IOSCO Task Force on Cross Border Regulation

London Industry Meeting held on 25 April 2014 at the offices of UK FCA

Summary of discussion

Introduction
The Chair (Ashley Alder) welcomed and thanked all participants for attending the meeting and the UK FCA for hosting the meeting.

The Chair said that the objective of the TF is to gain more certainty regarding the toolkit of cross border approaches which securities regulators can use to deal with a range of cross border issues. In addition, the TF would like to lay a foundation for the issue of guidance on the toolkit comprising a description and purpose of those tools and how they may be broadly applicable with regard to different cross-border activities. There may be suggestions on how to use the toolkit in a way that minimises unnecessary conflict and promotes consistency, while recognising that there will not be a frictionless global regulatory system.

The Chair summarized 8 main cross border regulatory challenges from a regulators perspective, based on a survey of IOSCO members in December 2014:

(i) There are few, if any, universal principles that guide the way regulators coordinate on cross border regulation. National laws predominantly govern cross border interactions. As IOSCO is not a treaty-based organisation and cannot legally bind members, members rely on a patchwork of relationships including bi-lateral agreements between regulators to facilitate cross border activities. Politics, legislation and sovereignty affect how cross border issues are addressed.

(ii) Lack of legal certainty on cross border interactions and no early warning system on whether a national regulator's rules may have a cross border element.

(iii) Issue of trust. Few jurisdictions are comfortable in deferring to a foreign regulatory framework due to a lack of data and experience. Even if the rules are identical in both jurisdictions, there is a need for credible supervision and enforcement before a jurisdiction may consider deferring to another jurisdiction's set of rules.

(iv) Definition of international standards. It is not clear what international standards mean in different jurisdictions. Regulators in more advanced markets find such standards less useful and difficult to implement as many of these standards are not sufficiently detailed or granular. There are also issues regarding the consistent interpretation of international standards. On this point, there is a discussion on whether there should be minimum or maximum standards and the issue of jurisdictions adding to or 'gold-plating' the standards, which adds complexity.

(v) Lack of consensus on the criteria for assessment or basis of comparability of a foreign jurisdiction's rules. For example there is still an ongoing debate about what 'similar outcome' means.

(vi) There is a lack of clarity in identifying the regulator responsible for supervision and enforcement of different cross border activities and the firms involved. Consequently, there has been a drift or trend towards fragmentation of markets and localization.

(vii) Insufficient access by regulator to overseas data and documents – due to data protection, privacy laws, client confidentiality, legal professional privilege etc. which block information being shared with other regulators, including key supervisory information.

(viii) The application of extraterritorial rules from developed jurisdictions in developing countries – issue of one-size fits-all being inappropriate for jurisdictions with differing levels of development.

Regulators had a range of suggestions regarding the role of IOSCO in cross border activities including issuing guidance on ways to carry out comparability assessments, being a platform for discussion and negotiation and advancing better coordination over the cross border supervision of firms operating globally.

The Vice Chair (Anne Lachat) added that the TF will review the cross border tools to evaluate what are the costs and benefits of the various tools and see how this may help regulators strike an appropriate degree of domestic regulation and decide whether it is feasible to rely on or trust a foreign regulatory framework. Participants were encouraged to share specific tools or approaches, backed up by examples across all business lines, not just derivatives.

Next steps
The TF will target to issue a public consultation paper in the second half of 2014. The FSB expects the TF to provide some form of report by the G20 Summit in Brisbane in November 2014. The TF will consider preparing an interim progress report for this purpose.

