

Russia

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI about 24 companies in Russia as of 15 May 2008.

Shareowners face various challenges to their rights in Russia. Inconsistent law enforcement, growing state intervention in business, and challenges in corporate transparency are among the obstacles to stronger shareowner rights in the Russian market.

Among the rights shareowners do enjoy is the ability to call special meetings, although only if at the request of one or more shareowners holding a combined minimum of 10 percent of the voting rights. Furthermore, the Russian Federal Law on Joint Stock Companies provides those shareowners with 2 percent holdings the right to nominate their own candidates for election at both annual and extraordinary shareowners' meetings and to add items to the agenda of shareowners' meetings.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	32%	
What percentage of companies report significant related-party transactions (1% of revenue or more) within the last three years?	54%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	71%	Common in the Russian market
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	No	Never required
Are there share ownership limitations in this market?	Yes	New Russian legislation to supervise foreign investment in the mining and resource sectors sets out a list of 42 sectors designated as strategic and also sets quantitative thresholds for oil, gold, and gas.
Are there [other] common restrictions on the rights of shareowners to vote in person or by proxy?	No	Proxy voting is unrestricted.
Do companies adhere to a majority voting standard in the election of board members?	Mostly, yes	This practice is not a legal requirement, but many companies have adopted majority voting.
Do companies allow for cumulative voting in the election of board members?	Yes	A legal requirement in Russia
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or nonbinding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or otherwise?	No	These reports are not subject to shareowner approval.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or otherwise?	No	Equity-based incentive plans are not subject to shareowner approval.
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	This right is standard. Shareowners holding 2% or more of shares may add items to the agenda for shareowner meetings.
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	This right is standard. Shareowners holding a minimum of 10% of shares may call an extraordinary general meeting.
What percentage of companies include golden shares in their capital structure?	4%	Only 1 of the Russian companies researched for this manual has golden shares. The government of Tatarstan (a republic of the Russian Federation) holds a golden share in the oil and gas company Tatneft.
Are shareholder rights plans (poison pills) allowed in this market?	No	No companies have poison pills.
If shareholder rights plans are in use, do they have to be approved by shareowners?	NA	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	A legal requirement
Do companies require a supermajority vote to approve a merger?	Yes	The affirmative vote of the holders of at least 75% of the shares voting at the annual meeting is required to approve a merger.
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	If an investor intends to acquire more than 30% of company shares, including those owned before the intended acquisition, the investor may make a voluntary tender offer with a price set at the acquirer's discretion. If the 30% threshold is crossed without a voluntary tender offer, however, the acquirer is obliged to make a mandatory tender offer, which is subject to a fair price provision under applicable law.
Are class action suits commonly used in this market?	No	Current reforms to Russian corporate law include instituting class action suits.
Are derivative suits commonly used in this market?	Yes	

Current Engagement Practices and Shareowner Rights Developments

Shareowner activism is a much less important mechanism of corporate governance in Russia than it is in some other markets. The high degree of transparency from companies, the strong judicial or regulatory systems, and an independent media structure that such activism requires are limited in Russia. A number of successful actions, however—mostly by foreign institutional investors—have resulted in some significant changes in companies' corporate governance.

The best-known examples of shareowner activism in Russia are associated with the actions of the Hermitage Fund, a specialist in Russian investing that is believed to be playing a deliberate "media strategy." The Hermitage Fund has generated news in such reputable international business newspapers as the *Financial Times* and the *Wall Street Journal* about Russian corporate governance abuses. This strategy has proven successful because many investors outside Russia rely on such reputable international media to help form their opinions about companies. Moreover, recurrent exposure in the international press is likely to attract a regulator's attention to a corporate malfeasance and make the regulator take steps toward stopping it. The Hermitage Fund's success in drawing attention to—and in many cases, correction of—corporate governance abuses has been important; it includes revelations at Gazprom, Sberbank, and RAO UES.

Companies in Russia are subject to a fair price provision. In July 2006, two principal amendments addressing such provisions were made to the Federal Law on Joint Stock Companies. The first amendment introduced detailed rules for the procedures for, and the rights and obligations of, parties in a situation where an acquirer of a company crosses certain ownership thresholds (30 percent, 50 percent, and 75 percent of voting shares and preferred shares with vested voting rights). In short, if an investor acquires more than 30 percent of such shares, including shares owned before the current acquisitions, the investor may make a voluntary tender offer to other shareowners with a price set at the acquirer's discretion. If the 30 percent threshold is crossed without a voluntary tender offer, the acquirer is obliged to make a mandatory tender offer to all the other security holders. To ensure fairness, the price of shares set by the acquirer in such an offer must not be lower than the maximum of the average market price of shares over the previous six months and the price at which the acquirer has bought or committed to buy shares during the previous six months.

