part of the drive to establish Moscow as an International Financial Centre. In 2002-2003, he was a board member of state power holding company, UES, and prior to that vice chairman of the UES shareholder rights protection council. He was also a member of the Russian State Council's working group for restructuring UES, appointed by then President Putin to advise on the restructuring of the country's electricity market. Alexander is a Bachelor of Management from the Moscow Academy of National Economy and is a CFA charter holder.

Alexander Chmel: Alexander is Fellow of ACCA and a certified Russian auditor with more than 20 years of experience in audit and consulting. During the past 14 years, he has been focused mainly on projects with major electric utilities. Alexander has actively participated in audits of major Russian and international companies' IFRS and statutory financial statements since 1993. He also has managed several consulting projects associated with reforming the utilities industry and implementing IFRS methodologies in Russia. Alexander was a partner leading PwC multidisciplinary service teams in the course of the only Russian utilities successful IPO (November 2006) and the only Russian utilities SPO, with a GDR listing on the London Stock Exchange (October 2007). He is the author of a number of articles on modern developments in utilities industry, corporate reporting, corporate governance and corporate responsibility.

Alexander Cohen: Alex is Co-chair of Latham Watkins' national office in Washington D.C., a central resource for clients and Latham lawyers facing complex issues arising under the US securities laws. His practice covers capital markets, registration and reporting with the US Securities and Exchange Commission (SEC), corporate governance, accounting restatements, investigations by the SEC and related issues. He was a partner in Latham's London and Hong Kong offices from 2001-2006, and has particular expertise advising non-US companies on US securities law matters. Alex is a former senior official of the

SEC. He joined the SEC staff in 2006 as Deputy General Counsel for Legal Policy and Administrative Practice and later served as Deputy Chief of Staff. During his time at the SEC, Alex advised the SEC Chairman on highly sensitive questions across all aspects of the agency's work, including the SEC's response to the 2008 financial crisis. He also worked closely with the Chairman, Commissioners and senior agency staff to develop and implement SEC rulemakings. Alex has taught at Georgetown Law School as an Adjunct Professor, and was a technical advisor to Oliver Stone's "Wall Street: Money Never Sleeps" (2010). From 1989 to 1990, he served as a law clerk to Judge Wilfred Feinberg of the US Court of Appeals for the Second Circuit.

Alexander Ikonnikov: Alexander is Head of Board Practice at Board Solutions and a leading Russian expert in corporate governance, boards of directors and shareholder activism. Since the inception of the Independent Directors Association (IDA) in Russia, Alexander has been the Chairman of the board. At different periods in his managerial career he has led the Department of External Economic Affairs at the Ministry of Fuel and Energy, worked as the Deputy CEO of NAUFOR and led the Russian Investor Protection Association as its CEO. He has experience serving on the board of directors as an independent director in telecommunication, consumer companies, investment fund and post-trading financial organizations. Alexander graduated from the Russian Oil and Gas Institute with an engineering degree and earned his PhD in economics. He has received his Director Certification by the UK's Institute of Directors. Yale School of Management recognizes Alexander Ikonnikov as "2010 Rising Star of Corporate Governance" for outstanding work in, and contribution to, the field of Corporate Governance.

Alexei Panich: Alexei is Partner in the dispute resolution practice in Moscow, specialist in litigation and arbitration. For more than 15 years he has been representing clients in commercial, construction, banking, regulatory, customs and tax cases as well as in bankruptcy proceedings. Alexei has extensive experience in advising on complex Russian and international litigation matters affecting the activities of both foreign investors and national Russian companies. For the period from 2007 to 2012 Alexei won over 200 litigations, including 6 in the High Arbitration Court. Alexei has a Law Degree from the Moscow State Academy of Law

Andressa Bondioli: Andressa is Litigation Manager of BM&FBOVESPA, the Brazilian stock exchange since 2009. There she works as well with the Market Arbitration Chamber and was part of the team responsible for the change in the Arbitration rules of the Chamber that took place in 2011. Before this post, she worked for 8 years as an associate in two of the biggest Brazilian law firms (Barbosa, Mussnich and Aragão Advogados and Mattos Filho Advogados) helping clients in the fields of commercial litigation and international and domestic commercial arbitration. She holds a Law degree from Pontifícia Universidade Católica of São Paulo, an Extension Course in Commercial Law from Pontifícia Universidade Católica de São Paulo and a Diplôme Supérieur d'Université in Commercial Law from Université of Panthéon-Assas.