Summary of key topics discussed:

1. Most successful / least successful examples of cross border approaches from industry perspective

Successful examples

Participants shared the following views on successful examples of cross border regulatory initiatives:

i. **UCITS funds** have been successfully marketed around the EU. This is one of the most successful forms of EU regulation. Under UCITS IV, it is easier to market funds in the EU. The directive clearly splits responsibilities between the home and host state. UCITS products have been successfully globalised (e.g Hong Kong and Singapore recognise UCITS products) and this shows a level of trust between home and host regulators. What is essential for the continued success of this initiative is for regulators to continue to talk to each other. When UCITS allowed the use of derivatives, this made a number of regulators uncomfortable due to a lack of communication.

ii. **Intra regional cross border approaches** are generally successful (e.g. passporting program within EU and Asia as well as the Hong Kong and Mainland China mutual recognition proposal). The **EU rules on harmonization of**

legislation and passporting does work and is a good example. It was observed that as harmonization progresses, there has been less need for detailed rules and been more flexibility in the scope of the rules. It was observed that there is less mutual recognition or passporting between continents.

iii. **Equivalence assessments** - FINMA has developed efficient principles based on presumption. For example, under MiFID rules on prudential equivalence, it is necessary for a third country to have a prudential regime. Rather than undergoing a rule by rule analysis to satisfy the equivalence assessment, if a foreign jurisdiction is a core member of a standard setting group and has undergone a peer review and implemented the appropriate standards / regulation, it is presumed to be equivalent. A BCBS member that has undergone a FSB peer review should qualify. This approach e.g. reviews by the IMF and FSB is more efficient and could be used in other areas, not just in derivatives.

The Chair commented that for Asia, most cross border assessments to date are made against domestic EU and US law and in significant detail, which usually ends up being negotiated. When equivalence assessments are being carried out, relatively few comparisons are made against international standards and there is hardly any reference to IMF FSAP reports. The Vice Chair said that in general, the international standards lack sufficient detail which makes a peer review difficult.

iv. A participant from a global CCP observed that **complying with registration and reporting requirements in home and host jurisdictions can be done**. It becomes costly if the regulator insists on the firm having a **physical presence in the jurisdiction**. As regulators are protecting their own domestic jurisdictions, they are only going to provide forms of exemptive relief to firms if the international rules and standards are sufficiently granular / detailed so that they are comfortable deferring to the rules of the home regulator. In one jurisdiction, it was noted that one of the conditions for a CCP to apply for exemption is for the cost of regulation to outweigh the benefits, although the regulator has not yet determined how this can be assessed.

v. A successful example of regulators coming together to discuss implementation of cross border principles would be the **margin rules on non-centrally cleared derivatives**.

vi. The CPSS-IOSCO PFMI principles were another example of a successful global approach. In the derivatives space, a preference was expressed for a **mutual recognition approach based on strong international standards**. The PFMI principles are general in nature and as such, individual jurisdictions have implemented the principles in slightly different ways which creates a framework of mutual recognition with conditions. It was important for the conditions to be assessed using an outcomes based approach.

Least successful examples

OTC Derivatives

i. A participant highlighted the difficulties encountered in trying to obtain **recognition of clearing houses** and trying to **align reporting and risk mitigation requirements** (which should have been simple but are now very complicated). These difficulties may arise again in the area of resolution, structural reform and other outstanding international reform agenda items.

ii. Derivatives was an example where it was difficult to design effective and efficient cross border regulation as the product does not necessarily have a cross border or national nexus.

The Chair remarked that **the OTC derivatives reform experience is important in that there may also be similar issues in the reform process in other areas such as shadow banking and resolution**.

iii. There is a need for **due process in the case of the US and EU where regulation to facilitate cross border activities exits but is not used due to political factors**. One participant said that 25% of the firm's clearing volume comes from the EU but commercial hedgers do not use the firm's services due to lack of EU level recognition. This was a clear example of regulatory arbitrage. On the other hand, the CFTC has the authority to recognise non-US clearing houses but it has not exercised that authority, although that regime may be introduced in the future. **IOSCO can play a bigger role in getting individual jurisdictions to have more accountability to exercise the powers that they already have.**

Reporting requirements

iv. Currently, there is a **mismatch between reporting requirements between the US and EU** whereby a firm operating cross border is reporting on the same data but in different ways. Around 30% of the data requested by the US and EU does not overlap or is substantially different. **This makes comparing the data to identify cross border flows and trends more difficult** (e.g leverage and liquidity levels).

