

Compliance with Russian Corporate Governance Code

Conformidade com o Código de Governança Corporativa da Rússia

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ABSTRACT:

The paper covers the service of the Board of Directors at Russian companies. The study is motivated by the compliance with the Russian Corporate governance code (revised in 2014), as well as the local exchange requirements for issuers. The study shows that in the boards of Directors of major companies, independent directors make up about half of the whole Board of Directors. Composition of boards of Directors, on average, 10.4; about 8% of Directors are women. About 28% of Directors constitute non-resident directors. Average number of meetings of the Board of Directors of the largest Russian companies is 23, including 9 – full-time, 14 – in the form of absentee voting. Attendance by directors is about 95%. The most common committees of the boards of Directors of the largest companies are the Audit Committee (average – 3.4), remuneration Committee (3.7), the Committee on nominations (3.6). This study allows evaluating the work of the Board of Directors at companies in terms of the introduction of the revised Russian Corporate governance code.

Keywords: Corporate governance code, Board of Directors, Supervisory Board, Board of Directors committee

RESUMEN:

O documento cobre o serviço do Conselho de Administração em empresas russas. O estudo é motivado pelo cumprimento do código de governança corporativa da Rússia (revisado em 2014), bem como pelos requisitos de troca para emissores. O estudo mostra que nos conselhos de administração de grandes empresas, os conselheiros independentes representam cerca de metade de todo o Conselho de Administração. Composição dos conselhos de administração, em média, 10,4; Cerca de 8% dos diretores são mulheres. Cerca de 28% dos diretores constituem diretores não residentes. O número médio de reuniões do Conselho de Administração das maiores empresas russas é de 23, incluindo 9 - em tempo integral, 14 - sob a forma de voto de ausência. A participação dos diretores é de cerca de 95%. Os comitês mais comuns dos conselhos de administração das maiores empresas são o Comitê de Auditoria (média - 3,4), Comitê de Remuneração (3.7), o Comitê de Nomeações (3.6). Este estudo permite avaliar o trabalho do Conselho de Administração nas empresas em termos de introdução do código de governança corporativa russo revisado.

Palabras clave: Code de gouvernement d'entreprise, Conseil d'administration, Conseil de surveillance, Comité du Conseil d'administration

1. Introduction

The key body of the company is a Board of Directors (a Supervisory Board). In the Russian legislation, it is regulated by the Civil Code of the Russian Federation and the Chapter 8 of the Federal law "On a joint-stock company" (Civil Code, 1994; Federal Law, 2016). An appropriate attention is given in the (Russian Corporate governance code, 2014; Bank of Russia, 2014).

International principles of corporate governance set out in "G20/OECD Principles of Corporate Governance" (G20/OECD Principles, 2016), which identifies key elements corporate governance structure and offers practical guidance for their application at the national level.

In Russian practice, the terms "Board of Directors" and "Supervisory Board" are used as synonyms. The main function of the Board of Directors is to provide guidance to the activities of the chairmanship of the company, in contrast to the leadership of the current figure, which is carried out by executive bodies (Federal Law, 2016; Bocharova, 2014). Board of Directors has monitoring powers, engaged in the planning of activities of the company, implements the decisions of the general meeting of shareholders. The general meeting of shareholders shall not have the right to discuss and take decisions races on matters within the powers of the Board of Directors (Federal Law, 2016; Rymanov, 2014). In Russian law is a characteristic feature of legal regulation of the activities of a Board of Directors (a Supervisory Board). This is evident in the implementation of the direct governance and control that went even in a double title (Dolinskaya, 2008).The legally defined conditions, when the creation of the Board of Directors of the company is optional:

- 1) The number of owners of voting shares is less than 50;
- 2) Specifying in the Charter that the general meeting of shareholders executes the functions of the Board of Directors.

For the effective governance of the company, the members of the Board of Directors must possess the knowledge, experience and skills for proper decisions. Therefore, the company Charter may contain specific provisions to their professional competence and experience.

2. Methods and Techniques

The study used the following methods and techniques: benchmarking, comparative study, case study, qualitative analysis.

3. Results and Discussion

3.1. Composition of the Board of Directors

Member of the Board of Directors (Supervisory Board) can be only a person, he may not be a shareholder of the company (Federal law "On joint-stock company," Article 66). There are a number of statutory provisions for entry into the Board of Directors (supervisory boards). So, prohibits participation of a public servant on a paid basis, as well as members of the auditing Committee of the company. The Russian Corporate governance code recommends not electing to the Board of Directors the applicant from a rival company.

The Russian Corporate governance code (Russian Corporate governance code, 2014) recommends the following ways and mechanisms for practical implementation of the principles of corporate governance in the functioning of the Board of Directors (table 1).

