



# Translation and Corporate Governance in Russia

*By Megan Lehmann*

**When I was** preparing my presentation for ATA's Annual Conference in San Francisco last year, I got a lot of questions from family and friends. The lengthy title of the presentation (Translation and Corporate Governance in Russia) was more than a mouthful; it was also somewhat opaque. Most of the time, I found I had to explain a little about just what corporate governance involves, since it is not exactly the sort of thing most people discuss over a refreshing beverage.

tions that achieved new lows in corporate governance practices (and ethics!), ultimately inspiring regulatory bodies to draft today's much-loathed and much stricter regulations, such as the Sarbanes-Oxley Act of 2002 (SOX).

Corporate governance is essentially a system implemented to manage a company's management team and oversee company operations from a strategic viewpoint. Most corporate governance systems have a number of key internal

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In this article, I will attempt to present a very general overview of the corporate governance system in Russia in order to help translators who work with texts related to corporate governance gain a stronger understanding of the basic processes involved.

## **Corporate What?**

So what is it, anyway? Corporate governance is one of those things that, when performed well, goes mostly unnoticed by the general public. On the other hand, when it is implemented poorly or not at all, the result can be a far-reaching disaster the likes of Enron, WorldCom, and Arthur Andersen. These are three corpora-

and external players. Internal players include the shareholders, the board of directors and the chairman of the board, a number of committees that operate under the board of directors, the corporate secretary and the board's support staff, and the management board.

There are some differences between Russian (and actually most European) governance structures and U.S. governance structures. In Russian companies, the chief executive officer (CEO) is almost never the same person as the chairman of the board of directors. Instead, the CEO will serve as the chair of the management board, a management body that is separate from the board of

directors and reports to the board of directors. Generally speaking, most U.S. companies do not have a management board, and quite often the CEO and the chairman of the board is one and the same person.

External players include international rating agencies (which issue corporate governance scores in addition to credit and other ratings) and regulatory bodies. This includes the Securities and Exchange Commission in the U.S., and the Federal Financial Market Service in Russia. Legislation and financial and accounting standards also play a considerable role. External players oversee a corporation's compliance with national and/or industrial regulations, and corporate governance is in place to make sure that compliance issues do not get left by the wayside (mostly to avoid hefty fines, rather than for the sake of lofty ethical ideals).

Corporate governance may seem like a silly bureaucratic system. Someone makes up the rules, and then everyone (well, almost everyone) scurries around trying to make sure they are following the rules and producing reports demonstrating how obedient they are. However, following this system essentially protects and nurtures a shareholder's investments: the company's assets. It also protects the interests and rights of stakeholders by promoting transparency and diligent information disclosure.

### How Does It Work?

At the top of the corporate governance hierarchy, we have the shareholders. I should note that this is one of two common ways of looking at corporate governance. This model—the managerial theory—describes the general trend in Russia today better than the stakeholder theory, under which priority is given to all of a company's

stakeholders (i.e., all parties that hold an interest or are in any way affected by the company and its operations, including clients, counter parties, and the public). Because of the relatively recent transition to a market economy, the ownership structures of companies in Russia are somewhat different from that of U.S. companies. Russian companies tend to have very concentrated ownership structures, that is, only a handful of shareholders.

When Russian companies were privatized in the early 1990s, the ownership of company stock was officially

general meeting is called. Special general meetings may be called by the board of directors or another party. Usually a company's charter and bylaws will set out the parties entitled to call, attend, and vote at general meetings. In Russia, general meetings are called to address specific issues. Shareholders appoint the board of directors at the annual meeting, and they approve amendments to the charter and other internal regulatory documents. They may also approve transactions with interest, restructuring (mergers and acquisitions), or an

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transferred from the government to company managers, company employees, and federal and local government agencies. A power struggle followed, in which managers would pressure employees either to sell them their shares, or to use those shares to vote a certain way. Managers became the owners, creating conflicts of interest. Instead of making decisions that would best serve the company, these shareholding managers would often drive a company into the ground for their own profit. The financial crisis of 1998 leveled the playing field in the post-privatization economy, and corporate governance ideals slowly but surely began to take root.

In the corporate governance system, shareholders meet at least once a year at a general shareholders meeting. Shareholders may meet more than once if a special (or extraordinary)

increase or decrease in the company's authorized capital.