Client classification

v. A participant raised the issue of different jurisdictions having different ways to **categorize and classify clients** (e.g. definition of US persons and affiliate scope issues). This creates a challenge for firms who need to classify and categorise all their clients. This also makes it difficult to compare data across jurisdictions when the scope of categorization differs at the beginning of the process and may even be reviewed or revised at a later stage by regulators e.g. CFTC may be looking to review the conduct test for US persons.

2. Key drivers for regulatory approaches

- One participant's view was that the key drivers to regulatory approaches depended on the area being regulated. It was a complex process. **There are few examples of a 'race to the bottom' concept of regulatory arbitrage.** On the contrary, for major global financial institutions, most are not sufficiently nimble to easily move their operations to different jurisdictions. So it is actually a race to the top but this does not necessarily translate to better standards all round. This situation also highlights the **difficulties in managing different regulations that may impact on client experiences**.

- It was suggested that the key objectives for regulators may include systemic risk for the banking sector, asset protection for the fund management sector and customer protection (e.g. passporting rules in the EU on firm conduct). **At present, cross border tools are being used mainly for investor protection**. Relatively few cross border tools are used to address **competition concerns** where conditions are usually used (e.g. hard limits, physical presence requirements and prohibition of certain types of activities). With regard to systemic risk in the funds space, there are also few cross border tools being applied as yet.

- It was suggested that the **TFs toolkit would also probably have to identify what kind of risks these tools are meant to address (e.g. systemic issues, investor protection, conduct etc.)**. The view was put forward that substituted compliance is more of a systemic risk measure (to prevent risk flowing back to the home country) rather than for investor protection.

- Cross border regulation also involves firms having to consider liability and capital management. **Any consideration of cross border regulation and activities should take into account prudential rules and capital management.** An example would be QCCPs, where the issue is less about market access and more about capital requirements.

- It was suggested that **EU policy makers should establish a cost benefit framework** that would take into account the relevant global standards and benchmarks before introducing legislation to avoid fragmentation. The Chair added that better cross border supervision is also an important element.

- A participant from a trade association commented that it would be useful to **review the challenges** that have caused its members difficulties as listed in its report **including incompatible laws, duplicative requirements and knock on effect on non-financial firms**, all of which may result in a reduction in customer choice and pricing.

3. Challenges for real economy firms

- One real economy firm (not an end user nor traditional financial company) said that it operates principally as an agent for other group companies and its experience as a MiFID license holder is that the passporting approach does work in the EU.

- In regard to practical challenges, **insolvency law and taxation created barriers to efficient passporting** although it was recognised that these challenges may fall outside the ability of regulators to address. For example, in a number of jurisdictions, the firm has non-financial counterparties (e.g. producers of refined commodity products) for physical and non-derivative products. However, netting legislation does not recognise the principal agent model, which forces the firm to change its structure and become a financial firm. Consequently, the firm has to comply with different thresholds and capital requirements in various jurisdictions and this is made more difficult where there are no consistent definitions (e.g. what is considered a hedge). There are significant costs associated with those challenges including capital being tied up in the firm's trading activities to hedge risks.

- In response to a question by the Chair, the participant, by virtue of it being a real economy firm that is a major player in certain markets and also a client and counterparty to financial institutions and a member of exchanges, believed that it is included at the margins of the conversation on regulatory reform. However, **many of its medium to smaller counterparties and end users (e.g. airlines and transport companies) are feeling the effects of regulatory reform and having to shoulder considerable regulatory cost burdens**.

- In terms of real economy firms being involved in **risky speculative activities**, the example of position limits being used to combat excessive price volatility of commodities was considered to be a form of market intervention and unnecessary as **commodity firms usually manage risk via the futures market and rarely take large speculative positions either in futures or derivatives.**

4. Improved communication mechanism between industry and regulators

- There is a lot of communication and interaction between industry and regulators but the communications could be more structured. **Currently the industry is focused on obtaining the latest regulatory information and trying to compile pieces of information from different regulators and trying to second guess what will be the overall impact and future developments.** A clearer picture of the next steps would be helpful. There should be more structured ways and opportunities for industry to find out how regulators intend to apply rules that have cross border implications and to identify which body to direct industry input on addressing challenges.