Dmitry Pankin: Dmitry is Head of the Federal Financial Markets Service since April 2011. Prior to that, he served as Deputy Finance Minister, responsible for international financial relations, state debt and state financial assets. He joined the ministry in 2004 as a deputy director of the department of international financial relations, state debt and state financial assets. In 2005, he was named director of the department, and in 2008 he was appointed Deputy Finance Minister. Mr Pankin began his career in 1981, and until 1990 he taught economic theory. In 1990, he became head of a department at the St Petersburg Mayor's Office. From 1992 to 1994, he served as Deputy Chairman of the financial committee at the St Petersburg Mayor's Office. From 1994 to 1999 and from 2000 to 2003, he was CEO of St Petersburg Bank for Reconstruction and Development. From 1999 to 2000, Mr Pankin was head of treasury at Unified Energy System (RAO UES). Mr Pankin has a degree in political economy from St Petersburg State University and a Master's degree in economics.

Dr. Roger Barker: Roger is Head of Corporate Governance at the British Institute of Directors (IoD). He spent the first part of his career in various senior roles in investment banking. He was an equity strategist with UBS in London, and later became Global Research Coordinator at UBS's head office in Switzerland.

Since leaving investment banking, Roger has specialised in corporate governance and board effectiveness. He is the holder of a doctorate on corporate governance from Oxford University, where he was also stipendiary lecturer at Merton College, Oxford. He has also been a visiting lecturer in corporate governance at the Said Business School (Oxford), ESSEC Business School (Paris) and the Ministry of Defence (UK), and has acted as an adviser to the EU Economic and Social Committee in Brussels. Roger is a member of the advisory boards of a number of leading organisations, including the European Confederation of Directors' Associations (ecoDa) and the Institute of Chartered Accountants in England and Wales (ICAEW). His recent book – Corporate Governance, Competition, and Political Parties: Explaining Corporate Governance Change in Europe – was published by Oxford University Press in January 2010. He is also the co-author (with Dr. Neville Bain) of the IoD's main guide to the role of the board, The Effective Board: Building Individual and Board Success, which was published by Kogan Page in September 2010.

Héctor Lehuedé: Héctor is Senior Policy Analyst at the OECD Corporate Affairs Division, which is responsible for the corporate governance work of the OECD. He is in charge of the bilateral work with the Russian Federation, of research on comparative international corporate governance and of peer reviews of the implementation of the OECD Principles of Corporate Governance. Héctor is also the manager of the OECD Russia Corporate Governance Roundtable. Before joining the OECD, Héctor was a Senior Advisor to the Chilean Minister of Finance. He started his career in the legal field and practiced law for over a decade at some of the largest legal and auditing firms in Chile, specialising in tax, corporate and financial affairs. Héctor holds a law Juris Doctor Degree from Universidad de Chile and a Masters Degree from Stanford University.

Paul Ostling: Paul is the Chairman of Brunswick Rail. He is also on the boards of MTS and Uralkali and chairs their audit committees. From 1977 to 2007, Paul held various senior management positions at Ernst & Young, including Global Chief Operating Officer (2003 — 2007); Global Executive Partner (1994 — 2003); and Vice Chair and National Director Human Resources (1985 — 1994). From 2010 to 2011 he was a Board member of Kungur Oilfield Equipment and Services, where he also served as CEO and General Director from 2007 to 2009. From 2007 to 2011 Paul was on the board of PromSvyazBank. From 2008 to 2010 he was a member of the UralChem Board of Directors. Paul is also the Chairman of the Board of the Business Council for International Understanding, as well as the Chairman of the Finance Committee and a member of the Board of the Boy Scouts of America, TransAtlantic Council. He is the Deputy Chairman of the Board of the global environmental services organization, Cool nrg, and is a member of the Supervisory Board of Innolume Gmbh. Paul is a certified financial advisor under SEC and LSE Regulations and holds a Law Degree from the Fordham University School of Law and a B.S. in Mathematics and Philosophy from Fordham University.