Next is the board of directors. Directors are appointed to serve as a fiduciary for the shareholders (i.e., a trustee who makes decisions on behalf of the shareholders in the interests of the shareholders). Directors have a duty of prudent care and loyalty in addition to their fiduciary function. There is usually a requirement that a certain number of directors on the board be independent, including the chairman of the board of directors. The number of directors who must be independent will be set out in the charter or the board regulations. There are several requirements that must be met in order to obtain independent status. Very broadly, an independent director must not have any affiliation—financial or other—with any of the company's related parties. ➡

Table 1

Resource	What you will find	Website
International Financial Corporation's <i>Russia Corporate Governance Manual</i>	A very useful English-into-Russian corporate governance glossary containing sample regulations, bylaws, and other internal regulatory documents (in English). Available from the International Trade Administration.	<a href="http://trade.gov/goodgovernance/CorpGovManual.asp">http://trade.gov/goodgovernance/CorpGovManual.asp</a>
Ernst & Young's English translations of Russian legislation	A searchable database of English translations of Russian legislation.	<a href="http://tax.eycis.info">http://tax.eycis.info</a> (registration required)
<i>Aktsionernoye obshchestvo Journal</i>	A Russia-based trade journal covering the latest developments in Russian corporate law.	<a href="http://www.ao-journal.ru">www.ao-journal.ru</a>
Institute of Corporate Law & Governance	A resource for recent developments in legislation and corporate governance, with links to useful reference information and documents.	<a href="http://www.iclg.ru">www.iclg.ru</a>
Corporate Governance in Russia	This website is sponsored by the World Bank/Organisation for Economic Co-operation and Development Russian Corporate Governance Roundtable, and features message boards, current events, and databases, including a database of Russian laws in English.	<a href="http://www.corp-gov.org">www.corp-gov.org</a>
National Council for Corporate Governance	The NCCG publishes a trade journal and white papers, in addition to sponsoring events to promulgate and recognize excellent corporate governance practices among Russian companies.	<a href="http://www.nccg.ru">www.nccg.ru</a>
Independent Directors Association	A trade association for members and chairmen of boards of directors and corporate secretaries that offers information and documents on standards, best practices, as well as seminars.	<a href="http://www.nand.ru/eng/index.php">www.nand.ru/eng/index.php</a>
Russia's Federal Financial Market Service	This federal executive body is sort of like the Russian equivalent to the U.S. Securities and Exchange Commission. Their website has a section on corporate governance in Russia. Russian and English versions are available.	<a href="http://www.fscm.ru/catalog.asp?ob_no=3604">www.fscm.ru/catalog.asp?ob_no=3604</a>
Organisation for Economic Co-operation and Development	Contains the <i>Principles of Corporate Governance</i> (official document).	<a href="http://www.oecd.org/dataoecd/32/18/31557724.pdf">www.oecd.org/dataoecd/32/18/31557724.pdf</a>
Sarbanes-Oxley Act	SOX, in all its glory.	<a href="http://www.pcaobus.org/About_the_PCAOB/Sarbanes_Oxley_Act_of_2002.pdf">www.pcaobus.org/About_the_PCAOB/Sarbanes_Oxley_Act_of_2002.pdf</a>
Combined Code on Corporate Governance	These are the official U.K. guidelines for corporate governance.	<a href="http://www.fsa.gov.uk/pubs/ukla/lr_comcode2003.pdf">www.fsa.gov.uk/pubs/ukla/lr_comcode2003.pdf</a>

In the U.S., it is traditional for a company's CEO to also serve as the chairman of the board of directors. In theory (and abundantly in practice) this leads to any number of conflicts

of interest. Since it is the board of directors' job to hire and dismiss the CEO, as well as other members of senior management, and to determine the levels of remuneration for upper

management (including the CEO), it is not difficult to imagine cases in which a CEO with very poor performance indicators retains his position and even gives himself a raise.

In contrast, in Russia (and in many European countries), this conflict of interest is dealt with by separating the board of directors from management. The CEO is the chairman of the management board, which acts as an entity separate from the board of directors. The management board's members will include a number of key members of senior management, but not all of them. In Russia's banking sector, for example, the Central Bank of Russia (sort of like the U.S. Federal Reserve) must first approve a manager's candidacy before the company may officially appoint him to sit on the management board.

The board of directors acts as a liaison between the shareholders and management. It oversees management, key strategies, and makes decisions on a variety of issues that are clearly defined as the responsibilities of the board of directors in the company's charter and/or bylaws. The board will form a number of different committees to deal with specific fields, such as audit, risk management, strategy, compensation, and others. These committees contribute to the board's efficiency by discussing issues and working out all of the bumps before the issues are submitted for review by the board of directors.

### Meetings!

There are lots of other meetings in addition to the annual general shareholder meeting and various other special shareholder meetings. While there are no hard and fast rules, an active management board will meet every week or once every two weeks. The board of directors will meet generally once a month, sometimes less, depending on a company's stage of development, and often board committees will meet before the board of directors.