- There should also be a **mechanism to provide greater transparency on rule changes so that the market is aware of the new rules and can be engaged at an earlier stage**.

- From an EU perspective, there is very little feedback from the regulators to the industry on upcoming legislation (e.g. Level 2 MiFID). A more structured feedback system would be helpful.

5. Better convergence of cross border rules

- There was the view that in the banking space, the rules and metrics are clear and more precise. It was suggested that these **precise metrics and ratios could be used in CCP assessments** for e.g in margin calculations. The participant was not convinced that such metrics could not be implemented due to regulatory differences in jurisdictions. It was noted that some policy makers do not understand the distinction between OTC and non-OTC derivative, margin requirements, trading limits etc. when making rules. Therefore, **having common global standards would help policy makers adopt and implement relevant standards**. This would require significant work and resources but all jurisdictions should undertake this exercise.

- An attempt to achieve **convergence or harmonization of regulatory standards particularly in the area of scope, regulatory disclosure (e.g. standardization of documentation), processes (e.g. no action letters) and definitions** is important to facilitate cross border activities.

6. Items for Task Force consideration:

The following suggestions and views were put forward for the Task Force's consideration:

- The TF should consider the issue of a **lack of harmonization of the different techniques and tests** that jurisdictions use to identify activities happening outside their jurisdiction which they believe may be harmful to their local

economies (an example being the situation of domestic investors and foreign funds). The question for the TF is how to knit together the national regulations that have cross border effect in order to comply with IOSCO standards.

- **The toolbox identified by the TF may help provide commonly accepted definitions and accepted principles that the market can use**. An example would be the definition of "derivative" in the context of FX or definition of a "swap". The market can usually resolve cross border issues if it is given a proper framework to work with.

  The Chair commented that the **derivatives issue is a special case** where there was rush to introduce regulation post crisis in two jurisdictions (US and EU). There should be **discussions within the TF as to what was the underlying intention or philosophy around the extraterritorial scope of different types of legislation and to configure the toolbox around those philosophies**, not just on derivatives but also other areas e.g. the funds space.

- The TF should look into the issue of **market fragmentation**, particularly in areas where it is inevitable.

  The Chair commented that issues of fragmentation are more prevalent in the area of prudential regulation and cross border resolution. It is less relevant to the securities sector. However, the interconnectivity between the banking, securities and insurance sectors makes bifurcating responsibilities between sectoral regulators more difficult and is one of the challenges for cross border issues. For instance, carrying out an impact analysis may require collaboration from all regulators.

7. Challenges in specific business lines

Participants provided the following views on this topic:

Recognition of exchanges - In any industry, the exchanges and infrastructure providers are at the heart of regulatory reforms. For derivative reforms, a coherent international framework governing the industry is critical for the exchanges and end users. Recognition of exchanges are necessary to enable end users to access and trade these products. The recognition process has not been transparent or has been politicized and compliance costs can be substantial.

Access to market infrastructure – It was emphasized that **remote access to market infrastructure** is increasingly important in the post crisis regulatory environment. There should be an open and defined process towards achieving cross border business and remote access that is clearly conveyed to all industry participants.

It was also suggested that **IOSCO facilitate a form of substituted compliance regime for global standards with local law to reduce the regulatory burden for market infrastructure providers in Europe**. This helps to avoid having to comply with both global and local standards. An example of this was having to comply with the CPSS-IOSCO PFMI principles after having obtained an EMIR license for its CCP.

Technological challenges
A participant from a trading platform provider raised the issue of technology challenges for clients and firms providing trading platform services. The moment a client switches on the firm's trading screen, the firm is considered a trading entity in that jurisdiction, which then entails the firm having to be registered and incurring the associated costs. It was suggested that there is a need for a **classification system for overseas jurisdictions to facilitate overseas business**. The classification could perhaps leverage on IMF FSAP assessments.