Table 1

The Board of Directors in the Russian Corporate governance code

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Corporate governance principles	Recommendation of ways and mechanisms for practical implementation of the principles of corporate governance
<p>1. The Board of Directors implements key functions: provides strategic management, defines the main principles and approaches to the risk management system and internal control, supervises the activities of executive bodies, etc.</p>	<p>1.1. The Board of Directors is responsible for the appointment and dismissal from their posts of executive bodies, carries out the control of the executives with a view to match development strategies of the company.</p>
	<p>1.2. The Board of Directors shall establish the basic long-term guidance of the company, evaluate and adopt key performance indicators and key business objectives, evaluate and to approve the strategy and business plans on core activities.</p>
	<p>1.3. The Board of Directors shall define the principles and approaches to risk management and internal control systems.</p>
	<p>1.4. The Board of Directors shall determine the policy on remuneration and reimbursement (compensations) of Directors and managers(members of the Board of Directors, Executives).</p>
	<p>1.5. The Board of Directors must play a key role in the prevention, detection and resolution of internal conflicts.</p>
	<p>1.6. The Board should play a key role in ensuring transparency, timeliness and completeness of disclosure, shareholders' access to documents.</p>
	<p>1.7. The Board of Directors shall exercise control of corporate governance practices.</p>
<p>2. The Board of directors should be accountable to the shareholders of the company.</p>	<p>2.1. Information on the work of the Board of Directors must be disclosed to shareholders.</p>
	<p>2.2. Chairman of the Board of Directors must be available for communication with shareholders.</p>
<p>3. The Board of Directors must be efficient and professional management body, able to make independent judgments and take decisions in the best interest of the company and shareholders.</p>	<p>3.1. Member of the Board of Directors is encouraged to elect a person with an impeccable reputation, and has the necessary qualifications for the purposes of taking decisions.</p>
	<p>3.2. Election of the members of the Board of Directors shall be carried out through a transparent procedure enabling shareholders to obtain information about the candidates, sufficient to generate perceptions of their personal and professional qualities.</p>
	<p>3.3. The Board of directors should be balanced and enjoy the confidence of shareholders.</p>
	<p>3.4. The number of members of the Board of Directors of the company shall give the opportunity to organize the activities of the Board of Directors in the most efficient manner, including the establishment of committees of the Board of Directors, as well as to ensure a significant minority shareholders the opportunity to elect to the Board of Directors of their candidate.</p>
	<p>4.1. Chairman of the Board of Directors is elected independent Director. As an</p>

4. Chairman of the Board of directors should facilitate the effective exercise of the functions of the Board of Directors.	alternative – is determined by the senior independent Director, coordinating the work of independent directors and interacts with the Chairman of the Board of Directors.
	4.2. Chairman of the Board of Directors shall ensure a constructive atmosphere of the meetings, the monitoring of implementation of the decisions taken.
	4.3. Chairman of the Board of Directors shall ensure the timely provision of the necessary information to members of the Board of Directors.
5. Members of the Board of Directors must act in good faith and reasonably in the interests of the company and shareholders.	5.1. Reasonable and good-faith actions of members of the Board of Directors assume decision-making in the absence of conflict of interests and of equal treatment of shareholders.
	5.2. The rights and obligations of the members of the Board of Directors must be present in internal documents.
	5.3. Members of the Board of directors should have enough time to perform their duties.
	5.4. All Board members must be able to access internal documents. The newly elected members of the Board of Directors must be given the necessary information.
6. The Board of Directors shall ensure that the assessment of the quality of the work of the committees and the members of the Board of Directors.	6.1. Performance evaluation of the Board of Directors must be designed to meet the needs of company development, revitalizing the work of the Board of Directors and identify areas that its activities could be improved.
	6.2. Assessment of the work of the Board of Directors, committees and Board members should be periodically: internal – every year, external – every three years.

Members of the Board of Directors are classified according to three categories: Executive, non-executive and independent. An independent Director is a member of the Board of Directors, is not and never was within one year preceding the adoption of the decision (Moscow Exchange, 2016): The person serving as the company's sole executive body, including his Manager, a member of the collegial executive body, person holding posts in the administration of the management of the Organization; A person, spouse, parents, children, siblings and half siblings, adoptive parents and adopted children which are not the persons occupying positions in these bodies, the company's management, the managing organization of the company, or are managing the company; The person controlling the company (or the person controlling the administering Organization) in the status of the individual executive body of the company).

The notion of an independent Director supplemented by the Russian Corporate governance code (Table 2).

Table 2
Independent directors in the Russian Corporate governance code

Corporate governance principle	Recommendation of ways and mechanisms for practical implementation of the principle of corporate governance
	1. An independent Director to recognize a person who is capable of forming its

The Board of directors should consist of a sufficient number of independent directors.

own position to make objective and good-faith judgment, independent from the influence of the parties concerned (the executive bodies of the company, individual groups of shareholders). Cannot be considered as an independent candidate, which is associated with the company, its substantial shareholder, substantial counterpart or with the State.

2. It is recommended to assess and monitor compliance of candidates for the Board of Directors independence criteria.

3. Independent Directors shall be not less than one third of the members of the Board of Directors.

4. Independent directors should play a key role in preventing internal conflicts and significant corporate actions.

Composition of the Board of Directors of the largest Russian companies (100 largest Russian companies whose shares are listed on the Moscow stock exchange) in 2015-2016 is presented below (table 3).