In my experience, an unfathomable

quantity of documents is created for all of these meetings. That means a lot of translation work for companies that have bilingual boards. Management will prepare documents, reports, and presentations for items that are discussed at all of the different levels of meetings. These must be translated for directors who do not speak Russian. Meeting secretaries must also produce minutes, detailing meeting attendance, discussions, and the decisions made at each meeting. These also end up in a translator's inbox.

It can add up to an awful lot of translation to be done in a very short period of time. This is one particularly frustrating aspect of corporate translation work. There is a very high demand for enormous volumes by remarkably short deadlines. After slaving away for hours on a long development strategy or incentives policy, I have to admit it was a little demoralizing when one director would visit my desk after monthly meetings

rate governance. As a result, the structure of board membership has been gradually changing. The need for directors with independent status and expertise in audit, strategy, risk management, and other major fields that play a part in the corporate governance system has led many Russian companies to appoint foreign directors to their boards. Some of these foreign directors speak Russian, but often they do not. This is where translation comes in. Directors have a duty of care, which means that they must take all reasonable measures to be as well informed as possible about the company they work for. This helps ensure their ability to make sound decisions on behalf of the shareholders.

I suspect that my experience as an in-house translator working under the corporate secretary is not a very common one. All the same, freelance translators frequently deal with any number of different documents that are all somehow part of the corporate

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with a huge stack of translated documents marked for the shredder. All of that hard work went right into the garbage the very next day!

### Documents and Translation

The need to translate all of these many documents is relatively new. Over the past few years, Russian corporations have become more interested in adopting and adhering to international best practices in corpo-

governance system. You may run into anything from accounting policies to human resources policies. Many of us have seen annual reports, financial reports, auditor statements, memos, contracts, internal correspondence, budgets, and strategies—the list goes on and on.

This wide variety of documents means that translators working with corporate documents need to have a strong grasp of general financial and gen- ➡



eral legal terms. When translating for a regular client, either directly or through an agency, a translator will also benefit from preparing a glossary of terms specific to the company's sector: banking, oil and gas, mining, energy, etc. It is also ideal if you are able to get feedback and terminology support directly from your client.

Attending board committee meetings as a meeting secretary was invaluable to me, as it provided an opportunity to observe firsthand new terms and corporate buzzwords in use. However, given the confidential nature of most corporate documents, freelancers rarely have that kind of access. It is not uncommon for freelancers to be asked to sign a nondisclosure agreement for ongoing work of this kind.

### Translating Corporatese: Resources

Although corporate governance as we know it in the West is a relatively new field in Russia, there are several resources that translators can take advantage of, including official U.S. and U.K. documents in the field. In addition to the resources listed in Table 1 on page 24, I highly recommend using abridged CGS Reports (Corporate Governance Score Reports) published by Standard & Poor's (S&P) as parallel texts—S&P provides its own official translations. You may have to dig around a bit to find the English version, but they are usually available. Visit: [www.standardandpoors.ru](http://www.standardandpoors.ru) (you must register to gain access to their materials).

### Sign Me Up?

U.S. citizens (and other non-Russians) looking to live and work in Russia should be aware of the many recent changes in visa and work permit regulations for foreigners. The rules

have become stricter, and honest-to-goodness work permits are gradually becoming the norm. These days, people who hold business visas may not stay in the country for more than 90 days at a time, and you must hold a business visa in order to obtain a work visa. You must undergo medical exams (including for leprosy) and blood work—including drug testing—and submit the test results. Many companies will not accept test results issued by medical institutions located outside of Russia. Before

you apply for a work visa, your company must obtain permission to hire a foreigner. If your company is granted a permit to officially hire you full-time, then you may work legally—for that company only. It is a formidable and costly process, and not all companies are willing to make the effort. The regulations change so often that companies themselves frequently do not know the proper procedures du jour.

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## Want to Learn More?

**Central Bank of Russia**  
[www.cbr.ru/eng](http://www.cbr.ru/eng)

**Corporate Governance Score Reports—Standard & Poor's**  
[www.standardandpoors.ru/page.php?path=enggovlist](http://www.standardandpoors.ru/page.php?path=enggovlist)  
[www2.standardandpoors.com/spf/pdf/products/CGSCriteria.pdf](http://www2.standardandpoors.com/spf/pdf/products/CGSCriteria.pdf)

**Federal Financial Market Service**  
[www.fcsr.ru/eng](http://www.fcsr.ru/eng)

**Sarbanes-Oxley Act of 2002**  
[www.sec.gov/about/laws.shtml](http://www.sec.gov/about/laws.shtml)  
[www.sec.gov/news/studies/principlesbasedstand.htm](http://www.sec.gov/news/studies/principlesbasedstand.htm)

**Securities and Exchange Commission**  
[www.sec.gov](http://www.sec.gov)