



## COLOMBIA STOCK EXCHANGE SUMMARY

### LATIN AMERICAN ROUNDTABLE ON CORPORATE GOVERNANCE: FINAL COMMENTS AND CONCLUSIONS

#### **Background:**

We are in the process of building more efficient, liquid and interconnected markets. Experience has shown that financial markets give preference to companies that have the best corporate governance and information disclosure practices, and it is therefore important to create a culture of corporate governance in Latin America.

Colombia is in a privileged position, as it enjoys the strongest growth rate in Latin America and has one of the highest levels of investment in the region.

The foregoing can be attributed to a joint effort on the part of the public and private sectors, which has allowed companies (the driving force in the economy) to achieve outstanding levels of growth.

Growth, accompanied by implementation of best practices in information disclosure and corporate governance on the part of registered issuers, has attracted new foreign investors to the country, and their share of total trading has risen from less than 1% in 2006 to 26% in 2014.

#### **MILA (Latin American Integrated Market)**

Given the good times that Colombia in particular and the region in general are enjoying, everyone has an eye on this market.

The Pacific Partnership (*Alianza del Pacífico*, a trade integration initiative), and MILA (initiative for a regional capital market) to a lesser extent, are evidence of this fact.

The globalisation of markets has meant that corporate governance and information disclosure standards have been rising. It is the investors themselves who determine the quantity and quality of the information that must be disclosed.

This new openness and the interest sparked by these initiatives entail many benefits, but also challenges and responsibilities:

- To develop the region's capital markets, recognising that bank liquidity will not last forever and that companies in the region are highly dependent on bank financing for their projects.
- To ensure the liquidity of securities issuers in the region.

- To continue efforts to build trust between regulators, exchanges, deposit holders and investors in each of the member countries.
- To continue fostering relations of trust with the investment community, by guaranteeing the same level of sufficiency in terms of information disclosure, regardless of where that information is generated, and applying best practices in corporate governance throughout the region, so that it can grow in a sustainable manner.
- The need for a single resolution mechanism: the valuation of assets must be the same, whatever the country of origin.
- The need to develop supervision based on risks and not on compliance, as the latter approach has revealed important weaknesses that became especially evident during the crisis.
- Avoiding regulatory arbitrage.

In our region we are similar but we are not the same. We must recognise that there is no "one-size-fits-all", and to homogenise regulation across the region is not necessarily the best route to take. What we need to do is to find critical points on which we can develop common practices in the area of corporate governance and information disclosure.

### **Company groups**

These are a reality in the country and in the region, and much of the region's stock market capitalisation is concentrated in conglomerates. This has brought with it the development of best practices in corporate governance and information disclosure in those groups and their affiliates.

There are however many challenges:

- Further work is needed to develop mechanisms for protecting minority shareholders.
- We must continue to search for mechanisms that avoid potential conflicts of interest between holding companies and their affiliates, or to implement arrangements for remedying them.
- The existence of transnational company groups demands the development of national regulatory frameworks that minimize arbitrage through convergence and/or harmonisation of countries' regulatory frameworks.
- The role of the boards of company groups needs to be developed.
- We must continue working on risk-based supervision.

We need to address market imperfections that encourage the creation of company groups, such as a weak institutional framework, lack of rules, lack of financing methods, and inefficient tax policies.

It is important to be proactive and not reactive, in light of the economic situation in the region. As we saw during the presentation, Israel is an example of how a proactive regulatory approach can yield benefits for the country.

A large part of the region's economy is composed of state-owned enterprises. This is important, and we need to improve corporate governance practices in those companies and to keep separate the state's roles as regulator and as investor.

We need to implement mechanisms to enhance supervision by regulators, through strategies such as increased protection for regulatory and supervisory institutions and financial superintendencies, among others.

We must find the optimal point between those aspects that must be regulated and those that companies should voluntarily adopt. Experience has shown the importance of examples and recommendations relating to good corporate governance practices.

### **Bond issuers**

Fixed-income instruments are those most widely used to finance the country's and the region's businesses, in which ownership is typically family-based and highly concentrated.

Good corporate governance will not by itself guarantee the success of an issue, but experience shows that investors recognise the implementation of good practices and information disclosure, and this can translate into lower financing costs.

The main challenges facing the region are these:

- Provide corporate governance training for small and medium-sized enterprises in the region in order to enhance their access to financing on the capital market.
- Ensure that the various players (investment bankers, institutional investors and risk rating agencies) include corporate governance issues in their evaluations, and that they help companies prepare themselves in this area when they turn to the market.
- Work to improve capital market access for companies with ratings below AAA, by guaranteeing high standards of information disclosure and corporate governance.

### **Break-out sessions**

#### **1. Shareholder rights and equitable treatment:**

Chapter 1. The corporate governance framework must promote transparent and efficient markets. It must be consistent with the law and must guarantee effective oversight and application of the principles.

The main challenges are:

- The regulator must have the power to enforce the rules and punish violators.

- The regulator must be independent operationally and in its budget.
- The sharing of information among regulators and supervisors is essential.
- It must be recognised that different companies require different rules, but this must not be an excuse to evade the minimum rules that all must obey.
- The regulator must have sufficient flexibility to deal with changing circumstances.

Chapter 2. The corporate governance framework must protect shareholders' rights and facilitate their exercise, including those of minority and foreign shareholders. All shareholders must have the opportunity to obtain effective compensation for violation of their rights.

The main challenges are:

- Oversight institutions must have full powers to enforce penalties.
- Specialised courts are needed to deal effectively with securities market cases, and to resolve disputes.
- The specialised courts must be independent of the traditional enforcement system.
- There must be effective mechanisms for proxy voting.
- Means of recording and keeping the minutes of meetings.
- The concept of related party transactions needs to be spelled out more thoroughly.

Chapter 3. The corporate governance framework must provide a robust system of incentives for participants in the value chain so as to ensure that stock markets function in ways that will contribute to good governance.

The main challenges are:

- To keep up the good work that stock markets have historically performed in promoting good corporate governance practices.
- To generate more discussion on insider trading.
- To establish an effective disciplinary system.
- To generate greater discussion on conflicts of interest on the part of portfolio administrators.
- To act appropriately in the interests of the real beneficiaries of the administered portfolios.

## **2. Information disclosure and stakeholder rights: Chapters 4 and 5**

In general, Colombia and the region have made significant progress with information disclosure.

Main challenges:

- There is still room to define what, how, when and how much to report.

- Continue efforts to ensure that companies use their webpage as a disclosure and reporting mechanism, with emphasis on the preceding point.
- Focus not only on the quantity but also on the quality of the information disclosed. All relevant information must be published, including on transactions conducted within the group.
- Countries should move forward in integrating the various sources and channels of information.
- The principles must continue to seek equality of treatment as it relates to the different classes of shareholders.

### **3. Responsibilities of the board. What are the essential policies? Chapter 6**

The OECD principles set forth in detail the main functions of the Board of Directors, but there are some important challenges due to the complexity of applying the general principles to each firm in its specific context.

Main challenges:

- The intake of new members must be understood as a strategic process, a succession plan, starting with definition of the required profiles, selection, induction, training, evaluation and removal of board members.
- The establishment of risk and audit committees must be based on the company's strategy, and their principal objective is to carry out the work assigned by the board.
- Understand that the complications inherent in applying the principles to each type of company lie not only in the size of the company but also in the context and the particular characteristics of each company.
- The principles should clearly stipulate the main functions of the board and the roles of its members, leaving it to each company to add the respective details, with a view to incorporating the corporate strategy into the board's work.