The second amendment introduced mechanisms for the buyout of securities from minority shareowners. Upon crossing a threshold of 95 percent of shares by a controlling shareowner, the remaining security holders may require that the acquirer purchase their voting shares and securities convertible into voting shares (a minority "put option") or the acquirer may require that the remaining security holders sell such securities to the acquirer (a minority "squeeze out"). This amendment also contains minimum price requirements that are intended to ensure that squeezed-out minority shareowners receive adequate compensation. To that end, the amendment allows controlling shareowners to eliminate potential conflicts with raiders simply by becoming a sole owner of the company.

Legal and Regulatory Framework

Key shareowner rights are contained in the Federal Law on Joint Stock Companies, which embodies all corporate laws and takeover provisions affecting Russian companies. The Federal Law is administered by the Federal Financial Markets Service (FSFM) and was amended in 1996, 1999, 2001, 2002, 2003, 2004, and 2006. The Federal Law initially emphasized minority shareowner protection and has continued to develop in this direction. The one share, one vote system is a standard requirement in Russia. Provisions for minority shareowners include protection against dilution; that is, decisions on large issuances of ordinary shares (more than 25 percent) require approval of 75 percent of shareowners. Also, amending the company's articles of association or approving a merger requires the affirmative vote of the holders of at least 75 percent of the shares voting at the annual meeting. A shareowner (or shareowners) of 1 percent of the company's shares may sue a board member/manager on behalf of the company for damages caused to the company by the board member's/manager's misconduct or inaction. Board members are subject to annual elections by all shareowners. New board members may be appointed to fill vacancies between

annual general meetings, but they must stand for election by shareowners at the next available general meeting. Shareowners cannot remove an individual board member; they can only dismiss the entire board. Poison pills are not used in Russia.

Recently, government intervention in Russian business has become significant. In April 2008, new Russian legislation was passed to supervise foreign investment in the mining and resource sectors. This legislation sets out a list of 42 sectors designated as strategic and requiring review by the Russian Foreign Investment Review Board (FIRB). Before a Russian company can sell its shares to foreign portfolio buyers, the FIRB must determine whether the foreign buyers are eligible. Foreign acquisition of more than 50 percent (a majority) of a company with reserves exceeding the thresholds is prohibited. The following thresholds were set: 490 million barrels for oil, 1.67 million ounces for gold, and 50 billion cubic meters for gas. A zero threshold was fixed for the mining of uranium, diamonds, quartz, cobalt, nickel, platinum group metals, beryllium, and lithium. Therefore, companies with, for example, mining in the “zero threshold” fields are prohibited from having a foreign majority owner. These thresholds are important because Russia is one of the world's largest mineral producers and because raw metals and aluminum make up more than 60 percent of Russian exports.

According to the law, all foreign investors holding more than 5 percent stakes in Russian companies are obliged to report this fact to the Federal Antimonopoly Service within 180 days. A parallel review process also has been introduced for all Russian companies seeking to sell shares abroad. This review is broader in application than the strategic foreign investment regime. The new regulation—adopted by a decree of the FSFM—permits Russian companies to list for sale no more than 30 percent of their issued stock outside Russia.

The Ministry of Economic Development and Trade recently developed a thorough plan to reform Russian corporate law. Reforms include providing companies with the choice between a one-tier and a two-tier board, clarifying the concept of an independent board member and criteria of independence, and establishing the procedure for electing independent board members. The government has large stakes in many companies and plans to replace state officials on the boards of directors with independent board members. In July 2008, officials released the first lists of independent board members appointed to represent the state on the boards of directors in government-controlled entities.

Key organizations with information relevant to shareowner rights in Russia include the following:

Federal Financial Markets Service (formerly, the Federal Commission for Securities Markets) (www.fcsm.ru/eng/)

National Association of Securities Market Participants (www.naufor.ru)

National Council on Corporate Governance (www.nccg.ru/en)

Russian Trading System Stock Exchange (www.rts.ru)

Corporate Governance in Russia (Investor Protection Association) (www.corp-gov.org)

Russian Institute of Directors (www.rid.ru)