CORPORATE GOVERNANCE OF NON-LISTED COMPANIES FOCUS GROUP MEETING
2 December 2005, Paris

AGENDA

Chairperson: Mats ISAKSSON, Head of Corporate Affairs Division, OECD

9h30 : Opening remarks[1], key objectives *by Mats ISAKSSON, OECD*

Background: The Synthesis Report from the April 2005 International Experts Meeting on Corporate Governance of Non-Listed Companies (NLCs) serves as the main anchor for this discussion. On this basis, the OECD Secretariat has narrowed the focus of this meeting to address the specific issues below.

The expected outputs from the meeting are:
(i) Framework of issues for future research - this will contribute to recommendations for policy-makers on how to improve the corporate governance of non-listed companies thereby facilitating growth.
(ii) Menu of issues/questions for Regional Corporate Governance Roundtables to consider.

10h00 : Session 1: Legal framework and decision-making processes

Kick-off by *Eric VERMEULEN, Professor, Center for Company Law Private Law, Netherlands*

Comments by *Sumant BATRA, Senior Partner, Kesar Dass B & Associates, Advocates & Solicitors, India*

OPEN DISCUSSION

Background and issues for discussion: As mentioned in the Synthesis Note (pages 4 and 8), in view of the complex legal framework for companies (e.g. in the law, regulations, policies, procedures, and codes) there is a need to offer clear and simple legal rules. Also, NLCs employ different legal forms that determine their governance structures. In some cases, there is joint management without a board while other business forms require a two-tiered board system. One also needs to keep in mind the distinction between non-listed public and private companies, which due to the number of shareholders may be subject to different requirements.

(i) Considering recent corporate law reforms in some OECD countries (e.g. UK, Netherlands), how do company law and different legal forms compare across countries in structuring internal corporate governance mechanisms of NLCs: management and oversight, as well as limitation of liability of individual board members/management? What benefits and costs are brought by standardising through the law versus through contracts and what are the implications for policy-makers?
(ii) What legal remedies are available to non-controlling shareholders to protect their rights, including exit, and how can these rights be enforced? What are the implications for policy-makers?

11h30 : Coffee break

[1] After the introductory remarks, all participants will be invited to introduce themselves, including mentioning their interest in corporate governance of non-listed companies. Also, while introductory speakers are designated to launch the discussion of each item, most of the time will be dedicated to an informal exchange among all participants.

12h00 Session 2: Transparency and disclosure

Kick-off by *Badri EL MEOUCHI, Co-Executive Director, Lebanese Transparency Association, Lebanon*

Comments by *Leo GOLDSCHMIDT, Director, European Corporate Governance Institute (ECGI), Belgium*

OPEN DISCUSSION

Background and issues for discussion: As indicated in the Synthesis Note (page 6), providing non-controlling shareholders with full and timely access to information would enhance the governance of NLCs and facilitate access to finance. The debate remains on what should be voluntary and mandatory.

(i) How do financial and non-financial information requirements differ across countries between listed and non-listed companies? What are the costs and benefits of these requirements? What is, or should be, the role of securities regulators in these jurisdictions?
(ii) What information should ultimately be provided and at what level to non-controlling shareholders?
(iii) Do the solutions for dealing with abusive related party transactions and disclosure of beneficial ownership differ for NLCs?

13h30-15h00: Lunch

15h00 Session 3: Ownership structures and financing

Kick-off by *Fernando LEFORT, Professor, Universidad Católica, Escuela de Administracion, Chile*

Comments by *Jean-Bernard THOMAS, Chairman, Corporate Governance Task Force, EVCA, France*

OPEN DISCUSSION

Background and issues for discussion: As mentioned in the Synthesis Note (page 4), ownership and compensation schemes also depend on how the company is financed whether it is through the family/ industrial firm, bank finance or private equity. Preliminary research indicates that more information symmetry between controlling shareholders and management helps to create a secure and stable environment for long-term investment strategies. Furthermore, bank finance as structured through debt contracts, can also create incentives for management to ensure the aforementioned information symmetry and consequently improve the company's ability to meet debt repayment.

(i) What are the implications across countries of the different financing options on ownership structures, and what are the consequences for corporate governance practices, i.e. incentives for management, (potential) conflicts of interest, and the role of investors/creditors on boards?

16h00 : Coffee break

16h30 Session 4 : Future direction of work *by Fianna JESOVER, Administrator, OECD*

OPEN DISCUSSION

17h30 Wrap-up