It was observed that due to the **differences in margin requirements in different jurisdictions** and **the lack of transparency in the implementation process** may lead to **CCPs shifting of business from one jurisdiction to another**.

Central Securities Depositories (CSD) regulation
It was noted that EU authorities have taken a positive step under EMIR in licensing third country CSDs to avoid the problems that arose in the recognition of third country CCPs. Reference was made to the letters by the IOSCO APRC to Commissioner Barnier on this issue. The licensing of third country CCPs is a good case study where some things have worked and others haven't.

8. Industry experiences and views on the way regulators implement cross border regulations

Participants made the following comments on the ways which securities regulators were implementing cross-border regulations:

- When new legislation is passed on to national regulators to implement, it was noted that in terms of **timing issues**, regulators have the difficult task of having to reconcile different regulations issued by legislators e.g OTC derivatives – EU has EMIR and US has Dodd Frank. Unless IOSCO has treaty based powers to enforce its standards, this would be hard to resolve.

  The Chair commented that as IOSCO does not have legally enforceable powers this demonstrates the natural limitations of what IOSCO can do. This may be highlighted in the TF report.

- One participant commented that better regulatory coordination drives industry efficiency. An example of this was the idea of substituted compliance which originated from US-based firms who wished to access the global marketplace. There is also a need to have a common definition of 'equivalence' for global activities. When significant rule changes with cross border implications are contemplated, **it would also be desirable to have a mechanism to enable prior consultation with other regulators to discuss implementation issues and application to cross border business.**

  The Chair remarked that there is a difference between legislators and regulators. National rules go through legislatures and are subject to political debate. It is difficult to connect political debate at an international level on proposed regulation, particularly before the law is enacted.

- A participant from a bank listed some factors which drive regulatory differences in various jurisdictions, including: concept of establishment, registration, classification of clients, location of the service, conduct of the service provider and different rules for trading activity and distribution

coverage. **The way the EU and US approach derivative regulation are fundamentally different and this should be factored into any analysis of the application of cross border rules.** There should also be a recognition of the limitations of regulators and IOSCO to address these issues. For example, Level 1 rules of EMIR have constrained ESMA and EC in their engagement with overseas regulators to deal with third country issues and equivalence assessments. By contrast, the SEC and CFTC have considerable discretion in dealing with cross border issues although they also have had to deal with considerable political pressure.

- It was suggested that IOSCO develop principles around which these cross border issues can be addressed. One consequence of not getting reform right is ending up with subsidiarised or Balkanised markets. There are concerns that **regulatory reform may result in market fragmentation** which impacts on pricing and costs which is passed onto consumers. It may also create **market resilience risk,** which is an unintended consequence. Market resilience risk manifests when lowering the loss absorbency of certain market sectors and increasing the resilience of certain market participants has the effect of weakening the underlying market itself, which goes against the G20 / FSB reform mandate.

- The Chair commented that **IOSCO has a very wide remit and its scope is not so much about firms as it is about activities, unlike the BCBS**. IOSCO currently has around 94 workstreams and IOSCO members have different remits under local legislation. For IOSCO to replicate the focus and authority of the BCBS would require significant resources. The Vice Chair agreed that the banking sector is much easier to regulate because capital issues have been around for a long time and regulation is well established and has had time to evolve.

- Another participant commented that **the issue of fragmentation for global banks is now a reality.** Regulations to create subsidiaries and liquidity requirements are hugely capital intensive. There is a need to adopt a cross border approach when introducing legislation. For the US and EU, much of the derivatives legislation is already done at the primary, secondary and tertiary levels and poses challenges to global firms in trying to synchronise all the different rules retrospectively. A good example of this in EU is the area of front loading.

9. Ways to improve cross border regulatory coordination

Participants had the following comments:

- One participant said that it is not clear what an ‘outcomes based’ approach meant in the context of comparability analysis of overseas rules. Due to the uncertainty, the result is a rule-by-rule analysis as regulators are constrained by local laws and the need for international cooperation as per G20 / FSB mandates. **IOSCO can be used as a forum to push for more technical and detailed standards at the international level**. More detailed standards make comparability assessments easier and there is less opportunity for regulatory arbitrage or ‘gold plating’ by individual jurisdictions.