Robert Ley: Robert is Deputy Director, Directorate for Financial and Enterprise Affairs (DAF) at the OECD. He has served in this Directorate since 1985, becoming Head of Division for Capital Movements, Investment and Services in 1991 and Counsellor to the Director in 2001. With a staff of 180, the main thrust of DAF's work is to identify policies and best practices to keep national and international markets open, competitive and efficient while combating market abuse and corruption. The focus is on six main policy areas: competition law and policy; foreign direct investment and multinational enterprises; corporate governance (including for state-owned enterprises); financial markets, insurance and private pensions; and fighting foreign bribery. In all these fields, DAF contributes to the accession reviews of candidate countries for OECD membership and more generally to the OECD's extensive work with non OECD members. Before joining the OECD, Robert worked at the International Monetary Fund (1975-84) and the Australian Treasury (1969-75). He studied economics and finance at Melbourne University, graduating with first class honours (1968).

Vladimir A. Gusakov: Vladimir is Managing Director of Corporate Development at the Moscow Exchange. He is also member of the Board of Directors of Russian Railways and a member of the

Supervisory Board of the Housing Mortgage Lending Agency where he was appointed in 2008 by the resolution of the Russian government. He has been a member of the National Stock Market Association's Council since it was established in 1996; he is a member of the Non-Governmental Council of Financial Market Participants, the Expert Council on Corporate Management at the Russian FSFM, the Independent Directors' Committee of the Russian Union of Industrialists and Entrepreneurs, and the Committee for Credit Organization and Financial Market Legislation of the Association of Lawyers of Russia. Vladimir graduated in 1984 from the P. Lumumba Peoples' Friendship University with a degree in Mathematics. He is a Candidate of Physical and Mathematical Sciences and an Associate Professor. In 2003, he graduated from the G.V. Plekhanov Russian Economic Academy with a degree in Finance. In 2008, he graduated from the President's Russian Academy of Public Administration with a degree in Law.

ANNEX TWO: BACKGROUND PAPERS

First Panel:

- Background paper prepared by V. Kostyleva and H. Lehuedé English Russian

  Board Formation: Nomination and Election in OECD Countries and Russia

  The paper addresses the main elements of the framework for nominating and electing members to the board of companies, which is the subject of the first panel of the meeting. This is accomplished, first, by describing the relevant corporate governance standards developed by the OECD, which are also complemented with selected best practices of jurisdictions participating in the work of the OECD Corporate Governance Committee and the OECD Working Party on State Ownership and Privatisation Practices. Then, the report turns to the Russian Federation and aims to describe the current rules and practices in board formation. It also describes some of the key aspects of the manner in which board of directors operate in Russia. Finally, the report aims to facilitate the identification of areas where Russian rules and practices could benefit from OECD standards and country experiences.

- Survey of Russian boards practices prepared by the IDA and PwC English Russian

  Russian Boards: Selection, Nomination and Election

  This survey was prepared for the OECD Russia Corporate Governance Roundtable (25-26 October in Moscow). It looks at director selection, nomination and election procedures in place in Russian joint stock companies (primarily, public ones) as well as how the role of board of directors and, in particular, independent directors, is evolving. To do this, the authors sought the views of over 70 board members representing over 200 Russian joint stock companies. Inter alia, several outstanding representatives of Russian boards were interviewed, including independent and senior independent directors, non-executive directors, executives, chairpersons of boards and board committees.

Breakout Sessions:

- *Summary of the March 2012 Technical Seminar by V. Kostyleva* English Russian

  This paper presents the results of the Technical Seminar held in Moscow on 30 March 2012 in the framework of the OECD Russia Corporate Governance Roundtable and addressed three topics related to corporate governance and listing requirements. The first topic was devoted to the role of the stock exchange in setting corporate governance standards. Disclosure and transparency of listed companies was the second topic of the seminar and the third and final session was devoted to enforcement of insider trading and market manipulation laws. These issues were discussed at the break-out sessions of the 2012 Roundtable meeting and were the subject of recommendations adopted by the Roundtable plenary.