Table 3
Composition of the Board members of the largest Russian companies

Directors	2015	2016
Independent directors	25%	35%
Non-executive directors	60%	50%
Executive directors	15%	15%

A half of the composition of the Board of Directors comprises of non-executive directors. Independent directors make up about a third of the whole Board of Directors (Kuznetsov, 2016).

Composition of boards of Directors, on average, 10.4; about 8% of Directors are women. About 28% of Directors constitute non-resident directors (Kuznetsov, 2016).

3.2. Meetings of the Board of Directors

The Russian Corporate governance code recommends the following ways and mechanisms for practical implementation of the principles of corporate governance in the functioning of Board meetings (table 4).

Table 4
Board meetings in the Russian Corporate governance code

Corporate governance principle	Recommendation of ways and mechanisms for practical implementation of the principle of corporate governance
	1. Meetings of the Board of Directors is recommended as necessary.
	2. It is recommended to develop and consolidate the internal documents of the procedure for the preparation and conduct of meetings of the Board of Directors.

Meetings of the Board of directors should ensure its effective operation.	3. The form of the meeting of the Board of Directors shall be determined taking into account the importance of the issues on the agenda. The most important issues should be addressed in face-to-face meetings.
	4. Decisions on the most important issues are advised to take at a meeting of the Board of Directors adopted by a qualified majority or by a majority vote of all the members of the Board of Directors.

Meetings of the Board of Directors of the largest Russian companies (100 largest Russian companies whose shares are listed on the Moscow stock exchange) in 2015-2016 is presented below (table 5).

Table 5
Meetings of the Board of Directors of the largest Russian companies

Form of meetings	2015	2016
Face-to-face	11	9
Absentee voting	9	14
Total	20	23
Attendance	93%	95%

Total number of meetings of the Board of Directors for 2015-2016 increased from 20 to 23. The number of face-to-face meetings has decreased, in the form of absentee voting - increased. The level of attendance of meetings increased slightly.

3.3. Board Committees

One of the important tasks of the Board of Directors is to select committees. For international corporations, almost all boards have audit committees and remuneration committees, which perform the function of monitoring. The Russian corporate governance code recommends that the Board of Directors approves the internal document, which provides for the procedure for the formation and work of the committees. The most common are: Audit Committee, remuneration Committee, nomination, Executive, financial, strategic planning, external relations and Social Affairs, ethics and performance requirements of the legislation, social programs, human resources, crisis management, environmental policy (Makarova, 2015).

The Russian Corporate governance code recommends the following ways and mechanisms for practical implementation of the principles of corporate governance in the functioning of Board committees (table6).

Table 6
Board committees in the Russian Corporate governance code

Corporate governance principle	Recommendation of ways and mechanisms for practical implementation of the principle of corporate governance

The Board of Directors shall establish committees for the preliminary consideration of the most important issues of the company.	1. To monitor the activities of the company are encouraged to establish an Audit Committee composed of independent directors.
	2. To generate remuneration practices, it is recommended to create a compensation committee composed of independent directors and chaired by an independent director, non-Chairman of the Board of Directors.
	3. For the implementation of human resources planning, it is recommended to create the nomination Committee (assignments, personnel), the majority of whose members shall be independent directors.
	4. Depending on the scope and level of risk, it is recommended to create any other committees of the Board of Directors (strategy Committee, the corporate governance Committee, the Ethics Committee, risk management committee, the Committee on Budgets, the Committee on health, safety and the environment, etc.).
	5. It is recommended that the committees determine to hold an in-depth discussion of issues.
	6. The Chairmen of the committees regularly inform the Board of Directors on the work of its committees.

Committees of the Board of Directors of the largest Russian companies (100 largest Russian companies whose shares are listed on the Moscow stock exchange) in 2015-2016 is presented below (table 7).

Table 7
Committees of the Board of Directors of the largest Russian companies

Committee	2015	2016
Audit Committee	3.6	3.4
Remuneration Committee	3.6	3.7
Committee on nominations	3.6	3.6

4. Conclusion

In the first years of application of the revised Russian Corporate governance code (2014) in the boards of Directors of major Russian companies indicated a high level of compliance with its recommendations.

A half of the composition of the Board of Directors comprises of non-executive directors. Independent directors make up about a third of the whole Board of Directors. Composition of boards of Directors, on average, 10.4; about 8% of Directors are women. About 28% of Directors constitute non-resident directors. Total number of meetings of the Board of Directors for 2015-2016 increased from 20 to 23. The number of face-to-face meetings has decreased, in the form of absentee voting - increased. The level of attendance of meetings increased slightly. The number of members of the committees for the 2015 and 2016 years changed slightly: the average number of Directors of the Audit Committee has decreased slightly (from 3.6 to 3.4), average number of Directors of the remuneration Committee increased slightly (from 3.6 to

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