- An example given was that an outcomes based approach was considered by the EU but in practice it resulted in a rule-by rule analysis that was not feasible. Therefore, in order to provide an objective test for equivalence assessments, **the EU referred to IOSCO's objectives and principles in order to make the test more objective**.

- It was observed that **the work of the TF has the potential to affect policy debate and the way regulation or legislation is drafted**. The existence of international standards and MoUs does affect the way legislators look at the cross border aspect of legislation. An example would be the IOSCO MMOU having an effect of making legislators feel more comfortable with having cooperation in the form of national private placement regimes in the AIFMD framework.

10. Role of IOSCO in cross border issues

- The Chair commented that IOSCO members had diverse views on the role of IOSCO in dealing with cross border issues which range from a WTO-style approach with dispute resolution powers and at the other end of the spectrum, a far softer approach which entails IOSCO being a platform for discussion and negotiation.

- IOSCO may consider looking into **cross border supervision of firms** in greater detail. One question is whether IOSCO should be mandating the powers that a national regulator must have in order to conclude a supervisory MOU, which will involve data protection, secrecy laws etc. The Chair said that it is simpler for the banking sector. For the diverse securities sector, it was recognised that a one-size-fits-all approach would be inappropriate and a degree of collaboration and trust amongst regulators with regard to supervising large firms that operate cross border is important in order to address or roll back conflicting or extraterritorial rules.

Participants had the following views and suggestions:

- It was observed that IOSCO has also made tremendous strides in the last 10 years in terms of the areas and topics it is willing to take on and improved engagement with the industry. This takes time and the BCBS has had a much longer history.

- IOSCO may not have the legal mandate to impose its views on its members but it may act as a **middle ground between the objective setting at G20 / FSB level and the translation of these objective into local law.** IOSCO could take the **high level objectives and formulate more detailed and consistent guidelines on implementation**. This includes **processes for recognition, supervision and post implementation peer review**. This would help avoid a haphazard implementation process at the national level. Examples would include the Dodd Frank and CRA reforms.

- A participant emphasized **the importance of more effective transparency and communication amongst regulators in terms of cross border issues and to have greater clarity in terms of processes and next steps**. An example is the CRO which is pending but industry does not have a clear idea of the details. One suggestion was for IOSCO to set out an **action plan (similar to the ODRG report on setting out outstanding issues and developing a concrete timetable to address them) to help industry manage uncertainty**.

- The **IOSCO template to facilitate supervisory cooperation** should be used as a basis to **collect data in a consistent manner** including cross border delegation, marketing and MoU frameworks. The dataset needs to be reliable and robust enough for regulators to extract meaningful conclusions. It was suggested that it would be very helpful for the industry if **IOSCO could combine the best practices of US and EU requirements into a revised template to provide a common and comprehensive dataset and definitions which all regulators may rely on**. This project would have a 5-10 year timeframe. It was also suggested that regulators could provide industry with **key trends** (interplay between leverage and liquidity for SIFIs) **which may have been identified**.

- It was observed that **there is a disconnect between FSB and IOSCO in terms of having different goals (macroprudential vs. customer protection), scope and resources**. An example of this was shadow banking. It was suggested that IOSCO could communicate to the FSB regarding **the needs and concerns of the securities sector**.

- It is important for IOSCO to come together to **address implementation issues in as granular a way as possible**. In the EU context, the **lack of granularity of global standards is a common concern** and it was noted that it is possible for EU to have the lowest denominator agreement on regulatory issues and this inconsistency makes it difficult for global firms to manage their business. **Scope** should be the first thing that is agreed upon by regulators and IOSCO may consider how it can help prevent extraterritorial rules from EU and US being rolled out or even rolled back incrementally.

- It was suggested that IOSCO should have a role to play in organising **an annual exercise to obtain feedback from industry on identifying futures issues and problems**.