- March 2012 Technical Seminar Background paper by Oleg Shvyrkov English Russian

  This paper addresses three issues: i) Building on the earlier research by the OECD, this paper presents an overview of the traditional role of stock exchanges in setting and enforcing corporate governance standards in various markets, as well as the current role of exchanges in corporate governance regulation in Russia; ii) Building on the earlier research by the OECD, this paper presents an overview of the existing disclosure regulations in Russia and the role of listing rules in transparency of Russian

public companies. It also draws some international comparisons and outlines several areas for improvement in transparency that could potentially be achieved through listing rules; and iii) Building on the earlier research by the OECD and IOSCO, this paper presents an overview of regulations on insider trading and market manipulation in Russia and draws some international comparisons.

Second Panel:

- Background paper prepared by D. Lovyrev English Russian

  Legal Issues With Acquisition Of Major Stakes In Russian Companies

  The report addresses general background, the forms and methods of acquiring a controlling interest in companies. After a brief description of takeovers regulation in the OECD Corporate Governance Principles, legal frameworks in the European Union and USA, the report analyzes particular features of the regulations and current enforcement problems in the corresponding sector in Russia. It looks in some detail at the institution of the mandatory bid, the grounds for creating and dropping an obligation to issue a mandatory bid, the rights of minority shareholders, and ways to protect minority shareholders. A separate section of the report is devoted to the notion of squeezing out minority shareholders and to the problems which have arisen in Russia in relation to this institution. An analysis of the TGK-2 case provides a highly controversial example of acquisition regulations in force in Russia. The report also covers more general pressing issues specific to corporate governance in Russia, such as: specific matters associated with the interpretation and application of corporate law by courts, the powers of the financial market regulator, and their implementation. It offers various options to improve the institutions for major shareholding acquisition in Russia, and discusses ways to further develop enforcement practices and increase protection with regard to the rights of those involved in corporate relations.

Third panel:

- Background paper prepared by D. Lovyrev and K. Udovichenko English Russian

  Alternative Dispute Resolution Mechanisms In The Securities Market

  Referring to the OECD Principles of Corporate Governance, the report analyses the situation in Russia with regard to the resolution of corporate disputes. It considers the traditional system of dispute resolution in the area of corporate law, represented by commercial (arbitrazh) courts, and two alternative systems: specialized courts for corporate disputes and arbitration tribunals. The report describes the advantages and disadvantages of alternative dispute resolution, and the risks and opportunities associated with the integration of such mechanisms into the current Russian system. It quotes examples from international practice, and offers various perspectives of improving the framework of corporate dispute resolution in Russia.

ANNEX THREE: 2012 ROUNDTABLE RECOMMENDATIONS

The role of the stock exchange in setting corporate governance standards:

- The Moscow exchange should continue increasing its efforts to promote and monitor better corporate governance practices in Russia.
- Regulations should cover the essential issues, and be as simple as possible, demanding yet attainable.
- "Soft law" measures would be, if properly applied, beneficial to complement key "hard law" rules defining the corporate governance framework of listed companies in Russia.
- To facilitate its leadership in corporate governance, best practices suggest that profit-making and regulatory functions pertaining to listing rules should remain separated and conflicts of interest should be avoided.
- Decision making in setting corporate governance requirements would benefit from inclusive dialogue and consultations with market participants, regulators, and the professional community.

Disclosure and transparency:

- The legislation should provide for better and harmonised beneficial ownership and related parties definition.
- The law should define the rationale on which disclosure should be based upon. Secondary legislation and the Code of Corporate Governance will then define the key issues to be disclosed and provide for mechanisms to make sure companies disclose relevant information.
- Companies should make meaningful disclosure, driven by economic interests and avoid formalistic reporting.
- The exchange should enhance disclosure requirements for the premium segment.

Enforcement of insider trading and market manipulation laws:

- Control and prevention of privileged information misuse should be a key element of risk management, and the Board of Directors should be responsible for it.
- Positive environment should be established for elaboration and efficient implementation of market industry standards and codes in relation to prevention of privileged information misuse.
- The purpose of the law should be to establish main principles of prevention of privileged information misuse. The process of implementation of such principles should be regulated by underlying regulatory acts.
- Information notification and reporting requirements among persons that are subject to the law, infrastructure and regulators as well as the process around such notification and reporting should be established in accordance with principles of rationality and reasonability.
- It is recommended to ensure a step by step harmonization of Russian insider dealing legislation with international standards.
- The regulation preventing the misuse of privileged information should not have as a consequence prevention of persons in good faith, having the status of insiders, to trade with relevant financial instruments.