

Non-technical summary for *Securities laws enforcement in transition countries* (by Uldis Cerps, Greg Mathers and Anete Pajuste)

This paper studies securities laws and their enforcement in 28 transition countries from Central and eastern Europe (CEE), South-eastern Europe (SEE) and the Commonwealth of Independent States (CIS). The methodology used in this research is unstructured personal and email interviews with the government agencies in charge of supervising stock markets and a review of their publications.

The authors argue that two key conditions for good enforcement are *predictability* and *common sense*. First, the laws that matter for any involved party should be enforceable and market participants should be able to predict the outcome of the law enforcement process and price it respectively. Second, the law enforcer should use common sense and not follow blindly the letter of law, but keep in mind that besides the literal interpretation of the law there are also other methods which aim to establish the purpose of the respective legal norm. This is especially important in cases where literal interpretation results in absurd outcomes which contradict common sense. By common sense the authors also mean that the law enforcer shall provide appropriate feedback to the law maker and foster the change of such law which by its implementation causes adverse effects to market participants.

The enforcement challenges facing the transition countries are summarized in the following eight lessons:

- the cultural dimension should be taken into account,
- good laws may have adverse short-term effects,
- criminal liability for securities-related offences should not be introduced too early in transition,
- self-regulation can play a substantial role,
- there is a trade-off between confidentiality and transparency,
- sometimes there needs to be protection against minority shareholders,
- good enforcement can foster efficient out-of-court settlements,
- there is a strong need to raise the professional capacity of the court system.

The policy implications are as follows. Securities laws in transition countries become more stringent as they strive to meet international “best-practices”. In this process, it appears inevitable that, given the low risk tolerance level of the societies in transition, the number of listed firms may decrease in the short-term. This should not move the countries away from the long-term goal of complying with the “best-practices”, although common sense in adapting them to local situation is important; the implication being that legal reform cannot be done in haste. The research highlights the often low professional capacity of the judiciary systems in dealing with more complicated securities-related cases. In this context, the paper calls for the establishment of designated financial markets courts. Finally, the paper emphasizes the role of the securities markets supervisor in assisting the judiciary and setting the precedents for more complex securities-related cases.

Key words: transition economies; corporate governance; law enforcement