  The Chair mentioned that the IOSCO Committee on Emerging Risk had released a report at the end of 2013 and IOSCO is having more industry sessions at its Board meetings.

- IOSCO could **help identify those cross border issues that have emerged and seek industry input on the technical analysis and practical impact or outcome of the rules**. An example was given that US clearing firms hold 2 times more margin that in the EU despite having different margin standards.

- As a suggestion to bind regulators closer together, **IOSCO may wish to explore developing 'principles of good regulation'** which members could agree on some shared cross border objectives or principles as a start towards a discussion on shared outcomes.

- It was suggested that IOSCO members could undertake a form of **self assessment or self certification to avoid the need for an independent peer group review**, at least at the outset to reduce costs.

Mechanism to review and impact of rules which have cross border elements

- IOSCO should **strengthen its position in relative terms to regulators and policymakers in dealing with emerging policy issues at the legislative stage**.

IOSCO could **identify issues or conflicts at the legislative stage** before the rules are implemented.

- There was a request for **IOSCO, and the TF, to develop a more detailed 'common playbook' that seeks to provide guidance and principles to facilitate smooth cross border securities activities and reduce risk of legislators straying from pre-agreed common standards**. The consequence of the lack of such a common playbook and granular standards to facilitate convergence can be seen in the OTC derivatives space. It was observed that the ODRG had the unenviable task of trying to make the various OTC legislation work after they have been introduced.

- When significant rule changes with cross border implications are contemplated, it would also be desirable to have **a mechanism to enable prior consultation with other regulators to discuss implementation issues and application to cross border business.**

- A participant emphasied that the **timing of the rule making** is important together with having **early dialogue with industry** on cross border issues. The example given was regarding the accelerated clearing process under EMIR which impacted customers.

Supervisory colleges

- One participant said that there were lessons and experiences, both positive and otherwise, to be learnt from supervisory banking colleges.

- Supervisory college does help to build trust, increase understanding by industry and regulators. It would be a positive way forward for **IOSCO to have a forum to engage industry and provide industry with a mechanism to identify issues in terms of rule making and supervision issues**.

Other observations

- It was observed that although ESMA is being given more power (e.g over CRAs) it is still only an IOSCO associate member relative to other IOSCO members.

- IOSCO has a challenge when members move away from the consensus model (an example was given regarding an IOSCO member from a major economy who was not supportive of an IOSCO policy report and would not be participating in the associated peer review). The TF should take note of these challenges when carrying out its work.

  The Chair noted the point and remarked that the reality is that it would be difficult to move forward initiatives without the buy in of the major economies and capital markets.

- IOSCO should also be careful about not encroaching on the supervisory remit of national regulators when it develops its supervisory MMOU (e.g. ESMA and various EU national regulators).

Closing remarks

- The Chair thanked participants for their useful feedback and views.

- The Chair commented that IOSCO has been asked to define what ‘similar outcomes’ means and to also develop standards or a ‘playbook’ which are more granular. The issue is that at the IOSCO Board level, there are different interests being represented and Board members are under pressure to come up with a consensus within a short space of time. The result is often a decision on a set of rules that may not be optimal but is acceptable to Board members in order to avoid having to negotiate all aspects of the initiative. This may result in ‘gold plating’ of standards in some jurisdictions. This should be reflected in the TF report as an issue for IOSCO and its members.

- As IOSCO is constrained by **limited resources** and is unable to provide a playbook for everything, **prioritization of the key areas** (specific types of product, entities and activities) **is essential**. All regulators share a common objective to have an efficient means across the board to allocate savings to where capital and investment is needed globally. The regulatory response to the financial crisis may have harmed this objective in some areas where models have fragmented. It is also easier to have a common objective and understanding among national regulators and then build out a standardized regulatory framework around the objective. It is therefore important to hear from industry where IOSCO’s efforts should be focused.

  The Chair encouraged participants to submit specific case studies and industry experiences and issues to back up the work the TF in the form of written submissions within 1 month of the meeting.

- The Vice Chair also expressed thanks to participants and looked forward to receiving the written submissions.

End.